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President's Fealty To Antidumping Lobby Kills Jobs And Depresses Growth



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Rhetorically, President Obama is a champion of industry—as long as it’s green. To put our money where his mouth is, the president has already devoted over \$100 billion in direct subsidies and tax credits to promote investment in solar panel, wind harnessing, lithium ion battery and other industries he deems crucial to “winning the future.” (See [Economic Report of the President, 2011, P. 129, Box 6-2 “Clean Energy Investments in the Recovery Act”](#) for a list of some of those subsidies.) Concerning those industries, Obama said in his 2010 State of the Union address:

“Countries like China are moving even faster... I’m not going to settle for a situation where the United States comes in second place or third place or fourth place in what will be the most important economic engine of the future.”

To be sure, [I am opposed to industrial policy](#), which presumes that one person or a cabal of [self-anointed soothsayers](#) knows how the future will unfold. But the story I am about to share is, I think, instructive in describing endemic policy dissonance within this administration and speaks to what even the president’s staunchest supporters describe as half-heartedness and an incapacity or unwillingness to follow through. Some chalk it up to indifference, but it’s really an aversion to making choices that could offend potential supporters.

While the president talks up the solar panel industry and commits our resources to its development, other policies of his administration undermine its success and encourage offshoring of production and the jobs that go with it. Dow Corning is one of the world’s largest producers of silicones, which are the most crucial components of solar panel production. The foremost ingredient in these silicones is silicon metal, which costs nearly twice the world market price in the United States because of antidumping restrictions on imports of the raw material from China and Russia (two of the world’s largest suppliers). Under U.S. antidumping law, Dow Corning and all other consumers of silicon metal were forbidden from participating formally in the proceedings that lead to the imposition of the duties.

As I described in [a recent Cato policy paper](#), this is more than just tough luck for a few companies. This is economic self-flagellation on a grand scale. The antidumping statute

prohibits consideration of the impact of prospective duties on downstream industries or on the economy as a whole, yet policymakers—having been steamrolled by the pro-antidumping lobby—have given scant consideration to the idea that this is plainly stupid policy, particularly in a globally integrated economy characterized by transnational supply chains and cross-border investment. In such an environment, if one hopes the best for the country's value-added industries, there should be no restrictions on raw material inputs ever (a policy being embraced by other governments around the world).

Alas, the silicon metal restrictions constitute a big problem for Dow Corning and other industrial consumers of silicon metal, but a bigger problem for the economy. To compete with producers of silicones – the solar panel industries – in Europe, Japan, Canada, and China – Dow Corning is forced to consider moving production abroad so that it is not at such a large cost disadvantage from the outset. As Dow Corning officials put it in [a very informative letter](#):

[I]f Dow Corning were to move the production occurring within its Kentucky operations to any country outside the U.S., it would be more competitive by simply having access to the same global supply of raw materials as all other competitors.

Dow Corning could move offshore, a move it would prefer not to make, and probably recover the costs of the transition in short order. But doing so would reduce U.S. economic activity and destroy U.S. jobs, which would have a more lasting adverse impact. So, in an effort to avoid offshoring its operations—a move that one would think the administration would welcome—Dow Corning submitted an application to have some of its silicone production facilities in Kentucky designated as a [Foreign Trade Subzone](#). The key policy objective of foreign trade zones, according to the former president of the National Association of Foreign Trade Zones is:

the optimization of economic development in the United States creating jobs, investment and value-added activity. The current regulations strike a balance that considers antidumping and countervailing duty petitioners, importers and U.S. manufacturers. Imported products that are made with components that may be dumped or subsidized are not subject to antidumping duty or countervailing duty. If these duties can be avoided by locating a factory in a foreign country, the Board should at least consider allowing it to happen here for export so that American workers can benefit. That is what the regulation achieves.

Basically, Dow Corning was proposing that to balance its need for access to world-priced silicon metal with the country's need for economic activity and jobs, it would bring in silicon metal from foreign sources, including silicon metal from China and Russia, to be transformed into silicones in that subzone. Antidumping duties on silicon metals that were used to make silicones that were subsequently exported without first “entering the commerce of the United States” would be waived, while antidumping duties on silicon metals used to make silicones sold in the United States would be subject to the full payment of duties.

But during the period in which the FTZ application was pending, an army of professional antidumping law supporters—the Committee to Support U.S. Trade Laws (CSUSTL), the United Steelworkers Union, the Steel Manufacturers Association, Senator Charles Schumer (D-NY), and others—argued that granting the designation would serve only to circumvent the antidumping order, and that the well-being of the petitioner was all that mattered under the antidumping law.

After hearings, several comment periods, and deliberation, the Foreign Trade Zones Board granted Dow Corning's FTZ request, *but* "subject to a restriction prohibiting the admission of foreign status silicon metal subject to an antidumping or countervailing duty order," thereby negating the entire purpose of the application and effectively daring Dow Corning to shut down its Kentucky operations and move abroad. That decision was signed by the acting assistant secretary for import administration—the same person charged with overseeing the Commerce Department's notoriously pro-petitioner, antidumping regime, and, for the record, a person who answers to President Obama.

Did the president know what was at stake and look the other way? Or did he not even know? Neither answer reflects particularly well on a man claiming to have a plan for job creation and economic growth.