Insight

Let's Stop Violating Our International Trade Agreements

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Watching the recent back and forth over licensing of exports of liquefied natural gas (LNG) is a case study in how quickly America can offend its friends and would-be allies. Last week the Energy and Commerce Committee had an opportunity to align our energy policy with our international commitments to the World Trade Organization when it considered the Domestic Policy and Global Freedom Act (H.R. 6). Unfortunately, the Committee blinked during markup.

Apparently, we have learned little from the Keystone XL debacle. In the Keystone case, an infusion of nasty politics and campaign style advocacy transformed a straightforward regulatory process into a multi-million dollar public slugfest that served only to offend an ally, degrade our energy security, and damage the long-time trust between our two nations that will be difficult to repair.

Ironically, the current uncertainty swirling about exports of LNG is precisely the situation that Congress had hoped to avoid when it amended Section 3 of the Natural Gas Act in 1992. That amendment, according to the Congressional Research Service, streamlined the licensing process for the import and export of natural gas to conform to America's Free Trade Agreements (FTA). Consistent with the goals of an FTA to promote trade and ease tensions between nations, Congress recognized the need to align U.S. statutes with current and future agreements.

Two decades later, Congress again attempted to align old law with the newer rules of the World Trade Organization (WTO) with H.R. 6. As originally written, the measure would grant these nations the same access to U.S. LNG exports as FTA signatories. The WTO, consisting of 159 countries including the United States, was established in 1995 as part of the agreement concluding the Uruguay Round of the General Agreement of Trade and Tariffs (GATT). This agreement requires signatories to treat all other member nations equally in regards to international trade. Current law as it stands provides preferential treatment to FTA nations by giving them immediate access to U.S. LNG and is slow-walking approvals for LNG exports to WTO nations – a clear GATT violation.

During consideration of H.R. 6 this week, the Committee deleted language that would update the 1992 statute to comply with our WTO agreements and replaced it with language that simply speeds up the approval process for new LNG export facilities. The application process gains no more certainty and our diplomatic situation remains needlessly complicated.

The question we should be asking – which goes back to my Keystone XL example – is why would we want to get involved in choosing who is on the receiving end of American natural gas and create unnecessary tension among trading partners? Instead the government should allow the market to dictate LNG destination points and spare the State Department from needing to offer explanations to indignant ambassadors and foreign ministers.

In recent weeks, we have seen letters to congressional leadership from Eastern European ambassadors calling

for prompt action to remove LNG licensing barriers for WTO countries. It is time for Congress to be responsive to these pleas for help and act on a version of H.R. 6 that recognizes our membership in the WTO. In doing so, Congress would not be creating new policy but updating existing law to align with more recent international agreements.

The alternative? Continued frustration and erosion of trust among our trading partners.