



Original research article

A crude reversal: The political economy of the United States crude oil export policy

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ABSTRACT

Why did the United States (US) lift its forty-year old oil export ban in 2015? Press coverage has offered various answers, such as the decline in crude oil prices and the rise of US tight oil production. Yet, these explanations are incomplete. Prices have declined in the past without a policy change and, in spite of the shale revolution, the US remains a net oil importer. Here, we argue that the repeal of the ban was driven by the confluence of multiple streams in the policy process: a policy problem created by the spread between US and international crude prices, a policy solution advocated by a constituency with growing voice and power, and a window of opportunity offered by falling international oil prices and the budget deal in late 2015. The analysis is a reminder that the policy process behind ostensibly rational energy policies is often less coherent than might be assumed.

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1. Introduction

On December 18, 2015, President Obama signed into law an act that repealed a forty-year old export ban on crude oil. The export ban was originally adopted in the 1970s in response to concerns about oil scarcity, and to uphold the domestic price controls introduced by President Nixon. Those price controls were abolished in 1981, thus eliminating part of the original rationale for the export restrictions, but the ban remained in place for decades. Its durability and supposed contributions to America's energy security once made repealing the export ban "unthinkable," according to a senior energy adviser to President Obama [1]. Yet that is precisely what happened, rather suddenly, in 2015. How did this historic shift in American energy policy come about?

In the absence of scholarly answers, some analysts offered flawed and incomplete explanations. For instance, media reports suggested that the decline in global oil prices in 2014–15 drove oil companies to lobby for the policy change [2]. But prices had declined in the past, such as in the mid-1980s, and there was no change in policy. Others just pointed to booming US crude production since 2008 as the main catalyst for change [3]. Yet, in spite of its fracking boom, the US remains a net oil importer, consuming more

than it produces. Something else had to be going on to explain the sudden change in US policy.

The answer to this puzzle lies with certain changes in the political economy of oil. More precisely, we argue that a multiple streams model of the policy process best explains the US policy shift on oil exports [4]. That model suggests that policy change only occurs when three separate 'streams' come together at the same time: a recognized policy problem (the problem stream), a feasible policy solution (the policy stream), and a set of policy makers with the motive and opportunity to turn it into policy (the political stream). In 2015, that combination was finally in place, in the context of a grand bargain to pass the government's budget and fewer concerns about potentially increasing gasoline prices for American motorists. The oil export decision thus serves as a potent reminder that energy policy-making is often less coherent than it might appear.

Our analysis also speaks to the field of international relations, where energy is still understudied [5,6]. Where they exist, studies tend to focus on international organizations like OPEC and the IEA rather than on national-level foreign policy related to energy [7,8]. Social scientists are especially negligent of the political economy of energy policy [9,10]. Instead, research on oil and energy tends to focus on security dimensions [11–13]. Yet the security rationale for the US crude oil ban, to the extent that there was one, had not changed in 2015: the US remained a net importer of oil. To understand the policy shift, one has to look at the changing political economy of the US oil industry and the particularities of the policy process.

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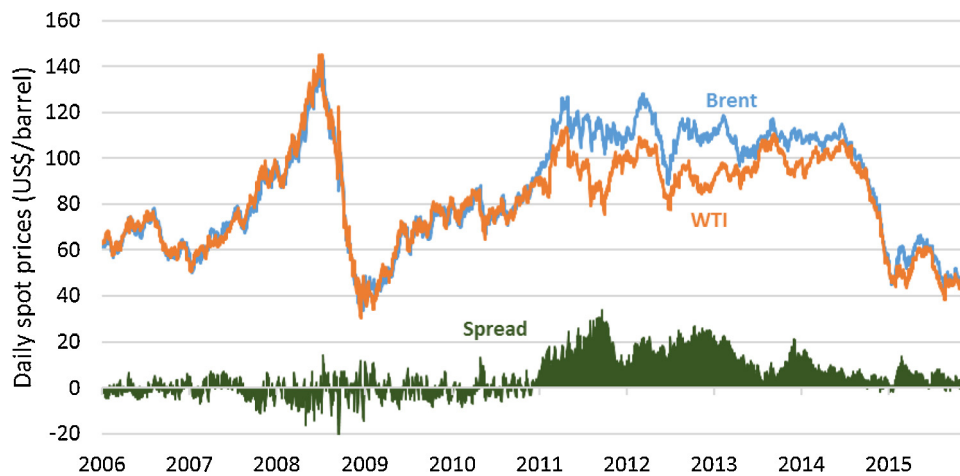


Fig. 1. The Brent-WTI spread was historically large between 2011 and 2015.

Source: US Energy Information Administration.

This study is structured around three questions. First, why was the export ban in place for forty years? Second, what changed in 2015 that led Washington policymakers to remove the ban? And third, what are the potential international implications of lifting the ban for energy markets, climate change and geopolitics?

2. The origins of a forty-year old oil export ban

2.1. The roots of US oil trade restrictions

The US began to restrict oil trade in the 1950s, at a time when rising volumes of cheap foreign oil threatened domestic production. In response, President Eisenhower began to limit imports of crude oil. The import restrictions accelerated the depletion of domestic reserves and had to be gradually eased in the 1960s. In the early 1970s, another interventionist policy was introduced when President Nixon began implementing wage and price controls, including oil price controls, as a means of curbing rampant inflation. While the price freezes on most goods were removed within the next three years, those for oil continued for the next decade. Oil exports were not an issue at first, as the price of crude within the United States was higher than on the global market, a result of US protectionist policies [14,15].

Then came the 1973 Arab oil embargo, leading international oil prices to rise and causing an oil scarcity panic. This event triggered the Nixon administration to put in place oil export restrictions. Regulation was accomplished under three laws, and reflected specific motivations ([16]: 770–774; [17]). First, the Trans-Alaska Pipeline Authorization Act, passed several weeks after the Arab oil embargo in 1973, sought to regulate the development of Alaska's vast North Slope oil resources, which had been discovered in 1968, but were held up by environmental concerns and a debate over the most appropriate pipeline route to ship the crude. The 1973 act cleared all legal hurdles against the construction of a pipeline to the port of Valdez, but it also forbid the export of the crude. The export ban reflected energy security concerns and it was a major victory for US maritime interests, since the 1920 Jones Act required that cargoes shipped between US ports be moved by US-flag vessels only [16,18].

Second, the Emergency Petroleum Allocation Act (EPAA) of 1973 reflected domestic price controls. In October 1973, the Arab oil embargo ratcheted up international oil prices relative to prices within the United States [15]. This gave US oil producers an incentive to sell abroad at higher prices, which would have undermined the domestic price regulations. The exports of crude and refined

products were therefore quickly subjected to regulation and licensing under the Export Administration Act of 1969 [17].

Third, the export ban under the Energy Policy and Conservation Act (EPCA) of 1975 reflected the additional concern over domestic energy depletion. Even though the Arab oil embargo ended in March 1974, heightened concern over oil shortages and security of supply persisted.¹ The EPCA therefore reinforced the export ban regime. Some exceptions were allowed but only if they were deemed to be in the national interest [17].

2.2. Actions and attempts to weaken export restrictions

In April 1979, President Jimmy Carter started a phased decontrol of crude oil prices as part of an effort to stimulate domestic production. It was also part of a package deal at the G7 with Germany and Japan promising to reflate their economies in exchange for US oil price decontrol [19]. In his very first executive order upon entering office in 1981, President Ronald Reagan eliminated the remaining price controls for oil and refined products. In the same spirit of liberalization, the Department of Commerce removed quantitative limits on the export of all refined products like gasoline and diesel in October 1981. The remaining ban only applied to unrefined crude oil.

The ban on crude oil would also come to be challenged. In 1981, for example, a proposal was made to lift the export ban for Japan in order to strengthen the bilateral ties and as a remedy to the growing US trade deficit with the country. Three years later, Senator Frank Murkowski (R-Alaska) undertook a more determined effort to permit crude oil exports pursuant to a treaty [16]. Those early efforts were defeated because of two reasons. First, the US crude export prohibition had been made more secure by the amendments to the Export Administration Act of 1977 and 1979, which made it extremely difficult to export oil since the President would have to find that such exports would “have a positive effect on consumer oil prices” ([20], p. 541). Second, there was vehement opposition from vested interests such as the labor unions who argued that, if the oil was exported to Japan, “[e]mployment in shipyards and the construction industry will be exported along with Alaska oil” (cited in: [20], p. 541).

Eventually, some of the efforts for change bore fruit and the crude export ban became subject to multiple exemptions, includ-

¹ One common definition of energy security is “the reliable and affordable supply of energy.” ([32]:3).

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