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PREDATORY FOREIGN INVESTMENT AND DOMESTIC ENERGY SECURITY

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INTRODUCTION

U.S. energy markets started 2016 with good news. The 40-year-old oil-export ban, which long has hamstrung one of the world's leading oil-and-gas producers, is now defunct. As of New Year's Day, the first tankers of American crude oil left for Europe.[1]

A relic of a bygone era, the ban initially was a response to the economic trauma of the 1973 Arab Oil Embargo, during which oil prices nearly quadrupled over the course of just six months. The embargo caused a dramatic global economic and security crisis and prompted many of the whiplash measures that were embedded in the Energy Policy and Conservation Act of 1975.[2] It did not help that energy policy at-large, and oil policy in particular, were at the time still in thrall to a protectionist mindset that sought to preserve domestic resources and weaken the influence of foreign trade.

Times have changed radically in the proceeding four decades. With the advent of hydraulic-fracturing techniques and a better understanding of tight geologic formations, the North American oil-and-gas industry is booming. That boom has translated into a sea change in international energy markets. The Organization of Petroleum Exporting Countries (OPEC), dominated by Saudi Arabia, has been ineffective in its recent attempts to manipulate oil prices. Security crises in the Middle East no longer translate to price spikes at the gas station

Lifting the oil-export ban is widely expected to boost U.S. gross domestic product, household incomes and job creation, not least by raising the value of U.S. oil-and-gas resources and stimulating fresh investment in the U.S. oil-and-gas industry. But the work now begins to ensure the domestic benefits of repealing the ban are realized fully. As this paper attempts to demonstrate, U.S. policymakers would be well-served to look to the examples of major energy producers, such as Canada and Australia, who have managed to attract massive foreign

[1] Joe Carroll and Sheela Tobben "First U.S. Oil Export Leaves Port; Marks End to 40-Year Ban," Bloomberg, Jan. 1, 2016. http://www.bloomberg.com/news/articles/2015-12-31/first-u-s-oil-export-leaves-port-marking-end-of-40-year-ban

[2] 94th Congress, "Public Law 94-163," Dec. 22, 1975. https://www.gpo.gov/fdsys/pkg/STATUTE-89/pdf/STATUTE-89-Pg871.pdf

investment in their domestic energy sectors without compromising either free-market principles or national security. The United States must do no less.

PROSPECTS FOR U.S. OIL EXPORTS

In some respects, this is an inauspicious time to launch U.S. crude-oil exports. Global prices have plummeted in the face of surging global supply. By January, prices of the benchmark West Texas Intermediate had fallen from more than $100 a barrel in June 2014 to just $26.55 a barrel, their lowest level since 2003.[3]

That should be great news for global economic growth and security, and a huge challenge to the hegemony of oil states. The news isn't so good for exports of domestic U.S. oil. Over the years the ban on crude-oil exports was in place, it created some serious distortions in the domestic oil industry, which long has done a healthy trade in the export of refined petroleum products. While domestic prices for commodities like gasoline and fuel oil are priced on the global market, crude oil was priced at home. In recent years, booming supply became oversupply, with oil producers selling crude at artificially low prices.

Those artificially low prices have become problematic for the industry. The surge in domestic oil production has been led by unconventional shale oil, which is more difficult and more expensive to extract. The oil companies leading the boom thus were hit twice during the bust: higher production costs and lower prices at market. Competing internationally allows these producers to sell at international levels, which have been as much as $27 higher at some points in the past five years.[4]

The domestic industry also faced a supply mismatch, as not all crude oil is created equal. For years, American refineries had been retooling their operations to handle the heavier, more sulfuric crude characteristic of regional imports and Gulf Coast oil. However, the tight oil boom produced oil with very different characteristics, which domestic refineries no longer handled well. The resulting bottlenecks in refining capacity translated to bottlenecks in transportation and storage, as well as drawbacks in investment and production. Allowing American oil companies to sell light crude overseas to refiners better suited to process it will encourage greater investment in U.S. domestic production, boosting oil revenues and creating jobs in exploration, production, transportation and shipping.

Lifting the export ban also should have spillover benefits beyond the domestic energy industry. Previous estimates suggest that GDP will increase about $165 billion over the next five years and household income will increase nearly 3 percent over the same period.[5] Industrial-sector gains will include increased production of durable goods and materials, new jobs in the construction and mining sectors, and increased capital investment for machinery.[6]

Increasing North American production is already providing additional liquidity in global markets, lowering prices and challenging OPEC. Removing the ban also has improved the circumstances for our international trading partners, who can take advantage of new supply alternatives, trade routes and contract opportunities.

There should be a significant positive impact in Asia. China, the second-largest economy in the world, is facing an economic slowdown, with annual growth falling from levels approaching 10 percent per year to a current level of approximately 7 percent. As a net oil importer, and with auto sales expected to reach 50 million a year by 2020,[7] China obviously stands to gain from low oil prices. Nevertheless, the United States also stands to gain, since an upturn in China's economy would benefit the U.S. industrial goods and services industries that export to China. Moreover, Japan and Korea, which are dependent on Middle East oil, are likely to diversify their suppliers by purchasing U.S. oil. This would reduce exposure of their shipping lines to Chinese waters, improve the nations' energy security and further contribute to U.S. economic growth.

Another potential importer of U.S. crude might be oil-poor India. According to an analysis published by the Heritage Foundation, India's oil consumption is expected to grow 38 percent from 2014 to 2030.[8] In Latin America, U.S. oil exports may put more pressure on Venezuela by offering an alternative for neighbors in Central America and the Caribbean who long have been dependent on Venezuelan oil. The recent Venezuelan parliamentary elections, in which Chavista socialist forces were defeated, may be a sign of the times.[9]

[3] Devika Krishna Kumar, "Oil plumbs new lows below $27 as oversupply woes persist," Reuters, Jan. 20, 2016. http://www.reuters.com/article/us-global-oil-idUSKCN0UY04U

[4] Ingrid Pan, "Why the WTI-Brent oil spread traded below $4 per barrel," The Market Realist, April 15, 2014. http://marketrealist.com/2014/04/wti-brent-oil-spread-traded-4-per-barrel/

[5] Thomas J. Duesterberg, Donald A. Norman and Jeffrey F. Werling, "Lifting the Crude Oil Export Ban: The Impact on U.S. Manufacturing," Aspen Institute, October 2014. http://www.aspeninstitute.org/sites/default/files/content/upload/FINAL_Lifting_Crude_Oil_Export_Ban_0.pdf

[6] Ibid.

[7] Angelo Young, "Will China Auto Sales Hit 50 Million A Year By 2020? One Chinese Official Thinks So," International Business Times, Aug. 5, 2014. http://www.ibtimes.com/will-china-auto-sales-hit-50-million-year-2020-one-chinese-official-thinks-so-1649650

[8] Nicolas Loris, et al., "The Economic and Geopolitical Benefits of Free Trade in Energy Resources," Heritage Foundation, Oct. 9, 2015. http://www.heritage.org/research/reports/2015/10/the-economic-and-geopolitical-benefits-of-free-trade-in-energy-resources#_ftn44

[9] Sentinel Editorial Board and editors of *El Sentinel*, "The Interview: Venezuela Vote Heralds Big Changes," *The Orlando Sentinel*, Jan. 7, 2016. http://www.orlandosentinel.com/opinion/os-ed-venezuela-elections-the-interview-20160107-story.html

With the Venezuelan economy in a meltdown, the time may soon come when Caracas will have to terminate its politically subsidized oil exports to allies like Cuba, Belize, Haiti and Jamaica.[10] Even Cuba, despite its longstanding ideological ties with Venezuela, may yet turn to the United States as a more reliable energy supplier as the country becomes increasingly open to American business.

As these benefits propagate around the world, it's important to emphasize the value in lifting the oil-export ban. North American oil imports are falling and the oil trade is booming between the United States, Canada and Mexico. In 2015, our NAFTA partners accounted for 46 percent of U.S. oil imports. Fuel-supply insecurity is a thing of the past. Unrestrained export of crude oil embraces the free market and U.S. strategic interests.

OPPORTUNITIES, THREATS AND CHALLENGES

It can't be ignored that lifting the crude-oil export ban will have important implications for American energy security and policy. In particular, foreign investors will be drawn to the liberalized market and the opportunities to own advanced U.S. energy companies and leases to resources. This capital influx should help the domestic industry thrive and rapidly develop reserves and extraction techniques. However, this opportunity also presents the risk of foreign acquisition of industry assets by adversarial interests that might pose a threat to domestic-energy security.

The threat of foreign ownership is not specific to the energy industry, and the United States has policies in place to limit the threat of adversarial procurement. But those policies must be reevaluated in the context of changing market conditions. Especially in comparison to our energy-rich neighbor Canada, existing policy is not particularly hospitable to prospective foreign investors.

American oil companies and legislators do not treat foreign investors equally. Perhaps this is rightly so, since the participation of foreign government-controlled entities contradicts the free-market principles upon which the American economy is largely based. With the end of the oil-export embargo, additional foreign actors likely will invest in the U.S. oil industry. U.S. oil companies may want to protect the home market, but policymakers should seek a careful balance of security interests and market interests.

Many prospective foreign investors will be companies based in countries the United States considers friends or allies. Others may come from quite different societies – for example, nations with whom we may enjoy strong trade ties, but about whose role in international affairs we may have greater concerns. Or more pertinent to this particular subject, there may be concerns about the ways in which companies from particular nations conduct business.

China is a clear example. One of the major concerns American officials have with Chinese energy investors in the U.S. market is the nature of China's state-owned companies. Even Chinese firms that undoubtedly are major corporations with global operations aren't always viewed by the U.S. government as true "multinationals." The largest Chinese energy companies – Sinopec Group, PetroChina Co. Ltd. and the Chinese National Offshore Oil Corp. (CNOOC Group) – all are state-owned and generally are viewed as instruments of the ruling Communist Party. Allowing such entities to play a sizable role in U.S. energy markets would raise new questions about national energy security and almost certainly would be politically unpalatable.

Reciprocity

One tool to protect American markets from what might be viewed as predatory investment behavior is the condition for reciprocity. Foreign corporations cannot purchase or possess any direct or indirect interest in mineral-prospecting permits or mineral rights in the United States. They can own or control shares in corporations which hold such permits or mineral rights, but only if the laws of their country extend similar privileges to U.S. citizens.[11] In other words, if an investor's country of origin does not have a reciprocal arrangement with the United States, an investment deal is unlikely to be successful.

This serves as an effective boundary, as it limits market access to those investors who hail from nations that extend equal treatment to Americans. The major multinational oil companies that operate in the United States – giants like Royal Dutch Shell plc, BP plc and Eni S.p.A. – do so through subsidiaries. It also should be noted that these are public companies with limited political affiliation, rather than state-owned "national champions."

So long as it remains difficult for major U.S. oil companies to invest in mainstream Chinese energy development, it's hard to imagine circumstances under which U.S. legislators would seek to open the door for comparable Chinese investment in mainstream U.S. energy development.

[10] Jackie Northam, "Venezuela Cuts Oil Subsidies to Caribbean Nations," National Public Radio, April 2, 2015. http://www.npr.org/sections/thetwo-way/2015/03/30/396399497/venezuela-cuts-oil-subsidies-to-caribbean-nations

[11] Tina Hunter, ed., "Regulation of the Upstream Petroleum Sector: A Comparative Study of Licensing and Concession Systems," Edward Elgar Publishing, 2015. http://www.e-elgar.com/shop/regulation-of-the-upstream-petroleum-sector

CFIUS

Investments and acquisitions that could result in foreign control of U.S. businesses are monitored by the Committee on Foreign Investment in the United States (CFIUS), an interagency committee charged with monitoring the national-security implications of those changes in control.[12] Chaired by the treasury secretary, the committee includes representatives of 16 federal departments and agencies, including law-enforcement and intelligence agencies. The committee's role in the investment-evaluation process is to pay special attention to investments in critical infrastructure; to investors from countries outside the Organisation for Economic Co-operation and Development with perceived animus toward the United States; and to investors from countries with high levels of organized crime and systemic corruption.

CFIUS is empowered to investigate all investments that may impact national security. While companies are not required by law to notify CFIUS of their investment interest, such notification is encouraged (foreign investors often regard voluntary notification to be an act of compliance that could forestall becoming a target of excessive scrutiny). CFIUS determinations to authorize transactions usually take about 30 days and can be granted even more quickly. However, if further review of an approved deal shows that an investor provided the committee with false information, approval can be revoked.[13] Alternatively, the committee may initiate an investigation into whether a proposed investment presents a threat to national security, which could delay decisions by up to three months.[14] Where CFIUS cannot make a clear determination about the security implications of a particular transaction, it may ask the president to intervene with a final decision.

CFIUS' application and investigation process can prove daunting for prospective investors. Roughly 40 percent of applications typically proceed to investigation. For example, of the 114 notices to CFIUS filed in 2012, 45 moved to investigation, and 22 of those 45 were withdrawn voluntarily during the investigation process. Withdrawn notices typically indicate that a company's interest in the investment waned or that the committee expressed concerns over the transaction's national-security implications.[15]

Despite an emphasis on rapid consideration of the proposals, CFIUS does not move at the speed of business. This deterrent to investment is particularly concerning for U.S. energy-development prospects. Potential energy-industry partners will be subject to special scrutiny because of government interest in safeguarding critical infrastructure and resources. Scrutiny by CFIUS was expanded under terms of the USA PATRIOT Act of 2001, which articulated the need for special support of "critical industries" vital to the national or economic security and public health and safety. The sectors of particular concern specified in the Patriot Act include "telecommunications, energy, financial, and other systems upon which the United States relies for its day-to-day operations."[16] The Homeland Security Act of 2002 added "key resources" to the critical infrastructure list, which that law defined as "publicly or privately controlled resources essential to the minimal operations of the economy and the government."[17]

Energy was later defined by the Department of Homeland Security as a "critical industry," subjecting potential investments in the sector to elevated scrutiny from CFIUS. However, whether it is appropriate for upstream energy resources and activities, including exploration and production, to be captured by this DHS distinction is more of an open policy question. A fair argument can be put forward that elevated scrutiny should be reserved for transportation, refining and related infrastructure, which have more immediate impacts on American security concerns.

SETTING THE TONE

The role of politics

The U.S. government repeatedly has demonstrated its hesitancy to allow state-owned investments in critical infrastructure to move forward, but will approve investments that have strategic value. Consider two examples involving China's CNOOC Group.

Between 2000 and 2001, CNOOC entered into lucrative arrangements with Chesapeake Energy Corp., buying into shale oil-and-gas leases in South Texas, northeast Colorado and southeast Wyoming and agreeing to fund drilling and

[12] U.S. Treasury Department, "The Committee on Foreign Investment in the United States (CFIUS)," Resource Center, last updated Dec. 20, 2012. http://www.treasury.gov/resource-center/international/Pages/Committee-on-Foreign-Investment-in-US.aspx

[13] ABA Section of Antitrust Law, "Report of the Task Force on Foreign Investment Review," American Bar Association, Sept. 28, 2015. http://www.americanbar.org/content/dam/aba/administrative/antitrust_law/20150928_foreign_investment.authcheckdam.pdf

[14] Andrew Pidgirsky and Kristine Dittmeier, "Foreign Investment and National Security Act of 2007: New Legislation Defines, Adds to Federal 'Covered Transaction' Review Process," Adams and Reese LLP, August 2007. http://arwebserver.arlaw.com/pdf/CorporateClientAlert082007.pdf

[15] Alexandra Mertens and Christopher Voss, "CFIUS Issues Its 2013 Annual Report to Congress," Stoel Rives LLP, Jan. 22, 2014. http://www.jdsupra.com/legalnews/cfius-issues-its-2013-annual-report-to-c-85959/

[16] Noel J. Francisco, Laura Fraedrich and D. Grayson Yeargin, "Common Misconceptions Regarding CFIUS and the CFIUS Process," Jones Day, June 2012. http://www.jonesday.com/common_misconceptions_regarding_cfius/

[17] James K Jackson, "The Committee on Foreign Investment in the United States (CFIUS)," Congressional Research Service, Feb. 19, 2016. https://www.fas.org/sgp/crs/natsec/RL33388.pdf

other costs heavily. [18] Local governments were interested in the new investments and Chesapeake was able to fund development of extraction techniques several years before the advent of the shale oil-and-gas boom.

Four years later, CNOOC bid $18.5 billion to purchase California-based Unocal Corp., a global upstream oil company with interests in Central Asia. The barrage of political criticism focused on the investment's energy-security implications ultimately led CNOOC to abandon the attempt and withdraw their offer. Unocal later was purchased by Chevron Corp. for just $17.9 billion.[19]

In both cases, CNOOC's status as state-owned and subject to decision-making by high-level politicians in China was the same. However, the deal with Chesapeake involved a minority stake of just 33 percent, whereas the Unocal deal would have involved complete acquisition of the company and its assets. CNOOC could not overcome significant political mistrust of its involvement in oil assets – mistrust that was couched in terms of national-security considerations. These suspicions also have caused other deals to fail; notably, the 2006 bid by Dubai-based DP World to manage operations in six major U.S. ports met a similar fate.[20]

Without substantial changes in the political climate, we can expect U.S. government leaders will remain suspicious of state-owned investments, even from key trading partners. When applications come from government-owned corporations from unfriendly states, or problematic transnational business interests, the political backlash may prove more important than the bureaucratic processes in place to protect national security.

Wise examples

As the United States reconsiders its decision-making process regarding foreign investment in the energy industry, it should consider the examples set by Canada and Australia. Despite having foreign-investment consideration processes quite similar to those in the United States, these countries have managed to take a less protectionist approach to foreign investment. This has helped draw significant energy investment from foreign enterprises – bolstering resource development, energy security and job creation.

Canada, in particular, has shaped a much more liberal atmosphere for foreign investment. Indeed, foreign companies have acquired large shares of Canadian energy assets, most notably in the Athabasca tar sands (also known as the Alberta oil sands).

The Investment Canada Act (ICA) is the central federal legislation regulating foreign investments. Under the ICA, a foreign investor must substantiate the future benefits of a proposed investment either to the Canadian industry minister or to the Department of Canadian Heritage (in rare cases, an application may be reviewed by both).[21]

The thresholds for review vary by ownership level and type. If a foreign investor is state-owned, any investment of greater than C$330 million is subject to review. For private investors, this "review threshold" is C$1 billion. In order to move forward, an investor must demonstrate it is free of political influence, will adhere to Canadian laws and can provide "positive contributions to the productivity and industrial efficiency of Canadian business."[22] It usually takes about 75 days for the industry minister to review a case and determine whether the investment should be allowed.[23]

In theory, the Canadian and U.S. laws concerning foreign investment involve navigating much of the same kinds of red tape. However, a key factor in Canada's more welcoming investment climate and its success in leveraging foreign investment in their energy sector is a pro-investment mindset. Thus, in practice, the process foreign entities face in seeking to invest in Canada generally is less hostile than in the United States.

The Australian investment climate is similarly attractive to foreign investors. Much like in the United States and Canada, foreign investors must substantiate to the Australian finance minister that a critical investment offers benefits to the domestic economy. Any investor associated with a foreign government must notify Australian authorities and receive prior approval to start a new business in Australia or to purchase a stake of an already-existing enterprise. Essentially, the review threshold for foreign state investors is $0.

Private foreign investors face a review threshold of AU$252 million. In accordance with Australia's free-trade-agreement commitments, an AU$1.09 billion threshold applies to investors based in Chile, Japan, Korea, New Zealand and the United States. If that investment is in a "sensitive sector" – which

[18] Jim Polson and John Duce, "Cnooc Pays $570 Million for Chesapeake Shale Stake," Bloomberg, Jan. 31, 2011. http://www.bloomberg.com/news/articles/2011-01-31/cnooc-pays-570-million-for-stake-in-chesapeake-u-s-shale-play

[19] David R. Baker, "Chevron completes Unocal deal / Purchase spells end of 115-year-old oil company," *San Francisco Chronicle*, Aug. 11, 2005. http://www.sfgate.com/business/article/Chevron-completes-Unocal-deal-Purchase-spells-2648878.php

[20] David E. Sanger, "Under Pressure, Dubai Company Drops Port Deal," *The New York Times*, March 10, 2006. http://www.nytimes.com/2006/03/10/politics/10ports.html?pagewanted=all

[21] Innovation, Science and Economic Development Canada, "An Overview of the Investment Canada Act," Government of Canada, last updated March 8, 2013. https://www.ic.gc.ca/eic/site/ica-lic.nsf/eng/h_lk00007.html#q5

[22] Innovation, Science and Economic Development Canada, "Statement Regarding Investment by Foreign State-Owned Enterprises," Government of Canada, last updated Dec. 7, 2012. http://www.ic.gc.ca/eic/site/ica-lic.nsf/eng/lk81147.html

[23] Innovation, Science and Economic Development Canada, 2013.

Australia defines to include media, telecommunications, transportation, encryption and security technologies and communications systems, uranium or plutonium extraction, nuclear facilities or defense – the review threshold reverts to the AU$252 million level.[24]

The Australian investment-approval process can take up to three months, just as it does in the United States. Initial applications should be considered within 30 days, but the finance minister can extend the period to 90 days.[25]

Foreign energy companies are widely represented in Australia, with the bulk of operations concentrated in the natural-gas-extraction and liquefied-natural-gas sectors. Such major projects as Australia Pacific LNG (a joint venture of ConocoPhillips Co., Origin Energy and Sinopec Ltd.); Santos GLNG (a joint venture of Santos Ltd., Petroliam Nasional Berhad, Total S.A. and Korea Gas Corp.); and Chevron's Gorgon project serve as illustrative examples of Australia's relatively liberal attitude toward foreign investors in the energy sector.

It's worth noting that only under exceptional circumstances do the consideration processes in Canada and Australia run through more than one government office. This reduces the quantity of red tape and bureaucratic delay, despite similar statutory directives for investment evaluation.

RECOMMENDATIONS

Of particular concern in the CFIUS consideration process is that technology, information and resources from the United States do not fall into the hands of unfriendly state governments. Allowing the export of crude oil presents some risk in exposing those resources and U.S. energy security to predatory investment.

It's reasonable that an entity seeking to invest in the United States be barred from investing in large, strategic oil projects where CFIUS considers that entity to be owned, controlled or otherwise affiliated with a national government engaged in a long-term diplomatic or military confrontation with, or otherwise hostile to, the United States. Government monopolies may pose a threat if they function to give priority to their own energy security over free trade and commerce. Similarly, it should be obvious that international terrorist organizations and other global anti-American bodies or movements would be precluded from purchasing strategic commercial assets in a country they seek to undermine.

However, what cannot be in question is that mobilizing international sources of capital to fund development of and novel approaches to resource extraction will strengthen the U.S. energy industry over the long term. Especially in the current low oil-price environment, the domestic energy industry will struggle to invest properly in the kinds of research and innovation that maintain improved domestic and global oil security in the future.

In a world in which the United States is a significant exporter of crude oil, regulation of foreign investment in U.S. energy interests will have to adapt to new market conditions. Countries with significant foreign participation in their domestic energy sectors, such as Canada and Australia, offer compelling models for regulatory modernization. The existing CFIUS process may deter beneficial foreign investment from entering the market; to realize long-term growth, we must craft a better way.

Federal authorities should balance the general principle of nonintervention in oil-and-gas production with caution for preserving our energy security. This will not be achieved through onerous economic regulation, but through tough and just consideration of national-security implications when evaluating proposals from prospective investors.

Further, weighing the benefits of foreign investment should involve considerable input from state and local interests. Local governments are closest to the investment opportunities that will impact citizens and often will be best-positioned to understand the benefits and risks of foreign capital. Decentralization of these decisions is crucial to capture the best information and attract optimal foreign partners.

Overbearing and invasive regulation can undermine healthy investment streams into the U.S. economy, including in the energy sector. American regulators should not abuse their power to block foreign ownership in the national economy and politicians should not encourage rampant distrust of foreign investment. By maintaining reciprocity requirements and preserving a strong but streamlined CFIUS, actual threats to national or energy security will be caught and prevented.

CONCLUSION

The U.S. oil boom has transformed international markets over the last several years. The ability of OPEC and Saudi Arabia to determine international oil prices and supply for diplomatic leverage has been dramatically weakened. International prices have dropped precipitously, giving developing communities greater access to energy options. At home, low fuel prices have helped the country recover from a prolonged economic slump, creating employment opportunities and bolstering GDP growth.

[24] Treasurer of Australia, "Australia's Foreign Investment Policy," Australian Government, December 2015. http://firb.tspace.gov.au/files/2015/09/Australias_Foreign_Investment_Policy_December_2015_v2.pdf

[25] Ibid.

In the meantime, the domestic oil industry struggles to see similar benefits. Despite boosting global economic growth, industry investment is down and investors are pulling out of the market. The promise of sound policy for the treatment and consideration of foreign investors is a bright spot; translating the technological improvements and best practices documented recently in productive American oilfields could prove a tempting opportunity for foreign companies looking to duplicate the U.S. development boom elsewhere.

The U.S. government's historic decision to overturn the export ban was an important victory, but more needs to be accomplished. Federal policy and regulation should embrace free trade and property rights, including mineral rights. Such limitations as a drilling ban on the Atlantic continental shelf are counterproductive, even hypocritical, for a country invested in economic freedom. We must clarify the prospects for foreign investment in all resources, including "critical infrastructure" and "key resources," and reduce red tape. The examples of Canada and Australia are telling; foreign investment, if properly managed, can create substantial value for domestic industry.

There will be challenges in the wake of the export-ban repeal, but the gains in geopolitical strength, trade development and global oil security are already being realized. For U.S. national interests, for the American economy and people, and for global energy markets, free trade is the right choice.

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