



Industrial Energy Consumers of America
The Voice of the Industrial Energy Consumers

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May 29, 2008

The Honorable Barbara Boxer
Chairman
Committee on Environment and Public Works

Dear Senator Boxer:

There is no one more qualified to address Title XIII, International Partnerships to Reduce Emissions and Adapt of S.3036 America's Climate Security Act of 2007 than companies from the energy intensive manufacturing sectors who compete globally. The member companies of the Industrial Energy Consumers of America (IECA) are leading companies in all of these sectors.

IECA is a 501 (C) (6) nonprofit organization created to promote the interests of manufacturing companies for which the availability, use and cost of energy, power or feedstock play a significant role in their ability to compete in domestic and world markets. IECA membership represents a diverse set of industries including: plastics, rubber, cement, paper, food processing, aluminum, chemicals, fertilizer, brick, insulation, steel, glass, industrial gases, pharmaceutical, and brewing.

The Industrial Energy Consumers of America remain strongly opposed to Title XIII. Title XIII will not fulfill the desired intention of achieving greenhouse gas reductions in foreign countries and it does not provide a level playing field for domestic manufacturers. Both are key requirements. This provision treats American workers and industries less favorably than foreign producers in identical situations. As a result, the legislation will provide a competitive advantage to foreign importers of energy intensive products.

Domestic manufacturers that want to continue to produce and export their products do not support this provision. If there are companies who support this provision, they are companies whose priority is to import into the United States.

Title XIII is commonly referred to as the American Electric Power/International Brotherhood of Electrical Workers Provision. However, the American Electric Power Company is an electric utility and does not produce products that would be impacted by this provision, nor do they face international competition for their electricity. The International Brotherhood of Electrical Workers is a union that also does not produce energy intensive industrial products, nor do they face international competition. Therefore, we must conclude that neither is truly qualified to represent industrial energy consumers, yet their provision is included in this legislation over the concerns of the manufacturing community.

On October 27, 2007, I had the privilege of testifying before the Private Sector and Consumer Solutions to Global Warming and Wildlife Protection Subcommittee on behalf of IECA members regarding this legislation. My testimony raised several serious concerns about this provision. While we acknowledge good faith attempts to make the provision more

effective, the results of those attempts do not provide any improvement to the original proposal and remain severely lacking.

Title XIII uses access to US markets to entice developing countries to reduce their GHG emissions. Doing so raises the potential for a trade war or reciprocal actions that could close markets to our products. Also, the provision gives the impression to policy makers that US manufacturers will not be disadvantaged when the opposite is true.

There are numerous flaws in Title XIII that render it ineffective and unworkable. Among others, the provision includes:

- Delay in application of any requirements to foreign producers.

Title XIII would place no requirements on imports until the third year that domestic producers are subject to the costs and burdens of this legislation. Given the speed with which Chinese and other foreign producers have caused damage to import-sensitive industries in the United States in the recent past, such a delay could cause untold harm to the U.S. economy, workers and companies.

For example, an analysis of just sixteen US Census Bureau categories of energy intensive products indicates that imports rose a staggering 78.3 percent from 2003 to 2007. Those imports replaced both domestically manufactured products and the workers who produced them.

- Highly discretionary and unfair standard for excluding foreign countries.

The standard for determining whether foreign countries are exempted from the requirements of the bill (i.e., the standard for determining whether they are taking “comparable action”) is so vague and open-ended as to have no obvious meaning. Title XIII would allow for the exemption of countries based upon “consideration” of factors such as the deployment and use of “state-of-the-art” technologies in industrial processes, power generation, etc. – as well as regulatory programs to limit greenhouse emissions. It would leave open the possibility that major emitters could be exempted early in the program, even where they are not undertaking actions similar to companies in the United States. Moreover, it would exempt foreign countries employing “state-of-the-art” environmental technologies, while in the U.S., companies using the same technologies would be forced to bear the full costs of their emissions – in effect codifying a permanent competitive disadvantage for U.S. producers and workers.

- Discretionary authority to reduce foreign allowance requirements.

The provision creates an “economic adjustment ratio” that can be applied to lower the allowance obligation imposed on particular foreign countries and their industries. The “standard” is again so vague as to provide no clear or meaningful limit on the ability to reduce (possibly even eliminate) foreign allowance requirements. And once again, it would allow foreign industries to lower or escape obligations where the country employs “state-of-the-art” technologies – even though such actions by U.S. producers do not relieve them of any obligations under the bill.

- Unworkable provision for downstream products.

While the proposal would allow for the inclusion of some downstream products, it does not appear to require that importers obtain allowances to account for emissions associated with inputs used to make such downstream products (under the proposed program, importers must account only for direct emissions and electricity used to make the downstream product itself). Given that the competitive problem for downstream products relates precisely to these inputs, this provision would appear largely ineffectual.

- Inappropriate exclusion of countries that account for less than .5 percent of global emissions.

The proposal would automatically exempt any country falling below this threshold, potentially exempting significant exporters to the United States. Both legally and from a policy perspective, it is unclear why a small nation might be exempted (regardless of its energy efficiency, etc.), while a similarly-situated nation is included under the program simply because of its size.

- Inequitable rules allowing importers to utilize unlimited amounts of foreign allowances or credits to satisfy the requirements of the bill.


While U.S. entities are severely restricted in their ability to utilize allowances from foreign cap-and-trade programs or foreign offset credits, the provision would allow importers to utilize such instruments without limitation to satisfy their obligations in the United States. This is obviously inequitable, and could result in significantly less stringent requirements on importers – particularly given that the standard for determining whether a foreign cap-and-trade program is “commensurate” with the U.S. system is highly discretionary.

Also, please keep in mind that a significant number of all developing countries subsidize energy to their manufacturing sector at prices well below U.S. energy prices. Many are owned in part or in full by their governments. If countries are willing to subsidize these companies today, we must assume that they will subsidize their purchase of carbon allowances.

The above explanation is an attempt to quickly describe some of the reasons we do not support this provision. We believe extensive work with energy intensive industries is essential to crafting a reasonable provision.

As always, we look forward to working with you in partnership to reduce greenhouse gas emissions in the United States cost effectively and without loss of competitiveness.

Sincerely,



Paul N. Cicio
President

cc: Senate