

Our View: Passing Anti-OPEC Legislation Is a Terrible Idea

Philip K. Verleger, Jr.

July 23, 2018

Congress is once again considering passing the “No Oil Producing and Exporting Cartels Act” (NOPEC). The law would allow the US attorney general to sue, under US antitrust law, OPEC members and any other oil-producing country participating in an agreement to cut production to raise prices. NOPEC is a terrible idea.

There have been two lawsuits against OPEC in the last forty-five years. I participated in both. In the first, I was a witness for the judge. My testimony helped him find a way to dismiss the suit.

In the second, I prepared a damages estimate for a private firm . That suit was also ultimately dismissed.

On reflection, I have concluded that any attempt to sue OPEC or any other oil producer in US courts for their actions is a mistake. I base this conclusion on the view that such litigation can never achieve a goal that would benefit consumers, which is, one assumes, its primary objective.

Success in a suit against OPEC or other producers would not bring down crude oil or product prices for consumers in the United States or elsewhere because US courts cannot reach over borders and force producers to boost output. A suit might extract some monetary damages from oil-producing states foolish enough to have assets in the US. However, such monies would probably not reach consumers. Furthermore, prices would increase consequently because oil-exporting countries would employ defensive mechanisms, such as selling through trading companies when dealing with the US.

Success would also be costly to US firms attempting to do business in oil-exporting countries. These nations would likely retaliate against the United States by shifting their business to firms based in Europe or Asia.

In short, such suits might pacify voters who are angry over high gasoline prices, but they would do serious long-term damage to US interests.

What has been lost in all the “to do” about NOPEC is a real solution: economists have long recognized that high gasoline taxes are a direct way to counter high oil prices and squeeze OPEC. Sadly, no political will exists to pursue such a remedy.

We covered the “Suing OPEC” issue in detail in the July 23, 2018, issue of *Notes at the Margin*. For more details on the publications and services of PKVerleger LLC, please contact us at info@pkverlegerllc.com. Thanks!

