



May 4, 2022

The Honorable Dick Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Chuck Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Chairman Durbin and Ranking Member Grassley:

The U.S. Chamber of Commerce opposes S. 977, the “No Oil Producing and Exporting Cartels Act” (NOPEC), which your committee is scheduled to consider in a markup on May 5.

The Chamber is unalterably opposed to anti-competitive conduct in commercial markets by foreign states and their agents. However, S. 977 ignores the legal and policy complexities at play when a nation-state engages in or directs commercial conduct. Antitrust cases involving nation-state commercial activity can already be brought under existing law. The proposed legislation would prohibit the courts from carefully evaluating sovereign immunity claims.

Although S. 977 is intended to be limited to restraint of trade in oil, natural gas or petroleum products, the Committee should be wary of the precedent it would create. Once sovereign immunity has been eliminated for one action of a state or its agents, it can be eliminated for all state actions and the actions of agents of the state.

Under reciprocal legal regimes, the United States and its agents throughout the world could be tried before foreign courts – perhaps including the military – for any activity that the foreign state wishes to make an offense.

This legislation would have zero impact at taming gasoline prices and could perversely cause prices to rise due to the geopolitical risk that comes with this legislation. The United States is the leading global energy producer, yet federal policies often stand in the way of leveraging America’s own abundant resources. Congress and the Administration should do more to support domestic production of reliable energy as the best means to provide greater insulation against price swings.

Sincerely,

Neil L. Bradley
Executive Vice President, Chief Policy Officer,

and Head of Strategic Advocacy
U.S. Chamber of Commerce

cc: Members of the Senate Committee on the Judiciary