US Congress proposes allowing antitrust suits against OPEC

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In a demagogic display before the travel-heavy Memorial Day holiday, the US House of Representatives adopted legislation Tuesday that would allow an antitrust prosecution of the Organization of Petroleum Exporting Countries (OPEC). On Wednesday, the Senate called in top oil executives for theatrical grilling on price increases as oil surpassed $133 per barrel and gasoline at the pump averaged $3.79 per gallon for the week.

The so-called "No Oil Producing and Exporting Cartels Act" (NOPEC) would amend current law on cartels under the Sherman Antitrust Act to allow the Justice Department to prosecute sovereign nations for acting collectively to set prices. The Sherman Act is the oldest federal law dealing with price-setting by market monopolies and industrial cartels. The bill passed late Tuesday by a vote of 324 to 84, with the White House threatening to veto.

US politicians, including President Bush during his recent visit to Saudi Arabia, have asserted that the price of oil is spiking primarily because OPEC countries are deliberately under-producing. However, the Saudi government and other OPEC members have insisted that world supply is adequate. Reuters news agency reported industry estimates Wednesday that OPEC's oil output in May had risen by 700,000 barrels per day over April.

Specifically, the bill calls for making punishable by under US law "any foreign state or instrumentality thereof to act collectively or in combination with any other foreign state ... when such action has a direct, substantial, and reasonably foreseeable effect on the market, supply, price, or distribution of petroleum in the United States" by limiting supply or setting prices. OPEC members would be denied sovereign immunity from the jurisdiction of US courts, making US law extra-territorial.

The legislation would establish a "Petroleum Industry Antitrust Task Force" in the Justice Department to pursue enforcement of the antitrust stipulations of the bill.

The bill's supporters, most prominently the Democrats, are repeating last year's performance, when a nearly identical bill was approved by both the House and Senate. The antitrust measure was later stripped from the text of the legislation by a Senate committee, after Bush threatened a veto.

The entire procedure is an exercise in nationalist posturing. The NOPEC Act contains no measures to curb the super-profits of the oil companies or the wild speculation of Wall Street on commodities. Instead, the political establishment, nervous in the face of rising inflation, is attempting to deflect public dissatisfaction at high oil prices away from US firms and policies toward the ruling elite's agenda in the Middle East, especially as regards Iran and Saudi Arabia.

OPEC members would not be without means to retaliate, in the event the bill is enacted. Were a country to be sued in the US court system and informed that under the Sherman Act its assets were to be seized, the country could pull investment from the US. More likely, the weight of OPEC members' production and trade relations would be brought to bear as a deterrent against Justice Department prosecution.

Some OPEC countries have already indicated that they may stop pegging their currencies to the dollar, a move that could be accelerated in the face of threatened US sanctions. In an interview with Reuters Tuesday, OPEC Secretary-general Abdullah al-Badri insisted that high oil costs were not due to price or output manipulations, but rather to financial speculation and the decline in the value of the dollar. The weakening

US currency has driven investors from dollar-denominated assets into commodities markets, including oil, metal ores, and grains over the past few months, fueling speculation and inflation.

In testimony before the Senate Judiciary Committee Wednesday, multi-millionaire executives of oil giants BP, Chevron, ConocoPhillips, Shell, and Exxon Mobil denied that speculation and corporate gouging were jacking up oil prices and resulting in record-breaking profits. While expressing their displeasure at the House bill, the executives one after another insisted that exporting countries were largely to blame for rising gasoline prices. “The fundamental laws of supply and demand are at work,” Shell chairman John Hofmeister told the committee.

The major oil companies have raked in hundreds of billions of dollars in profits over the past year. Shell turned more than $9 billion in profit for the first quarter of 2008 alone, and BP made $7.6 billion. A substantial portion of the recent profits are attributable to rising oil and retail gasoline prices. As the *World Socialist Web Site* noted after Shell and BP’s first quarter earnings were announced, “These figures include earnings attributed to the rise in oil prices. If this rise is factored out (as is done in the so-called current cost of supplies figures), Shell’s profits were $7.8 billion and BP’s were $6.6 billion. That is, at least $2 billion in profit for the two companies can be attributed solely to the recent rise in oil prices.” (See “As gas prices and oil profits soar, Bush promotes giveaways to corporations”)

On Wednesday Chevron vice-chairman Peter Robertson called for increased government handouts to oil companies for “research” in alternative energy sources and investment in new refineries. In April, oil executives called on Congress to award companies $18 billion in federal subsidies.

Other executives repeated the argument and yet again demanded the opening up of Alaska’s Arctic National Wildlife Refuge and untapped off-shore regions to oil drilling. “Americans need companies that can effectively compete for access to new resources,” Robertson said. “Punitive measures that weakened us in the face of international competition are the wrong measures.”

These “punitive measures,” according to ConocoPhillips vice president John Lowe, include bans on drilling, taxation, and environmental regulations on refinery pollution.

For their part, Senators on the committee limited their opposition to the corporate profiteering to irrational, moralizing rebukes and nationalist appeals. Illinois Democrat Dick Durbin, a staunch supporter of fellow Illinois Senator Barack Obama’s presidential campaign, laid his complaints on with particularly heavy strokes. “It strikes me that this is the right situation for a president to step in, for a president of the United States to step in,” he said. “The president of the United States goes to Saudi Arabia and begs the sheiks, ‘Please release more oil, you are killing the American economy.’ They told him to take a hike. They sent him home empty-handed.”

To the executives, Durbin said, “I think the president should be calling you all before his little meeting place, the White House, and talking about what you are doing to the American economy. Does it trouble any of you when you see what you are doing to us, the profits that you are taking the costs the you are imposing on working families, small businesses, truckers, farmers?”

According to a business brief on Wednesday’s *New York Times* website, Judiciary Committee chair Patrick Leahy (Democrat, Vermont) “demanded that the executives tell him the amount of their pay packages and then ridiculed those who said they did not know exactly how much they made.” Yet, epitomizing the handwringing over appearances—and essential lack of opposition to the profiteering—Leahy told the executives, “The people we represent are hurting, while your companies are profiting. We need to get some balance.”