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# Energy, Petrochemical and Natural Resources

## What Crude-Oil-Export-Ban Repeal May Mean for the Philadelphia Region

**Action Item: After 40+ years, the American ban on crude oil exports looks to be over, to the jubilation of many. But there are grounds for pause in the Southeastern Pennsylvania Region. Just a few years ago, 24,000 jobs in the region were on the brink of evaporating because three local oil refineries announced—nearly simultaneously—that they were shuttering. The very same revolution in American shale oil production via hydraulic fracturing that saved these refineries was also the prime driver for the move to repeal the crude export ban. Herein lies the irony, because there is some reason to be concerned that the repeal will not be friendly to the Southeastern Pennsylvania Region's refining capability and, ergo, its local economy.**

While one 1970's era energy policy, corn fuel mandates, goes on in automatic pilot, Congress this week sent to the showers the 40-year-old ban on U.S. crude exports. Congressional leaders approved the measure to end the export ban as part of the omnibus appropriations bill that is aimed at preventing a government shutdown. As part of the deal, Democrats were able to extract a rollback of GOP attempts to stop some of President Obama's environmental regulations and extensions of wind and solar tax credits.

So what does this portend for our Southeastern Pennsylvania Region? While it's still early, and there is disagreement, some have been saying that a wholesale gutting of the crude export ban could bring real damage to our region's and our nation's economy and security.

That the repeal of the crude export ban was even on the table was as inconceivable two years ago as were $35 crude prices then. How could oil prices have gotten here, you ask? The United States has become the margin setter for oil prices, that's how. U.S. shale oil production has fathered a U.S. oil production leap from five million barrels per day in 2010 to over nine million barrels per day now. So it's those low crude prices based on and coupled with U.S. production that serve as the flashy object driving the crude-oil-export-ban politics.

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Those that were pushing to get rid of the export ban argued that it would be good for the U.S. economy and help America prop up oil starved allies as well. They also pointed out that crude could already be exported to our friends in Canada and that we have always been free to export refined products made (i.e., refined) from crude.

The other side—mostly domestic refiners—argued that sending more oil abroad would raise gas and diesel prices at home. Also, they pointed out that home-based refiners are in the process of investing heavily to retool refining capability from heavy sulfur crude inputs to domestically produced light sweet crudes. They say that precipitous lifting of the ban would be like Lucy pulling the football away in the midst of their commitment to U.S. refining. They also argued that wholesale lifting of the ban would hurt the domestic refining capability that is critical to national security.

Others oppose the repeal of the ban, citing economic data in support of their opposition. As they say, the cure for low prices is low prices. Rob Kaplan, the President of the Dallas Federal Reserve Bank, gave everyone a dose of reality in his public remarks on November 18 at the University of Houston. Dr. Kaplan pointed out that it is expected that the current imbalance in oil production versus consumption, which is driving and keeping oil prices low, is expected to come more into balance by late 2016 or early 2017.

Our own Philadelphia region is an example of what the refiners are talking about. Just a few years ago, we were looking at the death of regional oil refining as our three local refineries were shuttering at the same time. At the time, it was estimated that, with the multiplier effect, the closing of the three refineries would cost the region 24,000 jobs. But, out of the resurgent U.S. oil production capability born out of hydraulic fracturing, two local refineries have been reborn, both of which are growing and are stalwarts of our regional economy. Those refineries are making investments in infrastructure to refine significant amounts of mid-continent light low sulfur U.S. crude. The refineries today support about $2.5 billion in wage income and pump $15 to $20 billion of direct economic impact to our region. They are the centerpiece of a potential resurgence of our region as an energy and manufacturing hub.

Then there's the Jones Act piece—which few in Congress connected to the crude export issue even though the two are inextricably intertwined. Most people have never even heard of the Jones Act, and it will never have the political sex appeal of the crude oil export issue. Put simply, the Jones Act, passed into law in 1920, mandates that ship cargo moving between U.S. ports be carried only on U.S.-owned, U.S.-built ships operating under the U.S. flag.

Let's bring what this means home vis-à-vis our East Coast refiners. U.S. East Coast refiners shipping crude by sea from the Gulf of Mexico pay roughly triple the shipping costs compared to their Montreal-area competitors due to costs of compliance with Jones Act restrictions. Local refiners point out that in this respect the Jones Act gives their competitors an unfair cost advantage to ship crude from the Gulf Coast to Canada, refine it there into gasoline, and ship it back to the East Coast. That bleeds refining jobs from here to the Gulf Coast.

So, getting rid of the crude ban, with no tweak to offset Jones Act shipping costs, means that more barrels will head for Europe on less-costly foreign ships—just to be refined there and brought back here as higher-value refined products. And let's face it, nobody uses crude; we used the more valuable refined products from crude that are made more valuable by the labor of refining. That means our region's jobs related to valorizing the crude into refined products will be exported from here to Europe. To try to level this playing field and keep jobs in U.S. refineries (and ships) from heading overseas, Sen. Tom Carper and others have been pressing for tax relief for the industry, and the final bill includes a measure boosting tax deductions for independent refiners based on oil transport costs.

There is a possible negative environmental impact to opening the door to crude exports as well. As our own Congressman Pat Meehan (PA-7) has pointed out, it will mean that more American crude will be sent to overseas refineries without the same standard for environmental protections. In that vein, it is estimated that China would be the largest consumer of U.S. exported crude. It was only last week that Beijing experienced an air quality (or lack thereof) "red alert" that forced schools to close, outdoor activities to cease, and the population to wear surgical masks.

President Obama had said back in October that he would veto a crude export ban repeal—at least as an individual bill. The White House said that it "strongly opposed" H.R. 702, which would remove restrictions to the ban on crude oil exports. The White House said that such legislation is "not needed at this time," and that "Congress should be focusing its efforts on supporting our transition to a low carbon economy."

But it's clear that the White House sees things differently now that the President has signed into law the omnibus appropriations bill, which includes the repeal of the crude export ban. White House Press Secretary Josh Earnest had already provided some political "air cover" by telling reporters last Tuesday that "I'm confident that there will be things that will be included in the omnibus bill that we don't support." But the law does have certain measures that will allow the White House to claim it is "focus[ed]...on supporting our transition to a low carbon economy." Perhaps this will also be how the White House reconciles the removal of the crude export ban with the letter and spirit of the Paris Climate Accord that the President agreed to last week.

Nancy Pelosi, the House Minority Leader, summed up her view succinctly when she said, "Not only are we losing the oil, but we're losing the jobs that go into refining it." Time will tell, but we can only hope she is mistaken. — © 2015, BLANK ROME LLP

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