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Local Content Requirements and the  
Renewable Energy Industry  
- A Good Match?

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# Local content requirements and the Renewable Energy Industry - A good match?

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# Local Content Requirements and the Renewable Energy Industry - A good match?

- ▶ Debate on LCRs
- ▶ Empirical evidence of LCR effectiveness
- ▶ LCR experience in the renewable energy sector: China
- ▶ LCR experience in the renewable energy sector world wide
- ▶ WTO impermissibility of LCRs

“What are the economic and political grounds for arguing in favour of local content requirements in the renewable energy sector? Are they science-based and what are their implications?”

Key difference (!) LCR for domestic industry creation v LCR for medium-term innovation on the global renewable energy market.

# Debate on LCRs

## Against:

- ▶ Inefficient allocation of resources
- ▶ Trade impacts
- ▶ Short term costs (industry, power price inflation)
- ▶ Impact of economic deficiencies on quality

## In favour:

- ▶ Industry creation (infant industry)
- ▶ Job creation
- ▶ Medium-term innovation

## Key economic questions:

1. Are there medium-term benefits in terms of innovation?
2. What is the net gain or loss in the medium term?

# Empirical evidence of LCR effectiveness?



- ▶ The presence of these factors increases plausibility of a positive welfare benefit within the LCR-imposing jurisdiction, it does not guarantee it.
- ▶ This does not address the question whether the LCR can create innovators competing in the global market (in absence of LCR) in the medium term.

# LCR experience in the renewable energy sector: China

- ▶ Many factors present: Large wind resource, stable government demand, stringent but moderately phased in, substantial financial support, LCR initially linked to learning, tech transfer via CDM, learning-by-doing potential of wind energy present.
- ▶ Result: Massive growth of domestic industry by 2009 (when LCR was abandoned), estimates of around 150,000 jobs directly related to wind power, transfer of tech know-how.
- ▶ Potential for innovation? By 2011, 4 out of top 10 manufacturers, start of full turbine export.
- ▶ Caution is needed: Foreign companies left Chinese market by 2009, problem with quality standards and consolidation after LCR, shift from deployment to R&D needed but not evident, price-war continues and quality suffers, impact on established foreign companies! (Vestas)

# LCR experience in the renewable energy sector world wide

- ▶ LCRs (mandatory for support or for local content bonus) in, among others, Canada, Spain, Italy, France, Greece, Croatia, USA, India, Brazil, South-Africa, Turkey, Argentina, Malaysia.
- ▶ Many problems with current use and structure of LCR
  - Market size? (Quebec)
  - Complementary policies such as targets and education? (Ontario)
  - Restrictiveness? (Chubut, Argentina)
  - Targeted well? (India)
  - Infant industry? (Brazil)

Conclusion: Governments can do many things wrong with LCR, and so far their use does not seem to be contributing to innovation in the renewable energy sector. Many inefficiencies are present.



# Legality of LCRs under WTO law

- ▶ Support schemes with LCRs violate WTO law
  - ▶ They violate Art III:4 GATT and Article 2.1 and 2.2 TRIMs Agreement;
  - ▶ They potentially violate Art III:5 GATT and constitute prohibited subsidies under the SCM Agreement;
  - ▶ Art XX GATT and Art XVIII:C or :D GATT cannot justify these violations.
- ▶ Procurement tenders with LCRs are hardly disciplined by WTO law.
  - ▶ Art III:8(a) GATT does not apply (AB on *Canada- Renewable Energy*);
  - ▶ Government Procurement Agreement (GPA) has little force and is rarely applicable.

## Important questions after AB ruling on *Canada- Renewable Energy*:

- ▶ What benchmark should be used to determine whether FIT with LCRs “confer a benefit” in the sense of the SCM Agreement?
- ▶ Should and if yes, how could certain support schemes with LCRs be justified under WTO law? Where should the line between good and bad support schemes for renewable energies be drawn?

# Conclusion

- ▶ Conclusions on LCRs vary on a case by case basis.
- ▶ Short term costs: yes. Medium term benefits: uncertain.
- ▶ Merging LCRs and innovative ambition is complex. Many avenues for governments to “make bad policies”. Challenge within the WTO likely, as well as maintaining an open-ended, inefficient LCR (if not phased out in time!)
- ▶ But: Financing schemes for renewables are expensive and without local benefits attached, politically difficult to legitimize.
- ▶ Need: States need to discuss what constitutes appropriate state behavior in incentivising renewable energy.