

## Union Calendar No. 96

110TH CONGRESS  
1ST SESSION

# H. R. 2264

[Report No. 110-160]

To amend the Sherman Act to make oil-producing and exporting cartels illegal.

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### IN THE HOUSE OF REPRESENTATIVES

MAY 10, 2007

Mr. CONYERS (for himself, Mr. CHABOT, and Ms. ZOE LOFGREN of California) introduced the following bill; which was referred to the Committee on the Judiciary

MAY 21, 2007

Additional sponsors: Mr. KAGEN, Mr. HILL, Mr. COHEN, Ms. CLARKE, Mr. ARCURI, Mr. SPACE, Mr. SESTAK, Mr. KUCINICH, Mr. MURPHY of Connecticut, and Mr. HALL of New York

MAY 21, 2007

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

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## A BILL

To amend the Sherman Act to make oil-producing and exporting cartels illegal.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “No Oil Producing and  
3 Exporting Cartels Act of 2007 or ‘NOPEC’ ”.

4 **SEC. 2. SHERMAN ACT.**

5 The Sherman Act (15 U.S.C. 1 et seq.) is amended  
6 by adding after section 7 the following:

7 **“SEC. 7A. OIL PRODUCING CARTELS.**

8 “(a) IN GENERAL.—It shall be illegal and a violation  
9 of this Act for any foreign state, or any instrumentality  
10 or agent of any foreign state, to act collectively or in com-  
11 bination with any other foreign state, any instrumentality  
12 or agent of any other foreign state, or any other person,  
13 whether by cartel or any other association or form of co-  
14 operation or joint action—

15 “(1) to limit the production or distribution of  
16 oil, natural gas, or any other petroleum product;

17 “(2) to set or maintain the price of oil, natural  
18 gas, or any petroleum product; or

19 “(3) to otherwise take any action in restraint of  
20 trade for oil, natural gas, or any petroleum product;  
21 when such action, combination, or collective action has a  
22 direct, substantial, and reasonably foreseeable effect on  
23 the market, supply, price, or distribution of oil, natural  
24 gas, or other petroleum product in the United States.

25 “(b) SOVEREIGN IMMUNITY.—A foreign state en-  
26 gaged in conduct in violation of subsection (a) shall not

1 be immune under the doctrine of sovereign immunity from  
2 the jurisdiction or judgments of the courts of the United  
3 States in any action brought to enforce this section.

4 “(c) **INAPPLICABILITY OF ACT OF STATE DOCTRINE.**—No court of the United States shall decline,  
5 based on the act of state doctrine, to make a determina-  
6 tion on the merits in an action brought under this section.

7 “(d) **ENFORCEMENT.**—The Attorney General of the  
8 United States may bring an action to enforce this section  
9 in any district court of the United States as provided  
10 under the antitrust laws.”

11 **SEC. 3. SOVEREIGN IMMUNITY.**

12 Section 1605(a) of title 28, United States Code, is  
13 amended—

14 (1) in paragraph (6), by striking “or” after the  
15 semicolon;

16 (2) in paragraph (7), by striking the period and  
17 inserting “; or”; and

18 (3) by adding at the end the following:

19 “(8) in which the action is brought under sec-  
20 tion 7A of the Sherman Act.”

21 **SECTION 1. SHORT TITLE.**

22 *This Act may be cited as the “No Oil Producing and*  
23 *Exporting Cartels Act of 2007” or “NOPEC”.*

1 **SEC. 2. SHERMAN ACT.**

2 *The Sherman Act (15 U.S.C. 1 et seq.) is amended by*  
3 *adding after section 7 the following:*

4 *“SEC. 7A. (a) It shall be illegal and a violation of this*  
5 *Act for any foreign state, or any instrumentality or agent*  
6 *of any foreign state, to act collectively or in combination*  
7 *with any other foreign state, any instrumentality or agent*  
8 *of any other foreign state, or any other person, whether by*  
9 *cartel or any other association or form of cooperation or*  
10 *joint action—*

11 *“(1) to limit the production or distribution of*  
12 *oil, natural gas, or any other petroleum product;*

13 *“(2) to set or maintain the price of oil, natural*  
14 *gas, or any petroleum product; or*

15 *“(3) to otherwise take any action in restraint of*  
16 *trade for oil, natural gas, or any petroleum product;*  
17 *when such action, combination, or collective action has a*  
18 *direct, substantial, and reasonably foreseeable effect on the*  
19 *market, supply, price, or distribution of oil, natural gas,*  
20 *or other petroleum product in the United States.*

21 *“(b) A foreign state engaged in conduct in violation*  
22 *of subsection (a) shall not be immune under the doctrine*  
23 *of sovereign immunity from the jurisdiction or judgments*  
24 *of the courts of the United States in any action brought*  
25 *to enforce this section.*

1       “(c) No court of the United States shall decline, based  
2 on the act of state doctrine, to make a determination on  
3 the merits in an action brought under this section.

4       “(d) The Attorney General of the United States may  
5 bring an action to enforce this section in any district court  
6 of the United States as provided under the antitrust laws.”.

7 **SEC. 3. SOVEREIGN IMMUNITY.**

8       Section 1605(a) of title 28, United States Code, is  
9 amended—

10           (1) in paragraph (6), by striking “or” after the  
11 semicolon;

12           (2) in paragraph (7), by striking the period and  
13 inserting “; or”; and

14           (3) by adding at the end the following:

15           “(8) in which the action is brought under section  
16 7A of the Sherman Act.”.

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110<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

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