



CLIMATE POLICY MUST NOT FAVOR FOREIGN IMPORTS

Carbon Intensity Standards for U.S. and Foreign-made Carbon Intensive Products in U.S. Commerce:

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Carbon Intensive Manufacturers Face Key Problems in Climate Bills

- Energy prices are a large part of our costs
- Climate legislation will raise our energy costs
- Many foreign competitors will not bear higher energy costs from climate change legislation
- Passing through the higher energy costs from climate change legislation will threaten our market share and jobs



The Suicide Bill: A Problem for Congress

- If foreign competitors have less stringent regulation, and are permitted to be more carbon intensive than U.S. firms, then passing through higher energy costs to U.S. carbon intensive manufacturers will
 - cost U.S. jobs
 - make climate change worse by encouraging manufacturers to relocate to countries that do not regulate greenhouse gas emissions



Challenge for Climate Change Legislation

- **Suicide Problem:** How do we reduce U.S. carbon emissions without
 - Driving U.S. energy intensive manufacturers out of business
 - Encouraging emissions migration to countries with weak climate change regimes and increasing global greenhouse gas emissions
- **Climate change legislation must be globally effective**
 - U.S. climate change legislation *must not be unilateral*



Current Proposals

- AEP framework reflected in
 - S. 1766 (Bingaman)
 - Rep. Boucher comments
 - Lieberman-Warner staff comments



Concerns About AEP Framework

- To use the AEP framework, legislation must impose cap and trade obligations on manufacturers, and associated administrative costs.
- AEP framework would effectively nullify S.1766's policy of allocating allowances to domestic manufacturers to offset higher energy costs
- Importers' obligations would not go into effect until 2020 Uses 2012-2014 as the base period, regardless of how high emissions levels climb between now and then
- Foreign countries that own or control the foreign firms, e.g., China, can subsidize purchase of carbon allowances.
- Obligations on importers are contingent on President finding that five largest trading partners have not taken "comparable action" on climate change



Is the AEP Framework WTO Compliant?

- GATT compliance is questionable
 - Would require showing that an exception to the normal principles of GATT applies
- Likely requires lengthy multilateral negotiations
- If negotiations fail, ability to apply and enforce legislation is highly problematic



A Better Approach: Carbon Intensity Standards

- Numerical tons of CO2 equivalent per ton of high carbon intensity product produced
- Does not mandate technology choices
- Encourages developing countries to improve emissions without limiting development
- Standards set by agency based on statutory factors and benchmarks
- Ratchets over time toward lowest achievable carbon intensity standards
- Modeled on highly effective appliance efficiency standards



Both AEP and Carbon Intensity Standards:

- Use right to sell in the U.S. market as leverage over foreign firms
- Compliance determined by carbon intensity of imports
- Address same potential universe: steel, aluminum, cement, glass, fertilizers, paper, etc.



Where Would Carbon Intensity Standards Fit Into A Cap and Trade Bill?

- Independent of cap and trade
 - not a comprehensive substitute for cap and trade
- Addresses only energy or carbon intensive industries faced with foreign competition
- Could fit within cap and trade bill by imposing carbon intensity caps, not emissions caps, as a condition for giving allowances to manufacturers to offset higher energy costs



Case for Carbon Intensity Standards

- What more can Congress ask of American carbon intensive manufacturers than to move toward adopting lowest carbon footprint that is technically possible?
- Foreign manufacturers who sell in U.S. market should be held to the same standard
- Leads developing nations toward deploying best available technology
- WTO compliant (Agreement on Technical Barriers to Trade)

