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1ST SESSION

S. 1114

To provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 7, 2013

Mr. BROWN (for himself, Mr. SESSIONS, Mr. SCHUMER, Mr. GRAHAM, Ms. STABENOW, Mr. BURR, Ms. COLLINS, and Mr. CASEY) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To provide for identification of misaligned currency, require action to correct the misalignment, 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 “Currency Exchange
5 Rate Oversight Reform Act of 2013”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) **ADMINISTERING AUTHORITY.**—The term
9 “administering authority” means the authority re-

1 ferred to in section 771(1) of the Tariff Act of 1930
2 (19 U.S.C. 1677(1)).

3 (2) AGREEMENT ON GOVERNMENT PROCURE-
4 MENT.—The term “Agreement on Government Pro-
5 curement” means the agreement referred to in sec-
6 tion 101(d)(17) of the Uruguay Round Agreements
7 Act (19 U.S.C. 3511(d)(17)).

8 (3) COUNTRY.—The term “country” means a
9 foreign country, dependent territory, or possession of
10 a foreign country, and may include an association of
11 2 or more foreign countries, dependent territories, or
12 possessions of countries into a customs union out-
13 side the United States.

14 (4) EXPORTING COUNTRY.—The term “export-
15 ing country” means the country in which the subject
16 merchandise is produced or manufactured.

17 (5) FUNDAMENTAL MISALIGNMENT.—The term
18 “fundamental misalignment” means a significant
19 and sustained undervaluation of the prevailing real
20 effective exchange rate, adjusted for cyclical and
21 transitory factors, from its medium-term equilibrium
22 level.

23 (6) FUNDAMENTALLY MISALIGNED CUR-
24 RENCY.—The term “fundamentally misaligned cur-

1 rency” means a foreign currency that is in funda-
2 mental misalignment.

3 (7) REAL EFFECTIVE EXCHANGE RATE.—The
4 term “real effective exchange rate” means a weight-
5 ed average of bilateral exchange rates, expressed in
6 price-adjusted terms.

7 (8) SECRETARY.—The term “Secretary” means
8 the Secretary of the Treasury.

9 (9) STERILIZATION.—The term “sterilization”
10 means domestic monetary operations taken to neu-
11 tralize the monetary impact of increases in reserves
12 associated with intervention in the currency ex-
13 change market.

14 (10) SUBJECT MERCHANDISE.—The term “sub-
15 ject merchandise” means the merchandise subject to
16 an antidumping investigation, review, suspension
17 agreement, or order referred to in section 771(25) of
18 the Tariff Act of 1930 (19 U.S.C. 1677(25)).

19 (11) WTO AGREEMENT.—The term “WTO
20 Agreement” means the agreement referred to in sec-
21 tion 2(9) of the Uruguay Round Agreements Act (19
22 U.S.C. 3501(9)).

23 **SEC. 3. REPORT ON INTERNATIONAL MONETARY POLICY**
24 **AND CURRENCY EXCHANGE RATES.**

25 (a) REPORTS REQUIRED.—

1 (1) IN GENERAL.—Not later than March 15
2 and September 15 of each calendar year, the Sec-
3 retary, after consulting with the Chairman of the
4 Board of Governors of the Federal Reserve System
5 and the Advisory Committee on International Ex-
6 change Rate Policy, shall submit to Congress and
7 make public, a written report on international mone-
8 tary policy and currency exchange rates.

9 (2) CONSULTATIONS.—On or before March 30
10 and September 30 of each calendar year, the Sec-
11 retary shall appear, if requested, before the Com-
12 mittee on Banking, Housing, and Urban Affairs and
13 the Committee on Finance of the Senate and the
14 Committee on Financial Services and the Committee
15 on Ways and Means of the House of Representatives
16 to provide testimony on the reports submitted pursu-
17 ant to paragraph (1).

18 (b) CONTENT OF REPORTS.—Each report submitted
19 under subsection (a) shall contain the following:

20 (1) An analysis of currency market develop-
21 ments and the relationship between the United
22 States dollar and the currencies of major economies
23 and trading partners of the United States.

24 (2) A review of the economic and monetary
25 policies of major economies and trading partners of

1 the United States, and an evaluation of how such
2 policies impact currency exchange rates.

3 (3) A description of any currency intervention
4 by the United States or other major economies or
5 trading partners of the United States, or other ac-
6 tions undertaken to adjust the actual exchange rate
7 relative to the United States dollar.

8 (4) An evaluation of the domestic and global
9 factors that underlie the conditions in the currency
10 markets, including—

11 (A) monetary and financial conditions;

12 (B) accumulation of foreign assets;

13 (C) macroeconomic trends;

14 (D) trends in current and financial ac-
15 count balances;

16 (E) the size, composition, and growth of
17 international capital flows;

18 (F) the impact of the external sector on
19 economic growth;

20 (G) the size and growth of external indebt-
21 edness;

22 (H) trends in the net level of international
23 investment; and

24 (I) capital controls, trade, and exchange
25 restrictions.

1 (5) A list of currencies designated as fun-
2 damentally misaligned currencies pursuant to section
3 4(a)(2), and a description of any economic models or
4 methodologies used to establish the list.

5 (6) A list of currencies designated for priority
6 action pursuant to section 4(a)(3).

7 (7) An identification of the nominal value asso-
8 ciated with the medium-term equilibrium exchange
9 rate, relative to the United States dollar, for each
10 currency listed under paragraph (6).

11 (8) A description of any consultations con-
12 ducted or other steps taken pursuant to section 5,
13 6, or 7, including any actions taken to eliminate the
14 fundamental misalignment.

15 (9) A description of any determination made
16 pursuant to section 9(a).

17 (c) CONSULTATIONS.—

18 (1) IN GENERAL.—The Secretary shall consult
19 with the Chairman of the Board of Governors of the
20 Federal Reserve System and the Advisory Com-
21 mittee on International Exchange Rate Policy with
22 respect to the preparation of each report required
23 under subsection (a).

24 (2) COMMENTS.—Not later than the date that
25 is 15 days before the date each report is due under

1 subsection (a), the Chairman of the Board of Gov-
2 ernors of the Federal Reserve System and the Advi-
3 sory Committee on International Exchange Rate
4 Policy shall submit to the Secretary any comments
5 of the Chairman or Advisory Committee on the re-
6 port.

7 (3) CONSIDERATION.—The Secretary shall re-
8 view and consider all comments received from the
9 Chairman and the Advisory Committee under para-
10 graph (2) before submitting the report required
11 under subsection (a).

12 **SEC. 4. IDENTIFICATION OF FUNDAMENTALLY MISALIGNED**
13 **CURRENCIES.**

14 (a) IDENTIFICATION.—

15 (1) IN GENERAL.—The Secretary shall analyze
16 on a semiannual basis the prevailing real effective
17 exchange rates of foreign currencies.

18 (2) DESIGNATION OF FUNDAMENTALLY MIS-
19 ALIGNED CURRENCIES.—With respect to the cur-
20 rencies of countries that have significant bilateral
21 trade flows with the United States, and currencies
22 that are otherwise significant to the operation, sta-
23 bility, or orderly development of regional or global
24 capital markets, the Secretary shall determine
25 whether any such currency is in fundamental mis-

1 alignment and shall designate such currency as a
2 fundamentally misaligned currency.

3 (3) DESIGNATION OF CURRENCIES FOR PRI-
4 ORITY ACTION.—The Secretary shall designate a
5 currency identified under paragraph (2) for priority
6 action if the country that issues such currency is—

7 (A) engaging in protracted large-scale
8 intervention in the currency exchange market,
9 particularly if accompanied by partial or full
10 sterilization;

11 (B) engaging in excessive and prolonged
12 official or quasi-official accumulation of foreign
13 exchange reserves and other foreign assets, for
14 balance of payments purposes;

15 (C) introducing or substantially modifying
16 for balance of payments purposes a restriction
17 on, or incentive for, the inflow or outflow of
18 capital, that is inconsistent with the goal of
19 achieving full currency convertibility; or

20 (D) pursuing any other policy or action
21 that, in the view of the Secretary, warrants des-
22 ignation for priority action.

23 (b) REPORTS.—The Secretary shall include a list of
24 any foreign currency designated under paragraph (2) or
25 (3) of subsection (a) and the data and reasoning under-

1 lying such designations in each report required by section
2 3.

3 **SEC. 5. NEGOTIATIONS AND CONSULTATIONS.**

4 (a) IN GENERAL.—Upon designation of a currency
5 pursuant to section 4(a)(2), the Secretary shall seek to
6 consult bilaterally with the country that issues such cur-
7 rency in order to facilitate the adoption of appropriate
8 policies to address the fundamental misalignment.

9 (b) CONSULTATIONS INVOLVING CURRENCIES DES-
10 IGNATED FOR PRIORITY ACTION.—With respect to each
11 currency designated for priority action pursuant to section
12 4(a)(3), the Secretary shall, in addition to seeking to con-
13 sult with a country pursuant to subsection (a)—

14 (1) seek the advice of the International Mone-
15 tary Fund with respect to the findings of the Sec-
16 retary in the report submitted to Congress pursuant
17 to section 3(a); and

18 (2) encourage other governments, whether bilat-
19 erally or in appropriate multinational fora, to join
20 the United States in seeking the adoption of appro-
21 priate policies by the country described in subsection
22 (a) to eliminate the fundamental misalignment.

23 **SEC. 6. FAILURE TO ADOPT APPROPRIATE POLICIES.**

24 (a) DETERMINATION AND MEASURES REQUIRED.—

1 (1) DETERMINATION.—Not later than 90 days
2 after the date on which a currency is designated for
3 priority action pursuant to section 4(a)(3), the Sec-
4 retary shall determine whether the country that
5 issues the currency has adopted appropriate policies,
6 and taken identifiable action, to eliminate the funda-
7 mental misalignment.

8 (2) NOTIFICATION AND PUBLICATION.—The
9 Secretary shall promptly notify Congress of the de-
10 termination under paragraph (1) and publish notice
11 of the determination in the Federal Register.

12 (3) MEASURES.—If the Secretary determines
13 that the country that issues the currency described
14 in paragraph (1) has failed to adopt appropriate
15 policies, or take identifiable action, to eliminate the
16 fundamental misalignment, the measures specified in
17 subsection (b) shall apply with respect to the coun-
18 try until a notification described in section 7(b) is
19 published in the Federal Register.

20 (b) MEASURES SPECIFIED.—The measures specified
21 in this subsection are, with respect to a country, the fol-
22 lowing:

23 (1) ADJUSTMENT UNDER ANTIDUMPING LAW.—
24 For purposes of an antidumping investigation under
25 subtitle B of title VII of the Tariff Act of 1930 (19

1 U.S.C. 1673 et seq.) or a review under subtitle C of
2 such Act (19 U.S.C. 1675 et seq.), the following
3 shall apply:

4 (A) IN GENERAL.—The administering au-
5 thority shall ensure a fair comparison between
6 the export price and the normal value by ad-
7 justing the price used to establish export price
8 or constructed export price to reflect the funda-
9 mental misalignment of the currency of the
10 country.

11 (B) SALES SUBJECT TO ADJUSTMENT.—
12 The adjustment described in subparagraph (A)
13 shall apply with respect to subject merchandise
14 sold on or after the date that is 30 days after
15 the date the currency of the country is des-
16 ignated for priority action pursuant to section
17 4(a)(3).

18 (2) FEDERAL PROCUREMENT.—

19 (A) IN GENERAL.—The President shall
20 prohibit the procurement by the Federal Gov-
21 ernment of products or services from the coun-
22 try.

23 (B) EXCEPTION.—The prohibition pro-
24 vided for in subparagraph (A) shall not apply

1 with respect to a country that is a party to the
2 Agreement on Government Procurement.

3 (3) REQUEST FOR IMF ACTION.—The United
4 States shall inform the Managing Director of the
5 International Monetary Fund of the failure of the
6 country to adopt appropriate policies, or to take
7 identifiable action, to eliminate the fundamental mis-
8 alignment, and the actions the country is engaging
9 in that are identified in section 4(a)(3), and shall re-
10 quest that the Managing Director of the Inter-
11 national Monetary Fund—

12 (A) consult with the country regarding the
13 observance of the obligations of the country
14 under article IV of the International Monetary
15 Fund Articles of Agreement, including through
16 special consultations, if necessary; and

17 (B) not later than 180 days after the date
18 of the request, formally report the results of
19 such consultations to the Executive Board of
20 the International Monetary Fund.

21 (4) OPIC FINANCING.—The Overseas Private
22 Investment Corporation shall not approve any new
23 financing (including insurance, reinsurance, or guar-
24 antee) with respect to a project located within the
25 country.

1 (5) MULTILATERAL BANK FINANCING.—

2 (A) IN GENERAL.—The Secretary shall in-
3 struct the United States Executive Director at
4 each multilateral bank to oppose the approval
5 of any new financing (including loans, other
6 credits, insurance, reinsurance, or guarantee) to
7 the government of the country or for a project
8 located within the country.

9 (B) MULTILATERAL BANK.—The term
10 “multilateral bank” includes each of the inter-
11 national financial institutions described in sec-
12 tion 1701(c)(2) of the International Financial
13 Institutions Act (22 U.S.C. 262r).

14 (c) WAIVER.—

15 (1) IN GENERAL.—The President may waive
16 any action provided for under subsection (a) or (b)
17 if the President determines that—

18 (A) taking the action would cause serious
19 harm to the national security of the United
20 States; or

21 (B) it is in the vital economic interest of
22 the United States to do so and taking the ac-
23 tion would have an adverse impact on the
24 United States economy greater than the bene-
25 fits of the action.

1 (2) NOTIFICATION.—The President shall
2 promptly notify Congress of a determination under
3 paragraph (1) (and the reasons for the determina-
4 tion, if made under paragraph (1)(B)) and shall
5 publish notice of the determination (and the reasons
6 for the determination, if made under paragraph
7 (1)(B)) in the Federal Register.

8 (d) REPORTS.—The Secretary shall describe any ac-
9 tion or determination pursuant to subsection (a), (b), or
10 (c) in the first semiannual report required by section 3
11 after the date of the action or determination.

12 **SEC. 7. PERSISTENT FAILURE TO ADOPT APPROPRIATE**
13 **POLICIES.**

14 (a) DETERMINATION AND MEASURES REQUIRED.—

15 (1) DETERMINATION.—Not later than 360 days
16 after the date on which a currency is designated for
17 priority action pursuant to section 4(a)(3), the Sec-
18 retary shall determine whether the country that
19 issues the currency has adopted appropriate policies,
20 and taken identifiable action, to eliminate the funda-
21 mental misalignment.

22 (2) NOTIFICATION AND PUBLICATION.—The
23 Secretary shall promptly notify Congress of the de-
24 termination under paragraph (1) and shall publish
25 notice of the determination in the Federal Register.

1 (3) MEASURES.—If the Secretary determines
2 that the country that issues the currency has failed
3 to adopt appropriate policies, or take identifiable ac-
4 tion, to eliminate the fundamental misalignment, in
5 addition to the measures specified in section 6(b),
6 the following measures shall apply with respect to
7 the country until a notification described in sub-
8 section (b) is published in the Federal Register:

9 (A) ACTION AT THE WTO.—The United
10 States Trade Representative shall request con-
11 sultations in the World Trade Organization
12 with the country regarding the consistency of
13 the actions of the country with its obligations
14 under the WTO Agreement.

15 (B) REMEDIAL INTERVENTION.—

16 (i) IN GENERAL.—The Secretary shall
17 consult with the Board of Governors of the
18 Federal Reserve System to consider under-
19 taking remedial intervention in inter-
20 national currency markets in response to
21 the fundamental misalignment of the cur-
22 rency designated for priority action, and
23 coordinating the intervention with other
24 monetary authorities and the International
25 Monetary Fund. In doing so, the Secretary

1 shall consider the impact of the interven-
2 tion on domestic economic growth and sta-
3 bility, including the impact on interest
4 rates.

5 (ii) NOTICE TO COUNTRY.—At the
6 same time the Secretary takes action
7 under clause (i), the Secretary shall notify
8 the country that issues the currency of the
9 consultations under clause (i).

10 (b) NOTIFICATION.—The Secretary shall promptly
11 notify Congress when a country that issues a currency des-
12 ignated for priority action pursuant to section 4(a)(3)
13 adopts appropriate policies, or takes identifiable action, to
14 eliminate the fundamental misalignment, and publish no-
15 tice of the action of that country in the Federal Register.

16 (c) WAIVER.—

17 (1) IN GENERAL.—The President may waive
18 any action provided for under this section, or extend
19 any waiver provided for under section 6(c), if the
20 President determines that—

21 (A) taking the action would cause serious
22 harm to the national security of the United
23 States; or

24 (B) it is in the vital economic interest of
25 the United States to do so, and that taking the

1 action would have an adverse impact on the
2 United States economy substantially out of pro-
3 portion to the benefits of the action.

4 (2) NOTIFICATION.—The President shall
5 promptly notify Congress of a determination under
6 paragraph (1) (and the reasons for the determina-
7 tion, if made under paragraph (1)(B)) and shall
8 publish notice of the determination (and the reasons
9 for the determination, if made under paragraph
10 (1)(B)) in the Federal Register.

11 (d) DISAPPROVAL OF WAIVER.—If the President
12 waives an action pursuant to subsection (c)(1)(B), or ex-
13 tends a waiver provided for under section 6(c)(1)(B), the
14 waiver shall cease to have effect upon the enactment of
15 a resolution of disapproval described in section 8(a)(2).

16 (e) REPORTS.—The Secretary shall describe any ac-
17 tion or determination pursuant to subsection (a), (b), or
18 (c) in the first semiannual report required by section 3
19 after the date of such action or determination.

20 **SEC. 8. CONGRESSIONAL DISAPPROVAL OF WAIVER.**

21 (a) RESOLUTION OF DISAPPROVAL.—

22 (1) INTRODUCTION.—If a resolution of dis-
23 approval is introduced in the House of Representa-
24 tives or the Senate during the 90-day period (not
25 counting any day which is excluded under section

1 154(b)(1) of the Trade Act of 1974 (19 U.S.C.
2 2194(b(1))), beginning on the date on which the
3 President first notifies Congress of a determination
4 to waive action with respect to a country pursuant
5 to section 7(c)(1)(B), that resolution of disapproval
6 shall be considered in accordance with this sub-
7 section.

8 (2) RESOLUTION OF DISAPPROVAL.—In this
9 subsection, the term “resolution of disapproval”
10 means only a joint resolution of the two Houses of
11 the Congress, the sole matter after the resolving
12 clause of which is as follows: “That Congress does
13 not approve the determination of the President
14 under _____ of the Currency
15 Exchange Rate Oversight Reform Act of 2013 with
16 respect to _____, of which Congress was no-
17 tified on _____.”, with the first blank space
18 being filled section 7(c)(1)(B) or section 6(c)(1)(B),
19 whichever is applicable, the second blank space being
20 filled with the name of the appropriate country, and
21 the third blank space being filled with the appro-
22 priate date.

23 (3) PROCEDURES FOR CONSIDERING RESOLU-
24 TIONS.—

1 (A) INTRODUCTION AND REFERRAL.—Res-
2 olutions of disapproval—

3 (i) in the House of Representatives—

4 (I) may be introduced by any
5 Member of the House of Representa-
6 tives;

7 (II) shall be referred to the Com-
8 mittee on Financial Services and to
9 the Committee on Rules; and

10 (III) may not be amended by ei-
11 ther Committee; and

12 (ii) in the Senate—

13 (I) may be introduced by any
14 Member of the Senate;

15 (II) shall be referred to the Com-
16 mittee on Banking, Housing, and
17 Urban Affairs; and

18 (III) may not be amended.

19 (B) COMMITTEE DISCHARGE AND FLOOR
20 CONSIDERATION.—The provisions of sub-
21 sections (c) through (f) of section 152 of the
22 Trade Act of 1974 (other than paragraph (3)
23 of subsection (f)) (19 U.S.C. 2192 (c) through
24 (f)) (relating to committee discharge and floor
25 consideration of certain resolutions in the

1 House and Senate) apply to a resolution of dis-
2 approval under this section to the same extent
3 those subsections apply to joint resolutions
4 under such section 152.

5 (b) RULES OF HOUSE OF REPRESENTATIVES AND
6 SENATE.—This section is enacted by Congress—

7 (1) as an exercise of the rulemaking power of
8 the House of Representatives and the Senate, re-
9 spectively, and as such is deemed a part of the rules
10 of each House, respectively, and the rules provided
11 for in this section supersede other rules only to the
12 extent that they are inconsistent with those other
13 rules; and

14 (2) with the full recognition of the constitu-
15 tional right of either House to change the rules pro-
16 vided for in this section (so far as relating to the
17 procedures of that House) at any time, in the same
18 manner, and to the same extent as any other rule
19 of that House.

20 **SEC. 9. INTERNATIONAL FINANCIAL INSTITUTION GOVERN-**
21 **ANCE ARRANGEMENTS.**

22 (a) INITIAL REVIEW.—

23 (1) IN GENERAL.—Notwithstanding any other
24 provision of law, before the United States approves
25 a proposed change in the governance arrangement of

1 any international financial institution, as defined in
2 section 1701(c)(2) of the International Financial In-
3 stitutions Act (22 U.S.C. 262r(c)(2)), the Secretary
4 shall determine whether any member of the inter-
5 national financial institution that would benefit from
6 the proposed change, in the form of increased voting
7 shares or representation, has a currency that was
8 designated a currency for priority action pursuant to
9 section 4(a)(3) in the most recent report required by
10 section 3.

11 (2) REPORT.—The Secretary shall submit to
12 Congress the determination required by paragraph
13 (1).

14 (b) SUBSEQUENT ACTION.—The United States shall
15 oppose any proposed change in the governance arrange-
16 ment of the international financial institution if the Sec-
17 retary renders an affirmative determination pursuant to
18 subsection (a).

19 (c) FURTHER ACTION.—The United States shall con-
20 tinue to oppose any proposed change in the governance
21 arrangement of the international financial institution, pur-
22 suant to subsection (b), until the Secretary determines
23 and reports to Congress that the proposed change would
24 not benefit any member of the international financial insti-
25 tution, in the form of increased voting shares or represen-

1 tation, that has a currency that is designated a currency
2 for priority action pursuant to section 4(a)(3).

3 **SEC. 10. ADJUSTMENT FOR FUNDAMENTALLY MISALIGNED**
4 **CURRENCY DESIGNATED FOR PRIORITY AC-**
5 **TION.**

6 (a) IN GENERAL.—Subsection (c)(2) of section 772
7 of the Tariff Act of 1930 (19 U.S.C. 1677a(c)(2)) is
8 amended—

9 (1) in subparagraph (A), by striking “and” at
10 the end;

11 (2) in subparagraph (B), by striking the period
12 at the end and inserting “, and”; and

13 (3) by adding at the end the following:

14 “(C) if required by section 6(b)(1) of the
15 Currency Exchange Rate Oversight Reform Act
16 of 2013, the percentage by which the domestic
17 currency of the producer or exporter is under-
18 valued in relation to the United States dollar as
19 determined under section 771(37).”.

20 (b) CALCULATION METHODOLOGY.—Section 771 of
21 the Tariff Act of 1930 (19 U.S.C. 1677) is amended by
22 adding at the end the following:

23 “(37) PERCENTAGE UNDERVALUATION.—The
24 administering authority shall determine the percent-
25 age by which the domestic currency of the producer

1 or exporter is undervalued in relation to the United
2 States dollar by comparing the nominal value associ-
3 ated with the medium-term equilibrium exchange
4 rate of the domestic currency of the producer or ex-
5 porter, identified by the Secretary pursuant to sec-
6 tion 3(b)(7) of the Currency Exchange Rate Over-
7 sight Reform Act of 2013, to the official daily ex-
8 change rate identified by the administering author-
9 ity.”.

10 **SEC. 11. CURRENCY UNDERVALUATION UNDER COUNTER-**
11 **VAILING DUTY LAW.**

12 (a) INVESTIGATION OR REVIEW.—Subsection (c) of
13 section 702 of the Tariff Act of 1930 (19 U.S.C.
14 1671a(c)) is amended by adding at the end the following:

15 “(6) CURRENCY UNDERVALUATION.—For pur-
16 poses of a countervailing duty investigation under
17 this subtitle where the determinations under clauses
18 (i) and (ii) of paragraph (1)(A) are affirmative, or
19 a review under subtitle C of this title, the following
20 shall apply:

21 “(A) IN GENERAL.—The administering au-
22 thority shall initiate an investigation to deter-
23 mine whether currency undervaluation by the
24 government of a country or any public entity
25 within the territory of a country is providing,

1 directly or indirectly, a countervailable subsidy
2 as described in section 771(5), if—

3 “(i) a petition filed by an interested
4 party (described in subparagraph (C), (D),
5 (E), (F), or (G) of section 771(9)) alleges
6 the elements necessary for the imposition
7 of the duty imposed by section 701(a); and

8 “(ii) the petition is accompanied by
9 information reasonably available to the pe-
10 titioner supporting those allegations.

11 “(B) DESIGNATION OF FUNDAMENTALLY
12 MISALIGNED CURRENCY FOR PRIORITY AC-
13 TION.—Upon designation of a currency as a
14 fundamentally misaligned currency for priority
15 action pursuant to section 4(a)(3) of the Cur-
16 rency Exchange Rate Oversight Reform Act of
17 2013, the administering authority shall initiate
18 an investigation to determine whether the coun-
19 try that issues such currency is providing, di-
20 rectly or indirectly, a countervailable subsidy as
21 defined in section 771(5), if—

22 “(i) a petition filed by an interested
23 party (described in subparagraph (C), (D),
24 (E), (F), or (G) of section 771(9)) alleges

1 the elements necessary for the imposition
2 of the duty imposed by section 701(a); and
3 “(ii) the petition is accompanied by
4 information reasonably available to the pe-
5 titioner supporting those allegations.”.

6 (b) BENEFIT CALCULATION METHODOLOGY.—Sec-
7 tion 771 of the Tariff Act of 1930 (19 U.S.C. 1677), as
8 amended by section 10(b), is further amended by adding
9 at the end the following:

10 “(38) CURRENCY UNDERVALUATION BEN-
11 EFIT.—For purposes of a countervailing duty inves-
12 tigation under subtitle A of this title, or a review
13 under subtitle C of this title, the following shall
14 apply:

15 “(A) IN GENERAL.—If the administering
16 authority determines to investigate whether cur-
17 rency undervaluation is a countervailable sub-
18 sidy as defined in section 771(5), the admin-
19 istering authority shall determine whether there
20 is a benefit to the recipient and measure such
21 benefit by comparing the simple average of the
22 real exchange rates derived from application of
23 the macroeconomic-balance approach and the
24 equilibrium-real-exchange-rate approach to the

1 official daily exchange rate identified by the ad-
2 ministering authority.

3 “(B) RELIANCE ON DATA.—In making the
4 determination under subparagraph (A), the ad-
5 ministering authority shall rely upon data that
6 are publicly available, reliable, and compiled
7 and maintained by the International Monetary
8 Fund or the World Bank, or other international
9 organizations or national governments if data
10 from the International Monetary Fund or
11 World Bank are not available.

12 “(C) DESIGNATION OF FUNDAMENTALLY
13 MISALIGNED CURRENCY FOR PRIORITY AC-
14 TION.—In the case of designation of a currency
15 as a fundamentally misaligned currency for pri-
16 ority action pursuant to section 4(a)(3) of the
17 Currency Exchange Rate Oversight Reform Act
18 of 2013, the administering authority shall de-
19 termine whether there is a benefit to the recipi-
20 ent and measure that benefit by comparing the
21 nominal value associated with the medium-term
22 equilibrium exchange rate of the currency of the
23 exporting country, identified by the Secretary
24 pursuant to section 3(b)(7) of such Act, to the

1 official daily exchange rate identified by the ad-
2 ministering authority.

3 “(D) DEFINITIONS.—In this paragraph:

4 “(i) MACROECONOMIC-BALANCE AP-
5 PROACH.—The term ‘macroeconomic-bal-
6 ance approach’ means a methodology
7 under which the level of undervaluation of
8 the real effective exchange rate of the cur-
9 rency of the exporting country is defined
10 as the change in the real effective exchange
11 rate needed to achieve equilibrium in the
12 balance of payments of the exporting coun-
13 try, as such methodology is described in
14 the guidelines of the International Mone-
15 tary Fund’s Consultative Group on Ex-
16 change Rate Issues, if available.

17 “(ii) EQUILIBRIUM-REAL-EXCHANGE-
18 RATE APPROACH.—The term ‘equilibrium-
19 real-exchange-rate approach’ means a
20 methodology under which the level of
21 undervaluation of the real effective ex-
22 change rate of the currency of the export-
23 ing country is defined as the difference be-
24 tween the observed real effective exchange
25 rate and the real effective exchange rate,

1 as such methodology is described in the
2 guidelines of the International Monetary
3 Fund’s Consultative Group on Exchange
4 Rate Issues, if available.

5 “(iii) REAL EXCHANGE RATES.—The
6 term ‘real exchange rates’ means the bilat-
7 eral exchange rates derived from con-
8 verting the trade-weighted multilateral ex-
9 change rates yielded by the macro-
10 economic-balance approach and the equi-
11 librium-real-exchange-rate approach into
12 real bilateral terms.”.

13 (c) EXPORT SUBSIDY.—Section 771(5A)(B) of the
14 Tariff Act of 1930 (19 U.S.C. 1677(5A)(B)) is amended
15 by adding at the end the following new sentence: “The
16 fact that a subsidy may also be provided in circumstances
17 that do not involve export shall not, for that reason alone,
18 mean that the subsidy cannot be considered contingent
19 upon export performance.”.

20 (d) EFFECTIVE DATE.—The amendments made by
21 this section apply to countervailing duty investigations ini-
22 tiated under subtitle A of title VII of the Tariff Act of
23 1930 (19 U.S.C. 1671 et seq.) and reviews initiated under
24 subtitle C of title VII of such Act (19 U.S.C. 1675 et
25 seq.)—

1 (1) before the date of the enactment of this
2 Act, if the investigation or review is pending a final
3 determination as of such date of enactment; and

4 (2) on or after such date of enactment.

5 **SEC. 12. NONMARKET ECONOMY STATUS.**

6 Paragraph (18)(B) of section 771 of the Tariff Act
7 of 1930 (19 U.S.C. 1677(18)(B)) is amended—

8 (1) in clause (v), by striking “and” at the end;

9 (2) by redesignating clause (vi) as clause (vii);

10 and

11 (3) by inserting after clause (v) the following:

12 “(vi) whether the currency of the for-
13 eign country is designated, or has been
14 designated at any time over the 5 years
15 prior to review of nonmarket economy sta-
16 tus, a currency for priority action pursuant
17 to section 4(a)(3) of the Currency Ex-
18 change Rate Oversight Reform Act of
19 2013, and”.

20 **SEC. 13. APPLICATION TO CANADA AND MEXICO.**

21 Pursuant to article 1902 of the North American Free
22 Trade Agreement and section 408 of the North American
23 Free Trade Agreement Implementation Act (19 U.S.C.
24 3438), section 6(b)(1) and the amendments made by sec-

1 tions 10, 11, and 12 shall apply with respect to goods from
2 Canada and Mexico.

3 **SEC. 14. ADVISORY COMMITTEE ON INTERNATIONAL EX-**
4 **CHANGE RATE POLICY.**

5 (a) ESTABLISHMENT.—

6 (1) IN GENERAL.—There is established an Ad-
7 visory Committee on International Exchange Rate
8 Policy (in this section referred to as the “Com-
9 mittee”) that shall be responsible for—

10 (A) advising the Secretary in the prepara-
11 tion of each report to Congress on international
12 monetary policy and currency exchange rates,
13 provided for in section 3; and

14 (B) advising Congress and the President
15 with respect to—

16 (i) international exchange rates and
17 financial policies; and

18 (ii) the impact of such policies on the
19 economy of the United States.

20 (2) MEMBERSHIP.—

21 (A) IN GENERAL.—The Committee shall be
22 composed of 9 members as follows, none of
23 whom shall be employees of the Federal Gov-
24 ernment:

25 (i) CONGRESSIONAL APPOINTEES.—

1 (I) SENATE APPOINTEES.—Four
2 members shall be appointed by the
3 President pro tempore of the Senate,
4 upon the recommendation of the
5 chairmen and ranking members of the
6 Committee on Banking, Housing, and
7 Urban Affairs and the Committee on
8 Finance of the Senate.

9 (II) HOUSE APPOINTEES.—Four
10 members shall be appointed by the
11 Speaker of the House of Representa-
12 tives upon the recommendation of the
13 chairmen and ranking members of the
14 Committee on Financial Services and
15 the Committee on Ways and Means of
16 the House of Representatives.

17 (ii) PRESIDENTIAL APPOINTEE.—One
18 member shall be appointed by the Presi-
19 dent.

20 (B) QUALIFICATIONS.—Members shall be
21 selected under subparagraph (A) on the basis of
22 their objectivity and demonstrated expertise in
23 finance, economics, or currency exchange.

24 (3) TERMS.—

1 (A) IN GENERAL.—Members shall be ap-
2 pointed for a term of 4 years or until the Com-
3 mittee terminates.

4 (B) REAPPOINTMENT.—An individual may
5 be reappointed to the Committee for additional
6 terms.

7 (4) VACANCIES.—Any vacancy in the Com-
8 mittee shall not affect its powers, but shall be filled
9 in the same manner as the original appointment.

10 (b) DURATION OF COMMITTEE.—

11 (1) IN GENERAL.—Notwithstanding section
12 14(c) of the Federal Advisory Committee Act (5
13 U.S.C. App.), the Committee shall terminate on the
14 date that is 4 years after the date of the enactment
15 of this Act unless renewed by the President pursu-
16 ant to section 14 of the Federal Advisory Committee
17 Act (5 U.S.C. App.) for a subsequent 4-year period.

18 (2) SUBSEQUENT RENEWALS.—The President
19 may continue to renew the Committee for successive
20 4-year periods by taking appropriate action prior to
21 the date on which the Committee would otherwise
22 terminate.

23 (c) PUBLIC MEETINGS.—

24 (1) PUBLIC COMMENTS.—The Committee shall
25 hold at least 2 public meetings each year for the

1 purpose of accepting public comments, including
2 comments from small business owners.

3 (2) CALL OF SECRETARY OR MEMBERS.—The
4 Committee shall also meet as needed at the call of
5 the Secretary or at the call of two-thirds of the
6 members of the Committee.

7 (d) CHAIRPERSON.—

8 (1) ELECTION.—The Committee shall elect
9 from among its members a chairperson for a term
10 of 4 years or until the Committee terminates.

11 (2) SUBSEQUENT TERMS.—A chairperson of the
12 Committee may be reelected chairperson but is ineli-
13 gible to serve consecutive terms as chairperson.

14 (e) STAFF.—The Secretary shall make available to
15 the Committee such staff, information, personnel, admin-
16 istrative services, and assistance as the Committee may
17 reasonably require to carry out its activities.

18 (f) APPLICATION OF FEDERAL ADVISORY COM-
19 MITTEE ACT.—

20 (1) IN GENERAL.—The provisions of the Fed-
21 eral Advisory Committee Act (5 U.S.C. App.) shall
22 apply to the Committee.

23 (2) EXCEPTION.—Except for the 2 annual pub-
24 lic meetings required under subsection (c)(1), meet-
25 ings of the Committee shall be exempt from the re-

1 requirements of subsections (a) and (b) of sections 10
2 and 11 of the Federal Advisory Committee Act (re-
3 lating to open meetings, public notice, public partici-
4 pation, and public availability of documents) (5
5 U.S.C. App.), whenever and to the extent it is deter-
6 mined by the President or the Secretary that such
7 meetings will be concerned with matters the disclo-
8 sure of which would seriously compromise the devel-
9 opment by the United States Government of mone-
10 tary and financial policy.

11 **SEC. 15. REPEAL OF THE EXCHANGE RATES AND ECO-**
12 **NOMIC POLICY COORDINATION ACT OF 1988.**

13 The Exchange Rates and International Economic
14 Policy Coordination Act of 1988 (22 U.S.C. 5301 et seq.)
15 is repealed.

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