January 18, 2024

The Honorable Thomas Carper
Chairman
Committee on Environment and Public Works
U.S. Senate
Washington, DC 20510

The Honorable Shelley Moore Capito
Ranking Member
Committee on Environment and Public Works
U.S. Senate
Washington, DC 20510

Dear Chairman Carper, Ranking Member Capito, and Members of the Committee:

We would like to thank the Committee on Environment and Public Works for providing the opportunity to express our views regarding the PROVE IT Act. A study to increase transparency on greenhouse gas emissions intensity for specific products may seem innocuous but it presents problems. In particular, we are writing to discuss the major methodological problems with measuring greenhouse gas emissions intensity, the extension the PROVE IT Act provides for executive overreach, and the costs that would be associated with any subsequent carbon tariff or tax.

Measuring embodied emissions is not straightforward and there is no standard methodology. Even calculating "domestic carbon emissions" is different from "embodied carbon emissions consumed domestically."[1] The PROVE IT Act seeks to track emissions at the product-level.[2] However, there are a multitude of standards and frameworks that use different scopes, origins, and stages of production to measure embodied emissions. Further, emissions are not readily observable, so there are major difficulties and differences in methodology for calculating embodied emissions at the industry level, which are even worse at the product-level. Methodologies for emissions calculations are still in their infancy, thus any policy response based on such calculations is imprudent.

Additionally, important questions must be raised about how such a study and database would be used. The PROVE IT Act covers products based on their Harmonized Tariff Schedule classification, laying the groundwork not only for a carbon tariff but a domestic carbon tax.[3] The application of a carbon tariff requires a corresponding domestic carbon tax to be compliant with the World Trade Organization. Thus, arming lawmakers with an emissions database lays the groundwork for both a carbon tariff and domestic carbon tax.

The use of this study is dangerously vulnerable to political influence and ripe for favoritism. Giving unelected bureaucrats enormous power over Americans by providing executive agencies the authority to judge the data businesses submit will present opportunities for abuse, for example by making some imports look more carbon intensive than they are in reality.[4] While some policymakers wish for such a

[1] Michael Keen, Ian W.H. Parry, and James Roaf, "Border Carbon Adjustments: Rationale, Design and Impact," Working Paper no. 2021/239, International Monetary Fund, September 27, 2021, p. 4.
[2] Shuting Pomerleau, "What is in the Prove It Act introduced by Senator Coons and Senator Cramer?," Niskanen Center, June 9, 2023.
[3] Travis Fisher and Gabriella Beaumont-Smith, "The Cassidy Carbon Tax Is Even Worse Than Advertised," *Cato at Liberty* (blog), Cato Institute, November 13, 2023; and Gabriella Beaumont-Smith, "Three Reasons to Be Very Skeptical of U.S. "Carbon Tariffs," *Cato at Liberty* (blog), Cato Institute, June 20, 2023.
[4] Not only is data scarce but the methodologies, which already not well established for aggregate emissions data, still need to be developed. Shuting Pomerleau, "Administrative Costs of a Carbon Tax," Niskanen Center, February

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database to provide evidence against trading partners conducting similar studies, since there is no standard methodology for measuring greenhouse gas emissions and no forum to settle disputes about intensity, the most likely outcome would be a tit-for-tat trade war, particularly if a carbon tariff and tax follow.

Further, mandating businesses to calculate emissions will increase their costs and any resulting carbon tax or tariff will compound these costs. A carbon tax will impose even higher costs on consumers than gas taxes, which already disproportionately harm those in the lowest-income thresholds.[5] Further, recent trade policy demonstrates the very real costs imposed on Americans by tariffs—those imposed by President Trump in 2018 and maintained by President Biden have cost Americans over $50 billion per year.[6] The International Trade Commission found in its analysis of Section 232 and Section 301 tariffs that the "[h]igher costs were in many cases initially absorbed by importers and retailers; however,… more and more of that additional cost burden association with the tariffs [was] passed on to the prices paid by final consumers — American families."[7]

Transparency should be a choice and many American businesses are voluntarily working towards providing information about the emissions associated with their products. Commanding American businesses to calculate emissions will only be at their expense, hurting small businesses and low-income consumers the most while doing nothing to mitigate climate change.

Sincerely,

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2021; and International Energy Agency, *Emissions Measurement and Data Collection for a Net Zero Steel Industry* (France: International Energy Agency, 2023).

[5] Matthew Kotchen, "Taxing Externalities: Revenue Vs. Welfare Gains With An Application To U.S. Carbon Taxes," National Bureau of Economic Research Working Paper no. 30321, August 2022, p.19.

[6] Jacqueline Varas and Tom Lee, "The Total Cost of U.S. Tariffs," American Action Forum, May 10, 2022.

[7] U.S. International Trade Commission, "Economic Impact of Section 232 and 301 Tariffs on U.S. Industries," Publication no. 5405, May 2023, pp. 245–246.