

118TH CONGRESS
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H. R. 8957

To require the Secretary of Energy to conduct a study and submit a report on the greenhouse gas emissions intensity of certain products produced in the United States and in certain foreign countries, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 9, 2024

Mr. CURTIS (for himself, Mr. PETERS, Mr. GARBARINO, Mr. SORENSEN, Ms. SALAZAR, Ms. HOULAHAN, Mr. BUCSHON, Mr. CARBAJAL, Mrs. CHAVEZ-DEREMER, Mr. PANETTA, Mr. BERGMAN, Ms. KUSTER, Mr. VALADAO, Mr. CARTER of Louisiana, Mr. CISCOMANI, Mr. COSTA, Mr. MOORE of Utah, Mr. COHEN, Ms. MALOY, Mr. MAGAZINER, and Ms. DEGETTE) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, and Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To require the Secretary of Energy to conduct a study and submit a report on the greenhouse gas emissions intensity of certain products produced in the United States and in certain foreign countries, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Providing Reliable, Ob-
3 jective, Verifiable Emissions Intensity and Transparency
4 Act of 2024” or the “PROVE IT Act of 2024”.

5 **SEC. 2. FINDINGS.**

6 Congress finds the following:

7 (1) The European Union enacted, and is begin-
8 ning enforcement of, a carbon border adjustment
9 mechanism that will impact the United States. Other
10 major trading partners of the United States are ex-
11 ploring or developing similar policies, including Aus-
12 tralia, Japan, and the United Kingdom.

13 (2) Questions remain about how the European
14 Union and others will calculate United States emis-
15 sions intensity for covered products and the accuracy
16 of such determinations.

17 (3) Public entities, like the Department of En-
18 ergy’s National Energy Technology Laboratory, and
19 various private sector groups have published studies
20 showing the United States comparative emissions in-
21 tensity advantage in production of manufactured
22 goods like steel and aluminum, as well as raw energy
23 sources like critical minerals, natural gas, and crude
24 oil.

1 (4) The private sector of the United States is
2 leading in emissions reductions and abides by some
3 of the cleanest and safest standards in the world.

4 (5) There is a need to obtain high-quality and
5 consolidated government data to show America's
6 comparative emissions advantage in the event of
7 questionable calculations of United States emissions
8 by foreign entities.

9 (6) In stark contrast, China has leveraged
10 human rights abuses and lax environmental perform-
11 ance and enforcement to create a competitive advan-
12 tage in international trade, undermining United
13 States industrial competitiveness. Nonmarket econo-
14 mies that do not share common social and economic
15 values with the United States share this general
16 tendency.

17 (7) The United States needs a better under-
18 standing of the extent of human rights abuses and
19 how they impact international trade flows.

20 **SEC. 3. STUDY ON GREENHOUSE GAS EMISSIONS INTEN-**
21 **SITY OF CERTAIN PRODUCTS PRODUCED IN**
22 **THE UNITED STATES AND IN CERTAIN FOR-**
23 **EIGN COUNTRIES.**

24 (a) STUDY.—

1 (1) IN GENERAL.—Not later than 2 years after
2 the date of enactment of this Act, and not later than
3 5 years thereafter, the Secretary, in coordination
4 with the Secretary of Commerce (including appro-
5 priate officials of the Bureau of the Census and the
6 International Trade Administration), the Adminis-
7 trator of the Environmental Protection Agency, the
8 United States Trade Representative, the United
9 States International Trade Commission, the Sec-
10 retary of Homeland Security, the Secretary of State,
11 and such other Federal officials as the Secretary de-
12 termines to be appropriate, shall conduct, and sub-
13 mit to the appropriate committees of Congress a re-
14 port describing the results of, a study—

15 (A) to determine the average product emis-
16 sions intensity of each category of covered prod-
17 ucts produced in the United States;

18 (B) to identify gaps in product emissions
19 intensity data for categories of covered products
20 produced in the United States;

21 (C) subject to paragraph (2)(B), to deter-
22 mine the average product emissions intensity of
23 each category of covered products produced in
24 covered countries, which may incorporate, as

the Secretary determines to be appropriate,
findings from—

(i) the implementation of the measures described in section 40416(a) of the Infrastructure Investment and Jobs Act (42 U.S.C. 18776(a)); and

(ii) the international energy data resources described in that section;

(D) to identify any issues with verifying the average product emissions intensity data for covered products produced in covered countries;
and

(E) to determine the relative average product emissions intensity of each category of covered products produced in the United States compared to the average product emissions intensity of each category of covered products produced in covered countries.

(2) REQUIREMENTS.—

(A) IN GENERAL.—The report submitted under paragraph (1) shall include—

(i) a detailed, specific, and transparent description of the methodology used to determine the average product emissions intensity of a category of covered products

1 under subparagraphs (A) and (C) of that
2 paragraph;

3 (ii) a record of all sources of data
4 used to determine the average product
5 emissions intensity of a category of covered
6 products under subparagraphs (A) and (C)
7 of that paragraph; and

8 (iii) the heading or subheading of the
9 Harmonized Tariff Schedule of the United
10 States associated with each covered prod-
11 uct for which the average product emis-
12 sions intensity of a category of covered
13 products is determined under subpara-
14 graphs (A) and (C) of that paragraph.

15 (B) CERTAIN COVERED COUNTRIES.—With
16 respect to a covered country described in sub-
17 paragraph (C) or (D) of section 5(5), in car-
18 rying out subparagraph (C) of paragraph (1),
19 the Secretary may limit the study under that
20 paragraph to categories of covered products
21 with respect to which the covered country holds
22 more than a de minimis share of the global
23 market share of that category of covered prod-
24 ucts.

1 (C) REUSE OF END-OF-LIFE MATERIALS.—

2 In determining the average product emissions
3 intensity of a category of covered products
4 under subparagraphs (A) and (C) of paragraph
5 (1), the Secretary shall favorably consider the
6 reuse of end-of-life materials in place of virgin
7 raw materials.

8 (3) COORDINATION AMONG PRIMARY STUDY
9 PARTICIPANTS.—In carrying out paragraph (1), the
10 Secretary, the Secretary of Commerce, the Adminis-
11 trator of the Environmental Protection Agency, the
12 United States Trade Representative, the Secretary
13 of Homeland Security, the Secretary of State, and
14 such other Federal officials as the Secretary deter-
15 mines to be appropriate shall establish procedures to
16 facilitate timely and efficient data sharing for pur-
17 poses of carrying out that paragraph, including, if
18 appropriate, by designating appropriate individuals
19 with appropriate qualifications to review any data
20 shared.

21 (4) CONSULTATION AND COORDINATION WITH
22 OTHERS.—In carrying out paragraph (1), the Sec-
23 retary may consult and enter into agreements with
24 institutions having relevant data or data collection
25 or analysis capabilities, such as the National Lab-

oratories, the National Institute of Standards and Technology, the National Academy of Sciences, the International Energy Agency, the Organisation for Economic Co-operation and Development, and relevant academic and think-tank partners.

(5) CONSULTATION AND COORDINATION WITH INDUSTRY.—In carrying out paragraph (1), the Secretary, in coordination with the Secretary of Commerce, shall establish—

(A) a process to receive data and comments from industry partners; and

(B) a process for industry partners to submit comments for purposes of the later study and report required under such paragraph.

(6) INTERNATIONAL COORDINATION.—

(A) IN GENERAL.—In carrying out paragraph (1), the Secretary, the Secretary of State, and the United States Trade Representative shall make every effort to coordinate with the governments of covered countries—

(i) to inform the determination of average product emissions intensity values;

(ii) to advance common emissions accounting methodologies and data formats; and

1 (iii) to improve overall data avail-
2 ability and quality.

3 (B) CONSULTATION.—In any case in which
4 a covered country is credibly collaborating with
5 the Secretary by supporting the collection, anal-
6 ysis, or verification of data, the Secretary may
7 give that covered country—

8 (i) a right to consultation with respect
9 to the determination of the average prod-
10 uct emissions intensity of 1 or more cat-
11 egories of covered products produced in
12 that covered country;

13 (ii) an opportunity to discuss chosen
14 data; and

15 (iii) an opportunity to fill data gaps.

16 (7) DATA AVAILABILITY.—

17 (A) IN GENERAL.—In carrying out para-
18 graph (1), the Secretary shall—

19 (i) take note of any instances in which
20 there is not sufficient data to precisely de-
21 termine the average product emissions in-
22 tensity of a category of covered products
23 under subparagraph (A) or (C) of that
24 paragraph;

1 (ii) include in the report submitted
2 under that paragraph—

3 (I) a notation with respect to
4 each instance noted under clause (i);
5 and

6 (II) an explanation for that nota-
7 tion;

8 (iii) identify any issues with verifying
9 the average product emissions intensity
10 data for categories of covered products
11 under subparagraph (A) or (C) of that
12 paragraph; and

13 (iv) identify any gaps in product emis-
14 sions intensity data for covered products or
15 categories of covered products produced in
16 the United States.

17 (B) REQUIREMENT.—For each instance
18 noted under subparagraph (A)(i), the Secretary
19 shall determine the average product emissions
20 intensity of the next highest aggregation of cat-
21 egories of covered products for which data are
22 available.

23 (C) CONSIDERATIONS.—In determining
24 whether there are sufficient data to precisely
25 determine the average product emissions inten-

1 sity of a category of covered products under
2 subparagraph (A)(i), the Secretary shall con-
3 sider the following factors:

4 (i) The public availability of statistics
5 on greenhouse gas emissions for particular
6 industries from government sources and
7 international organizations.

8 (ii) The public availability of data on
9 the quantity and source of inputs, such as
10 electricity, consumed by particular indus-
11 tries.

12 (iii) The extent to which the data de-
13 scribed in clauses (i) and (ii) cover a rep-
14 resentative group of producers within an
15 industry.

16 (iv) The transparency in the methods
17 used to collect, analyze, summarize, and
18 publish the data described in clauses (i)
19 and (ii).

20 (v) Whether there are other factors
21 that may impact the precision of the data
22 described in clauses (i) and (ii).

23 (vi) The recency of the data described
24 in clauses (i) and (ii).

1 (b) PUBLIC DATABASE.—The Secretary shall estab-
2 lish a public online database of—

3 (1) the average product emissions intensity data
4 determined under subparagraphs (A) and (C) of
5 subsection (a)(1); and

6 (2) the relative average product emissions in-
7 tensity of each category of covered products deter-
8 mined under subparagraph (E) of that subsection.

9 (c) CLARIFICATION.—Nothing in this Act provides
10 any new authority to any Federal agency—

11 (1) to impose, collect, or enforce a greenhouse
12 gas emissions tax, fee, duty, price, or charge; or

13 (2) to establish a new mandatory reporting re-
14 quirement (including by regulation) with respect to
15 the domestic production of any category of covered
16 products.

17 **SEC. 4. ANNUAL REPORT ON FOREIGN COUNTRIES THAT**
18 **USE HUMAN RIGHTS ABUSES TO CREATE A**
19 **COMPETITIVE ADVANTAGE IN TRADE.**

20 (a) IN GENERAL.—Not later than March 1 of each
21 year, the Secretary of Commerce, in coordination with the
22 Secretary of State, the United States Trade Representa-
23 tive, and other Federal officials that the Secretary of Com-
24 merce determines appropriate, shall submit to the Com-
25 mittee on Energy and Commerce and the Committee on

1 Foreign Affairs of the House of Representatives and the
2 Committee on Energy and Natural Resources and the
3 Committee on Foreign Relations of the Senate a report
4 describing, to the extent practicable, how any foreign gov-
5 ernment gains a competitive advantage in international
6 trade by permitting, or engaging in, through its agents,
7 representatives, or enterprises, wholly- or partly-owned, or
8 in collaboration with a private entity, the use of forced
9 or compulsory labor, child labor, or unacceptable condi-
10 tions of work with respect to occupational safety and
11 health, within its sovereign territory or abroad.

12 (b) INCLUSIONS.—Each report submitted under sub-
13 section (a) shall identify foreign countries that use human
14 rights abuses to extract critical minerals or rare earths.

15 (c) FORM.—Each report submitted under subsection
16 (a) shall be in unclassified form, but may include a classi-
17 fied annex.

18 **SEC. 5. DEFINITIONS.**

19 In this Act:

20 (1) APPROPRIATE COMMITTEES OF CON-
21 GRESS.—The term “appropriate committees of Con-
22 gress” means—

23 (A) the Committee on Energy and Natural
24 Resources of the Senate;

1 (B) the Committee on Environment and
2 Public Works of the Senate; and

3 (C) the Committee on Energy and Com-
4 merce of the House of Representatives.

5 (2) AVERAGE PRODUCT EMISSIONS INTEN-
6 SITY.—The term “average product emissions inten-
7 sity” means the national average of the product
8 emissions intensity of a category of covered products
9 produced in, as applicable—

10 (A) the United States; or

11 (B) a covered country.

12 (3) CARBON DIOXIDE-EQUIVALENT; CO₂-e.—
13 The term “carbon dioxide-equivalent” or “CO₂-e”
14 means the number of metric tons of carbon dioxide
15 emissions with the same global warming potential as
16 one metric ton of another greenhouse gas.

17 (4) CATEGORY OF COVERED PRODUCTS.—

18 (A) IN GENERAL.—The term “category of
19 covered products” means—

20 (i) a category described in any of
21 clauses (i) through (xxii) of subparagraph
22 (B), each of which consists of products
23 covered by the headings or subheadings of
24 the Harmonized Tariff Schedule of the

1 United States described parenthetically in
2 that clause; and

3 (ii) any other category of covered
4 products, as determined by the Secretary,
5 consisting of products covered by 1 or
6 more headings or subheadings of the Har-
7 monized Tariff Schedule of the United
8 States.

9 (B) CATEGORIES DESCRIBED.—The cat-
10 egories referred to in subparagraph (A)(i), con-
11 sisting of products covered by the headings or
12 subheadings of the Harmonized Tariff Schedule
13 of the United States described parenthetically
14 for each category, are the following:

15 (i) Aluminum (any of 7601 through
16 7608).

17 (ii) Articles of aluminum (any of 7609
18 through 7616).

19 (iii) Articles of cement (6810 or
20 6811).

21 (iv) Articles of iron and steel (any of
22 7307 through 7326).

23 (v) Articles of plastic (any of 3916
24 through 3926).

- 1 (vi) Biofuels (2207.10, 2207.20, or
2 3826).
- 3 (vii) Cement (2523 or 3824.5).
- 4 (viii) Crude oil (2709).
- 5 (ix) Fertilizer (2808, 2814, 2834.21,
6 or any of 3101 through 3105).
- 7 (x) Glass (any of 7001 through 7020).
- 8 (xi) Hydrogen (2804.10).
- 9 (xii) Iron and steel (any of 7201
10 through 7306).
- 11 (xiii) Lithium-ion batteries (8507.60).
- 12 (xiv) Natural gas (2711.11 or
13 2711.21).
- 14 (xv) Petrochemicals (2901 or
15 2711.14).
- 16 (xvi) Plastics (any of 3901 through
17 3915).
- 18 (xvii) Pulp and paper (any of 4701
19 through 4707 or 4801 through 4813).
- 20 (xviii) Refined strategic and critical
21 minerals, including copper, cobalt, graph-
22 ite, lithium, manganese, and nickel
23 (2825.50, 2827.41, any of 7401 through
24 7404, 7406, 2822.00, 8105.20, 8105.30,
25 2504, 3801.10, 2836.91, 2825.20,

1 2820.10, 8111, 2825.40, any of 7501
2 through 7504, or 2833.24).

3 (xix) Refined petroleum products
4 (2710, 2712, 2713, 2714, 2715, 2902.20,
5 2902.30, or 2902.44).

6 (xx) Solar cells and panels (any of
7 8541.42 through 8541.43 or 8501.71
8 through 8501.80).

9 (xxi) Uranium (2612.10, 2844.10,
10 2844.20, or 2844.30).

11 (xxii) Wind turbines (8502.31).

12 (5) COVERED COUNTRY.—The term “covered
13 country” means each of the following:

14 (A) A country that is a member of the
15 Group of Seven.

16 (B) A country that is a signatory to a free
17 trade agreement with the United States that is
18 in effect as of the date on which the Secretary
19 begins a study under section 3.

20 (C) A foreign country of concern (as de-
21 fined in section 9901 of the William M. (Mac)
22 Thornberry National Defense Authorization Act
23 for Fiscal Year 2021 (15 U.S.C. 4651)).

24 (D) A country that, in the determination
25 of the Secretary, holds more than a de minimis

1 share of the global market share, as measured
2 by official trade statistics, of—

3 (i) 1 or more categories of covered
4 products; or

5 (ii) upstream inputs for 1 or more
6 categories of covered products.

7 (E) Any other country that the Secretary
8 determines to be appropriate, including any
9 country that the Secretary determines is a sig-
10 nificant producer or exporter of at least 1 cat-
11 egory of covered products.

12 (6) COVERED PRODUCT.—The term “covered
13 product” means a product covered by—

14 (A) any of the headings or subheadings of
15 the Harmonized Tariff Schedule of the United
16 States described parenthetically in paragraph
17 (4)(B); or

18 (B) any other heading or subheading of
19 the Harmonized Tariff Schedule of the United
20 States included within a category of covered
21 products determined by the Secretary in accord-
22 ance with paragraph (4)(A)(ii).

23 (7) GREENHOUSE GAS.—The term “greenhouse
24 gas” has the meaning given the term in section 901

1 of the Energy Independence and Security Act of
2 2007 (42 U.S.C. 17321).

3 (8) PRODUCT EMISSIONS INTENSITY.—

4 (A) IN GENERAL.—The term “product
5 emissions intensity” means the quantity of
6 greenhouse gases emitted to the atmosphere as
7 a result of the extraction, production, proc-
8 essing, manufacture, and assembly, as applica-
9 ble, of 1 unit of a covered product, including
10 the greenhouse gas emissions of an upstream
11 input that is incorporated into a downstream
12 covered product.

13 (B) UNITS OF MEASUREMENT.—The Sec-
14 retary, as the Secretary determines to be appro-
15 priate, shall designate the units of measurement
16 in which the product emissions intensity of a
17 covered product shall be expressed, which may
18 include—

19 (i) metric tons of CO₂-e per metric
20 ton of a covered product;

21 (ii) metric tons of CO₂-e per dollar
22 value of a covered product; or

23 (iii) any other unit of measurement
24 that the Secretary determines to be appro-
25 priate.

- 1 (9) SECRETARY.—The term “Secretary” means
2 the Secretary of Energy.

