

US DOC TRADE ADVISORY COMMITTEE ON RENEWABLE ENERGY AND ENERGY EFFICIENCY

**TRADE POLICY / MARKET ACCESS
SUBCOMMITTEE**

9/10/2013

Policy Frameworks

- The issue: EE&RE are policy driven industries.
 - Renewables depend upon transmission infrastructure, price incentives, and factoring in externalities (like carbon avoidance).
 - Efficiency depends upon removing the throughput incentives for utilities, rewarding utilities for reductions in consumption, and putting more intelligent building codes and standards in place.
- The opportunity:
 - USA has been a leader in establishing and experimenting with policies designed to incentivize and promote EE&RE. While favorable policy has not, generally speaking, been broadly implemented at the federal level, it has been implemented and effective at the state level.
 - Exporting policies that are favorable for the EE&RE industries will help to further the President's objective of stemming global warming by putting proven policies in place, and will create a familiar and favorable climate for US industries seeking overseas growth.

Policy Frameworks - Recommendations

- **Renewables:**

- Encourage the target countries to adopt RPS (renewable portfolio standards) similar to US states
- Encourage the target countries to minimize/remove “local content” requirements

- **Energy Efficiency:**

- Immediate opportunity
 - Encourage EU member-states to comply with the Energy Efficiency Directive by placing Energy Efficiency Obligations on energy distribution service operators (DSOs). The DSOs should be free to communicate with customers and provide customer service regarding energy efficiency.
 - Encourage the European Commission to push more diligently for compliance with the targets set in the third energy package around installation of Advanced Meter Infrastructure (AMI). AMI is a key contributor to energy efficiency efforts.
 - Establish a series of policy trade missions with leading federal, state level, and NGO policy makers to discuss best practices with energy regulators abroad.
- Longer term opportunity
 - Establish a series of policy exchange led by the Secretary with the Japan, Korea, Taiwan to highlight and promote best practices from the US in energy efficiency regulation.
 - Establish a separate policy exchange led by the Secretary with BRIC nations to discuss long term grid infrastructure, eliminating the throughput incentive, and developing industrial, commercial, and residential energy efficiency programs

RULE OF LAW

- Poor enforcement of commercial contracts, lack of consistent laws regulating business hurt US trade in RE/EE goods and services. As an example,
Environmental regulations affecting foreign and domestic enterprises differently, i.e. the foreign enterprise having to comply below some regulatory threshold and the domestic firm not.
- DOC - Commercial Law Development Program
 - Quick facts on program
- Potential Recommendation: Ask the Secretary to direct CLDP to further support commercial law development with specifics to the RE/EE sectors and focus on those companies exporting the goods and services.

HARMONIZED TARIFF CODES

- The World Customs Organization (WCO) administers a tariff coding system called the Harmonized Tariff Code (HTC). All items shipped into countries are assigned a HTC. The system is very complex, hard to use, interpretations required resulting in multiple tariff codes can be used for same equipment. There is no HTC for renewable energy products.
- **IMPACTS ON TRADE**
 - Arriving at the incorrect HTC can potentially subject imported renewable energy products to higher tariffs, taxes, licenses and loss of incentives.
 - Considerable effort and/or engaging in expensive specialized consulting services in trying to arrive at the correct HTC for renewable energy products.
- **EXAMPLES**
 - There are no HTC that references renewable energy products.
 - Under the U.S. HTC, there is a code referencing “wind turbine blades and hubs” (8412.90.90.81), “solar cells” (8541.40.6020), “assembled into modules or made up into panels” (8541.40.6020) . However, turbines, generators, invertors, compact substations, hydrokinetic , etc. are not referenced. Many of these items are manufactured specifically for the respective renewable energy type.
 - Many countries have specific tariffs, incentives, licenses, and different taxing schemes for the different types of renewable energy equipment. Not having subcategories to easily identify the equipment to the specific renewable energy type can cause administrative issues in trying to substantiate the validity and obtain the favorable economic benefit.
- **POTENTIAL RECOMMENDATIONS FOR SECRETARY - DEPARTMENT OF COMMERCE**
 - Recommend that the WCO establish specific HTC for renewable energy and its equipment components.
 - Propose that the WCO establish HTC for the specific energy types under renewable energy.

TARIFFS ON RENEWABLE ENERGY EQUIPMENT

- Tariffs in countries on renewable energy products varies by country. With the world trying to reduce carbon emissions, eliminating or reducing tariffs will encourage the development of these new technologies while increasing electrical generation and reducing carbon emissions.
- **IMPACTS ON TRADE**
 - Tariffs can increase the cost of projects to the point that it can become economically unviable. Profits and rate of return can be lowered so it is unattractive to investors and international lenders.
 - Tariffs can put US companies at a disadvantage to competitive bidding so only countries domestic companies will succeed in winning contracts.
- **EXAMPLES**
 - Tariffs in Brazil and India can range from the low teens to the mid twenties on renewable energy equipment.
 - On a project of \$18,000,000 USD with a tariff of 15%, additional cost of \$2,700,000 USD has to be incurred with additional equity and financing. This can be substantial and effect the overall economics of the project.
- **POTENTIAL RECOMMENDATIONS FOR SECRETARY – DEPARTMENT OF COMMERCE**
 - Negotiate the elimination or reduction of tariffs on renewable energy equipment.
 - Initiatives like APEC should be adopted.

U.S. Government Should Provide US-made Product/Service Guide for RE&EE technology

- The U.S. government builds and renovates many buildings overseas each year. These sites are sometimes accessible to foreign persons that may be good targets for RE&EE sales.
- **IMPACTS ON TRADE**
 - Having U.S. RE&EE technology in buildings overseas can provide an opportunity to showcase performance of the technology to potential foreign buyers instead of requiring a visit to the United States.
- **EXAMPLES**
 - The Green Embassies program provides for demonstration of U.S. equipment in Embassy/Consulate/Residence renovations. It is unclear how contractors for these renovations access information on U.S. made technologies.
 - There are many other overseas construction/renovation projects listed on fedbizopps or military procurement sites that could be showcase opportunities.
- **POTENTIAL RECOMMENDATIONS FOR SECRETARY – DOC**
 - When government agencies, including the military, with overseas buildings are bidding out renovation or new construction contracts for accessible facilities, a guide to U.S.-made RE&EE products and services should be available to bidders.

U.S. Commercial Guide Content Should be Standardized Across Markets

- Country Commercial Guides (CCGs) are prepared annually by U.S. embassies to provide analysis of a country's commercial environment. The analysis and content of top market sectors is not standardized across markets or reflective of US manufacturing competitiveness.
- **IMPACTS ON TRADE**
 - Hard to find market info in similar format to compare RE or EE sectors across markets, see regional trends or look for best practices in regulations or incentives.
 - Info does not focus on opportunity for US-made content (e.g. PV panels as opportunity in Brazil, >1.5MW wind turbines in Brazil despite import tariff, etc.).
- **EXAMPLES**
 - Sector might be under Electric Power Systems (Kenya), PowerGen T&D (Vietnam), Renewable Energy (Brazil).
 - Missing consistent links to resources like national energy plans, government procurement sites, incentive programs, regulations (interconnection), etc.
 - CHP almost never included despite US manufacturing footprint.
- **POTENTIAL RECOMMENDATIONS FOR SECRETARY – DOC**
 - Create standard template for sector analysis with common sections/data across markets.
 - Ensure US manufacturing capability is reflected in listed opportunities through consultation with ITA Industry Analysts.

U.S. Government Trade Missions Should be Better Targeted and Timed

- The U.S. Department of Commerce plans several trade missions each year. Companies use trade missions to meet prospective buyers and distributors and to learn about government policy and regulation.
- IMPACTS ON TRADE
 - Mixing unrelated industry sectors together for a trade mission diminishes the value to participants as meetings may not be relevant to all participants or not as in depth as they would have been if focused on a particular sector or related sectors.
- EXAMPLES
 - The State of Delaware trade mission to Brazil in June 2012 and Sept 2012 included apparel, cosmetics/toiletries, defense industry, machine tools, RE, etc.
- POTENTIAL RECOMMENDATIONS FOR SECRETARY – DOC
 - RE&EE, if combined with other sectors, should only pair with related sectors such as energy infrastructure, electric power systems or building materials – not health, education, etc. unless separate meeting tracks are tailored to each sector.
 - For RE&EE, where possible, missions should be timed to introduce U.S. companies at a time where they may influence policy direction or take advantage of bidding opportunities. ITA industry analysts should be heavily involved in timing decisions.

Questions to consider about the catalog

1. How would it define U.S. technology?
 - Ex-Im Bank definition could be considered, but it differs based on short vs long term. See here: <http://www.exim.gov/generalbankpolicies/content/>
2. How would the catalog be compiled? Who would maintain the list?
 - DOC or DOE could maintain the list as both agencies have an interest in understanding U.S. manufacturing competitiveness. Companies could apply through a simple online form: Name, product, US manufacturing location; Annual notice sent out to re-confirm accuracy of data.
3. How would companies be listed on the actual list?
 - By technology, alphabetically, or perhaps it could be an online database searchable by certain parameters.
4. Do other governments have similar lists/capabilities?
 - Some countries require all businesses to be members of the chamber of commerce and so have easy access to a list of all companies though this does not denote location of manufacturing.

Localization Barriers for RE & EE

- Examples of localization barriers include:
 - **Local content requirements (LCRs)**, i.e., requirements to purchase domestically-manufactured goods or domestically-supplied services as a condition to participation in market, including:
 - Feed-In Tariffs
 - Renewable Portfolio Standards or Renewable Energy Credits
 - RFPs by governments or state-owned utilities (minimum qualifications or “bid points”)
 - **Subsidies or other preferences** that are only received if producers use local goods, locally-owned service providers, or domestically-owned or developed IP, or IP that is first registered in that country:
 - Qualification for subsidized financing
 - Tax preferences
 - Requirements to use **local facilities or infrastructure**, or **establish manufacturing** facilities in-country
 - Measures to force the **transfer of technology or IP**
 - **Technical barriers to trade (TBTs)** that unnecessarily impede trade, such as:
 - Country- or region-specific or design-based standards
 - Duplicative testing, inspection, or other conformity assessment procedures

Impacts on Trade

- Potential justifications are similar to arguments for other trade barriers like quotas and tariffs:
 - Job creation in host country
 - Benefits to local economy generally
 - Long-term development of RE/EE technical capacity and manufacturing base
 - Local benefits may bolster local political support for renewable energy
- Impacts on Trade:
 - Distorts trade; creates global excess manufacturing capacity
 - Drives limited foreign investment in host country but diminishes local competition
 - Encourages other trading partners to raise similar obstacles
 - Raises prices for consumer
 - Can leave host country with excess capacity after initial boom
- Localization Barriers May Contravene Free Trade Agreements:
 - GATT Art. III:4 – national treatment principle for imported goods
 - GATT Art. III:5 – support schemes that require, directly or indirectly, that any specified amount or proportion be supplied from domestic sources
 - Art. 2.1 of Trade-Related Investment Measures (TRIMs) Agreement – prohibits TRIMs that require purchase or use of domestic products, including by item, volume, value, or proportion
 - Art. 3.1(b) of Subsidies and Countervailing Measures Agreement (SCMA) – direct funding (grants), potential transfers of funds or liabilities (loan guarantees), or foregone revenue (tax breaks)
 - Agreement on Technical Barriers to Trade – harmonization, equivalency & transparency in product standards and labeling
 - Government Procurement Agreement (GPA) – listed procurement measures and governmental entities
 - Various regional and bilateral free trade agreements and organizations

Specific Examples for Renewable Energy

- Local Content Requirements:
 - **India:** solar, subject of USTR complaint to WTO (*Feb 2013*)
 - **Ontario FIT:** wind and solar, subject of WTO complaint by Japan and EU
 - **South Africa's** Renewable Energy Independent Power Producer Procurement Programme
 - Wind, solar PV, solar thermal, biomass, biogas, landfill gas, small hydro
 - 3,725 MW procured in multiple rounds by SA DOE for PPA with Eskom
 - 35% - 75% LCRs for local content, plus local ownership & economic development
 - **Saudi Arabia's** proposed Competitive Procurement Process (CPP)
 - Wind, solar thermal, solar PV, geothermal, waste-to-energy
 - 54 GW by 2032
 - Bid points awarded on sliding scale for local content, ranging from 40% to 70%, depending on technology; increases after initial round
 - **Brazil**
 - 60% for solar, formerly 60% for wind
 - Wind LCR now based on specific physical components (domestic steel, blades, nacelle assembly, hub assembly)
 - Condition to subsidized loans from National Development Bank (BNDES)
- Technical Barriers to Trade
 - [to follow]

Potential Recommendations to Secretary

- **Climate Change and Environmental Policy:** *DOC, Department of State, and other Federal agencies should continue to emphasize localization barriers for RE/EE as obstacles to shared environmental and energy objectives*
- **US and Multilateral Financing Agencies and Initiatives:** *US and multilateral export and development financing agencies and initiatives should encourage reduction of localization barriers in connection with financing for RE/EE projects, wherever possible*
- **Monitoring and reporting:** *DOC agencies should monitor, highlight, and act on specific localization barriers to trade, particularly for new RE/EE programs*
- **Trade Agreements:** *DOC should expand work with international organizations and in free trade negotiations to reduce these barriers*