

Oil & Natural Gas Industry Position on TTIP¹

Introduction

The American Petroleum Institute (API) and the International Oil and Gas Producers Association (OGP), which together account for more than half of the world's oil output and about one third of global gas production, work on behalf of their international oil and gas member companies to enhance the opportunities for oil and natural gas production and improve the competitiveness of the industry in the worldwide economy. We base this position paper on the fact that our industry makes investments that can last for decades and which take many years of planning to bring to market.

Global trade and investment regimes are of critical importance. Free trade provides opportunities for business growth and expansion; increases the range of oil, natural gas, and other petroleum products available to consumers; enhances market-based production globally; and contributes to global energy cooperation. API and OGP believe these ends can only be achieved by eliminating impediments imposed on international oil and natural gas producers, fostering a pro-export environment, and maintaining a level playing field among industry sectors by reducing trade barriers that distort the market and raise costs to consumers.

Policy Objective

Energy is an important component of transatlantic trade. API and OGP believe energy-related WTO and market access principles should be fully addressed in the Transatlantic Trade and Investment Partnership (TTIP). API and OGP will continue to advocate for a TTIP that removes barriers, promotes market-oriented policies and creates genuine opportunities for commercial growth and job creation.

Tariffs

API and OGP seek the reduction and ultimate elimination of tariffs and other barriers to the free trade of crude fossil fuels, refined products, equipment and other goods supporting oil and natural gas exploration, production, manufacturing and retailing.

Free Trade for Energy Security

TTIP offers the opportunity for significantly enhanced bilateral trade between the United States and the European Union by eliminating current and pending trade restrictions in the energy sector. The United States and the European Union depend for their energy security on the free flow of energy in global markets. In this context, maintaining or creating arbitrary restrictions on the free trade of energy and energy products seems counterproductive. TTIP should aim to eliminate all legal restrictions and non-tariff barriers to the import and export of oil and gas in all their forms between the US and the EU as well as incorporate principles of non-discrimination throughout the agreement. Discrimination in the trade and import of energy goods, including the subjective differentiation between fuels, should end.

¹ This position paper reflects the views of the combined membership of both the American Petroleum Institute (API) and the International Association of Oil & Gas Producers (OGP) (the "Associations") on some of the key issues and principles pertaining to US-EU trade in energy and the negotiation of the Transatlantic Trade and Investment Partnership (T-TIP). The Associations recognize that proposals may be developed from these and other principles by the negotiating teams throughout the T-TIP process and will endeavor to provide a combined response to the negotiating teams as appropriate. The Associations will engage on the specific topic of the T-TIP treaty's architecture and other issues, including access to infrastructure, once the EU and US government negotiating teams determine a clearer idea of how the energy aspects of T-TIP are to be structured.

Standards & Safety Regulations

Standards and technical program organisations, such as API and OGP, produce standards and conformity assessment measures in compliance with national regulations and by following the precepts of openness, balance, consensus and due process in the development of such standards. By policy, these standards are performance-based to the maximum extent possible, allowing them to be applied to different operating and environmental conditions, including those that exist between the United States and European Union.

API and OGP expect the United States and European Union to recognise these differences and not mandate a “one-size-fits-all” regulatory approach. As such, we strongly encourage timely and formal consultation with industry stakeholders prior to the enactment or implementation of any rule or regulation. This will ensure that the necessary consideration of the precepts above - required for the viability and ultimate success of any standard or regulatory regime - are given their due regard.

International Investment Protection

The United States and European Union protect foreign investments through systems of jurisprudence, rights to equitable treatment, and fair and impartial hearings of disputes. API and OGP fully support the right of governments to regulate in the public interest, for example, in the field of environmental protection or consumer health. API and OGP support an investment chapter containing: strong investment protections that ensure fair and equitable treatment of investors; full protection and security of investments; a prohibition on expropriation of investments; prompt compensation when expropriation occurs; free transfers of capital; and access to reliable, independent, international third-party dispute resolution mechanisms (e.g., investor-state arbitration).

Transparency

API and OGP members fully support transparency and are actively engaged in developing and facilitating important initiatives like the Extractive Industries Transparency Initiative (EITI). However, the concern for adequate transparency should operate in tandem with concern for protecting investors, maintaining international competitiveness, and promoting efficient capital markets. Any effort towards greater transparency must be adequately balanced with the due regard for these consequences and not lead to instances where compliance with a transparency mandate would violate the sovereign laws of a host country. To be successful, any transparency initiative must pass the following three-part test: (1) recognise equivalent reporting requirements in other jurisdictions to avoid multiple reporting, (2) protect commercially sensitive information, and (3) avoid violating host government laws or contractual obligations.

Environmental Protection & Sustainability

API and OGP recognize the important responsibility of managing sustainability impacts associated with producing and providing essential energy for global development. However, policies or principles which seek to lower greenhouse gas emissions, set renewable targets, mandate sustainability certification, etc., should be scientifically based, supported by comprehensive analysis and transparent processes, and also be in accordance with domestic environmental laws and global sustainability principles.

Intellectual Property Protection

While fully supporting the principle of transparency, API and OGP support strong rules and enforcement of patents, trademarks and copyrights, such as a common classification for searching IP, and the enhancement of trade secrecy laws.

Data Security

API and OGP recognise that keeping our cyber systems secure is growing increasingly important as part of efforts to maintain effective, efficient and safe global business operations. Our companies are diligent in securing their systems from constant cyber threats that may originate within any country. The best practice for addressing cyber threats is the sharing of timely and actionable information within the industry and with the various government groups both domestically and internationally, consistent with applicable competition laws. We strongly support the sharing of threat information and the strengthening of private-public partnerships. The oil and gas industry has recently developed an industry-wide information sharing mechanism/program (i.e., Oil and Natural Gas Information Sharing and Analysis Center – ONG-ISAC). API and OGP support closer international cooperation to ensure efficient flows of cybersecurity information throughout global business operations to strengthen data security.

Local content

Many governments pursue local content policies to gain additional benefits from investments, create new industries and jobs that benefit local communities, grow and diversify the economy as well as protect the environment. While API and OGP support the sourcing of local employment and equipment, the cost burden of establishing new local industry should not rest solely on foreign investors through mandatory local content requirements. In practice, these policies can be discriminatory, contrary to national production targets and difficult to implement. Therefore, we support labour and materials sourcing policies that promote competitive and transparent bidding, as appropriate, and that provide opportunities to suitably qualified local and global suppliers.