

1 Title: To amend the Internal Revenue Code of 1986 to impose a fee on certain products imported
2 into the United States based on the pollution intensity associated with the production of such
3 products, and for other purposes.
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6 Be it enacted by the Senate and House of Representatives of the United States of America in
7 Congress assembled,

8 SECTION 1. SHORT TITLE.

9 This Act may be cited as the “Foreign Pollution Fee Act of 2024”.

10 TITLE I—FOREIGN POLLUTION FEE

11 SEC. 101. FOREIGN POLLUTION FEE.

12 (a) In General.—Chapter 38 of the Internal Revenue Code of 1986 is amended by adding at
13 the end the following new subchapter:

14 “Subchapter E—Foreign Pollution Fee

15 “Sec.4691.Definitions.

16 “Sec.4692.Imposition of foreign pollution fee.

17 “Sec.4693.Determination of variable charge.

18 “Sec.4694.Calculation of pollution intensity.

19 “Sec.4695.Treatment of international partnerships.

20 “Sec.4696.Covered products.

21 “Sec.4697.Advisory Committee on Global Pollution Challenges.

22 “Sec.4698.Establishment process and reassessments.

23 “SEC. 4691. DEFINITIONS.

24 “For purposes of this subchapter—

25 “(1) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the
26 Environmental Protection Agency.

27 “(2) ADVISORY COMMITTEE.—The term ‘Advisory Committee’ means the Advisory
28 Committee on Global Pollution Challenges, as established under section 4697.

29 “(3) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional
30 committees’ means the Committee on Finance of the Senate and the Committee on Ways
31 and Means of the House of Representatives.

32 “(4) BASELINE POLLUTION INTENSITY.—The term ‘baseline pollution intensity’ means the
33 pollution intensity associated with production of a covered product in the United States.

34 “(5) CARBON DIOXIDE EQUIVALENT.—The term ‘carbon dioxide equivalent’ means, with

1 respect to a greenhouse gas, the quantity of such gas that has a global warming potential
2 equivalent, determined over a 100-year period, to 1 metric ton of carbon dioxide, as
3 determined pursuant to table A–1 of subpart A of part 98 of title 40, Code of Federal
4 Regulations, as in effect on January 1, [2025].

5 “(6) COUNTRY OF ORIGIN.—The term ‘country of origin’ means, with respect to a covered
6 product—

7 “(A)(i) in the case of steel, the country in which the steel was melted and poured,

8 “(ii) in the case of aluminum, the country in which the aluminum was smelted and
9 poured, or

10 “(iii) in the case of any other covered product, the country in which a covered
11 product was produced, or

12 [“(B) the last country in which a covered product was substantially transformed, as
13 determined in a manner consistent with U.S. Customs and Border Protection
14 procedures, directly prior to importation into the United States.]

15 “(7) COVERED ENTITY.—The term ‘covered entity’ means the importer of record of a
16 covered product at the time of the importation of such product.

17 “(8) GREENHOUSE GAS.—The term ‘greenhouse gas’ has the meaning given such term in
18 section 98.6 of title 40, Code of Federal Regulations (as in effect on the date of enactment
19 of this subchapter).

20 “(9) HTS.—The term ‘HTS’ means the Harmonized Tariff Schedule of the United States.

21 “(10) INPUT MATERIAL OR PRECURSOR.—The term ‘input material or precursor’ means
22 any material or product (other than fuel) which is—

23 “(A) incorporated into a covered product, or

24 “(B) consumed during the production process of a covered product.

25 “(11) INTERNATIONAL PARTNERSHIP AGREEMENT.—The term ‘international partnership
26 agreement’ means an international partnership agreement established pursuant to title II of
27 the Foreign Pollution Fee Act of 2024.

28 “(12) POLLUTION.—The term ‘pollution’ refers to greenhouse gas emissions.

29 “(13) POLLUTION INTENSITY.—

30 “(A) IN GENERAL.—The term ‘pollution intensity’ means the amount of greenhouse
31 gases (as determined under section 4694), expressed in metric tons of carbon dioxide
32 equivalent, which are emitted into the atmosphere in the production of a single unit of
33 a covered product, as determined—

34 “(i) based upon an analysis of lifecycle greenhouse gas emissions (as defined in
35 section 45Q(f)(5)(B)(ii)) with respect to such covered product, including indirect
36 and direct emissions, and

37 “(ii) pursuant to the requirements described in section 4694(c)).

38 “(B) DIRECT EMISSIONS.—The term ‘direct emissions’ means [greenhouse gas]
39 emissions from the facility where a covered product is produced, including

1 [greenhouse gas] emissions from the combustion of fuels and process emissions from
2 chemical or physical transformations resulting from the production process.

3 “(C) INDIRECT EMISSIONS.—The term ‘indirect emissions’ means [greenhouse gas]
4 emissions from the production of electricity, heating, and cooling which are—

5 “(i) produced outside the facility where the covered product is produced, and

6 “(ii) consumed during the production process.

7 “(14) POLLUTION INTENSITY DIFFERENCE.—The term ‘pollution intensity difference’
8 means, with respect to any covered product, the difference (expressed as a percentage)
9 between—

10 “(A) the pollution intensity associated with production of such product in the
11 country of origin, and

12 “(B) the baseline pollution intensity with respect to such product.

13 “(15) PRODUCER.—The term ‘producer’ means the entity responsible for the
14 manufacturing of a product.

15 “(16) PRODUCT.—The term ‘product’ means any article, regardless of whether such
16 article is—

17 “(A) exported from the country of origin, or

18 “(B) produced and sold only within the country of origin.

19 “(17) RELEVANT FEDERAL AGENCY.—The term ‘relevant Federal agency’ means—

20 “(A) the Department of Energy,

21 “(B) the Office of the United States Trade Representative,

22 “(C) the Department of Commerce,

23 “(D) the Department of State,

24 “(E) the Environmental Protection Agency,

25 “(F) the Council on Environmental Quality,

26 “(G) the Office of Science and Technology Policy, and

27 “(H) the Department of Homeland Security.

28 “SEC. 4692. IMPOSITION OF FOREIGN POLLUTION FEE.

29 “(a) In General.—

30 “(1) IMPOSITION OF FEE.—In the case of any covered product which is imported by a
31 covered entity into the United States after the applicable date, there is hereby imposed an ad
32 valorem fee upon entry or importation of such covered product in an amount equal to the
33 product of—

34 “(A) the customs value of such covered product which is imported into the United
35 States, and

36 “(B) the variable charge (as determined under section 4693).

1 “(2) APPLICABLE DATE.—For purposes of paragraph (1), the applicable date shall be the
2 date which is 12 months after the date of enactment of this subchapter.

3 “(b) Fee Due.—

4 “(1) IN GENERAL.—The fee imposed under this section with respect to any covered
5 product shall be paid by the covered entity which imported such product at the same time,
6 and through the same electronic portal, that any payment of custom duties are made.

7 “(2) SECURITY FOR FEES.—The Secretary may issue such regulations or other guidance to
8 require, or may direct officers of U.S. Customs and Border Protection to require, a covered
9 entity to file with the Secretary a bond or other security in such amount and with such
10 conditions as the Secretary determines necessary to ensure payment of the fees imposed
11 under this section.

12 “SEC. 4693. DETERMINATION OF VARIABLE CHARGE.

13 “(a) In General.—

14 [“(1) INITIAL APPLICATION.—For purposes of the 36-month period subsequent to the
15 applicable date under section 4692(a)(2), the variable charge with respect to any covered
16 product shall be an amount (expressed as a percentage) equal to—]

17 [“(A) 15 percent, plus]

18 [“(B) the amount equal to the product of—]

19 [“(i) the number of percentage points by which the pollution intensity
20 difference for such product exceeds 10 percent, multiplied by]

21 [“(ii) 0.4.]

22 [“(2) SUBSEQUENT APPLICATION.—Subject to section 4698(c), for purposes of any period
23 subsequent to the period described in paragraph (1), the variable charge established under
24 this subsection with respect to any covered product shall be adjusted by the Secretary to
25 ensure that the variable charge increases in a manner which is consistent with the increase
26 in the pollution intensity difference of the covered product, provided that the variable
27 charge with respect to such product is not less than the percentage that would otherwise be
28 determined under paragraph (1).]

29 “(b) Exception for National Security.—

30 [“(1) IN GENERAL.—The Secretary, in coordination with the Secretary of Defense and the
31 Commissioner of U.S. Customs and Border Protection, may reduce the variable charge to
32 zero for any covered product if the Secretary determines that such product is imported for
33 purposes of fulfilling a contract with—]

34 [“(A) the Department of Defense, or]

35 [“(B) any contractor of the Department of Defense.]

36 “(2) FORM.—Any reduction under this subsection shall only apply to a covered product—

37 “(A) for the period that the contract described in paragraph (1) is in effect, and

38 “(B) with respect to the quantity of such covered product which is required to fulfill

1 the contract described in such paragraph.

2 “(3) PUBLICATION.—The Secretary shall make public any reduction under this subsection
3 with respect to a covered product unless the publication of such information would
4 negatively affect national security.

5 “(c) Circumvention.—

6 “(1) IN GENERAL.—If the Secretary of Commerce (in consultation with the Secretary, the
7 United States Trade Representative, the appropriate congressional committees, and any
8 relevant Federal agency) determines that any country or any producer is attempting to
9 circumvent application of the fee imposed under section 4692, the Secretary shall adjust the
10 variable charge in such manner as is deemed necessary to offset such circumvention.

11 “(2) INCLUSION.—For purposes of this subsection, circumvention of the fee imposed
12 under section 4692 shall include—

13 “(A) artificially decreasing the price for which a covered product is sold,

14 “(B) fraud relating to the country of origin or the stated customs value of a covered
15 product, and

16 “(C) subsidization or any other form of government assistance within the country of
17 origin to offset such fee.

18 “(3) DETERMINATION.—If the Secretary determines that a country or a producer is
19 attempting to circumvent application of the fee imposed under section 4692, the Secretary
20 shall publish in the Federal Register—

21 “(A) a justification for such determination,

22 “(B) the adjusted variable charge applicable to any covered product produced in
23 such country or by such producer, and

24 “(C) the date (not later than 6 months after the date of publication) on which the
25 adjusted variable charge will begin application.

26 “SEC. 4694. CALCULATION OF POLLUTION INTENSITY.

27 “(a) In General.—For purposes of determining the variable charge for covered products under
28 section 4693, the Secretary (in consultation with the Advisory Committee) shall develop
29 consistent methods for calculating the pollution intensity of any covered product which are
30 specific to the country of origin.

31 “(b) Form.—

32 “(1) IN GENERAL.—With respect to any covered product, the pollution intensity of such
33 product shall be expressed based on the average pollution intensity associated with the
34 manufacturing of such product in the country of origin.

35 “(2) SPECIFICITY.—To the maximum extent practicable, the pollution intensity of a
36 covered product shall be specific to the applicable 6-digit HTS subheading number.

37 “(3) EXCEPTION.—In the case of a covered product for which data is not available to
38 determine pollution intensity in a manner specific to the 6-digit HTS subheading number,
39 the Secretary may determine the pollution intensity based on the applicable 4-digit HTS

1 heading.

2 “(c) Data.—

3 “(1) IN GENERAL.—To the extent necessary for any determination with respect to any
4 covered product, the Secretary (in consultation with the Advisory Committee) may use—

5 “(A) economic, statistical, and engineering models and analysis,

6 “(B) pollution monitoring data from facilities, satellites, and other pollution
7 monitoring tools, provided that such data—

8 “(i) is publicly available, or

9 “(ii) is not publicly available but is able to be accessed and verified on a
10 consistent basis by the Secretary or the head of any relevant Federal agency,

11 “(C) voluntarily reported data, provided that such data is—

12 “(i) a product of monitored emissions, and

13 “(ii) able to be verified by the Secretary,

14 “(D) the best available information on technology performance levels for the
15 industrial sector that produces such product, and

16 “(E) manufacturing and pollution data which is specific to a covered product,
17 including relevant data regarding—

18 “(i) lifecycle greenhouse gas emissions (as defined in section 45Q(f)(5)(B)(ii))
19 with respect to such covered product (including direct and indirect emissions, as
20 well as greenhouse gas emissions associated with any input material or precursor),

21 “(ii) the industrial sector which is associated with such product, and

22 “(iii) the country of origin.

23 “(2) ACCESS TO INFORMATION.—

24 “(A) IN GENERAL.—The head of every relevant Federal agency shall provide the
25 Secretary with any information held by or otherwise available to the head of such
26 Federal agency which is relevant to the calculation of pollution intensity.

27 “(B) CONFIDENTIALITY.—With respect to any information or data relating to
28 operational practices or manufacturing processes of any producer of a covered product
29 which is provided to the Secretary pursuant to subparagraph (A), unless such
30 information or data is otherwise publicly available, the head of any relevant Federal
31 agency shall take such measures as are necessary to ensure that such information and
32 data is aggregated and anonymized.

33 “(d) Methodology.—

34 “(1) IN GENERAL.—For purposes of creating a process for calculating the pollution
35 intensity of any covered product under subsection (a), the Secretary (in consultation with
36 the Advisory Committee) shall—

37 “(A) use the best, and most internationally comparable, data available to establish
38 the baseline pollution intensity with respect to such product, and

1 “(B) in the case of a covered product produced outside of the United States, base the
2 calculation of the pollution intensity of such product on the process used to establish
3 the baseline pollution intensity for such product.

4 “(2) TREATMENT OF RECYCLED MATERIALS.—Any recycled material (as defined in
5 section 246.101(w) of title 40, Code of Federal Regulations) shall be deemed to have a
6 pollution intensity of zero if recycled (as defined in section 246.101(x) of such title) into—

7 “(A) an input material or precursor, or

8 “(B) a covered product.

9 “(3) TREATMENT OF CARBON OXIDES.—

10 “(A) IN GENERAL.—Any carbon oxide captured from manufacturing processes or
11 from ambient air by the producer of a covered product, or verifiably purchased by the
12 producer of a covered product as an offset from a verified entity operating carbon
13 capture infrastructure, shall have the effect of reducing the pollution associated with
14 the production of a covered product if such carbon oxide is—

15 “(i) utilized in the creation of any input material or precursor in a manner which
16 ensures that such carbon oxide does not escape into the atmosphere, or

17 “(ii) verifiably sequestered in the country of origin of such product in a manner
18 which provides an accurate accounting of the storage of such carbon oxide.

19 “(B) ACCOUNTING.—Any carbon oxide utilized or sequestered as described in
20 subparagraph (A) shall be—

21 “(i) treated as a reduction in pollution associated with the production of a
22 covered product based on the total tons of carbon oxide utilized or sequestered,

23 “(ii) eligible to offset all forms of pollution based on the relevant carbon
24 dioxide equivalent value, and

25 “(iii) verified pursuant to such process as is established by the Secretary.

26 “(4) TREATMENT OF FACILITY-SPECIFIC AGREEMENTS.—For the purpose of determining
27 the pollution intensity of any covered product which is produced in a foreign country, if—

28 “(A) such product is produced in a facility which is—

29 “(i) located in such country, and

30 “(ii) covered by an agreement established under section 204 of the Foreign
31 Pollution Fee Act of 2024, and

32 “(B) the pollution intensity of the product produced in such facility would otherwise
33 lower the average pollution intensity associated with the production of such product in
34 such country,

35 the pollution intensity of the product produced in such facility shall not be included for
36 purposes of calculating the pollution intensity associated with production of such product in
37 the country of origin.

38 “(e) Alterations for Foreign Data.—For purposes of determining the pollution intensity values
39 with respect to any country of origin for a covered product, if—

1 “(1) the baseline pollution intensity for such covered product was determined utilizing a
2 methodology based on data described in subsection (c) which was provided at a more
3 localized level, or in more granular detail, than the data available with respect to the country
4 of origin, the pollution intensity otherwise determined under this section with respect to
5 production of such covered product in such country of origin shall be increased by 20
6 percent, and

7 “(2) data with respect to the country of origin is unavailable or unverifiable, the Secretary
8 may determine the baseline pollution intensity for the country using an inference that is
9 adverse to the interests of the country in selecting from among the facts otherwise available
10 to make the determination.

11 “(f) Foreign Illustration of Pollution Intensity.—

12 “(1) IN GENERAL.—Any country may provide the Secretary with access to any data
13 necessary to establish an alternative pollution intensity with respect to any covered product.

14 “(2) ALTERNATIVE POLLUTION INTENSITY.—

15 “(A) IN GENERAL.—In the case of a country which provides data described in
16 paragraph (1), the Secretary may adjust the pollution intensity with respect to any
17 covered product, provided that the country providing such data—

18 “(i) ensures the accuracy of all relevant data for all covered products,

19 “(ii) provides data at a level of granularity which satisfies the methods
20 established by the Secretary, and

21 “(iii) provides the data consistently and in a manner that is verifiable by the
22 Secretary.

23 “(B) ROLE OF THE ADVISORY COMMITTEE.—For purposes of this paragraph, the
24 Advisory Committee shall assist the Secretary by verifying relevant data and
25 calculating adjustments to pollution intensities.

26 “(3) PUBLICATION OF ALTERNATIVE POLLUTION INTENSITY VALUES.—In the case of any
27 pollution intensity with respect to any covered product which is adjusted pursuant to
28 paragraph (2)—

29 “(A) the Secretary shall publish such adjustment in the Federal Register, and

30 “(B) such adjustment shall take effect in the following calendar year.

31 [“(g) Treatment of Potential Circumvention and Outliers.—If the Secretary of Commerce (in
32 consultation with the Secretary, the United States Trade Representative, the appropriate
33 congressional committees, and any relevant Federal agency) determines that any country or any
34 producer is attempting to circumvent application of the fee imposed under section 4692, the
35 Secretary may prohibit the importation of covered goods from that country or produced by that
36 producer.]

37 “SEC. 4695. TREATMENT OF INTERNATIONAL 38 PARTNERSHIPS.

39 “(a) Adjustment of Fee for Partner Countries.—In the case of a covered product which is

1 produced in a country which is a party to an international partnership agreement which satisfies
2 the conditions under sections 201 and 202 of the Foreign Pollution Fee Act of 2024 (referred to
3 in this section as a ‘partner country’), the fee under section 4692 shall be reduced in accordance
4 with the terms of such agreement.

5 “(b) Elimination of Treatment of Foreign Data.—Section 4694(e) shall not apply to any
6 partner country.

7 “SEC. 4696. COVERED PRODUCTS.

8 “The term ‘covered product’ means articles classifiable under the same 6-digit subheading
9 number of the HTS within one of the following categories:

10 “(1) Aluminum classifiable under any of headings 7601 through 7608 of the HTS.

11 “(2) Articles of aluminum classifiable under any of headings 7609 through 7616 of the
12 HTS.

13 “(3) Articles of cement classifiable under headings 6810 or 6811 of the HTS.

14 “(4) Iron and steel classifiable under any of headings 7206 through 7306 of the HTS.

15 “(5) Articles of iron and steel classifiable under any of headings 7307 through 7326 of
16 the HTS.

17 “(6) Cement classifiable under heading 2523 or subheading 3824.50 of the HTS.

18 “(7) Fertilizer classifiable under heading 2808 or 2814, subheading 2834.21, or any of
19 headings 3101 through 3105, of the HTS.

20 “(8) Glass classifiable under any of headings 7001 through 7020 of the HTS.

21 “(9) Hydrogen classifiable under subheading 2804.10 of the HTS.

22 “SEC. 4697. ADVISORY COMMITTEE ON GLOBAL 23 POLLUTION CHALLENGES.

24 “(a) In General.—The Secretary shall establish an advisory committee, to be known as the
25 ‘Advisory Committee on Global Pollution Challenges’, in accordance with chapter 10 of title 5,
26 United States Code (commonly referred to as the ‘Federal Advisory Committee Act’).

27 “(b) Composition.—

28 “(1) IN GENERAL.—The Advisory Committee shall be composed of—

29 “(A) 2 representatives of each of the industrial sectors described in paragraphs (1)
30 through (9) of section 4696,

31 “(B) 2 representatives from the National Laboratories (as defined in section 2 of the
32 Energy Policy Act of 2005 (42 U.S.C. 15801)), and

33 “(C) 2 representatives from the research community with expertise in carbon
34 accounting,

35 as appointed by the Secretary.

36 “(2) PERIOD OF APPOINTMENT.—Each representative appointed pursuant to paragraph (1)

1 shall serve for a term of 2 calendar years, and may be reappointed by the Secretary for any
2 additional term.

3 “(c) Chair.—The chair of the Advisory Committee shall be selected by the Secretary from the
4 representatives described in subsection (b).

5 “(d) Duties.—The Advisory Committee shall—

6 “(1) in accordance with section 4694, consult with the Secretary on methods of
7 calculating—

8 “(A) the baseline pollution intensity, as determined based on production of the
9 covered product in the United States, and

10 “(B) the respective pollution intensity for production of such covered product in any
11 foreign country,

12 “(2) provide assistance with regard to section 4694(f), as well as any other requests from
13 the Secretary, and

14 “(3) provide recommendations to the Secretary regarding any rules or reassessments
15 under section 4698.

16 “SEC. 4698. ESTABLISHMENT PROCESS AND
17 REASSESSMENTS.

18 “(a) In General.—The processes established under this section shall be utilized to—

19 “(1) provide the initial rules for application of the fee imposed under section 4692, and

20 “(2) perform any required reassessment.

21 “(b) Initial Rulemaking.—

22 “(1) CLASSIFICATION OF COVERED PRODUCTS.—Not later than 12 months after the date of
23 enactment of this subchapter, the Secretary shall issue a final rule for purposes of—

24 “(A) determining the appropriate heading or subheading number of the HTS for each
25 covered product, and

26 “(B) determining the appropriate measurement of any covered product (as described
27 in section 4692(c)).

28 “(2) POLLUTION INTENSITY CALCULATIONS.—

29 “(A) IN GENERAL.—Not later than 12 months after the date of enactment of this
30 subchapter, the Secretary shall publish a final rule establishing—

31 “(i) in a manner consistent with section 4694, the pollution intensity with
32 respect to each covered product and country of origin, and

33 “(ii) methods for any foreign country to establish an alternative pollution
34 intensity with respect to any covered product pursuant to subsection (f) of such
35 section.

36 [“(B) CIRCUMVENTION.—Not later than 18 months after the date of enactment of
37 this subchapter, the Secretary shall publish a final rule to address producers described

1 in section 4694(g).]

2 “(3) ESTABLISHMENT OF VARIABLE CHARGES.—Not later than 12 months after the date of
3 enactment of this subchapter, the Secretary (in consultation with the United States Trade
4 Representative) shall issue a final rule establishing the variable charge for covered products
5 for purposes of section 4693.

6 “(4) ADDITIONAL RULEMAKING.—In addition to the rules described in paragraphs (1)
7 through (3), any rules which are necessary in order to properly apply the fee under section
8 4692 shall be issued not later than the date which 12 months after the date of enactment of
9 this subchapter.

10 “(c) Reassessment.—

11 “(1) IN GENERAL.—

12 “(A) REASSESSMENT EVERY THREE YEARS.—Not later than 3 years after the date of
13 the issuance of any final rule described in subsection (b), and every 3 years thereafter,
14 the Secretary shall reassess and, as necessary, issue a final rule to adjust, the existing
15 final rule.

16 “(B) SECOND REASSESSMENT.—With respect to the second reassessment described
17 in subparagraph (A), in the case of any covered product for which the pollution
18 intensity difference is equal to or greater than 50 percent, the variable charge (as
19 determined under section 4693(a)) with respect to such product shall be increased by 5
20 percentage points.

21 “(C) THIRD REASSESSMENT.—With respect to the third reassessment described in
22 subparagraph (A), in the case of any covered product for which the pollution intensity
23 difference is equal to or greater than 50 percent, the variable charge (as determined
24 under section 4693(a)) with respect to such product shall be increased by 10
25 percentage points.

26 “(D) REASONABLE CAUSE.—Subparagraphs (B) and (C) shall not apply with respect
27 to a covered product for which the Secretary determines there is [reasonable cause -
28 reasonable cause for what?].

29 “(2) REVISION.—The United States International Trade Commission, in consultation with
30 the Secretary, shall annually publish a notice reflecting headings, subheadings, and
31 statistical reporting numbers of the HTS contained in any rule issued under this section
32 which need to be amended due to revisions to the HTS.

33 “(3) NEWLY AVAILABLE DATA.—With respect to any reassessment described in paragraph
34 (1), the Secretary may utilize any data which is available as a result of enhancements in the
35 ability to assess domestic or foreign pollution pursuant to legislation enacted or
36 developments in technology subsequent to the issuance of the most recent final rule.

37 “(4) INTERNATIONAL PARTNERSHIPS.—In the case of an international partnership
38 agreement, the Secretary may, at the time of the establishment of such agreement and in a
39 manner consistent with such agreement, issue a final rule to adjust the pollution intensity for
40 any covered product (as determined pursuant to subsection (b)(2)) produced in a country
41 which is a party to such agreement.

1 “(5) TIMING.—In the case of any final rule issued with respect to any reassessment under
2 paragraph (1), the application of such rule shall take effect on January 1 of the first calendar
3 year beginning subsequent to the issuance of such final rule.

4 “(d) Process.—

5 “(1) NOTICE AND CONSULTATION.—Not later than 6 months prior to—

6 “(A) the date on which any final rule is required to be issued under paragraph (1),
7 (2), or (3) of subsection (b), and

8 “(B) the date on which any reassessment is required to be made under subsection
9 (c)(1),

10 the Secretary shall with publish a notice of proposed rulemaking respect to such final rule or
11 reassessment and brief the appropriate congressional committees and consult with such
12 committees regarding such final rule or reassessment.

13 “(2) COMMENT.—Following the notice under paragraph (1), the Secretary shall provide a
14 public comment period of not less than 60 days.

15 “(3) CONSULTATION.—Prior to the issuance of any final rule or reassessment under this
16 section regarding the appropriate classification of covered products, the Secretary may
17 consult with—

18 “(A) the United States Trade Representative,

19 “(B) the United States International Trade Commission,

20 “(C) the Commissioner of U.S. Customs and Border Protection, and

21 “(D) all other relevant Federal agencies.”.

22 **TITLE II—INTERNATIONAL PARTNERSHIP**
23 **AGREEMENTS RELATING TO POLLUTION FEES**
24 **SEC. 201. INTERNATIONAL PARTNERSHIP**
25 **AGREEMENTS.**

26 (a) In General.—The United States Trade Representative, at the direction of the President,
27 may—

28 (1) engage in negotiations with countries to encourage the establishment and expansion
29 of international partnership agreements, as provided in this title;

30 (2) establish agreements with foreign countries with respect to proposals to enter into
31 international partnership agreements;

32 (3) implement such an agreement; and

33 (4) perform the oversight and enforcement role necessary to uphold any such agreement.

34 (b) Requirements for International Partnership Agreements.—

35 (1) PRODUCTS.—An international partnership agreement may be entered into under this
36 title on the basis of all covered products.

1 (2) PARTIES.—

2 (A) IN GENERAL.—Subject to the requirements under subparagraph (B) and
3 paragraph (3), the United States may enter into an international partnership agreement
4 under this title with—

5 (i) one country; or

6 (ii) multiple countries.

7 (B) REQUIREMENT FOR RECIPROCAL TREATMENT.—The United States may not enter
8 into an international partnership agreement under this title with a country with which
9 the United States has a free trade agreement in effect, or with an upper-middle-income
10 country or a high-income country, unless that country—

11 (i) provides treatment to covered products produced in the United States and
12 imported into that country that is reciprocal to the treatment of covered goods
13 produced in that country and imported into the United States; and

14 (ii) implements and commits to maintaining measures to decrease the pollution
15 intensity of covered products produced in that country.

16 (C) EXCLUSION OF NONMARKET ECONOMY COUNTRIES.—The United States may not
17 enter into an international partnership agreement under this title with a nonmarket
18 economy country.

19 (3) REQUIREMENTS.—An international partnership agreement entered into under this title
20 is required to provide for—

21 (A) creation of compatible methods to promote pollution reduction through trade
22 mechanisms by assessing pollution intensity differences between countries;

23 (B) maintenance of the ability of a country that is a party to the agreement to
24 determine methods of pollution reduction within that country;

25 (C) [reduction] of any fee or charge between countries that are parties to the
26 agreement in a manner compatible with the process described in section 202; and

27 (D) compatible pollution monitoring, reporting, and verification methods that—

28 (i) allow for similar methods to be used to calculate the pollution intensity of
29 covered products and countries that are parties to the agreement, on the basis of
30 the available information within each such country;

31 (ii) allow for similar methods to be used to calculate the pollution intensity of
32 covered products imported from countries that are not parties to the agreement;
33 and

34 (iii) allow for each country that is a party to the agreement to consistently
35 validate the monitoring and reporting information of the other countries that are
36 parties to the agreement with respect to products covered by the agreement.

37 (c) Timeline.—

38 (1) IN GENERAL.—The requirements described in subsection (b) with respect to an
39 international partnership agreement are required to be achieved—

1 (A) for high-income countries and upper-middle income countries, not later than 3
2 years after entering into the agreement; and

3 (B) for low-income countries and lower-middle-income countries, not later than 5
4 years after entering into the agreement.

5 (2) APPLICABILITY OF BENEFITS.—

6 (A) IN GENERAL.—Countries described in paragraph (1)(A) shall not receive the
7 treatment described in section 4695 of the Internal Revenue Code of 1986, as added by
8 title I, until the requirements under subsection (b) are met.

9 (B) TERMINATION.—The United States shall maintain the right to terminate an
10 international partnership agreement at any time pursuant to the terms of the agreement.

11 (d) Publication; Congressional Review.—An international partnership agreement entered into
12 under this section shall be—

13 (1) published in the Federal Register; and

14 (2) treated as a final rule prepared by an agency, including with respect to review by
15 Congress under chapter 8 of title 5, United States Code (commonly referred to as the
16 “Congressional Review Act”).

17 (e) Restrictions on Negotiations Relating to Domestic Policy.—The authority provided by this
18 section does not include the authority to negotiate or enter into an agreement that would establish
19 carbon taxes, fees, pricing, or other mechanisms that impose additional costs on products
20 produced by a United States entity.

21 **SEC. 202. APPLICATION OF FOREIGN POLLUTION FEE**
22 **IN PARTNERSHIPS.**

23 (a) In General.—In accordance with section 4695 of the Internal Revenue Code of 1986, as
24 added by title I, a reduced fee shall be applied under section 4692 of such Code with respect to a
25 covered product imported from a country that is a party to an international partnership agreement
26 entered into under this title.

27 (b) Failure to Meet Requirements.—If a covered product is produced in a country that is a
28 party to an international partnership agreement entered into under this title but does not meet the
29 requirement described in subsection (a), the fee applied under section 4692 of the Internal
30 Revenue Code of 1986, as added by title I, with respect to the covered product shall be
31 calculated based on the variable charge determined under section 4693(a) of the Internal
32 Revenue Code of 1986, as added by title I.

33 (c) Treatment of Low-Income and Lower-Middle Income Countries.—

34 (1) IN GENERAL.—During the 5-year period following the entry into force of an
35 international partnership agreement under this title between the United States and a low-
36 income country or lower-middle-income country—

37 (A) the pollution intensity requirement described in subsection (a) shall be
38 considered to be met with respect to covered products produced in the country; and

39 (B) no fee shall be applied to covered products imported from that country.

1 (2) MODIFICATIONS TO REQUIREMENTS.—

2 (A) IN GENERAL.—During the 10-year period beginning after the completion of the
3 5-year period described in paragraph (1), the pollution intensity requirement described
4 in subsection (a) shall be considered to be met with respect to a covered product
5 produced in a country described in paragraph (1) if new capacity in that country for the
6 production of the covered product developed during the 10-year period described in
7 paragraph (1) is not more than 50 percent more pollution intense than the baseline
8 pollution intensity at the time of the entry into force of the international partnership
9 agreement.

10 (B) FUTURE DEVELOPMENT.—For the 10-year period beginning after the completion
11 of the 10-year period described in subparagraph (A), and each 10-year period
12 thereafter, the pollution intensity requirement described in subsection (a) shall be
13 considered to be met with respect to a covered product produced in a country described
14 in paragraph (1) if new capacity in that country for the production of the covered
15 product developed during the preceding 10-year period is not more than 25 percent
16 more pollution intense than the baseline pollution intensity at the beginning of such
17 preceding 10-year period.

18 (3) APPLICATION OF FEE.—If the requirements described in paragraph (1) or (2), as
19 applicable, are not met with respect to a covered product, the fee specified in subsection (b)
20 shall apply.

21 [(d) Treatment of Circumvention.—Nothing in this section shall supersede section 4694(g) of
22 the Internal Revenue Code of 1986, as added by title I, with respect to potential circumvention of
23 the fee assessed under section 4692 of such Code if—]

24 [(1) a determination is made under such section 4694(g) with respect to a producer; and]

25 [(2) the producer is owned, operated, or financed in or by a country that is not a party to
26 an international partnership agreement entered into under this title.]

27 **SEC. 203. SUPPORT FOR PARTICIPATION OF LOW-**
28 **INCOME AND LOWER-MIDDLE-INCOME COUNTRIES IN**
29 **INTERNATIONAL PARTNERSHIP AGREEMENTS.**

30 (a) In General.—The United States Trade Representative, at the direction of the President,
31 may include, in an international partnership agreement entered into under this title with a country
32 described in subsection (b), provisions providing for—

33 (1) the provision of treatment described in section 202(c) to that country;

34 (2) the extension of untied or tied aid through a United States export, development, or
35 trade agency for energy or manufacturing technologies and projects;

36 (3) lower initial requirements relating to pollution data monitoring and alternative
37 methods to more accurately project and model pollution under the agreement;

38 (4) support for expansion of monitoring and reporting of pollution using best practices;
39 and

1 (5) technical assistance to ensure full compliance with the terms of the agreement.

2 (b) Countries Described.—A country described in this subsection is—

3 (1) a low-income country or a lower-middle-income country; and

4 (2) a country that the United States Trade Representative determines—

5 (A) meets investment thresholds in environmental infrastructure commensurate with
6 the revenue foregone as a result of not charging the fee under section 4692 of the
7 Internal Revenue Code of 1986, as added by title I, with respect to covered products
8 imported from the country;

9 (B) meets procurement thresholds of [qualified environmental goods and
10 services]/[covered products?] produced in the United States and other countries that
11 are parties to international partnership agreements under this title; and

12 (C) provides preferential market access for energy and environmental, security, and
13 healthcare goods and services produced in the United States; and

14 (D) adopts [certain] [NOTE: Possible to more specific?] labor and environmental
15 standards.

16 (c) Benchmarks and Requirements.—

17 (1) IN GENERAL.—The United States Trade Representative shall establish benchmarks or
18 requirements to assess the progress of a country described in subsection (b) in fully
19 implementing the terms of an international partnership agreement entered into under this
20 title.

21 (2) BENCHMARKS.—The benchmarks and requirements established under paragraph (1)
22 with respect to a country shall include—

23 (A) improving methods of monitoring, reporting, and verifying pollution levels;

24 (B) if, after the entry into force of the international partnership agreement, new
25 manufacturing or production capacity for a covered product is built in the country but
26 that capacity is owned or operated, or the majority of the financing for that capacity is
27 provided, by an entity associated with a country that is not a party to an international
28 partnership agreement, treating the new capacity—

29 (i) at the pollution intensity of the country that is not a party to an international
30 partnership agreement if the pollution intensity for the covered product produced
31 in that country is greater than the pollution intensity of the covered product
32 produced in the country that is a party to the international partnership agreement;

33 (ii) as not eligible for the treatment of a country that is a party to an
34 international partnership agreement described in section 202; and

35 (iii) in accordance to the requirements of section 4695 of the Internal Revenue
36 Code of 1986, as added by title I; and

37 (C) if, after the entry into force of the international partnership agreement, the
38 ownership, a stake of ownership, or operation of manufacturing or production capacity
39 for a covered product that is in operation on the date of entry into force is transferred to
40 an entity in a country that is not a party to an international partnership agreement,

1 treating such capacity—

2 (i) at the pollution intensity of the country that is not a party to an international
3 partnership agreement if the pollution intensity for the covered product produced
4 in that country is greater than the pollution intensity of the covered product
5 produced in the country that is a party to the international partnership agreement;

6 (ii) as not eligible for the treatment of a country that is a party to an
7 international partnership agreement described in section 202; and

8 (iii) in accordance to the requirements of section 4695 of the Internal Revenue
9 Code of 1986, as added by title I.

10 (d) Termination.—The United States shall maintain the authority to terminate the application
11 to a country with which the United States enters into an international partnership agreement
12 under this title of the provisions described in subsection (a)—

13 (1) if the country does not meet the benchmarks and requirements under subsection (c);
14 and

15 (2) pursuant to the terms of the international partnership agreement.

16 (e) Inclusion of Other International Partners.—To the maximum extent practicable, the United
17 States shall seek to include additional high-income countries and upper-middle-income countries
18 in international partnership agreements entered into under this title with low-income countries or
19 lower-middle-income countries.

20 SEC. 204. TREATMENT OF CERTAIN FACILITIES 21 RELATING TO POLLUTION FEES.

22 (a) In General.—The Commissioner of U.S. Customs and Border Protection and the
23 Administrator of the Environmental Protection Agency shall jointly develop a process under a
24 facility located in a foreign country may apply to have products produced at the facility be
25 treated at a pollution intensity specific to the facility (in this section referred to as “facility-
26 specific treatment”) instead of the pollution intensity for the country.

27 (b) Eligibility Requirements.—To be eligible for facility-specific treatment under subsection
28 (a), a facility is required to—

29 (1) be—

30 (A) owned or operated by a United States entity; or

31 (B) located in a country with which the United States has entered into an
32 international partnership agreement under this title;

33 (2) comply with procedures to allow for ongoing verification of direct emissions by
34 United States officials or their designees, including requirements that the facility—

35 (A) deploy pollution monitoring equipment able to report in real time the levels of
36 pollution emitted by the facility;

37 (B) provide access to real-time pollution monitoring data;

38 (C) in the absence of pollution monitoring equipment, disclose—

1 (i) the volume and type of fuels consumed within the facility for the production
2 of each covered product;

3 (ii) emissions associated with any fuel combustion within the facility for the
4 production of each covered product, including for industrial processes and any
5 electricity, heat, or steam production; and

6 (iii) all emissions associated with the chemical and physical transformation of
7 raw materials within the facility for the production of each covered product;

8 (D) allow for spot inspections to ensure compliance with the requirements of this
9 subsection;

10 (3) account for the indirect emissions from the production of electricity, heating, and
11 cooling that is produced outside the facility and consumed in the production of a covered
12 product;

13 (4) account for the emissions associated with the manufacture of input materials or
14 precursors that are consumed in the production of a covered product;

15 (5) disclose the volume and value of all covered products produced in the facility;

16 (6) for facilities that manufacture a mix of covered products and products that are not
17 covered products, disclose the fraction of production of covered products as a share of total
18 output volume and value; and

19 (7) identify the covered entity with respect to covered products produced at the facility
20 for which the covered entity is not the owner of the facility.

21 (c) Reconsideration of Determinations of Pollution Intensity.—The Commissioner of U.S.
22 Customs and Border Protection and the Administrator of the Environmental Protection Agency
23 may establish a process under which a United States entity a subsidiary of which owns or
24 operates a facility granted facility-specific treatment under subsection (a) may petition for
25 reconsideration of the determination of the pollution intensity specific to the facility.

26 [(d) Consultation With Congress.—The Trade Representative may not conclude an agreement
27 under subsection (a) with a facility unless—]

28 [(1) the Trade Representative—]

29 [(A) informs the appropriate congressional committees of the intention of the Trade
30 Representative to pursue negotiations with the facility not less than 2 business days
31 after commencing negotiations;]

32 [(B) shares the text of the proposed agreement with the appropriate congressional
33 committees for not less than the lesser of—]

34 [(i) 12 days on which both Houses of Congress are in session; or]

35 [(ii) 60 calendar days; and]

36 [(C) responds to all inquiries regarding the terms of the agreement from the
37 chairperson or ranking member of one of the appropriate congressional committees
38 before concluding the agreement; and]

39 [(2) a resolution of disapproval is not enacted during the period described in paragraph

1 (1)(B).]

2 [NOTE: Please advise on how to revise subsection (d) based on the new formulation.]

3 (e) Application of Variable Charge.—A product produced by a facility granted facility-
4 specific treatment under subsection (a) and imported into the United States shall be subject to the
5 variable charge determined under section 4693(a) of the Internal Revenue Code of 1986, as
6 added by title I, aligned with the pollution intensity difference of a product produced by the
7 facility and the baseline pollution intensity.

8 (f) Ineligibility of Facilities in or Owned by Nonmarket Economy Countries.—A facility is not
9 eligible for facility-specific treatment under subsection (a) if—

10 (1) in case of a facility located in a nonmarket economy country, the facility—

11 (A) is owned, partially owned, or operated by the government of the country or an
12 entity owned or controlled by that government; or

13 (B) has received financing, including in the form of a tax credit or a limit on tax
14 liability, to operate the facility by the government of the country or an entity owned or
15 controlled by that government; or

16 (2) in the case of a facility not located in a nonmarket economy country, the facility is
17 owned, partially owned, or operated by an entity owned or controlled by the government of
18 a nonmarket economy country.

19 SEC. 205. DEFINITIONS.

20 (a) In General.—In this title:

21 (1) FREE TRADE AGREEMENT.—The term “free trade agreement” means an agreement
22 with 1 or more countries that—

23 (A) reduces or eliminates tariffs and non-tariff barriers between the countries that
24 are parties to the agreement; and

25 (B) is approved by Congress.

26 (2) NONMARKET ECONOMY COUNTRY.—The term “nonmarket economy country” means
27 any foreign country that the Secretary of Commerce determines, pursuant to section 771(18)
28 of the Tariff Act of 1930 (19 U.S.C. 1677(18)), does not operate on market principles of
29 cost or pricing structures, so that sales of merchandise in that country do not reflect the fair
30 value of merchandise.

31 (3) UNITED STATES ENTITY.—The term “United States entity” means an entity organized
32 under the laws of the United States or any jurisdiction within the United States.

33 (b) Other Terms.—In this title, the definitions set forth in section 4691 of the Internal Revenue
34 Code of 1986, as added by title I, apply.

35 (c) World Bank Classifications.—In this title:

36 (1) IN GENERAL.—Subject to paragraph (2), the terms “high-income country”, “upper-
37 middle-income country”, “lower-middle-income country”, and “low-income country” shall
38 be defined based on the classification of the economy of a country by the World Bank.

1 (2) HIGH-INCOME AND UPPER-MIDDLE-INCOME COUNTRIES.—In the case of any country
2 which, as of January 1, [2025], is classified by the World Bank as a high-income country or
3 an upper-middle-income country, such country shall not be eligible to be reclassified as a
4 lower-middle-income country or a low-income country.

5 **TITLE III—OTHER MATTERS**

6 **SEC. 301. REPORT ON COUNTERING UNFAIR**
7 **COMPETITION FROM NONMARKET ECONOMY**
8 **COUNTRIES IN CERTAIN SECTORS.**

9 (a) In General.—Not later than one year after the date of the enactment of this Act, and
10 annually thereafter, the Secretary of the Treasury shall submit to Congress a report describing the
11 efforts of the Department of the Treasury—

12 (1) to help United States entities that manufacture covered products counter unfair
13 competition from nonmarket economy countries; and

14 (2) to increase jobs in the United States.

15 (b) Definitions.—In this section:

16 (1) COVERED PRODUCT.—The term “covered product” has the meaning given that terms
17 in section 4696 of the Internal Revenue Code of 1986, as added by title I.

18 (2) NONMARKET ECONOMY COUNTRY; UNITED STATES ENTITY.—The terms “nonmarket
19 economy country” and “United States entity” have the meanings given those terms in
20 section 205.