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Economic Self-Flagellation

How U.S. Antidumping Policy Subverts the National Export Initiative

by Daniel Ikenson

Executive Summary

In January 2010, President Obama announced a goal of doubling U.S. exports in five years. The "National Export Initiative" has since become the centerpiece of the administration's trade policy agenda.

One major oversight of the NEI is its failure to include any sensible reforms to the U.S. antidumping regime. Four out of every five U.S. antidumping measures restrict imports of inputs consumed by downstream U.S. producers in their own production processes. Yet the statute forbids the administering authorities from considering the economic impact of antidumping restrictions on those firms or on the economy at large. Such restrictions raise the costs of production for downstream firms, rendering them less competitive at home and abroad.

Antidumping duties on magnesium, polyvinyl chloride, and hot-rolled steel, for example, may please upstream, petitioning domestic producers, who can subsequently raise prices. But those duties are costly to U.S. producers of auto parts, paint, and appliances, who consume those inputs in their own manufacturing processes. Those downstream companies are more likely to export and create jobs than are the firms that turn to the antidumping law to restrict trade.

The administration is fully aware of the importance of ensuring that manufacturers have access to imported inputs. The Office of the U.S. Trade Representative is arguing these points in its complaint against Chinese export restrictions at the World Trade Organization. And the president himself described how U.S. competitiveness requires that restrictions on imported inputs be limited when he signed into law the Manufacturer's Enhancement Act last year.

The NEI should include a serious commitment to antidumping reform. At a minimum, consuming industries should be given legal standing to participate fully in antidumping proceedings, antidumping measures should be rejected if the projected costs of those restrictions on those firms and on the broader economy exceed some reasonable threshold, and any duties applied should not exceed the level found necessary to remedy injury to the petitioning domestic industry.

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One incomprehensible oversight of the National Export Initiative is its failure to identify the U.S. antidumping regime as a significant impediment to U.S. exports.

Introduction

In his January 2010 State of the Union address, President Obama announced a goal of doubling U.S. exports in five years. That goal was soon enshrined as the "National Export Initiative," which has since become the centerpiece of the administration's trade policy agenda.

In September 2010, the president's newly minted Export Promotion Cabinet published a 68-page plan devoted to the goal of seeing U.S. exports of goods and services reach $3.14 trillion by the end of 2014. Some of the components of that plan—such as streamlining U.S. export control procedures and concluding and signing trade agreements—are laudable ideas. But other aspects of the NEI are troubling.

One incomprehensible oversight of the NEI is its failure to identify the U.S. antidumping regime as a significant impediment to U.S. exports. Although the antidumping law is purportedly a tool that protects U.S. producers from "unfair" trade and ensures a "level playing field," the fact is that the law's outdated assumptions conspire with its overzealous application to erode the competitiveness of U.S. firms.

A substantial majority of U.S. antidumping measures restricts imports of raw materials and other industrial inputs consumed by downstream U.S. producers in their own production processes. Those restrictions raise the costs of production for the downstream firms, weakening their capacity to compete with foreign producers in the United States and abroad.

The Export Promotion Cabinet seems to have overlooked the fact that most of those import-consuming, downstream producers—those domestic victims of the U.S. antidumping law—are also struggling U.S. exporters. Antidumping duties on magnesium, polyvinyl chloride, and hot-rolled steel, for example, may please upstream, petitioning domestic producers, who can subsequently raise their prices and reap greater profits. But those same "protective" duties are extremely costly to U.S. producers of auto parts, paint, and appliances, who require those inputs for their own manufacturing processes. Those downstream companies are more likely to export and create new jobs than are the firms that turn to the antidumping law to restrict trade.

During the decade from January 2000 through December 2009, the United States imposed 164 antidumping measures on a variety of products from dozens of countries. A total of 130 of those 164 measures restricted (and in most cases, still restrict) imports of intermediate goods and raw materials used by downstream U.S. producers in the production of their final products. In all of those cases, trade-restricting antidumping measures were imposed without any of the downstream companies first having been afforded opportunities to demonstrate the likely adverse impact on their own business operations. This is by design. The antidumping statute forbids the administering authorities from considering the impact of prospective duties on consuming industries—or on the economy more broadly—when weighing whether or not to impose duties.

Higher input prices are only the first assault on these downstream firms. The next wave usually takes the form of stiffer competition from firms in countries where there are no antidumping duties on the critical input. As a result, the foreign competition often operates at a cost advantage in the United States and in other markets that enables it to sell profitably at lower prices than U.S. firms can charge.

Accordingly, the profits of downstream firms are squeezed by both higher costs, due to import restrictions, and lower revenues, due to lost sales. As a consequence, countless U.S. producers in downstream industries—including firms that were once thriving in the United States and foreign markets—have suffered severe losses, contraction, and bankruptcy.

As a final indignity, many U.S. exporters suffer the wrath of foreign antidumping restrictions and other forms of protectionism that are often the result of persistent U.S. opposition to antidumping reform, as well as outright retribution for specific U.S. antidumping actions. Among the victims are U.S. exporters to China of automobiles, fiber optic cable, chicken, grain, and paper. In countless ways, the antidumping status quo subverts the goals of the NEI and is an albatross around the neck of the U.S. economy.

To bestow real and enduring benefits upon the U.S. economy, the NEI should include the objective of reforming the U.S. antidumping law to give legal standing to manufacturers and workers in consuming industries; require the administering authorities to conduct an analysis of the economic impact of prospective antidumping duties and to deny imposition if the costs exceed a certain threshold; and require that any antidumping duties imposed be remedial, not punitive.

The National Export Initiative: Laudable Goals, Ill-Conceived Approach

Unveiled soon after President Obama's 2010 State of the Union address, the National Export Initiative portends a big role for the government. By executive order in March 2010, the president decreed the establishment of an Export Promotion Cabinet "to develop and coordinate the implementation of the NEI." Six months later, the new cabinet produced its recommendations in a report colorfully titled "The Export Promotion Cabinet's Plan for Doubling U.S. Exports in Five Years." Prominent throughout "The Plan" is a role for government. It includes nonmarket lending programs to finance export activity, an increase in the number of the Commerce Department's foreign outposts to promote U.S. business, an increase in Commerce Department–chaperoned marketing trips, and other sundry subsidies for export-oriented business activities.

The ambitious goal of doubling the value of annual U.S. exports of goods and services to $3.14 trillion by the end of 2014 is unobjectionable, but enshrining a specific target as a national imperative presents risks. Five-year plans have a way of breeding zealous devotion to goals for the sake of goals, sometimes at the expense of a process that would otherwise lay the foundation for greater and enduring success. Policymakers with political stakes in reaching the goal may be tempted to create incentives that favor some interests over others and that cause economic resources to be allocated inefficiently.

Nevertheless, some of the proposals under consideration are eminently sensible as standalone policies to facilitate exports from the United States. For example, ongoing efforts to clarify, simplify, and streamline U.S. export control procedures are likely to reduce regulatory obstacles and spur meaningful export growth without imposing new burdens or diverting resources from elsewhere in the economy. Likewise, passage of the long-pending bilateral trade agreements with South Korea, Colombia, and Panama, and conclusion of the decade-long Doha Round of multilateral trade negotiations and the ongoing Trans-Pacific Partnership negotiations would reduce or eliminate barriers to U.S. exports in a variety of sectors.

Moreover, efforts to resolve outstanding trade disputes, where U.S. partners are retaliating or have been authorized to retaliate against U.S. exporters over the U.S. government's refusal to honor the outcomes of dispute settlement proceedings should be prioritized.[1] Trade enforcement to ensure that U.S. trade partners are adhering to their market opening commitments has also been identified in the NEI as a potentially fruitful channel through which to increase exports.

But the cabinet's plan is simply not good enough. As currently executed, the National Export Initiative systemically neglects a broad swath of opportunities to facilitate exports by contemplating only the export-oriented activities of exporters. It presumes that U.S. exporters are born as exporters. But they are not. Before those companies are exporters, they are producers. And as producers, they are subject to a host of domestic laws, regulations, taxes, and other policies that handicap them in their competition for sales in the U.S. market and abroad.

For example, according to a World Economic Forum survey of 13,000 business executives worldwide, there are 52 countries with

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When 55 percent of all U.S. imports are the ingredients of U.S. production, import taxes raise the cost of production for U.S. producers and erode their competitiveness at home and abroad.

less burdensome government regulations than those of the United States.[2] Those regulations impose additional costs on U.S. businesses that sell domestically and abroad. As put by Andrew Liveris, chairman and CEO of the Dow Chemical Company, "How we operate within our own borders, what we require of business here, often puts us at a competitive disadvantage internationally."[3] By neglecting these domestic impediments, the administration pretends that the obstacles to U.S. competitiveness and export success are all foreign-born.

The NEI must broaden its focus to include consideration of the full range of home grown policies—such as taxes, regulations, tariff policy, and contingent protectionism—that affect U.S. producers and put them at a disadvantage vis-à-vis foreign competitors.

As producers first, most U.S. exporters are consumers of capital equipment, raw materials, and other industrial inputs and components. Many of the inputs consumed by U.S. producers in their operations are imported or the costs of the inputs are affected by the availability and prices of imports. Indeed, "intermediate goods" and "capital equipment"—items purchased by producers, not consumers—accounted for more than 55 percent of the value of all U.S. imports last year.[4] That fact alone indicates that imports are crucial determinants of the profitability of U.S. producers and their capacity to compete at home and abroad. Yet the NEI commits not a single word to the task of eliminating or reducing the burdens of government policies that inflate import prices and production costs.

The president exhorts U.S. exporters to "win" a global race, yet he ignores the fact that the government's hodgepodge of rules and regulations has tied their shoes together. If the administration were serious about helping U.S. companies become more competitive and making the NEI a long-lasting institution committed to U.S. international competitiveness, it would compile an exhaustive list of laws, regulations, policies, and practices that are undermining the stated objectives of facilitating economic growth, investment, and job creation through expanded trade opportunities. Near the top of that list would appear the U.S. antidumping regime.

Antidumping Subverts the National Export Initiative, Growth, and Job Creation

On August 11, 2010, at a White House signing ceremony, President Obama offered the following rationale for a bill that he was about to sign into law:

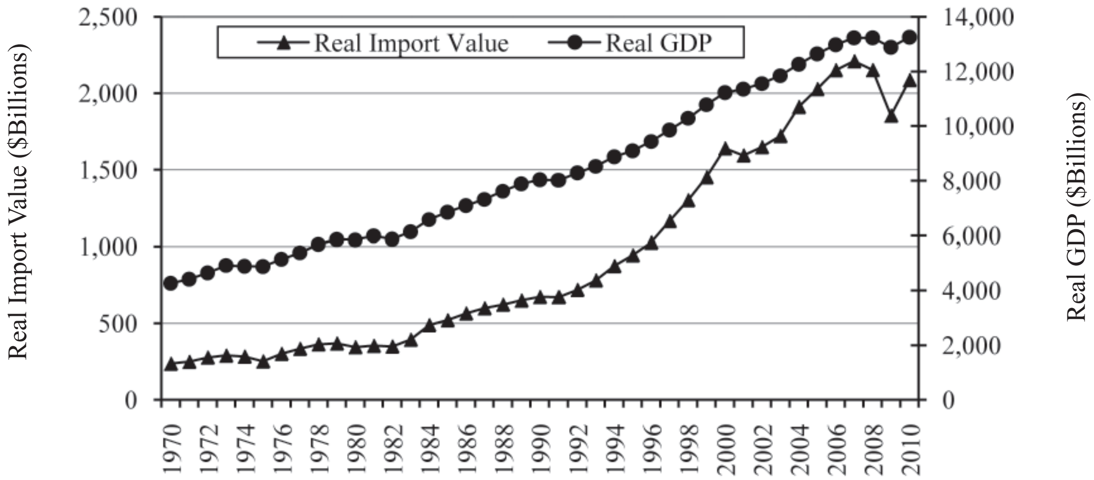
> The Manufacturing Enhancement Act of 2010 will create jobs, help American companies compete, and strengthen manufacturing as a key driver of our economic recovery. And here's how it works. To make their products, manufacturers—some of whom are represented here today—often have to import certain materials from other countries and pay tariffs on those materials. This legislation will reduce or eliminate some of those tariffs, which will significantly lower costs for American companies across the manufacturing landscape—from cars to chemicals; medical devices to sporting goods. And that will boost output, support good jobs here at home, and lower prices for American consumers.[5]

It's tough to argue with that rationale. When 55 percent of all U.S. imports are the ingredients of U.S. production, import taxes raise the cost of production for U.S. producers and erode their competitiveness at home and abroad.

As the president said, improved access to imports will "boost output" and "support good jobs here at home." Figures 1 and 2 support the president's assertions. There is a strong historical correlation between imports and GDP, and between imports and job growth.

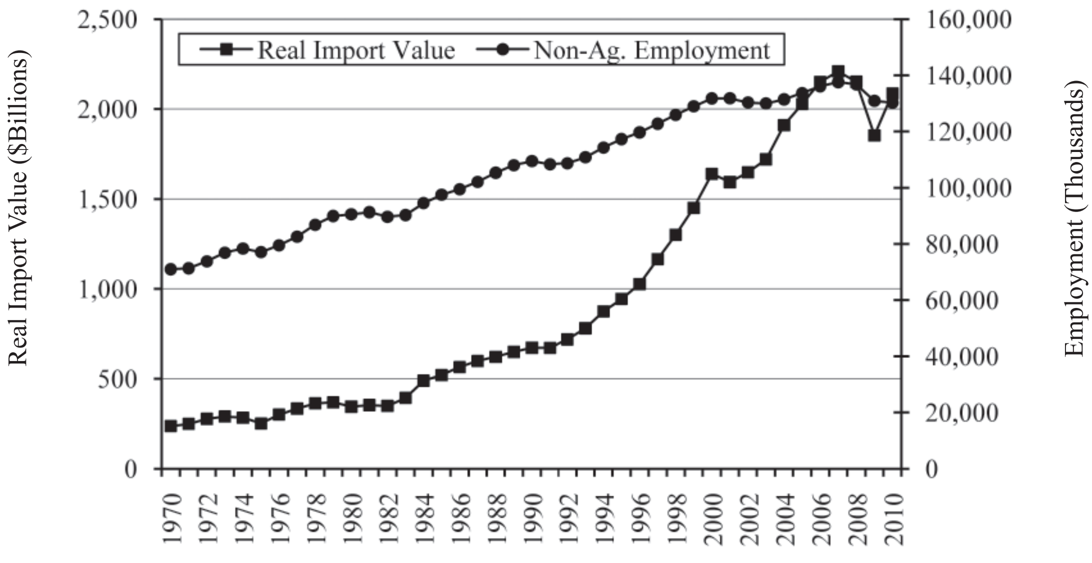
So concerned is the administration about the imperative of ensuring that U.S. producers have access to imported raw materials that, in 2009, it launched a formal dispute in the World Trade Organization to end Chinese

Figure 1
Real U.S. Import Value and Real U.S. GDP (1970–2010)



Source: "2011 Economic Report of the President," Table B-2.

Figure 2
Real U.S. Import Value and U.S. Nonagricultural Employment (1970–2010)



Source: "2011 Economic Report of the President," Table B-2 and Table B-46.

export restrictions on nine minerals of interest to a wide range of U.S. industries: bauxite, coke, fluorspar, magnesium, manganese, silicon carbide, silicon metal, yellow phosphorus and zinc.

In describing some of the details of that WTO case on its website, the Office of the U.S. Trade Representative reveals an acute awareness of the importance of imported raw materials to U.S. industries:

The president and the U.S. Trade Representative talk about the importance of imported raw materials to U.S. producers, while the Commerce Department continues to restrict them.

> China maintains a number of measures that restrain exports of raw material inputs for which it is the top, or near top, world producer. These measures skew the playing field against the United States and other countries by creating substantial competitive benefits for downstream Chinese producers that use the inputs in the production and export of numerous processed steel, aluminum and chemical products and a wide range of further processed products.[6]

Moreover, the USTR demonstrates an appreciation for the fact that restrictions on upstream products generate downstream costs that compound at successive stages in the production supply chain:

> These raw material inputs are used to make many processed products in a number of primary manufacturing industries, including steel, aluminum and various chemical industries. These products, in turn become essential components in even more numerous downstream products.[7]

Furthermore, the USTR identifies several manufactured products that cannot be produced without the minerals that are subject to Chinese export restrictions. Just some of the products incorporating the raw material inputs at issue include

> - semi-finished and finished aluminum and aluminum alloy products and numerous products made with aluminum components, such as beverage cans, foil, baseball bats, windows and siding, compact discs and consumer electronics;
> - semi-finished and finished steel and steel alloy products and numerous products made with steel components, such as building supports and building materials, motor vehicles, equipment and major appliances;
> - fluorine-based chemicals, which are used in a wide variety of applications, including chemical processing; electrical products; textile laminates; automotive, consumer and industrial coatings; refrigerants; foam blowing agents; and fiber products;
> - chemicals such as silanes and silicones, which are used in waterproofing treatments, molding compounds and mold- release agents, mechanical seals, high-temperature greases and waxes, caulking compounds, contact lenses, and pyrotechnics;
> - phosphorus-based chemicals, which are used in a wide range of applications, from flame retardants and pigments to additives and vitamins;
> - abrasives, cutting tools, ceramics, refractory materials, cosmetics, semiconductor chips, microprocessors, solar cells, rubber products, batteries, paints and medicines; and
> - semi-finished and finished brass products and numerous products made with brass components, such as plumbing fixtures, door hardware, and electrical accessories.[8]

Those products are made by a broad swath of U.S. industries and companies, many of which are U.S. exporters. And the USTR acknowledges the importance to U.S. producers of the restricted inputs. Yet nowhere in the Export Promotion Cabinet's 68-page plan to double exports is there a word devoted to the imperative of ensuring U.S. producers the best possible access to imported inputs. Instead, the president and the USTR talks about the importance of imported raw materials to U.S. producers, while the Commerce Department continues to restrict them.[9]

It speaks to the waste inherent in government-sponsored initiatives when public resources are devoted to export promotion, federal export assistance, trade missions, and commercial advocacy, yet no heed is paid to the fact that the intended beneficiaries of that largesse are starting at a cost disadvantage vis-à-vis the foreign competition because their most important industrial component is subject to U.S. antidumping restraints.

It makes for a nice piece of public relations to say that the government is working to help businesses by targeting obstacles they face abroad.

But why devote resources and effort to reducing a 5 percent foreign tariff on some finished product, for example, while ignoring the burden of, say, a 55 percent antidumping duty on the imported components that the intended U.S. beneficiary incurs as a cost of production before exporting that finished product?

That President Obama and the U.S. Trade Representative acknowledge the importance of imports to U.S. producers and the relationship between imports and economic growth makes it all the more puzzling that antidumping reform eluded the Export Promotion Cabinet's plan. The arguments and logic are the same. But time and again, it seems that policymakers' understanding of economic relationships gets fuzzy when the topic turns to U.S. antidumping policy.

Our Beleaguered Import-Consuming Industries

In recent years, as U.S. producers of hot-rolled steel, saccharin, polyvinyl alcohol, nonmalleable cast iron pipe fittings, and low-enriched uranium were "winning relief" from import competition and being liberated to raise prices, their U.S. customers—producers of appliances, auto parts, foodstuffs, pharmaceuticals, buildings, and electricity, as well as processors, distributors, and retail establishments—were bracing for disruptions to their supply chains and inevitable increases in their costs of production.

The U.S. antidumping law may reward the few, but it victimizes important U.S. economic contributors—mostly innocent bystanders—at great cost to the U.S. economy.

Four-Fifths of Antidumping Measures Directly Tax U.S. Producers

In the period from January 2000 through December 2009, the U.S. government initiated 304 antidumping cases.[10] Of those 304 initiations, final antidumping measures were imposed in 164 cases.[11] Intermediate goods—inputs consumed by U.S. producers in the process of adding value to make their own downstream products—accounted for 130, or 79.3 percent of the decade's antidumping orders. That is not to suggest that the price increases and supply disruptions associated with the 34 measures imposed on consumer goods did not adversely impact wholesalers, distributors, and retailers. They most certainly did impose extra costs on buyers and sellers through the distribution chain. But arguably when antidumping duties are imposed on intermediate goods—as they were in four out of every five antidumping measures in the last decade—the adverse impact affects more entities in the supply chain, and the costs compound with each successive downstream transaction. That very point is made explicit in the USTR's explanation for why it is seeking to compel China to end its export restrictions:

> These raw material inputs are used to make many processed products in a number of primary manufacturing industries, including steel, aluminum and various chemical industries. These products, in turn become essential components in even more numerous downstream products.[12]

The 130 antidumping measures on intermediate goods can be broken out further to distinguish the 99 cases involving inputs used by manufacturers of goods and the 31 cases involving inputs used by non–goods-manufacturing producers, such as construction firms, utilities, and mining and drilling operations. Both sets of import-consuming producers suffer the costs and consequences of antidumping restrictions. Both pass some of those costs down the supply chain to the next level of consuming firms or end users in the form of higher energy costs, higher food prices, higher apartment and office lease rates, and higher input prices.

But the industries that rely on the inputs in the 99 manufacturing cases are those that are most likely to export. It is the companies in those industries which the president exhorts to "win the future." It is those firms who are competitively disadvantaged at home and abroad on account of the wayward U.S. antidumping regime.

Intermediate goods—inputs consumed by U.S. producers in the process of adding value to make their own downstream products—accounted for 130, or 79.3 percent of the decade's antidumping orders.

The 99 antidumping measures in question concern 49 different intermediate inputs.[13] Table 1 lists those 49 intermediate manufacturing inputs with the number of countries subject to antidumping restrictions, as well as the percentage of total U.S. imports accounted for by those subject countries.[14] For 23 of the 49 intermediate products, antidumping restrictions stemming from cases initiated from 2000 through 2009 were imposed on imports from multiple countries. Of the 33 products for which import data were obtained, subject country imports accounted for 75.1 to 100 percent of total imports 13 times; for 50.1 to 75 percent 6 times; for 25.1 to 50 percent 8 times and for 25 percent or less 6 times.

Table 1
Products Subject to Antidumping Measures, Number of Countries Subject to the Measures, and Percent of U.S. Imports Represented by Subject Country Exporters

Subject Product	Subject Countries	% of Imports
Crepe Paper Products	1	100.0
Foundry Coke Products	1	100.0
Hard Red Spring Wheat	1	100.0
Sodium Nitrite	2	95.5
Uncovered Innerspring Units	3	91.1
Steel Threaded Rod	1	90.2
Magnesia Carbon Bricks	2	87.6
Refined Brown Aluminum Oxide	1	85.5
Electrolytic Manganese Dioxide	2	81.1
Sodium Hexametaphosphate	1	80.7
Honey	2	79.7
Light-Walled Rectangular Pipe and Tube	4	77.5
Seamless Refined Copper Pipe and Tube	2	75.4
Pure Magnesium	1	71.5
Saccharin	1	66.7
Carbazole Violet Pigment 23	2	65.3
Artist Canvas	1	60.0
Activated Carbon	1	58.7
New Pneumatic Off-the-Road Tires	1	57.4
Magnesium Metal	2	50.0
Narrow Woven Ribbons with Woven Selvedge	2	38.0
Carbon and Alloy Steel Wire Rod	7	37.2
Coated Paper Suitable for High-Quality Print Graphics	2	34.9
Softwood Lumber Products	1	34.0
Polyethylene Terephthalate Film, Sheet, and Strip (PET Film)	5	30.0
Stainless Steel Bar	5	28.9

Subject Product	Subject Countries	% of Imports
Silicomanganese	3	27.4
Silicon Metal	1	20.6
Automotive Replacement Glass Windshields	1	13.7
Color Television Receivers	1	13.2
Ferrovanadium	2	9.9
Hot-Rolled Carbon Steel Flat Products	11	9.9
Barium Carbonate	1	1.8
1-Hydroxyethylidene-1, 1-Diphosphonic Acid	2	—
Chlorinated Isocyanurates	2	—
Citric Acid and Citrate Salts	2	—
Frontseating Service Valves	1	—
High and Ultra-High Voltage Ceramic Station Post Insulators	1	—
Kitchen Appliance Shelving and Racks	1	—
Polyester Staple Fiber	1	—
Polyvinyl Alcohol	3	—
Purified Carboxymethylcellulose (CMC)	4	—
Small Diameter Graphite Electrodes	1	—
Sodium and Potassium Phosphate Salts	1	—
Solid Agricultural Grade Ammonium Nitrate	1	—
Steel Nails	1	—
Sulfanilic Acid	2	—
Superalloy Degassed Chromium	1	—
Tetrahydrofurfuryl Alcohol	1	—
Total	**99**	**56.8**

Sources: Department of Commerce, "Antidumping and Countervailing Duty Investigations Initiated after January 01, 2000," http://ia.ita.doc.gov/stats/inv-initiations-2000-current.html; U.S. International Trade Commission "final determinations," www.usitc.gov.

The appendix identifies the 49 intermediate goods along with the downstream industries that consume those inputs. Also included there are export and employment figures for the affected downstream industries.[15] For 39 of those 49 upstream products subject to antidumping restrictions, there were two or more consuming industries affected. That is not to suggest that the impact of antidumping restrictions on the other 10 products—those for which there is only one associated downstream industry—is any less serious for the consuming firms who suffer the consequences of higher prices and supply dislocations. Rather, it is to provide a glimpse into the often dramatic asymmetry between the limited number of beneficiaries and the much larger number of victims of antidumping.

Table 2 (which is derived from the data in the appendix) provides snapshots of that asymmetry from three different perspectives. Part 2A lists the cases in which there were at least 10 downstream industries consuming the restrict-

For 39 of those 49 upstream products subject to antidumping restrictions, there were two or more consuming industries affected.

Table 2
Antidumping Measures with Most Consequential Downstream Impact

AD Case (Manufacturing Input)	NAICS 4	Exports ($)	Employment (thousands)
Part 2A: Antidumping (AD) Cases Where Restricted Import Hurts More Than Ten Downstream Industries			
Purified Carboxymethylcellulose	17	172,113,726,441	2,565
Tetrahydrofurfuryl Alcohol	14	330,307,972,844	1,605
Polyethylene Terephthalate Film, Sheet, and Strip (PET Film)	13	243,323,108,162	2,227
Saccharin	13	249,188,591,078	1,889
Hot-Rolled Carbon Steel Flat Products	13	218,415,681,560	1,961
Stainless Steel Bar	12	380,598,777,989	2,839
Polyvinyl Alcohol	11	119,897,255,573	2,192
Silicon Metal	11	303,149,129,387	1,477
Part 2B: AD Cases Where Export Value of Affected Downstream Industries Exceeds $100 Billion			
Stainless Steel Bar	12	380,598,777,989	2,839
Tetrahydrofurfuryl Alcohol	14	330,307,972,844	1,605
Silicon Metal	11	303,149,129,387	1,477
Saccharin	13	249,188,591,078	1,889
Polyethylene Terephthalate Film, Sheet, and Strip (PET Film)	13	243,323,108,162	2,227
Hot-Rolled Carbon Steel Flat Products	13	218,415,681,560	1,961
Sodium Nitrite	6	172,943,808,454	1,178
Purified Carboxymethylcellulose	17	172,113,726,441	2,565
Superalloy Degassed Chromium	5	145,170,083,564	1,223
Barium Carbonate	6	143,206,082,772	1,033
Sodium and Potassium Phosphate Salts	7	129,400,852,483	1,210
Polyester Staple Fiber	9	127,990,124,473	1,439
Polyvinyl Alcohol	11	119,897,255,573	2,192
Pure Magnesium	5	103,284,429,789	780
Part 2C: AD Cases Where Affected Downstream Industry Employment Exceeds One Million			
Stainless Steel Bar	12	380,598,777,989	2,839
Purified Carboxymethylcellulose	17	172,113,726,441	2,565
Polyethylene Terephthalate Film, Sheet, and Strip (PET Film)	13	243,323,108,162	2,227
Polyvinyl Alcohol	11	119,897,255,573	2,192
Hot-Rolled Carbon Steel Flat Products	13	218,415,681,560	1,961
Saccharin	13	249,188,591,078	1,889
Tetrahydrofurfuryl Alcohol	14	330,307,972,844	1,605

AD Case (Manufacturing Input)	NAICS 4	Exports ($)	Employment (thousands)
Part 2C: AD Cases Where Affected Downstream Industry Employment Exceeds One Million *Continued*			
Silicon Metal	11	303,149,129,387	1,477
Polyester Staple Fiber	9	127,990,124,473	1,439
Superalloy Degassed Chromium	5	145,170,083,564	1,223
Honey	7	94,209,178,013	1,214
Sodium and Potassium Phosphate Salts	7	129,400,852,483	1,210
Sodium Nitrite	6	172,943,808,454	1,178
Citric Acid and Citrate Salts	7	84,886,461,682	1,045
Barium Carbonate	6	143,206,082,772	1,033

Sources: U.S. International Trade Commission, North American Industry Classification System codes, www.usitc.gov; Bureau of Economic Analysis, www.bea.gov; and Bureau of Labor Statistics, www.bls.gov.

ed product, and includes the actual number of downstream industries, the 2010 value of U.S. exports from those industries, and the number of workers in those industries in 2010. Part 2B provides the same data (number of downstream industries, 2010 exports, and 2010 employment) for the cases in which 2010 downstream industry export value exceeded $100 billion. And Part 2C provides the same data for the cases in which 2010 downstream industry employment exceeded one million workers.[16]

When producers in one U.S. industry can turn to a statute that is predicated on false assumptions about the nature of international competition to relieve their own competitive pressures, while simultaneously increasing the costs and undermining the competitiveness of other U.S. producers, we may conclude that the NEI is badly flawed as a program to facilitate U.S. competitiveness and export growth. The imperative of remedying the oversight is all the more urgent when the protection-seeking industry consists of one producer.

For 35 of the 99 antidumping orders imposed on manufacturing inputs, the entire petitioning domestic industry consisted of just one firm.[17] Yet the ensuing trade restrictions affected dozens or hundreds of downstream firms in numerous industries. For example, in 2005, on behalf of a single producer, the U.S. government imposed antidumping measures on imports of a widely used industrial ingredient called purified carboxymethylcellulose (CMC) from Finland, Mexico, the Netherlands, and Sweden.[18] As shown in Table 2, CMC is an input for production processes in 17 downstream industries. Those combined industries accounted for $172 billion of exports and 2.6 million employees in 2010. In stark contrast, U.S. exports of CMC in 2010 amounted to only $35 million.[19]

In 2003, on behalf of a sole domestic producer, antidumping duties were imposed on imports of the artificial sweetener saccharin from China.[20] Saccharin has widespread uses in the production of various food and beverage products, pharmaceuticals and medicines, as well as cleaning compounds. U.S. producers in these downstream industries accounted for $249 billion in U.S. exports in 2010 and employed 1.9 million workers. Meanwhile, U.S. exports of saccharin in 2010 came to slightly more than $7 million.[21]

The fact that a single U.S. producer of a crucial manufacturing input can prevail in its efforts to limit its customers' access to alternative sources of supply should raise some eyebrows among policymakers. The fact that it is routinely the case that the antidumping law affords suppliers the ability to assert market power over their customers without any consideration of the economic consequences should be a wake-up call for those who fancy themselves stewards of sensible economic policy.

In all 99 cases involving those 49 manufacturing inputs, the number of ill-affected, import-consuming firms exceeded the number of producers seeking antidumping measures. But to make matters even worse for those downstream companies, sometimes they are the victims of antidumping restrictions on more than one of their crucial inputs. For example, the three separate antidumping orders on citric acid, honey, and saccharin are particularly punitive for some firms in the food- and beverage-producing industries. Antidumping restrictions on silicon metal, magnesium metal, and hot-rolled steel all adversely impact some automobile parts producers. And U.S. semiconductor manufacturers have to adjust their operations to the fact that their costs are inflated by antidumping duties on barium carbonate, tetrahydrofurfuryl alcohol, and "high and ultra-high voltage ceramic station post insulators."

Table 3 (which is also derived from the data in the appendix) provides three different profiles of the U.S. industries that are victims of the antidumping law. Part 3A lists the downstream industries that are each affected by more than five antidumping measures on upstream products and includes the actual number of directly felt antidumping measures, the 2010 value of U.S. exports from those industries, and the

Table 3
Downstream Industries Most Victimized by Antidumping

Downstream Indsutry	AD Measures	Exports ($)	Employment (thousands)
Part 3A: Downstream Industries Victimized by Restrictions in More Than Five Antidumping (AD) Cases			
3251 - Basic Chemical Manufacturing	11	58,339,438,045	142.4
3255 - Paints, Coatings, and Adhesives	10	4,145,147,831	55.8
3254 - Pharmaceuticals and Medicines	9	49,379,590,906	276.5
3311 - Iron and Steel and Ferroalloy	9	15,245,512,678	85.4
3121 - Beverages	8	5,267,335,266	166.1
3256 - Soaps, Cleaning Compounds, and Toilet Preparations	8	13,458,187,218	101.2
3363 - Motor Vehicle Parts	8	46,039,435,214	415.1
3339 - Other General Purpose Machinery	7	33,065,615,282	225.8
3361 - Motor Vehicles	6	52,393,050,195	151.3
Part 3B: Victimized Downstream Industries with Export Value Exceeding $25 Billion			
3364 - Aerospace Products and Parts	2	81,052,308,718	477.2
3344 - Semiconductor and Other Electronic Components	5	63,438,135,369	369.7
3251 - Basic Chemical Manufacturing	11	58,339,438,045	142.4
3361 - Motor Vehicles	6	52,393,050,195	151.3
3254 - Pharmaceuticals and Medicines	9	49,379,590,906	276.5
3363 - Motor Vehicle Parts	8	46,039,435,214	415.1
3341 - Computer Equipment	3	44,510,813,783	161.6

Downstream Indsutry	AD Measures	Exports ($)	Employment (thousands)
Part 3B: Victimized Downstream Industries with Export Value Exceeding $25 Billion *Continued*			
3345 - Navigational, Measuring, Electromedical, and Control Instruments	1	44,350,391,347	406.0
3331 - Agriculture and Construction Machinery	2	36,697,110,270	208.3
3252 - Resin, Synthetic Rubber, and Artificial and Synthetic Fibers and Filiments	3	35,663,480,982	89.7
3399 - Other Miscellaneous Manufacturing	3	34,945,101,871	266.0
3339 - Other General Purpose Machinery	7	33,065,615,282	225.8
3314 - Nonferrous Metal (except Aluminum) and Processing	2	30,702,885,564	57.9
3342 - Communications Equipment	2	28,266,602,666	118.0
3391 - Medical Equipment and Supplies	2	26,148,132,164	301.5
3336 - Engines, Turbines, and Power Transmission Equipment	1	25,385,932,300	91.2
Part 3C: Victimized Downstream Industries with Employment Exceeding 200,000			
3261 - Plastics Products	3	17,719,397,261	499.6
3116 - Meat Products and Meat Packaging Products	2	16,998,830,618	490.2
3231 - Printing Matter and Related Products	3	6,430,622,680	486.9
3364 - Aerospace Products and Parts	2	81,052,308,718	477.2
3363 - Motor Vehicle Parts	8	46,039,435,214	415.1
3345 - Navigational, Measuring, Electromedical, and Control Instruments	1	44,350,391,347	406.0
3344 - Semiconductor and Other Electronic Components	5	63,438,135,369	369.7
3323 - Architectural and Structural Metals	2	2,260,066,880	320.2
3327 - Bolts, Nuts, Screws, Rivets, Washers, and Other Turned Products	3	2,727,838,982	312.0
3391 - Medical Equipment and Supplies	2	26,148,132,164	301.5
3222 - Converted Paper Products	5	9,520,306,121	284.1
3254 - Pharmaceuticals and Medicines	9	49,379,590,906	276.5
3118 - Bakery and Tortilla Products	4	1,527,922,013	276.2
3399 - Other Miscellaneous Manufacturing	3	34,945,101,871	266.0
3329 - Other Fabricated Metal Products	3	21,226,262,988	248.8
3339 - Other General Purpose Machinery	7	33,065,615,282	225.8
3371 - Household and Institutional Furniture and Kitchen Cabinets	3	2,540,644,383	223.4
3331 - Agriculture and Construction Machinery	2	36,697,110,270	208.3

Sources: U.S. International Trade Commission, North American Industry Classification System codes, www.usitc.gov; Bureau of Economic Analysis, www.bea.gov; and Bureau of Labor Statistics, www.bls.gov.

number of workers in those industries in 2010. Part 3B provides the same data (number of antidumping measures, 2010 exports, and 2010 employment) for the downstream indus-

Even if a higher regard for producer welfare were justifiable on some exceptional grounds, the fact remains that 80 percent of antidumping measures directly penalize other domestic producers.

tries for which 2010 export value exceeded $25 billion. And Part 3C provides the same data for the downstream industries in which 2010 employment exceeded 200,000 workers.

Despite the fact that import-consuming companies suffer the consequences of antidumping measures, the U.S. International Trade Commission is statutorily forbidden from considering the impact of prospective restrictions on those companies. Under the law, what might become of the industries that depend on the input in question is simply not a matter of formal concern to the adjudicating authorities. That the imposition of an antidumping order may reduce consumer welfare or send a sector of the economy into a tailspin is a possibility that goes unaddressed in an antidumping proceeding. That fact reflects the law as it reads today—and as it has read since 1921.

Even though globalization of production and supply chains has changed the world economy considerably over the course of 90 years, the antidumping law still presumes that competition is characterized as "our producers" versus "their producers," and that the purpose of economic policy is to support the home team's producers. Routinely, when advocates of antidumping reform cite the enormous burdens borne by downstream consumers on account of their interests being ignored in antidumping proceedings, defenders shrug their shoulders and mutter something to the effect that the antidumping law is a "producers' law." And as such, it is designed to protect producers, not consumers, and makes no pretense toward balance.

Although the law was originally rationalized as a tool to protect consumers and competition, it was written so as to make protection of domestic producers its chief aim. But that was 90 years ago. Besides, just because the law was designed to be a producers' law does not mean it should be. Or even that it is, when we consider all producers. Even if a higher regard for producer welfare were justifiable on some exceptional grounds, the fact remains that 80 percent of antidumping measures directly penalize other domestic producers.

Taxing Industrial Inputs Undermines Industrial Competitiveness

Magnesium. Antidumping is indisputably anti-producer. That point is well illustrated by the consequences of antidumping restrictions on magnesium from China and Russia. Those antidumping duties explain the demise of what was, only a few years ago, a very promising U.S. export industry producing magnesium automobile parts.[23]

Spartan Light Metal Products is a small Midwestern producer of engine and other mechanical parts. Beginning in the early 1990s, Spartan shifted its emphasis from aluminum to magnesium die-cast production because magnesium is much lighter and more durable than aluminum, and Spartan's biggest customers, including Ford, GM, Honda, Mazda, and Toyota were looking to reduce the weight of their vehicles to improve fuel efficiency. Among other products, Spartan produced magnesium intake manifolds for Honda V-6 engines, transmission end and pump covers for GM engines, and oil pans for all of Toyota's V-8 truck and SUV engines.

Spartan was also exporting various magnesium-cast parts (engine valve covers, cam covers, wheel armatures, console brackets, etc.) to auto producers in Canada, Mexico, Germany, Spain, France, and Japan. Global demand for magnesium components was on the rise.

But then, in February 2004, an antidumping petition against imports of magnesium from China and Russia was filed by "the U.S. industry," which comprised just one producer, U.S. Magnesium Corporation of Utah, with about 370 employees. Prices of magnesium alloy rose from slightly more than $1 per pound in February 2004 to about $1.50 per pound one year later, when the U.S. International Trade Commission issued its final injury determination in the antidumping investigation. By mid-2008, with a dramatic reduction of Chinese and Russian magnesium in the U.S. market, the U.S. price rose to $3.25 per pound (before dropping in 2009 on account of the economic recession).

By January 2010, the U.S. price was $2.30 per pound, while the average price for Spartan's North American competitors was $1.54. Meanwhile, European magnesium die-casters were paying $1.49 per pound, and Chinese competitors were paying $1.36 per pound. According to Spartan's presentation to Obama administration officials, magnesium accounts for about 40–60 percent of the total product cost in its industry. Thus, the price differential cauused by the antidumping order bestowed a cost advantage of 19 percent on Chinese competitors, 17 percent on European competitors, and 16 percent on NAFTA competitors.

As one would expect, several U.S. magnesium auto parts producers went out of business due to their inability to secure magnesium at competitive prices. According to the North American Die Casting Association, the downstream industry lost more than 1,675 manufacturing jobs–more than five-times the number of jobs that even exist in the entire magnesium producing industry.

Spartan's outlook is bleak unless it can access magnesium at world market prices. Its customers have turned to imported magnesium die cast parts or have outsourced their own production to locations where they have access to competitively priced magnesium parts, or they have switched to heavier cast materials, sacrificing ergonomics and fuel efficiency in the face of rapidly approaching, federally mandated 35.5 mile per gallon fuel efficiency standards.

Thus antidumping duties on magnesium have almost entirely snuffed out a U.S. growth industry that was succeeding in export markets by selling environmentally friendlier auto parts—two attributes that really should make this a showcase industry, given the administration's stated goals. And, as if that incongruity were not enough, magnesium is among the nine minerals targeted in the U.S. WTO case against Chinese export restrictions mentioned above.[24]

Thus, the official policy of the U.S. government is to oppose (and seek to have revoked) China's restrictions on magnesium exports to the United States, while simultaneously imposing its own antidumping restrictions on imported magnesium from China. It is more than a bit ironic that the justification for the U.S. case against China in the WTO—that ending the restrictions will help ensure the competitiveness of U.S. magnesium-using industries—is one devoid of legal merit in antidumping proceedings before the U.S. International Trade Commission.

The lack of legal standing for consuming industries is one of the reasons that most antidumping investigations lead to the imposition of new antidumping measures. And, perversely, it is often a cause of new investigations being initiated on downstream products. Antidumping restrictions squeeze the profits of downstream U.S. producers, first by raising their input costs and then by depriving them of revenues lost to foreign competitors, who—by producing outside of the United States—have access to that crucial input at lower prices and can thus price their own output more competitively. This is not hypothetical. It is a routine problem for U.S. companies trying to compete at home and abroad.

Hot-Rolled Carbon Steel. A further example comes from the various U.S. antidumping orders on hot-rolled carbon steel flat products dating back to 1999 and currently restricting imports from 11 countries. In consequence, the price of this commodity feeder stock product has been higher in the United States than in other countries. Among the many victims of these restrictions have been U.S. producers of pipe and tube, which are fabricated from hot-rolled sheet.

First, steel pipe and tube producers were victimized by not having legal standing to effectively oppose the antidumping measures on hot-rolled sheet in the first place. As a result of the restrictions on sheet, their chief material input, U.S. producers of pipe and tube saw their production costs increase considerably. But in China, the opposite situation took hold. The supply of sheet increased (some originally destined for the United States remained in China), causing prices in China to fall and bestowing relative cost advantages on Chinese pipe and tube producers, who were able to sell at more competitive prices in the United States and take market share from U.S. firms. (This is precisely the point raised by the USTR in

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explaining why it is trying to compel China, through the WTO, to remove its export restrictions on the nine mineral inputs).

Eventually, U.S. producers of circular-welded carbon steel pipe brought their own antidumping petition and succeeded in getting their own protection. And there should be little doubt that the U.S. antidumping order on pipe, which was prompted in large measure by the U.S. antidumping restrictions on sheet, caused price increases in downstream industries, which were subsequently reflected in higher energy, construction, and housing costs. Without the capacity to demonstrate that upstream antidumping measures impose sometimes unmanageable downstream costs, import-using interests are forced to find ways to pass those costs down through the supply chain. Oftentimes that process introduces still more costs into the equation.

Routinely, the U.S. antidumping law is more punitive toward U.S. manufacturers than it is to the presumed foreign targets. Routinely, U.S. producers of upstream products respond to their customers' needs for better pricing, not by becoming more efficient or cooperative, but by working to cripple their customers' access to foreign supplies. More and more frequently, that is how and why the antidumping law is used in the United States.

Regardless of one's views about the efficacy of the antidumping law, the fact that antidumping duties impose burdens on downstream industries and their employees is beyond dispute. Anyone genuinely interested in U.S. competitiveness should be concerned about balancing those conflicting interests. Alas, the recent odyssey of Midland, Michigan's, Dow Corning Corporation suggests that some of the law's staunchest supporters prefer a "take-no-prisoners" approach to compromise.

Silicon Metal. As a producer of silicone and silicone-based products, Dow Corning is one of the largest consumers of silicon metal in the United States, which is subject to antidumping measures against imports from China and Russia. (Ironically, silicon metal is again one of the nine minerals on which China allegedly maintains export restrictions, and for which the United States is seeking resolution in the WTO.)

On account of the antidumping orders (and perhaps the Chinese export restrictions), silicon metal prices have been much higher in the United States than in other countries, undermining Dow Corning's capacity to compete in growing markets for the higher value-added, silicone-based products it produces.

In what by now is a familiar story, the availability of less expensive silicon metal in places like China has been a boon to Chinese silicone-based industries, which have expanded production to become much more serious competitors of Dow Corning in the semiconductor and solar panel component markets around the world.

In May 2009, in an effort to remain competitive in export markets, Dow Corning submitted an application to the Foreign Trade Zones Board (an interagency group comprised of Commerce Department and Treasury Department officials) to have some of its manufacturing facilities designated as foreign trade sub-zones. A foreign trade zone is "a designated location in the United States where companies can use special procedures that help encourage U.S. activity and value added—in competition with foreign alternatives—by allowing delayed or reduced duty payments on foreign merchandise, as well as other savings." A sub-zone is similar.[25]

The fundamental purpose of Dow Corning's desire for sub-zone designation was to reduce costs so that it might successfully compete globally from its U.S. manufacturing base. The sub-zone would facilitate that aim by allowing Dow Corning to produce downstream products exclusively for export from silicon metal that would not be subject to antidumping duties.

That purpose is consistent with the public policy objective of the U.S. Foreign Trade Zones program, which according to the FTZ Board regulations is "the creation and maintenance of employment through the encouragement of operations in the United States which for Customs reasons [i.e., the existence of antidumping duties] might otherwise have been carried out abroad."[26]

In the words of Will Berry, then-president of the National Association of Foreign Trade Zones:

> The key policy objective 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.[27]

In other words, the Foreign Trade Zone program exists to support U.S. jobs and U.S. production. Because companies such as Dow Corning might choose to produce its higher-value added products in other countries where antidumping duties don't apply, FTZs offer a compromise that attempts to balance the interests. If the products made from inputs subject to antidumping duties in an FTZ enter the commerce of the United States, then the inputs are subject to payment of antidumping duties. If the products are exported without entering U.S. commerce, the antidumping duties are waived.

But during the period in which the FTZ application was pending, the domestic petitioner in the silicon metal case, along with 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 order, and that the well-being of the petitioner was all that mattered under the antidumping law. Besides, went one of CSUSTL's arguments, granting the FTZ subzone designation was unnecessary because Dow Corning's European competitors "have similarly suffered" from restricted access to silicon metal.[28]

After hearings, several comment periods, and deliberation, the Foreign Trade Zones Board granted Dow Corning's FTZ status request, but "subject to a restriction prohibiting the admission of foreign status silicon metal subject to an antidumping or countervailing duty order."[29] 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.

So much for compromise.

A Better "Plan"

Although the National Export Initiative is mysteriously silent about improving U.S. producers' access to imports by reforming the antidumping law, its administrators are boisterous about "strengthening" the law to increase the likelihood and duration of antidumping measures. Such are the incongruities inherent in any Commerce Department–led initiatives. After all, the department's mission is to simultaneously promote *and* scuttle trade. In touting his department's list of 14 proposals to strengthen the U.S. trade remedy laws, Commerce Secretary Gary Locke said the following:

> The Obama administration is committed to aggressively enforcing our trade laws to ensure a level playing field for U.S. companies and their workers—the engines of our economic growth. Today's announcement is another demonstration of our continuing efforts to sharpen our trade enforcement tools.[30]

Apparently Secretary Locke is unaware that the teams playing on the currently unlevel field are two sets of U.S. producers and their workers. His 14-point plan will only serve to tilt the pitch further against the interests of America's import-consuming industries.[31] And that is sure to complicate efforts to reach the NEI goal of doubling U.S. exports by the end of 2014.[32]

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Assuming that the efforts being undertaken to reach that goal won't be abandoned after 2014 and that the ultimate objective is to continuously improve the competitiveness of U.S. producers, President Obama and his Export Promotion Cabinet should open their eyes to the low-hanging fruit of antidumping reform. Sensible economic policy demands that downstream, import-consuming industries have legal standing to participate meaningfully in antidumping proceedings. Sensible policy requires that the antidumping law include a provision to ensure that the costs and benefits of antidumping duties can be measured and evaluated in advance of any final decisions. And sensible policy would include a provision requiring that any duties ultimately imposed are remedial in nature, and not punitive.

Public Interest Provision

Antidumping investigations involve more than a dispute between a domestic industry and its foreign competition; they also involve a conflict of interest between the petitioning domestic industry and its customers. Those customers are companies—such as Spartan Light Metal Products and Dow Corning—that employ dozens, hundreds, and thousands of U.S. workers, while selling at home and abroad and contributing importantly to GDP. An antidumping law with no public-interest provision fails to take account of these conflicting interests. At present, if findings of dumping and injury are made, trade-restrictive remedies follow automatically, regardless of the consequences for the rest of the country. That is hardly a recipe for rational policymaking: if major affected interests are systematically ignored in the decisionmaking process, it is highly unlikely that the resulting policy will reflect an optimal accommodation of all competing interests.

A public-interest test can help to reconcile antidumping policy with the broader national interest. Specifically, a public-interest provision could enable the administering authorities to refuse to impose duties, even when dumping and injury have been found, on the grounds that antidumping measures in a particular case would undermine the broader public interest.

Article 9.1 of the WTO Antidumping Agreement encourages members to employ a public interest provision. It reads, "It is desirable that the imposition [of duties] be permissive [rather than mandatory] in the territory of all Members." A number of WTO members—including the European Union, Canada, Thailand, and Malaysia—have incorporated a "public-interest test" into their antidumping regulations. The idea behind such public-interest provisions is to make the imposition of antidumping measures discretionary and subject to the facts and arguments submitted by competing domestic interests. The United States should also incorporate a public-interest test into its antidumping regime.

With a public-interest test, antidumping measures would be deemed contrary to the public interest if the harm inflicted by those measures on downstream import-using interests is deemed disproportionate to the benefit conferred on the petitioning domestic industry. "Disproportionate" should be defined with reference to specific benchmarks, such as the estimated welfare gain for the petitioning industry in relation to the estimated welfare loss for specific downstream industries, or for consumers. If the loss is some designated multiple of the gain, the impact would be deemed disproportionate and duties would not be imposed.

Alternatively, the estimated revenue increase in the petitioning industry could be compared to the estimated revenue decrease in downstream import-consuming industries. If the ratio of the losses to gains exceeds some designated threshold, duties would not be imposed on the grounds that there would be a disproportionate impact. Or the authorities could employ some other method.

Regardless of the specific benchmarks and tests ultimately employed, a public-interest provision would likely help mitigate the excessive costs imposed on important domestic interests that are presently without recourse.

Lesser Duty Rule

Another reason for the large externalities of the antidumping law that were demonstrated in the anecdotes above is that the duties themselves are often excessive. Routinely, the Department of Commerce analyses produce exorbitant dumping margins that are often the product of faulty assumptions or a methodology fraught with procedures that inflate the amount of dumping calculated. Rather than produce outcomes that are remedial, the Commerce Department's outcomes tend to be punitive.[33]

One way to mitigate those costs is by employing a "lesser duty rule." Article 9.1 of the WTO Antidumping Agreement states that it is "desirable" that antidumping duties "be less than the [dumping] margin if such lesser duty would be adequate to remove the injury to the domestic industry." In other words, if the purpose of antidumping is remedial—to remedy the injury caused by dumping—then it is excessive, indeed punitive, to impose duties that are greater than those needed to eliminate injury. If the purpose of antidumping is to "level the playing field," then there is no justification for imposing a higher rate, which slants the field in favor of the U.S. petitioning-industry producers and against U.S. consuming-industry producers.

A number of WTO members—including the European Union—follow the approach recommended in Article 9.1 and apply a lesser-duty rule in their antidumping investigations. The idea is to calculate "noninjurious prices"—prices for export sales that would not depress or suppress the prices charged by the domestic industry. The difference between the export price and the noninjurious price is referred to as the "injury margin." If the injury margin is greater than the dumping margin, then the antidumping duty rate is equal to the dumping margin; if, however, the injury margin is lower than the dumping margin, the lesser duty applies and is set at the level of the injury margin. The lesser-duty rule can result in significant reductions in the antidumping duty rates that would otherwise apply.

The United States should incorporate a lesser-duty rule into the antidumping law to require that antidumping duties be less than the dumping margin if the lesser duty is sufficient to remove the injury to the domestic industry. Specifically, antidumping authorities should be required to calculate noninjurious prices for export sales, which would be at levels that do not depress or suppress the prices charged by the domestic industry. If the difference between the noninjurious prices and the export prices (the injury margin) is less than the dumping margin, the antidumping duty should be set at the lesser rate, equal to the injury margin.

Although numerous other antidumping reforms are worthy of consideration, granting consuming industries legal standing to furnish arguments and analyses for the administrative record, while requiring the authorities to conduct a public interest test and apply a lesser-duty rule, would help to balance the conflicting interests that have stakes in antidumping outcomes.

Overcoming the Obstacles to Antidumping Reform

Remarkably, despite continuing global integration and the reliance of U.S. producers on imports, support for the antidumping status quo persists. Although some of that support can be chalked up to politicians representing the interests of influential constituencies that benefit from the status quo, much more stems from a fundamental misunderstanding of the purpose, history, mechanics, and consequences of the law.

Too many policymakers passively accept the anachronistic rationalizations proffered by the steel industry, labor unions, other big antidumping users, and their hired guns in Washington. Too many buy into the idealized imagery of a patriotic, upstanding American producer who works tirelessly to ensure the preservation of good jobs for hard-working Americans but suffers the ravages of unscrupulous, predatory foreign traders intent on destroying U.S. firms and monopolizing the U.S. market. After all, what politician could oppose a law presumed to protect that kind of company against that kind of scourge?

Contrary to the rhetoric, antidumping cases rarely fit that black and white characterization. Rarely is the dispute between "our" producers and "their" producers. When the curtain is lifted to expose the reality about who uses the law against whom and for what purposes and with what consequences, a very different picture comes into view: the antidumping law is a weapon at the dis-

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posal of U.S. companies—and foreign companies operating in the United States—that claims rival U.S. businesses, U.S. import-consuming industries, and U.S. consumers as its chief victims.

The battle is better characterized as "we against us." Oftentimes, as demonstrated throughout this paper, the petitioner is an upstream U.S. supplier seeking to restrict its U.S. customers' access to alternative supplies. Sometimes the petitioner is a U.S. company or group of companies doing battle against a domestic rival. Sometimes, the U.S. petitioner is a foreign-owned company and the "unfair" or "predatory" foreign producer is a U.S.-owned company's foreign operation. Sometimes the motive is simply to extort payments from foreign producers and importers. And with great frequency, the patriotic-sounding rhetoric of the antidumping law—leveling the playing fields for American companies and creating American jobs—is used to conceal the true motives of companies seeking to exploit any advantage to get a leg up on the competition.

In contrast to the tone of the argument that is typical among antidumping supporters, the law is not some sacrosanct covenant chiseled in stone.

In contrast to the tone of the argument that is typical among antidumping supporters, the law is not some sacrosanct covenant chiseled in stone. It is a statute that has never lived up to its high-minded rhetorical purpose of protecting consumers from anticompetitive behavior, but rather has served primarily the interests of a few savvy, politically connected U.S. industries at great expense to many U.S. firms in more numerous industries. It is imperative that policymakers summon the courage and wisdom to finally upend the status quo and abolish or at least seriously reform the antidumping law so that it better comports with the economic realities of the 21st century.

Conclusion

President Obama's explanation about how U.S. manufacturers require access to imported inputs in order to be globally competitive is the most compelling reason to abolish or overhaul the 90-year-old antidumping law. The Office of the U.S. Trade Representative is making that very same argument in its effort to get China to stop restricting exports of certain minerals. Without reasonable access to critical inputs, U.S. companies are economically disadvantaged at home and abroad.

Failure to resolve that critical problem will undermine the National Export Initiative, and more importantly, it will undermine prospects for enduring U.S. competitiveness in the value-added industries that have fostered U.S. economic growth and job creation. Yet that concern is all but totally absent from the export promotion plans being executed in the name of the NEI.

As demonstrated throughout this paper, the antidumping law claims numerous innocent victims—including many U.S. companies that export or aspire to export. The most enlightened economic policy would abolish the antidumping law. Short of that, though, to bestow real and enduring benefits upon the U.S. economy, the NEI should be expanded to include the objective of reforming the U.S. antidumping law so that producers in consuming industries have legal standing to participate meaningfully in antidumping proceedings; to require the administering authorities to conduct an analysis of the economic impact of prospective antidumping duties and to deny imposition if the costs exceed a certain threshold; and to require that any antidumping duties imposed not be punitive or excessive and, as a practical matter that they be no greater than an amount determined to be necessary to remedy injury to the domestic industry.

Without those kinds of modest but meaningful antidumping reforms, the National Export Initiative is nothing more than a hodgepodge of contradictory policies that will inhibit U.S. export opportunities and economic growth.

Appendix

Table A-1
U.S. Antidumping Orders and Affected Downstream Industries

Antidumping (AD) Case/Downstream Industry	NAIC 4	Exports-2005	Exports-2010	Employment 2005 (000's)	Employment 2010 (000's)
Purified Carboxymethylcellulose					
Animal Foods	3111	1,539,516,076	2,376,536,620	49.1	50.4
Grain and Oilseed Milling Products	3112	6,425,410,862	12,767,316,224	60.5	58.3
Dairy Product Manufacturing	3115	1,814,743,490	3,889,593,214	131.6	127.9
Bakery and Tortilla Products	3118	915,770,861	1,527,922,013	280.0	276.2
Foods, NESOI	3119	4,561,512,277	6,851,825,208	158.6	164.7
Beverages	3121	2,186,802,362	5,267,335,266	166.5	166.1
Finished and Coated Textile Fabrics	3133	936,012,671	1,082,928,692	63.2	37.5
Textile Furnishings	3141	1,442,976,399	1,569,591,760	96.1	57.4
Other Textile Products	3149	1,102,831,845	1,333,154,571	80.3	61.1
Pulp, Paper, and Paperboard Mill Products	3221	9,592,995,388	13,923,548,500	141.6	112.7
Converted Paper Products	3222	7,521,692,302	9,520,306,121	342.6	284.1
Printing Matter and Related Products	3231	5,794,912,541	6,430,622,680	646.3	486.9
Pharmaceuticals and Medicines	3254	30,065,009,643	49,379,590,906	288.1	276.5
Paints, Coatings, and Adhesives	3255	2,892,319,599	4,145,147,831	67.9	55.8
Soaps, Cleaning Compounds, and Toilet Preparations	3256	8,520,843,328	13,458,187,218	113.5	101.2
Clay and Refractory Products	3271	1,324,675,228	1,893,009,347	61.9	40.3
Agriculture and Construction Machinery	3331	27,155,395,088	36,697,110,270	207.6	208.3
Total - 17		**113,793,419,960**	**172,113,726,441**	**2,955.0**	**2,565.0**
Tetrahydrofurfuryl Alcohol					
Apparel	3152	3,523,202,540	3,160,282,191	193.4	124.6
Basic Chemical Manufacturing	3251	39,855,803,308	58,339,438,045	150.2	142.4
Resin, Synthetic Rubber, and Artificial and Synthetic Fibers and Filiments	3252	24,364,226,868	35,663,480,982	107.8	89.7
Pesticides, Fertilizers, and Other Agricultural Chemicals	3253	5,083,930,072	7,972,398,158	40.3	35.3
Pharmaceuticals and Medicines	3254	30,065,009,643	49,379,590,906	288.1	276.5
Paints, Coatings, and Adhesives	3255	2,892,319,599	4,145,147,831	67.9	55.8
Soaps, Cleaning Compounds, and Toilet Preparations	3256	8,520,843,328	13,458,187,218	113.5	101.2
Other Chemical Products and Preparations	3259	7,107,670,763	9,760,139,942	104.4	82.9
Computer Equipment	3341	45,340,644,792	44,510,813,783	205.1	161.6
Communications Equipment	3342	18,857,270,602	28,266,602,666	141.4	118.0
Audio and Video Equipment	3343	6,900,577,749	9,703,874,795	32.4	19.9
Semiconductor and Other Electronic Components	3344	62,656,417,289	63,438,135,369	452.0	369.7
Leather and Applied Products (Leather and Hide Tanning & Other Leather Products)	3161 & 3169	2,583,385,459	2,509,880,958	39.6	27.8
Total - 14		**257,751,302,012**	**330,307,972,844**	**1,936.0**	**1,605.0**

Table A-1
U.S. Antidumping Orders and Affected Downstream Industries ***Continued***

Antidumping (AD) Case/Downstream Industry	NAIC 4	Exports-2005	Exports-2010	Employment 2005 (000's)	Employment 2010 (000's)
Polyethylene Terephthalate Film, Sheet, and Strip (PET Film)					
Converted Paper Products	3222	7,521,692,302	9,520,306,121	342.6	284.1
Paints, Coatings, and Adhesives	3255	2,892,319,599	4,145,147,831	67.9	55.8
Other Chemical Products and Preparations	3259	7,107,670,763	9,760,139,942	104.4	82.9
Plastics Products	3261	14,118,739,332	17,719,397,261	634.2	499.6
Alumina and Aluminum and Processing	3313	5,192,123,952	6,029,261,067	73.4	55.0
Crowns, Closures, Seals, and Other Packing Accessories	3321	315,426,400	539,146,864	110.9	89.2
Computer Equipment	3341	45,340,644,792	44,510,813,783	205.1	161.6
Communications Equipment	3342	18,857,270,602	28,266,602,666	141.4	118.0
Audio and Video Equipment	3343	6,900,577,749	9,703,874,795	32.4	19.9
Semiconductor and Other Electronic Components	3344	62,656,417,289	63,438,135,369	452.0	369.7
Navigational, Measuring, Electromedical, and Control Instruments	3345	34,090,765,922	44,350,391,347	441.0	406.0
Magnetic and Optical Media	3346	2,297,022,501	512,686,292	44.5	24.9
Household Appliances and Miscellaneous Machines	3352	4,297,302,239	4,827,204,824	85.1	60.7
Total - 13		**211,587,973,442**	**243,323,108,162**	**2,735.0**	**2,227.9**
Saccharin					
Animal Foods	3111	1,539,516,076	2,376,536,620	49.1	50.4
Sugar and Confectionary Products	3113	1,386,300,592	2,167,777,537	78.7	69.5
Fruit and Vegetable Preserves and Specialty Foods	3114	3,084,412,107	4,957,001,178	174.0	171.4
Foods	3119	4,561,512,277	6,851,825,208	158.6	164.7
Beverages	3121	2,186,802,362	5,267,335,266	166.5	166.1
Tobacco Products	3122	1,336,396,780	494,948,302	25.4	16.5
Basic Chemical Manufacturing	3251	39,855,803,308	58,339,438,045	150.2	142.4
Pharmaceuticals and Medicines	3254	30,065,009,643	49,379,590,906	288.1	276.5
Paints, Coatings, and Adhesives	3255	2,892,319,599	4,145,147,831	67.9	55.8
Soaps, Cleaning Compounds, and Toilet Preparations	3256	8,520,843,328	13,458,187,218	113.5	101.2
Motor Vehicles	3361	41,420,295,105	52,393,050,195	247.6	151.3
Motor Vehicle Bodies and Trailers	3362	2,737,587,083	3,318,317,558	171.0	107.6
Motor Vehicle Parts	3363	43,486,232,217	46,039,435,214	678.1	415.1
Total - 13		**183,073,030,477**	**249,188,591,078**	**2,369.0**	**1,889.0**
Hot-Rolled Carbon Steel Flat Products					
Steel Products from Purchased Steel	3312	379,960,923	467,384,776	61.1	51.9
Architectural and Structural Metals	3323	1,280,465,910	2,260,066,880	397.9	320.2

Antidumping (AD) Case/Downstream Industry	NAIC 4	Exports-2005	Exports-2010	Employment 2005 (000's)	Employment 2010 (000's)
Hardware	3325	2,390,225,568	2,229,174,448	35.5	23.2
Agriculture and Construction Machinery	3331	27,155,395,088	36,697,110,270	207.6	208.3
Industrial Machinery	3332	10,865,603,519	17,829,774,530	124.3	99.5
Commercial and Service Industry Machinery	3333	9,260,345,366	9,624,855,308	110.9	91.3
Metalworking Machinery	3335	6,200,953,281	6,644,497,552	202.3	153.2
Other General Purpose Machinery	3339	26,594,805,524	33,065,615,282	269.3	225.8
Household Appliances and Miscellaneous Machines	3352	4,297,302,239	4,827,204,824	85.1	60.7
Motor Vehicles	3361	41,420,295,105	52,393,050,195	247.6	151.3
Motor Vehicle Bodies and Trailers	3362	2,737,587,083	3,318,317,558	171.0	107.6
Motor Vehicle Parts	3363	43,486,232,217	46,039,435,214	678.1	415.1
Transportation Equipment	3369	2,302,173,440	3,019,194,723	66.0	53.3
Total - 13		**178,371,345,263**	**218,415,681,560**	**2,657.0**	**1,961.0**
Stainless Steel Bar					
Dairy Product Manufacturing	3115	1,814,743,490	3,889,593,214	131.6	127.9
Basic Chemical Manufacturing	3251	39,855,803,308	58,339,438,045	150.2	142.4
Pharmaceuticals and Medicines	3254	30,065,009,643	49,379,590,906	288.1	276.5
Bolts, Nuts, Screws, Rivets, Washers and Other Turned Products	3327	2,083,383,718	2,727,838,982	345.2	312.0
Other Fabricated Metal Products	3329	14,151,819,804	21,226,262,988	281.8	248.8
Other General Purpose Machinery	3339	26,594,805,524	33,065,615,282	269.3	225.8
Motor Vehicles	3361	41,420,295,105	52,393,050,195	247.6	151.3
Motor Vehicle Bodies and Trailers	3362	2,737,587,083	3,318,317,558	171.0	107.6
Motor Vehicle Parts	3363	43,486,232,217	46,039,435,214	678.1	415.1
Aerospace Products and Parts	3364	66,825,530,867	81,052,308,718	455.1	477.2
Transportation Equipment	3369	2,302,173,440	3,019,194,723	66.0	53.3
Medical Equipment and Supplies	3391	17,143,677,101	26,148,132,164	299.9	301.5
Total - 12		**288,481,061,300**	**380,598,777,989**	**3,384.0**	**2,839.0**
Polyvinyl Alcohol					
Finished and Coated Textile Fabrics	3133	936,012,671	1,082,928,692	63.2	37.5
Textile Furnishings	3141	1,442,976,399	1,569,591,760	96.1	57.4
Other Textile Products	3149	1,102,831,845	1,333,154,571	80.3	61.1
Pulp, Paper, and Paperboard Mill Products	3221	9,592,995,388	13,923,548,500	141.6	112.7
Converted Paper Products	3222	7,521,692,302	9,520,306,121	342.6	284.1
Printing Matter and Related Product	3231	5,794,912,541	6,430,622,680	646.3	486.9
Paints, Coatings, and Adhesives	3255	2,892,319,599	4,145,147,831	67.9	55.8

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Table A-1
U.S. Antidumping Orders and Affected Downstream Industries ***Continued***

Antidumping (AD) Case/Downstream Industry	NAIC 4	Exports-2005	Exports-2010	Employment 2005 (000's)	Employment 2010 (000's)
Soaps, Cleaning Compounds, and Toilet Preparations	3256	8,520,843,328	13,458,187,218	113.5	101.2
Plastics Products	3261	14,118,739,332	17,719,397,261	634.2	499.6
Glass and Glass Products	3272	3,690,514,594	4,674,935,725	107.8	80.7
Motor Vehicle Parts	3363	43,486,232,217	46,039,435,214	678.1	415.1
Total - 11		**99,100,070,216**	**119,897,255,573**	**2,972.0**	**2,192.0**
Silicon Metal					
Basic Chemical Manufacturing	3251	39,855,803,308	58,339,438,045	150.2	142.4
Resin, Synthetic Rubber, and Artificial and Synthetic Fibers and Filiments	3252	24,364,226,868	35,663,480,982	107.8	89.7
Pharmaceuticals and Medicines	3254	30,065,009,643	49,379,590,906	288.1	276.5
Paints, Coatings, and Adhesives	3255	2,892,319,599	4,145,147,831	67.9	55.8
Clay and Refractory Products	3271	1,324,675,228	1,893,009,347	61.9	40.3
Iron and Steel and Ferroalloy	3311	10,223,442,056	15,245,512,678	95.7	85.4
Alumina and Aluminum and Processing	3313	5,192,123,952	6,029,261,067	73.4	55.0
Nonferrous Metal (except Aluminum) and Processing	3314	13,273,857,513	30,702,885,564	71.7	57.9
Motor Vehicles	3361	41,420,295,105	52,393,050,195	247.6	151.3
Motor Vehicle Bodies and Trailers	3362	2,737,587,083	3,318,317,558	171.0	107.6
Motor Vehicle Parts	3363	43,486,232,217	46,039,435,214	678.1	415.1
Total - 11		**214,835,572,572**	**303,149,129,387**	**2,013.0**	**1,477.0**
Polyester Staple Fiber					
Fabrics	3132	6,835,815,016	5,412,179,654	104.1	52.7
Finished and Coated Textile Fabrics	3133	936,012,671	1,082,928,692	63.2	37.5
Textile Furnishings	3141	1,442,976,399	1,569,591,760	96.1	57.4
Apparel	3152	3,523,202,540	3,160,282,191	193.4	124.6
Other General Purpose Machinery	3339	26,594,805,524	33,065,615,282	269.3	225.8
Motor Vehicle Parts	3363	43,486,232,217	46,039,435,214	678.1	415.1
Household and Institutional Furniture and Kitchen Cabinets	3371	1,708,118,866	2,540,644,383	383.0	223.4
Furniture Related Products	3379	143,569,658	174,345,426	52.4	36.5
Other Miscellaneous Manufacturing	3399	22,555,898,494	34,945,101,871	347.4	266.0
Total - 9		**107,226,631,385**	**127,990,124,473**	**2,187.0**	**1,439.0**
Carbazole Violet Pigment 23					
Finished and Coated Textile Fabrics	3133	936,012,671	1,082,928,692	63.2	37.5
Textile Furnishings	3141	1,442,976,399	1,569,591,760	96.1	57.4
Other Textile Products	3149	1,102,831,845	1,333,154,571	80.3	61.1
Basic Chemical Manufacturing	3251	39,855,803,308	58,339,438,045	150.2	142.4

Antidumping (AD) Case/Downstream Industry	NAIC 4	Exports-2005	Exports-2010	Employment 2005 (000's)	Employment 2010 (000's)
Paints, Coatings, and Adhesives	3255	2,892,319,599	4,145,147,831	67.9	55.8
Other Chemical Products and Preparations	3259	7,107,670,763	9,760,139,942	104.4	82.9
Plastics Products	3261	14,118,739,332	17,719,397,261	634.2	499.6
Total - 7		**67,456,353,917**	**93,949,798,102**	**1,196.0**	**937.0**
Citric Acid and Citrate Salts					
Fruit and Vegetable Preserves and Specialty Foods	3114	3,084,412,107	4,957,001,178	174.0	171.4
Dairy Product Manufacturing	3115	1,814,743,490	3,889,593,214	131.6	127.9
Foods	3119	4,561,512,277	6,851,825,208	158.6	164.7
Beverages	3121	2,186,802,362	5,267,335,266	166.5	166.1
Finished and Coated Textile Fabrics	3133	936,012,671	1,082,928,692	63.2	37.5
Pharmaceuticals and Medicines	3254	30,065,009,643	49,379,590,906	288.1	276.5
Soaps, Cleaning Compounds, and Toilet Preparations	3256	8,520,843,328	13,458,187,218	113.5	101.2
Total - 7		**51,169,335,878**	**84,886,461,682**	**1,096.0**	**1,045.0**
Honey					
Grain and Oilseed Milling Products	3112	6,425,410,862	12,767,316,224	60.5	58.3
Fruit and Vegetable Preserves and Specialty Foods	3114	3,084,412,107	4,957,001,178	174.0	171.4
Bakery and Tortilla Products	3118	915,770,861	1,527,922,013	280.0	276.2
Foods	3119	4,561,512,277	6,851,825,208	158.6	164.7
Beverages	3121	2,186,802,362	5,267,335,266	166.5	166.1
Pharmaceuticals and Medicines	3254	30,065,009,643	49,379,590,906	288.1	276.5
Soaps, Cleaning Compounds, and Toilet Preparations	3256	8,520,843,328	13,458,187,218	113.5	101.2
Total - 7		**55,759,761,440**	**94,209,178,013**	**1,241.0**	**1,214.0**
Sodium and Potassium Phosphate Salts					
Dairy Product Manufacturing	3115	1,814,743,490	3,889,593,214	131.6	127.9
Bakery and Tortilla Products	3118	915,770,861	1,527,922,013	280.0	276.2
Foods	3119	4,561,512,277	6,851,825,208	158.6	164.7
Beverages	3121	2,186,802,362	5,267,335,266	166.5	166.1
Basic Chemical Manufacturing	3251	39,855,803,308	58,339,438,045	150.2	142.4
Pharmaceuticals and Medicines	3254	30,065,009,643	49,379,590,906	288.1	276.5
Paints, Coatings, and Adhesives	3255	2,892,319,599	4,145,147,831	67.9	55.8
Total - 7		**82,291,961,540**	**129,400,852,483**	**1,243.0**	**1,210.0**
Barium Carbonate					
Clay and Refractory Products	3271	1,324,675,228	1,893,009,347	61.9	40.3
Glass and Glass Products	3272	3,690,514,594	4,674,935,725	107.8	80.7

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Table A-1
U.S. Antidumping Orders and Affected Downstream Industries *Continued*

Antidumping (AD) Case/Downstream Industry	NAIC 4	Exports-2005	Exports-2010	Employment 2005 (000's)	Employment 2010 (000's)
Other Nonmetalic Mineral Products	3279	1,903,265,012	2,541,056,384	95.6	79.1
Computer Equipment	3341	45,340,644,792	44,510,813,783	205.1	161.6
Semiconductor and Other Electronic Components	3344	62,656,417,289	63,438,135,369	452.0	369.7
Medical Equipment and Supplies	3391	17,143,677,101	26,148,132,164	299.9	301.5
Total - 6		**132,059,194,016**	**143,206,082,772**	**1,222.0**	**1,033.0**
Sodium Nitrite					
Meat Products and Meat Packaging Products	3116	9,426,576,605	16,998,830,618	504.1	490.2
Basic Chemical Manufacturing	3251	39,855,803,308	58,339,438,045	150.2	142.4
Resin, Synthetic Rubber, and Artificial and Synthetic Fibers and Filiments	3252	24,364,226,868	35,663,480,982	107.8	89.7
Pharmaceuticals and Medicines	3254	30,065,009,643	49,379,590,906	288.1	276.5
Paints, Coatings, and Adhesives	3255	2,892,319,599	4,145,147,831	67.9	55.8
Rubber Products	3262	5,780,772,502	8,417,320,072	168.1	123.7
Total - 6		**112,384,708,525**	**172,943,808,454**	**1,286.0**	**1,178.0**
Carbon and Alloy Steel Wire Rod					
Rubber Products	3262	5,780,772,502	8,417,320,072	168.1	123.7
Cement and Concrete Products	3273	231,457,932	413,347,540	240.1	171.8
Steel Products from Purchased Steel	3312	379,960,923	467,384,776	61.1	51.9
Springs and Wire Products	3326	930,087,266	1,234,166,949	58.8	42.3
Bolts, Nuts, Screws, Rivets, Washers, and Other Turned Products	3327	2,083,383,718	2,727,838,982	345.2	312.0
Total - 5		**9,405,662,341**	**13,260,058,319**	**873**	**702**
Pure Magnesium					
Beverages	3121	2,186,802,362	5,267,335,266	166.5	166.1
Iron and Steel and Ferroalloy	3311	10,223,442,056	15,245,512,678	95.7	85.4
Alumina and Aluminum and Processing	3313	5,192,123,952	6,029,261,067	73.4	55.0
Nonferrous Metal (except Aluminum) and Processing	3314	13,273,857,513	30,702,885,564	71.7	57.9
Motor Vehicle Parts	3363	43,486,232,217	46,039,435,214	678.1	415.1
Total - 5		**74,362,458,100**	**103,284,429,789**	**1,085**	**780**
Refined Brown Aluminum Oxide					
Paints, Coatings, and Adhesives	3255	2,892,319,599	4,145,147,831	67.9	55.8
Clay and Refractory Products	3271	1,324,675,228	1,893,009,347	61.9	40.3
Other Nonmetalic Mineral Products	3279	1,903,265,012	2,541,056,384	95.6	79.1
Cutlery and Handtools	3322	2,093,070,963	2,397,720,538	56.3	40.7
Metalworking Machinery	3335	6,200,953,281	6,644,497,552	202.3	153.2
Total - 5		**14,414,284,083**	**17,621,431,652**	**484**	**369**

Antidumping (AD) Case/Downstream Industry	NAIC 4	Exports-2005	Exports-2010	Employment 2005 (000's)	Employment 2010 (000's)
Sodium Hexametaphosphate					
Meat Products and Meat Packaging Products	3116	9,426,576,605	16,998,830,618	504.1	490.2
Seafood Products Prepared, Canned and Packaged	3117	417,394,401	380,641,795	41.1	38.3
Beverages	3121	2,186,802,362	5,267,335,266	166.5	166.1
Basic Chemical Manufacturing	3251	39,855,803,308	58,339,438,045	150.2	142.4
Clay and Refractory Products	3271	1,324,675,228	1,893,009,347	61.9	40.3
Total - 5		**53,211,251,904**	**82,879,255,071**	**924**	**877**
Superalloy Degassed Chromium					
Iron and Steel and Ferroalloy	3311	10,223,442,056	15,245,512,678	95.7	85.4
Architectural and Structural Metals	3323	1,280,465,910	2,260,066,880	397.9	320.2
Other Fabricated Metal Products	3329	14,151,819,804	21,226,262,988	281.8	248.8
Engines, Turbines, and Power Transmission Equipment	3336	17,791,476,771	25,385,932,300	97.5	91.2
Aerospace Products and Parts	3364	66,825,530,867	81,052,308,718	455.1	477.2
Total - 5		**110,272,735,408**	**145,170,083,564**	**1,328**	**1,223**
Activated Carbon					
Fruit and Vegetable Preserves and Specialty Foods	3114	3,084,412,107	4,957,001,178	174.0	171.4
Beverages	3121	2,186,802,362	5,267,335,266	166.5	166.1
Ventilation, Heating, Air-Conditioning, and Commercial Refrigeration Equipment	3334	6,201,543,593	6,988,949,770	153.6	123.4
Other General Purpose Machinery	3339	26,594,805,524	33,065,615,282	269.3	225.8
Total - 4		**38,067,563,586**	**50,278,901,496**	**763.0**	**687.0**
Foundry Coke Products					
Iron and Steel and Ferroalloy	3311	10,223,442,056	15,245,512,678	95.7	85.4
Steel Products from Purchased Steel	3312	379,960,923	467,384,776	61.1	51.9
Foundries	3315	712,353,442	1,009,116,400	164.1	110.6
Total - 3		**11,315,756,421**	**16,722,013,854**	**321.0**	**248.0**
Frontseating Service Valves					
Ventilation, Heating, Air-Conditioning, and Commercial Refrigeration Equipment	3334	6,201,543,593	6,988,949,770	153.6	123.4
Other General Purpose Machinery	3339	26,594,805,524	33,065,615,282	269.3	225.8
Household Appliances and Miscellaneous Machines	3352	4,297,302,239	4,827,204,824	85.1	60.7
Total - 3		**37,093,651,356**	**44,881,769,876**	**508.0**	**410.0**
Hard Red Spring Wheat					
Animal Foods	3111	1,539,516,076	2,376,536,620	49.1	50.4
Grain and Oilseed Milling Products	3112	6,425,410,862	12,767,316,224	60.5	58.3

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Table A-1
U.S. Antidumping Orders and Affected Downstream Industries ***Continued***

Antidumping (AD) Case/Downstream Industry	NAIC 4	Exports-2005	Exports-2010	Employment 2005 (000's)	Employment 2010 (000's)
Bakery and Tortilla Products	3118	915,770,861	1,527,922,013	280.0	276.2
Total - 3		**8,880,697,799**	**16,671,774,857**	**390.0**	**385.0**
New Pneumatic Off-the-Road Tires					
Other General Purpose Machinery	3339	26,594,805,524	33,065,615,282	269.3	225.8
Motor Vehicles	3361	41,420,295,105	52,393,050,195	247.6	151.3
Motor Vehicle Bodies and Trailers	3362	2,737,587,083	3,318,317,558	171.0	107.6
Total - 3		**70,752,687,712**	**88,776,983,035**	**688.0**	**485.0**
Softwood Lumber Products					
Sawmills and Wood Products	3211	2,412,489,788	2,632,709,906	119.2	81.3
Veneer, Plywood, and Engineered Wood Products	3212	1,262,667,618	1,366,565,659	123.3	64.8
Other Wood Products	3219	1,040,269,945	1,339,828,139	316.7	195.1
Total - 3		**4,715,427,351**	**5,339,103,704**	**559.0**	**341.0**
Steel Nails					
Other Wood Products	3219	1,040,269,945	1,339,828,139	316.7	195.1
Household and Institutional Furniture and Kitchen Cabinets	3371	1,708,118,866	2,540,644,383	383.0	223.4
Office Furniture (Fixtures)	3372	1,305,213,077	1,402,993,562	132.8	97.5
Total - 3		**4,053,601,888**	**5,283,466,084**	**833.0**	**516.0**
1-Hydroxyethylidene-1, 1-Diphosphonic Acid					
Basic Chemical Manufacturing	3251	39,855,803,308	58,339,438,045	150.2	142.4
Soaps, Cleaning Compounds, and Toilet Preparations	3256	8,520,843,328	13,458,187,218	113.5	101.2
Total - 2		**48,376,646,636**	**71,797,625,263**	**264.0**	**244.0**
Chlorinated Isocyanurates					
Basic Chemical Manufacturing	3251	39,855,803,308	58,339,438,045	150.2	142.4
Soaps, Cleaning Compounds, and Toilet Preparations	3256	8,520,843,328	13,458,187,218	113.5	101.2
Total - 2		**48,376,646,636**	**71,797,625,263**	**264.0**	**244.0**
Coated Paper Suitable for High-Quality Print Graphics					
Converted Paper Products	3222	7,521,692,302	9,520,306,121	342.6	284.1
Printing Matter and Related Product	3231	5,794,912,541	6,430,622,680	646.3	486.9
Total - 2		**13,316,604,843**	**15,950,928,801**	**989.0**	**771.0**
Color Television Receivers					
Audio and Video Equipment	3343	6,900,577,749	9,703,874,795	32.4	19.9
Semiconductor and Other Electronic Components	3344	62,656,417,289	63,438,135,369	452.0	369.7
Total - 2		**69,556,995,038**	**73,142,010,164**	**484.0**	**390.0**

Antidumping (AD) Case/Downstream Industry	NAIC 4	Exports-2005	Exports-2010	Employment 2005 (000's)	Employment 2010 (000's)
Ferrovanadium					
Iron and Steel and Ferroalloy	3311	10,223,442,056	15,245,512,678	95.7	85.4
Steel Products from Purchased Steel	3312	379,960,923	467,384,776	61.1	51.9
Total - 2		**10,603,402,979**	**15,712,897,454**	**157.0**	**137.0**
Light-Walled Rectangular Pipe and Tube					
Household and Institutional Furniture and Kitchen Cabinets	3371	1,708,118,866	2,540,644,383	383.0	223.4
Other Miscellaneous Manufacturing	3399	22,555,898,494	34,945,101,871	347.4	266.0
Total - 2		**24,264,017,360**	**37,485,746,254**	**730.0**	**489.0**
Magnesium Metal					
Iron and Steel and Ferroalloy	3311	10,223,442,056	15,245,512,678	95.7	85.4
Motor Vehicle Parts	3363	43,486,232,217	46,039,435,214	678.1	415.1
Total - 2		**53,709,674,273**	**61,284,947,892**	**774.0**	**501.0**
Narrow Woven Ribbons with Woven Selvedge					
Fibers, Yarns, and Threads	3131	984,046,568	1,653,710,765	50.4	29.0
Fabrics	3132	6,835,815,016	5,412,179,654	104.1	52.7
Total - 2		**7,819,861,584**	**7,065,890,419**	**155.0**	**82.0**
Seamless Refined Copper Pipe and Tube					
Ventilation, Heating, Air-Conditioning, and Commercial Refrigeration Equipment	3334	6,201,543,593	6,988,949,770	153.6	123.4
Other General Purpose Machinery	3339	26,594,805,524	33,065,615,282	269.3	225.8
Total - 2		**32,796,349,117**	**40,054,565,052**	**423.0**	**349.0**
Silicomanganese					
Iron and Steel and Ferroalloy	3311	10,223,442,056	15,245,512,678	95.7	85.4
Steel Products from Purchased Steel	3312	379,960,923	467,384,776	61.1	51.9
Total - 2		**10,603,402,979**	**15,712,897,454**	**157.0**	**137.0**
Steel Threaded Rod					
Bolts, Nuts, Screws, Rivets, Washers and Other Turned Products	3327	2,083,383,718	2,727,838,982	345.2	312.0
Other Fabricated Metal Products	3329	14,151,819,804	21,226,262,988	281.8	248.8
Total - 2		**16,235,203,522**	**23,954,101,970**	**627.0**	**561.0**
Sulfanilic Acid					
Basic Chemical Manufacturing	3251	39,855,803,308	58,339,438,045	150.2	142.4
Cement and Concrete Products	3273	231,457,932	413,347,540	240.1	171.8
Total - 2		**40,087,261,240**	**58,752,785,585**	**390.0**	**314.0**

continued on next page

Table A-1
U.S. Antidumping Orders and Affected Downstream Industries ***Continued***

Antidumping (AD) Case/Downstream Industry	NAIC 4	Exports-2005	Exports-2010	Employment 2005 (000's)	Employment 2010 (000's)
Artist Canvas					
Other Miscellaneous Manufacturing	3399	22,555,898,494	34,945,101,871	347.4	266.0
Automotive Replacement Glass Windshields					
Motor Vehicles	3361	41,420,295,105	52,393,050,195	247.6	151.3
Crepe Paper Products					
Converted Paper Products	3222	7,521,692,302	9,520,306,121	342.6	284.1
Electrolytic Manganese Dioxide					
Electrical Equipment and Components	3359	13,327,272,795	17,706,539,432	135.8	118.0
High and Ultra-High Voltage Ceramic Station Post Insulators					
Semiconductor and Other Electronic Components	3344	62,656,417,289	63,438,135,369	452.0	369.7
Kitchen Appliance Shelving and Racks					
Household Appliances and Miscellaneous Machines	3352	4,297,302,239	4,827,204,824	85.1	60.7
Magnesia Carbon Bricks					
Iron and Steel and Ferroalloy	3311	10,223,442,056	15,245,512,678	95.7	85.4
Small Diameter Graphite Electrodes					
Iron and Steel and Ferroalloy	3311	10,223,442,056	15,245,512,678	95.7	85.4
Solid Agricultural Grade Ammonium Nitrate					
Pesticides, Fertilizers, and Other Agricultural Chemicals	3253	5,083,930,072	7,972,398,158	40.3	35.3
Uncovered Innerspring Units					
Furniture Related Products	3379	143,569,658	174,345,426	52.4	36.5

Sources: U.S. International Trade Commission, North American Industry Classification System codes, www.usitc.gov; Bureau of Economic Analysis, www.bea.gov; and Bureau of Labor Statistics, www.bls.gov.

Notes

1. Mexican retaliation for U.S. failure to comply with its commitment to allow Mexican long-haul trucks access to the United States (full access was promised by the year 2000) resulted in a variety of U.S. agricultural and manufactured goods being denied access to the Mexican market, causing a loss of about $2.4 billion in export sales last year. Japan and the European Union retaliated against a variety of U.S. exporters over the now-revoked Byrd Amendment. Those same partners, and others, are contemplating retaliation over continued U.S. foot-dragging over fixing the Commerce Department's oft-indicted antidumping calculation practice known as "zeroing."

2. Andrew Liveris, *Make It in America* (Wiley & Sons: Hoboken, NJ, 2011), p. 73.

3. Ibid.

4. Bureau of Economic Analysis, "U.S. International Transactions," Table 2a, Trade in Goods, http://www.bea.gov/international/bp_web/simple.cfm?anon=71&table_id=20&area_id=3.

5. President Barack Obama, The White House, Office of the Press Secretary, "Remarks by the President at the Signing of the Manufacturing Enhancement Act of 2010," August 11, 2010.

6. Office of the U.S. Trade Representative, Press Office, "WTO Case Challenging China's Export

Restraints on Raw Material Inputs," Fact Sheet, June 2009, http://www.ustr.gov/about-us/press-office/fact-sheets/2009/june/wto-case-challenging-chinas-export-restraints-raw-materi.

7. Ibid.

8. Ibid.

9. The WTO case concerns nine minerals: bauxite, coke, fluorspar, magnesium, manganese, silicon carbide, silicon metal, yellow phosphorus, and zinc. Yet, simultaneously, the U.S. government maintains antidumping restrictions on imports of magnesium, silicon metal, coke, and silicomanganese.

10. During this period, the U.S. government also initiated 75 countervailing duty cases. Many of the arguments for antidumping reform apply equally to the countervailing duty law. However, the case for antidumping reform contains some unique arguments, and antidumping (instead of trade remedies more broadly) is the focus of this paper.

11. Although this paper focuses on the costs of antidumping *measures*, it is important to understand that even the mere initiation of an antidumping proceeding has a chilling effect on imports, which routinely raises U.S. manufacturing costs.

12. Office of the U.S. Trade Representative, Press Office, June 2009.

13. An antidumping case concerns a subject product from a unique country. Since restrictions on one product sometimes apply to imports from more than one country, there are fewer subject products than antidumping measures (in the present analysis, 49 products and 99 cases).

14. Import values are (in most cases) for the full year prior to the year of the case initiation, and were obtained from the public versions of the ITC final determinations when those data were available. At least partial import data were available for 33 of the 49 products so the numbers reported as a percentage of total imports in Table 1 are either correct or understated.

15. The downstream industries correspond to the 4-digit NAICS codes and were selected on the basis of the descriptions usually found in the "physical characteristics and uses" section of the ITC's injury determinations.

16. Some notes on methodology: first, use of data compiled at the 4-digit NAICS classification level to account for downstream industry effects or potential effects is necessarily inexact. Not all of the output or exports or employment within a broad 4-digit NAICS category rely on the manufacturing input subject to a given antidumping order. The specific uses for each restricted input are probably more narrow and apply to a subset of manufacturing operations within each 4-digit NAICS category. But the tasks of trying to identify each specific use and potential use and then coding those uses more precisely would lend itself to subjectivity and human error, the costs of which would undermine the benefits of greater precision. Besides, capturing the precise costs of upstream protectionism on downstream industries is a much more detailed endeavor involving estimation of primary and secondary effects that is beyond the purpose of this paper. Under the methodology used, it is appropriate to assume that the number of downstream industries affected is underestimated because only one 4-digit NAICS code is listed when there may be multiple industries at the 6-digit NAICS level that use the restricted input. For example, an ingredient used in "Animal Food Manufacturing" would affect one 4-digit NAICS classification (3111), but at the 6-digit NAICS level, it might affect two NAICS classifications (311111-"Dog and Cat Food Manufacturing" and 311119-"Other Animal Food Manufacturing"). For the same reason, the value of exports and employment data for downstream industries is probably overestimated, since only some of the sub-industries within each 4-digit NAICS are likely to use the input. Second, the use of export and employment data alone would not suffice for an examination of the costs on downstream industries, but were selected for exposition here because the National Export Initiative is a topic of the paper. And third, the benchmarks for number of downstream industries (10), export value ($100 billion), and downstream employment (one million) have no special significance. They were chosen because they are all clear delimiters that help to keep the size of the table manageable. All of the data are available in the appendix.

17. Calculated from a review of the ITC final injury determinations.

18. Aqualon Co. (a subsidiary of Hercules, Inc.) is identified as the only producer of purified CMC in the International Trade Commission's preliminary determination, http://www.usitc.gov/publications/701_731/pub3713.pdf.

19. U.S. Department of Commerce, Bureau of the Census, Export data for Harmonized Tariff Schedule number 3912.3100, downloaded from the website of the U.S. International Trade Commission, www.usitc.gov. Note that the export value for CMC corresponds to a definition of that product that is more narrow and specific than the 4-digit NAICS classification codes compiled to calculate total exports of downstream industries in the table.

20. PMC Specialties Group, Inc., is identified as the "sole domestic producer of saccharin" in the ITC's Sunset Review determination, http://

www.usitc.gov/publications/701_731/pub4077.pdf.

21. U.S. Department of Commerce, Bureau of the Census, Export data for Harmonized Tariff Schedule number 2925.1100, downloaded from the website of the U.S. International Trade Commission, www.usitc.gov.

22. For a discussion of the evolution of the U.S. antidumping law and its rationale, see Daniel Ikenson, "Protection Made to Order: Domestic Industry's Capture and Reconfiguration of U.S. Antidumping Policy," Cato Institute Trade Policy Analysis no. 44, December 21, 2010, http://www.cato.org/pub_display.php?pub_id=12651.

23. See "Mugging Magnesium: How an Antidumping Case Has Destroyed Manufacturing Jobs," *Wall Street Journal,* editorial, January 3, 2011.

24. The WTO case concerns nine minerals: bauxite, coke, fluorspar, magnesium, manganese, silicon carbide, silicon metal, yellow phosphorus, and zinc. Yet, simultaneously, the U.S. government maintains antidumping restrictions on imports of magnesium, silicon metal, coke, and silicomanganese.

25. Website of the U.S. Department of Commerce, Import Administration, "What Is a Foreign Trade Zone?" http://ia.ita.doc.gov/ftzpage/info/ftzstart.html.

26. U.S. Department of Commerce, Import Administration, Public Hearing in the Matter of the Administrative Review of the Application to the Foreign Trade Zones Board for Foreign Trade Zones 29 and Transcript,; Applications for Subzone Authority; Dow Corning Corporation and REC Silicon, Transcript, p. 28.

27. Ibid., p. 84.

28. Ibid., p. 77.

29. *Federal Register* 76, no. 4 (January 6, 2011): 771. A full record of the proceedings surrounding the FTZ application is available at http://ita-web.ita.doc.gov/FTZ/OFISLogin.nsf/SearchResultsFR?SearchView&query=(FIELD+Company+CONTAINS+%22Dow%20Corning%20Corporation%22)&Start=1&Count=1000.

30. Department of Commerce, Office of Public Affairs, "Obama Administration Strengthens Enforcement of U.S. Trade Laws in Support of President's National Export Initiative," Press Release, August 26, 2010.

31. For a description of the 14-point plan to strengthen the trade remedies laws, see http://www.commerce.gov/news/press-releases/2010/08/26/obama-administration-strengthens-enforcement-us-trade-laws-support-pr.

32. For a comprehensive review of the National Export Initiative, see www.trade.gove/nei.

33. For a detailed discussion of those Commerce Department methodologies, see Brink Lindsey and Daniel J. Ikenson, "Antidumping 101: The Devilish Details of 'Unfair Trade' Law," Cato Institute Trade Policy Analysis no. 20, November 21, 2002, http://www.cato.org/pub_display.php?pub_id=3637; and Daniel Ikenson, "Abuse of Discretion: Time to Fix the Administration of the U.S. Antidumping Law," Cato Institute Trade Policy Analysis no. 31, October 6, 2005, http://www.cato.org/pub_display.php?pub_id=5110.

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