

110TH CONGRESS  
1ST SESSION

# S. 796

To amend title VII of the Tariff Act of 1930 to provide that exchange-rate misalignment by any foreign nation is a countervailable export subsidy, to amend the Exchange Rates and International Economic Policy Coordination Act of 1988 to clarify the definition of manipulation with respect to currency, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 7, 2007

Mr. BUNNING (for himself, Ms. STABENOW, Mr. BAYH, Ms. SNOWE, and Mr. LEVIN) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title VII of the Tariff Act of 1930 to provide that exchange-rate misalignment by any foreign nation is a countervailable export subsidy, to amend the Exchange Rates and International Economic Policy Coordination Act of 1988 to clarify the definition of manipulation with respect to currency, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fair Currency Act of  
5 2007”.

1 **TITLE I—SUBSIDIES AND PROD-**  
2 **UCT-SPECIFIC SAFEGUARD**  
3 **MECHANISM**

4 **SEC. 101. FINDINGS.**

5 Congress makes the following findings:

6 (1) The economy and national security of the  
7 United States are critically dependent upon a vi-  
8 brant manufacturing and agricultural base.

9 (2) The good health of United States manufac-  
10 turing and agriculture requires, among other things,  
11 unfettered access to open markets abroad and fairly  
12 traded raw materials and products in accord with  
13 the international legal principles and agreements of  
14 the World Trade Organization and the International  
15 Monetary Fund.

16 (3) The International Monetary Fund, the G-  
17 8, and other international organizations have repeat-  
18 edly noted that exchange-rate misalignment can  
19 cause imbalances in the international trading system  
20 that could ultimately undercut the stability of the  
21 system, but have taken no action to redress such  
22 misalignments and imbalances.

23 (4) Since 1994, the People's Republic of China  
24 and other countries have repeatedly intervened in  
25 currency markets and taken measures that have sig-

1 significantly misaligned the values of their currencies  
2 against the United States dollar and other cur-  
3 rences.

4 (5) This policy by the People's Republic of  
5 China, for example, has resulted in substantial  
6 undervaluation of the renminbi, by up to 40 percent  
7 or more.

8 (6) Evidence of this undervaluation can be  
9 found in the large and growing annual trade sur-  
10 pluses of the People's Republic of China; substan-  
11 tially expanding foreign direct investment in China;  
12 and the rapidly increasing aggregate amount of for-  
13 eign currency reserves that are held by the People's  
14 Republic of China.

15 (7) Undervaluation by the People's Republic of  
16 China and by other countries acts as both a subsidy  
17 for their exports and as a nontariff barrier against  
18 imports into their territories, to the serious det-  
19 riment of United States manufacturing and agri-  
20 culture.

21 (8)(A) As members of both the World Trade  
22 Organization and the International Monetary Fund,  
23 the People's Republic of China and other countries  
24 have assumed a series of international legal obliga-  
25 tions to eliminate all subsidies for exports and to fa-

1 cilitate international trade by fostering a monetary  
2 system that does not tend to produce erratic disrup-  
3 tions, that does not prevent effective balance-of-pay-  
4 ments adjustment, and that does not gain unfair  
5 competitive advantage.

6 (B) These obligations are most prominently set  
7 forth in—

8 (i) Articles VI, XV, and XVI of the GATT  
9 1994 (as defined in section 2(1)(B) of the Uru-  
10 guay Round Agreements Act (19 U.S.C.  
11 3501(1)(B));

12 (ii) the Agreement on Subsidies and Coun-  
13 tervailing Measures (as described in section  
14 101(d)(12) of the Uruguay Round Agreements  
15 Act (19 U.S.C. 3511(d)(12)); and

16 (iii) Articles IV and VIII of the Inter-  
17 national Monetary Fund's Articles of Agree-  
18 ment.

19 (9) Under the foregoing circumstances, it is  
20 consistent with the international legal obligations of  
21 the People's Republic of China and similarly situ-  
22 ated countries and with the corresponding inter-  
23 national legal rights of the United States to amend  
24 relevant United States trade laws to make explicit

1 that exchange-rate misalignment by any country is  
2 actionable as a countervailable export subsidy.

3 **SEC. 102. APPLICATION OF COUNTERVAILING DUTIES TO**  
4 **NONMARKET ECONOMY COUNTRIES.**

5 (a) IN GENERAL.—Section 701(a)(1) of the Tariff  
6 Act of 1930 (19 U.S.C. 1671(a)(1)) is amended by insert-  
7 ing “(including a nonmarket economy country)” after  
8 “country” each place it appears.

9 (b) USE OF ALTERNATE METHODOLOGIES.—Section  
10 771(5)(E) of the Tariff Act of 1930 (19 U.S.C.  
11 1677(5)(E)) is amended by adding at the end the fol-  
12 lowing: “With respect to a nonmarket economy country,  
13 for purposes of identifying and measuring a subsidy ben-  
14 efit described in clause (i), (ii), (iii), or (iv), or otherwise  
15 conferred upon a recipient, the administering authority  
16 shall use methodologies that take into account the possi-  
17 bility that prevailing terms and conditions in that country  
18 might not be available or might themselves be inappro-  
19 priate benchmarks due to market distortions. In such cir-  
20 cumstances, unless it is demonstrated that the nonmarket  
21 economy country’s prevailing terms and conditions prac-  
22 ticably can be adjusted to serve as appropriate bench-  
23 marks, the administering authority shall use as bench-  
24 marks appropriate terms and conditions prevailing outside  
25 the nonmarket economy country. When the party in pos-

1 session of the information necessary to identify and meas-  
2 ure the benefit of a subsidy does not timely and completely  
3 submit that information for the record, the administering  
4 authority shall use for that purpose the facts otherwise  
5 available and shall, as warranted, draw adverse infer-  
6 ences.”.

7 (c) ADJUSTMENTS FOR EXPORT PRICE AND CON-  
8 STRUCTED EXPORT PRICE.—Section 772(e)(1)(C) of the  
9 Tariff Act of 1930 (19 U.S.C. 1677a(c)(1)(C)) is amended  
10 by inserting before the end comma the following: “, wheth-  
11 er the subject merchandise is from a country with a mar-  
12 ket economy, a nonmarket economy, or a combination  
13 thereof”.

14 (d) EFFECTIVE DATE.—The amendments made by  
15 subsections (a), (b), and (c) apply with respect to a coun-  
16 tervening duty proceeding initiated under subtitle A of  
17 title VII of the Tariff Act of 1930 before, on, or after  
18 the date of enactment of this Act.

19 (e) ANTIDUMPING PROVISIONS NOT AFFECTED.—  
20 The amendments made by subsections (a), (b), and (c)  
21 shall not affect the status of a country as a nonmarket  
22 economy country for the purposes of any matter relating  
23 to antidumping duties under the Tariff Act of 1930.

1 **SEC. 103. CLARIFICATION TO INCLUDE EXCHANGE-RATE**  
2 **MISALIGNMENT AS A COUNTERAVAILABLE**  
3 **SUBSIDY UNDER TITLE VII OF THE TARIFF**  
4 **ACT OF 1930.**

5 (a) AMENDMENTS TO DEFINITION OF  
6 COUNTERAVAILABLE SUBSIDY.—

7 (1) FINANCIAL CONTRIBUTION.—Section  
8 771(5)(D) of the Tariff Act of 1930 (19 U.S.C.  
9 1677(5)(D)) is amended—

10 (A) by redesignating clauses (i) through  
11 (iv) as subclauses (I) through (IV), respectively;

12 (B) by striking “The term” and inserting  
13 “(i) The term”; and

14 (C) by adding at the end the following:

15 “(ii) Exchange-rate misalignment (as  
16 defined in paragraph (5C)) constitutes a  
17 financial contribution within the meaning  
18 of subclauses (I) and (III) of clause (i).”.

19 (2) BENEFIT CONFERRED.—Section 771(5)(E)  
20 of the Tariff Act of 1930 (19 U.S.C. 1677(5)(E)) is  
21 amended—

22 (A) in clause (iii), by striking “, and” and  
23 inserting a comma;

24 (B) in clause (iv), by striking the period at  
25 the end and inserting “, and”; and

1 (C) by inserting after clause (iv) the fol-  
 2 lowing new clause:

3 “(v) in the case of exchange-rate mis-  
 4 alignment (as defined in paragraph (5C)),  
 5 if the price of exported goods in United  
 6 States dollars is less than what the price  
 7 of such goods would be without the ex-  
 8 change-rate misalignment.”.

9 (3) SPECIFICITY.—Section 771(5A)(B) of the  
 10 Tariff Act of 1930 (19 U.S.C. 1677(5A)(B)) is  
 11 amended by inserting before the period at the end  
 12 the following: “, such as exchange-rate misalignment  
 13 (as defined in paragraph (5C))”.

14 (b) DEFINITION OF EXCHANGE-RATE MISALIGN-  
 15 MENT.—Section 771 of the Tariff Act of 1930 (19 U.S.C.  
 16 1677) is amended by inserting after paragraph (5B) the  
 17 following new paragraph:

18 “(5C) EXCHANGE-RATE MISALIGNMENT.—

19 “(A) IN GENERAL.—For purposes of para-  
 20 graphs (5) and (5A), the term ‘exchange-rate  
 21 misalignment’ means an undervaluation of a  
 22 foreign currency as a result of protracted large-  
 23 scale intervention by or at the direction of a  
 24 governmental authority in the exchange market.  
 25 Such undervaluation shall be found when the



1 observed exchange rate for a foreign currency is  
2 below the exchange rate that could reasonably  
3 be expected for that foreign currency absent the  
4 intervention.

5 “(B) FACTORS.—In determining whether  
6 exchange-rate misalignment is occurring and a  
7 benefit thereby is conferred, the administering  
8 authority in each case—

9 “(i) shall consider the exporting coun-  
10 try’s—

11 “(I) bilateral balance-of-trade  
12 surplus or deficit with the United  
13 States;

14 “(II) balance-of-trade surplus or  
15 deficit with its other trading partners  
16 individually and in the aggregate;

17 “(III) foreign direct investment  
18 in its territory;

19 “(IV) currency-specific and ag-  
20 gregate amounts of foreign currency  
21 reserves; and

22 “(V) mechanisms employed to  
23 maintain its currency at an under-  
24 valued exchange rate relative to an-  
25 other currency and, particularly, the

1 nature, duration, and monetary ex-  
2 penditures of those mechanisms;

3 “(ii) may consider such other eco-  
4 nomic factors as are relevant; and

5 “(iii) shall measure the trade sur-  
6 pluses or deficits described in subclauses  
7 (I) and (II) of clause (i) with reference to  
8 the trade data reported by the United  
9 States and the other trading partners of  
10 the exporting country, unless such trade  
11 data are not available or are demonstrably  
12 inaccurate, in which case the exporting  
13 country’s trade data may be relied upon if  
14 shown to be sufficiently accurate and  
15 trustworthy.

16 “(C) COMPUTATION.—In quantifying ex-  
17 change-rate misalignment, the administering  
18 authority shall develop and apply an objective  
19 methodology that is consistent with widely rec-  
20 ognized macroeconomic theory and shall rely  
21 upon governmentally published and other pub-  
22 licly available and reliable data.

23 “(D) TYPE OF ECONOMY.—An authority  
24 found to be engaged in exchange-rate misalign-

1           ment may have either a market economy or a  
2           nonmarket economy or a combination thereof.”.

3           (c) EFFECTIVE DATE.—The amendments made by  
4 this section apply with respect to a countervailing duty  
5 proceeding initiated under subtitle A of title VII of the  
6 Tariff Act of 1930 before, on, or after the date of enact-  
7 ment of this Act.

8 **SEC. 104. CLARIFICATION TO INCLUDE EXCHANGE-RATE**  
9                   **MISALIGNMENT BY THE PEOPLE’S REPUBLIC**  
10                   **OF CHINA AS A CONDITION TO BE CONSID-**  
11                   **ERED WITH RESPECT TO MARKET DISRUP-**  
12                   **TION UNDER CHAPTER 2 OF TITLE IV OF THE**  
13                   **TRADE ACT OF 1974.**

14           (a) MARKET DISRUPTION.—

15           (1) IN GENERAL.—Section 421(c) of the Trade  
16 Act of 1974 (19 U.S.C. 2451(c)) is amended by add-  
17 ing at the end the following new paragraphs:

18           “(3) For purposes of this section, the term  
19 ‘under such conditions’ includes exchange-rate mis-  
20 alignment (as defined in paragraph (4)).

21           “(4)(A) For purposes of this section, the term  
22 ‘exchange-rate misalignment’ means an undervalu-  
23 ation of the renminbi as a result of protracted large-  
24 scale intervention by or at the direction of the Gov-  
25 ernment of the People’s Republic of China in the ex-

1 change market. Such undervaluation shall be found  
2 when the observed exchange rate for the renminbi is  
3 below the exchange rate that could reasonably be ex-  
4 pected for the renminbi absent the intervention.

5 “(B) In determining whether exchange-rate  
6 misalignment is occurring, the Commission in each  
7 case—

8 “(i) shall consider the People’s Republic of  
9 China’s—

10 “(I) bilateral balance-of-trade surplus  
11 or deficit with the United States;

12 “(II) balance-of-trade surplus or def-  
13 icit with its other trading partners individ-  
14 ually and in the aggregate;

15 “(III) foreign-direct investment in its  
16 territory;

17 “(IV) currency-specific and aggregate  
18 amounts of foreign currency reserves; and

19 “(V) mechanisms employed to main-  
20 tain its currency at an undervalued ex-  
21 change rate relative to another currency  
22 and, particularly, the nature, duration, and  
23 monetary expenditures of those mecha-  
24 nisms;

1           “(ii) may consider such other economic  
2 factors as are relevant; and

3           “(iii) shall measure the trade surpluses or  
4 deficits described in subclauses (I) and (II) of  
5 clause (i) with reference to the trade data re-  
6 ported by the United States and the other trad-  
7 ing partners of the People’s Republic of China,  
8 unless such trade data are not available or are  
9 demonstrably inaccurate, in which case the  
10 trade data of the People’s Republic of China  
11 may be relied upon if shown to be sufficiently  
12 accurate and trustworthy.

13           “(C) COMPUTATION.—In quantifying exchange-  
14 rate misalignment, the Commission shall develop and  
15 apply an objective methodology that is consistent  
16 with widely recognized macroeconomic theory and  
17 shall rely upon governmentally published and other  
18 publicly available and reliable data.”.

19           (b) CRITICAL CIRCUMSTANCES.—Section 421(i)(1) of  
20 the Trade Act of 1974 (19 U.S.C. 2451(i)(1)) is amended  
21 by inserting after subparagraph (B) the following:

22 “If the petition alleges and reasonably documents that ex-  
23 change-rate misalignment is occurring, such exchange-rate  
24 misalignment shall be considered as a factor weighing in

1 favor of affirmative findings in subparagraphs (A) and  
2 (B).”.

3 (c) STANDARD FOR PRESIDENTIAL ACTION.—Section  
4 421(k)(2) of the Trade Act of 1974 (19 U.S.C.  
5 2451(k)(2)) is amended by adding at the end the following  
6 new sentence: “If the Commission makes an affirmative  
7 determination that exchange-rate misalignment is occur-  
8 ring, the President shall consider such exchange-rate mis-  
9 alignment as a factor weighing in favor of providing im-  
10 port relief in accordance with subsection (a).”.

11 (d) MODIFICATIONS OF RELIEF.—Section 421(n)(2)  
12 of the Trade Act of 1974 (19 U.S.C. 2451(n)(2)) is  
13 amended by adding at the end the following new sentence:  
14 “If the Commission affirmatively determines that ex-  
15 change-rate misalignment is occurring, the Commission  
16 and the President shall consider such exchange-rate mis-  
17 alignment as a factor weighing in favor of finding that  
18 continuation of relief is necessary to prevent or remedy  
19 the market disruption at issue.”.

20 (e) EXTENSION OF ACTION.—Section 421(o) of the  
21 Trade Act of 1974 (19 U.S.C. 2451(o)) is amended—

22 (1) in paragraph (1), by adding at the end the  
23 following new sentence: “If the Commission makes  
24 an affirmative determination that exchange-rate mis-  
25 alignment is occurring, the Commission shall con-

1       sider such exchange-rate misalignment as a factor  
 2       weighing in favor of finding that an extension of the  
 3       period of relief is necessary to prevent or remedy the  
 4       market disruption at issue.”; and

5               (2) in paragraph (4), by adding at the end the  
 6       following new sentence: “If the Commission makes  
 7       an affirmative determination that exchange-rate mis-  
 8       alignment is occurring, the President shall consider  
 9       such exchange-rate misalignment as a factor weigh-  
 10      ing in favor of finding that an extension of the pe-  
 11      riod of relief is necessary to prevent or remedy the  
 12      market disruption at issue.”.

13       (f) EFFECTIVE DATE.—The amendments made by  
 14      this section apply with respect to an investigation initiated  
 15      under chapter 2 of title IV of the Trade Act of 1974 be-  
 16      fore, on, or after the date of the enactment of this Act.

17      **SEC. 105. PROHIBITION ON PROCUREMENT BY THE DE-**  
 18                                   **PARTMENT OF DEFENSE OF CERTAIN DE-**  
 19                                   **FENSE ARTICLES IMPORTED FROM THE PEO-**  
 20                                   **PLE’S REPUBLIC OF CHINA.**

21       (a) COPY OF PETITION, REQUEST, OR RESOLUTION  
 22      TO BE TRANSMITTED TO THE SECRETARY OF DE-  
 23      FENSE.—Section 421(b)(4) of the Trade Act of 1974 (19  
 24      U.S.C. 2451(b)(4)) is amended by inserting “, the Sec-  
 25      retary of Defense” after “, the Trade Representative”.

1 (b) DETERMINATION OF SECRETARY OF DEFENSE.—  
2 Section 421(b) of the Trade Act of 1974 (19 U.S.C.  
3 2451(b)) is amended by adding at the end the following  
4 new paragraph:

5 “(6) Not later than 15 days after the date on  
6 which an investigation is initiated under this sub-  
7 section, the Secretary of Defense shall submit to the  
8 Commission a report in writing which contains the  
9 determination of the Secretary as to whether or not  
10 the articles of the People’s Republic of China that  
11 are the subject of the investigation are like or di-  
12 rectly competitive with articles produced by a domes-  
13 tic industry that are critical to the defense industrial  
14 base of the United States.”.

15 (c) PROHIBITION ON PROCUREMENT BY THE DE-  
16 PARTMENT OF DEFENSE OF CERTAIN DEFENSE ARTI-  
17 CLES.—

18 (1) PROHIBITION.—If the United States Inter-  
19 national Trade Commission makes an affirmative  
20 determination under section 421(b) of the Trade Act  
21 of 1974 (19 U.S.C. 2451(b)), or a determination  
22 which the President or the United States Trade  
23 Representative may consider as affirmative under  
24 section 421(e) of such Act (19 U.S.C. 2451(e)), with  
25 respect to articles of the People’s Republic of China



1 that the Secretary of Defense has determined are  
2 like or directly competitive with articles produced by  
3 a domestic industry that are critical to the defense  
4 industrial base of the United States, the Secretary  
5 of Defense may not procure, directly or indirectly,  
6 such articles of the People's Republic of China.

7 (2) WAIVER.—The President may waive the ap-  
8 plication of the prohibition contained in paragraph  
9 (1) on a case-by-case basis if the President deter-  
10 mines and certifies to Congress that it is in the na-  
11 tional security interests of the United States to do  
12 so.

13 **SEC. 106. APPLICATION TO GOODS FROM CANADA AND**  
14 **MEXICO.**

15 Pursuant to article 1902 of the North American Free  
16 Trade Agreement and section 408 of the North American  
17 Free Trade Agreement Implementation Act of 1993 (19  
18 U.S.C. 3438), the amendments made by sections 102,  
19 103, and 206 of this Act shall apply to goods from Canada  
20 and Mexico.

21 **TITLE II—INTERNATIONAL MON-**  
22 **ETARY AND FINANCIAL POL-**  
23 **ICY**

24 **SEC. 201. FINDINGS.**

25 Congress makes the following findings:

1           (1) Since the Exchange Rates and International  
2           Economic Policy Coordination Act of 1988 (22  
3           U.S.C. 5302(3)) was enacted the global economy has  
4           changed dramatically, with increased capital account  
5           openness, a sharp increase in the flow of funds  
6           internationally, and an ever growing number of  
7           emerging market economies becoming systemically  
8           important to the global flow of goods, services, and  
9           capital. In addition, practices such as the mainte-  
10          nance of multiple currency regimes have become  
11          rare.

12          (2) Exchange rates among major trading na-  
13          tions are occasionally manipulated or fundamentally  
14          misaligned due to direct or indirect governmental  
15          intervention in the exchange market.

16          (3) A major focus of national economic policy  
17          should be a market-driven exchange rate for the  
18          United States dollar at a level consistent with a sus-  
19          tainable balance in the United States current ac-  
20          count.

21          (4) While some degree of surpluses and deficits  
22          in payments balances may be expected, particularly  
23          in response to increasing economic globalization,  
24          large and growing imbalances raise concerns of pos-  
25          sible disruption to financial markets. In part, such

1 imbalances often reflect exchange rate policies that  
2 foster fundamental misalignment of currencies.

3 (5) Currencies in fundamental misalignment  
4 can seriously impair the ability of international mar-  
5 kets to adjust appropriately to global capital and  
6 trade flows, distorting trade flows and causing eco-  
7 nomic harm to the United States.

8 (6) The effects of a fundamentally misaligned  
9 currency may be so harmful that it is essential to  
10 correct the fundamental misalignment without re-  
11 gard to the purpose of any policy that contributed  
12 to the misalignment.

13 (7) In the interests of facilitating the exchange  
14 of goods, services, and capital among countries, sus-  
15 taining sound economic growth, and fostering finan-  
16 cial and economic stability, Article IV of the Inter-  
17 national Monetary Fund's Articles of Agreement ob-  
18 ligates each member of the International Monetary  
19 Fund to avoid manipulating exchange rates in order  
20 to prevent effective balance of payments adjustments  
21 or to gain an unfair competitive advantage over  
22 other members.

23 (8) The failure of a government to acknowledge  
24 a fundamental misalignment of its currency or to  
25 take timely and effective steps to correct such a fun-

1       damental misalignment, either through inaction or  
2       mere token action, is a form of exchange rate ma-  
3       nipulation and is inconsistent with that govern-  
4       ment’s obligations under Article IV of the Inter-  
5       national Monetary Fund’s Articles of Agreement.

6       **SEC. 202. AMENDMENTS TO DEFINITIONS.**

7       Section 3006 of the Exchange Rates and Inter-  
8       national Economic Policy Coordination Act of 1988 (22  
9       U.S.C. 5306) is amended by adding at the end the fol-  
10      lowing:

11               “(3) FUNDAMENTAL MISALIGNMENT.—The  
12      term ‘fundamental misalignment’ means a material  
13      sustained disparity between the observed levels of an  
14      effective exchange rate for a currency and the cor-  
15      responding levels of an effective exchange rate for  
16      that currency that would be consistent with funda-  
17      mental macroeconomic conditions based on a gen-  
18      erally accepted economic rationale.

19               “(4) EFFECTIVE EXCHANGE RATE.—The term  
20      ‘effective exchange rate’ means a weighted average  
21      of bilateral exchange rates, expressed in either nomi-  
22      nal or real terms.

23               “(5) GENERALLY ACCEPTED ECONOMIC RA-  
24      TIONALE.—The term ‘generally accepted economic  
25      rationale’ means an explanation drawn on widely

1 recognized macroeconomic theory for which there is  
2 a significant degree of empirical support.”.

3 **SEC. 203. BILATERAL NEGOTIATIONS.**

4 Section 3004(b) of the Exchange Rates and Inter-  
5 national Economic Policy Coordination Act of 1988 (22  
6 U.S.C. 5304(b)) is amended to read as follows:

7 “(b) BILATERAL NEGOTIATIONS.—

8 “(1) IN GENERAL.—The Secretary of the  
9 Treasury shall analyze on an annual basis the ex-  
10 change rate policies of foreign countries, in consulta-  
11 tion with the International Monetary Fund, and con-  
12 sider whether countries—

13 “(A) manipulate the rate of exchange be-  
14 tween their currency and the United States dol-  
15 lar for purposes of preventing effective balance  
16 of payments adjustments or gaining unfair com-  
17 petitive advantage in international trade; or

18 “(B) have a currency that is in funda-  
19 mental misalignment.

20 “(2) AFFIRMATIVE DETERMINATION.—If the  
21 Secretary considers that such manipulation or fun-  
22 damental misalignment is occurring with respect to  
23 countries that—

24 “(A) have material global current account  
25 surpluses; or

1           “(B) have significant bilateral trade sur-  
2           pluses with the United States,  
3           the Secretary of the Treasury shall take action to  
4           initiate negotiations with such foreign countries on  
5           an expedited basis, in the International Monetary  
6           Fund or bilaterally, for the purpose of ensuring that  
7           such countries regularly and promptly adjust the  
8           rate of exchange between their currencies and the  
9           United States dollar to permit effective balance of  
10          payments adjustments and to eliminate the unfair  
11          advantage.

12           “(3) EXCEPTION.—The Secretary shall not be  
13          required to initiate negotiations if the Secretary de-  
14          termines that such negotiations would have a serious  
15          detrimental impact on vital national economic and  
16          security interests. The Secretary shall inform the  
17          chairman and the ranking minority member of the  
18          Committee on Banking, Housing, and Urban Affairs  
19          of the Senate and of the Committee on Financial  
20          Services of the House of Representatives of the Sec-  
21          retary’s determination.”.

22   **SEC. 204. REPORTING REQUIREMENTS.**

23          Section 3005 of the Exchange Rates and Inter-  
24          national Economic Policy Coordination Act of 1988 (22  
25          U.S.C. 5305) is amended to read as follows:

1 **“SEC. 3005. REPORTING REQUIREMENTS.**

2 “(a) REPORTS REQUIRED.—

3 “(1) IN GENERAL.—The Secretary, after con-  
4 sulting with the Chairman of the Board, shall sub-  
5 mit to Congress, on or before October 15 of each  
6 year, a written report on international economic pol-  
7 icy and currency exchange rates.

8 “(2) INTERIM REPORT.—The Secretary, after  
9 consulting with the Chairman of the Board, shall  
10 submit to Congress, on or before April 15 of each  
11 year, a written report on interim developments with  
12 respect to international economic policy and cur-  
13 rency exchange rates.

14 “(b) CONTENTS OF REPORTS.—Each report sub-  
15 mitted under subsection (a) shall contain—

16 “(1) an analysis of currency market develop-  
17 ments and the relationship between the United  
18 States dollar and the currencies of major economies  
19 and United States trading partners;

20 “(2) a review of the economic and financial  
21 policies of major economies and United States trad-  
22 ing partners and an evaluation of the impact that  
23 such policies have on currency exchange rates;

24 “(3) a description of any currency intervention  
25 by the United States or other major economies or  
26 United States trading partners, or other actions un-

1       dertaken to adjust the actual exchange rate of the  
2       dollar;

3               “(4) an evaluation of the factors that underlie  
4       conditions in the currency markets, including—

5                       “(A) monetary and financial conditions;

6                       “(B) foreign exchange reserve accumula-  
7       tion;

8                       “(C) macroeconomic trends;

9                       “(D) trends in current and financial ac-  
10      count balances;

11                      “(E) the size and composition of, and  
12      changes in, international capital flows;

13                      “(F) the impact of the external sector on  
14      economic changes;

15                      “(G) the size and growth of external in-  
16      debtedness;

17                      “(H) trends in the net level of inter-  
18      national investment; and

19                      “(I) capital controls, trade, and exchange  
20      restrictions;

21               “(5) a list of currencies of the major economies  
22      or economic areas that are manipulated or in funda-  
23      mental misalignment and a description of any eco-  
24      nomic models or methodologies used to establish the  
25      list;



1           “(6) a description of any reason or cir-  
2           cumstance that accounts for why each currency iden-  
3           tified under paragraph (5) is manipulated or in fun-  
4           damental misalignment based on a generally accept-  
5           ed economic rationale;

6           “(7) a list of each currency identified under  
7           paragraph (5) for which the manipulation or funda-  
8           mental misalignment causes, or contributes to, a  
9           material adverse impact on the economy of the  
10          United States, including a description of any reason  
11          or circumstance that explains why the manipulation  
12          or fundamental misalignment is not accounted for  
13          under paragraph (6);

14          “(8) the results of any prior consultations con-  
15          ducted or other steps taken; and

16          “(9)(A) a list of each occasion during the re-  
17          porting period when the issue of exchange-rate mis-  
18          alignment was raised in a countervailing duty pro-  
19          ceeding under subtitle A of title VII of the Tariff  
20          Act of 1930 or in an investigation under section 421  
21          of the Trade Act of 1974;

22          “(B) a summary in each such instance of  
23          whether or not exchange-rate misalignment was  
24          found and the reasoning and data underlying that  
25          finding; and

1           “(C) a discussion regarding each affirmative  
2 finding of exchange-rate misalignment to consider  
3 the circumstances underlying that exchange-rate  
4 misalignment and what action appropriately has  
5 been or might be taken by the Secretary apart from  
6 and in addition to import relief to correct the ex-  
7 change-rate misalignment.

8           “(c) DEVELOPMENT OF REPORTS.—The Secretary  
9 shall consult with the Chairman of the Board with respect  
10 to the preparation of each report required under sub-  
11 section (a). Any comments provided by the Chairman of  
12 the Board shall be submitted to the Secretary not later  
13 than the date that is 15 days before the date each report  
14 is due under subsection (a). The Secretary shall submit  
15 the report after taking into account all comments re-  
16 ceived.”.

17 **SEC. 205. INTERNATIONAL FINANCIAL INSTITUTION GOV-**  
18 **ERNANCE ARRANGEMENTS.**

19           (a) INITIAL REVIEW.—Notwithstanding any other  
20 provision of law, before the United States approves a pro-  
21 posed change in the governance arrangement of any inter-  
22 national financial institution, as defined in section  
23 1701(c)(2) of the International Financial Institutions Act  
24 (22 U.S.C. 262r(c)(2)), the Secretary of the Treasury  
25 shall determine whether any member of the international

1 financial institution that would benefit from the proposed  
2 change, in the form of increased voting shares or represen-  
3 tation, has a currency that is manipulated or in funda-  
4 mental misalignment, and if so, whether the manipulation  
5 or fundamental misalignment causes or contributes to a  
6 material adverse impact on the economy of the United  
7 States. The determination shall be reported to Congress.

8 (b) **SUBSEQUENT ACTION.**—The United States shall  
9 oppose any proposed change in the governance arrange-  
10 ment of any international financial institution (as defined  
11 in subsection (a)) if the Secretary renders an affirmative  
12 determination pursuant to subsection (a).

13 (c) **FURTHER ACTION.**—The United States shall con-  
14 tinue to oppose any proposed change in the governance  
15 arrangement of an international financial institution, pur-  
16 suant to subsection (b), until the Secretary determines  
17 and reports to Congress that the currency of each member  
18 of the international financial institution that would benefit  
19 from the proposed change, in the form of increased voting  
20 shares or representation, is neither manipulated nor in  
21 fundamental misalignment.

22 **SEC. 206. NONMARKET ECONOMY STATUS.**

23 Paragraph (18)(B)(vi) of section 771 of the Tariff  
24 Act of 1930 (19 U.S.C. 1677(18)(B)(vi)) is amended by  
25 inserting before the period at the end the following: “, in-

1 cluding whether the currency of the foreign country has  
2 been identified pursuant to section 3005(b)(7) of the Ex-  
3 change Rates and International Economic Policy Coordi-  
4 nation Act of 1988 (22 U.S.C. 5305(b)(7)) in any written  
5 report required by such section 3005(b)(7) during the 24-  
6 month period immediately preceding the month during  
7 which the administering authority seeks to revoke a deter-  
8 mination that such foreign country is a nonmarket econ-  
9 omy country”.

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