

110TH CONGRESS  
1ST SESSION

# H. R. 782

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 HOUSE OF REPRESENTATIVES

JANUARY 31, 2007

Mr. RYAN of Ohio (for himself, Mr. HUNTER, Ms. SLAUGHTER, Mr. ALTMIRE, Mr. DEFazio, Ms. DELAuro, Mr. DOYLE, Mr. EHLERS, Ms. FOXX, Mr. GERLACH, Mr. HAYES, Mr. HOLT, Mr. KILDEE, Mr. LIPINSKI, Mr. MANZULLO, Mr. MCGOVERN, Mr. MCHUGH, Mr. MEEK of Florida, Mr. MICHAUD, Mrs. MILLER of Michigan, Mr. MOLLOHAN, Mrs. MYRICK, Mr. NORWOOD, Mr. RENZI, Mr. ROHRABACHER, Mr. SAXTON, Ms. SCHAKOWSKY, Mr. SENSENBRENNER, Mr. SOUDER, Mr. SPACE, Ms. SUTTON, Mr. WALZ of Minnesota, and Mr. WILSON of South Carolina) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Financial Services, Foreign Affairs, and Armed Services, 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

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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”.

6 **TITLE I—SUBSIDIES AND PROD-**  
7 **UCT-SPECIFIC SAFEGUARD**  
8 **MECHANISM**

9 **SEC. 101. FINDINGS.**

10 Congress makes the following findings:

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

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

21 (3) The International Monetary Fund, the G–  
22 8, and other international organizations have repeat-  
23 edly noted that exchange-rate misalignment can  
24 cause imbalances in the international trading system  
25 that could ultimately undercut the stability of the

1 system, but have taken no action to redress such  
2 misalignments and imbalances.

3 (4) Since 1994, the People's Republic of China  
4 and other countries have repeatedly intervened in  
5 currency markets and taken measures that have sig-  
6 nificantly misaligned the values of their currencies  
7 against the United States dollar and other cur-  
8 rencies.

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

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

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

1           (8)(A) As members of both the World Trade  
2           Organization and the International Monetary Fund,  
3           the People's Republic of China and other countries  
4           have assumed a series of international legal obliga-  
5           tions to eliminate all subsidies for exports and to fa-  
6           cilitate international trade by fostering a monetary  
7           system that does not tend to produce erratic disrup-  
8           tions, that does not prevent effective balance-of-pay-  
9           ments adjustment, and that does not gain unfair  
10          competitive advantage.

11          (B) These obligations are most prominently set  
12          forth in—

13               (i) Articles VI, XV, and XVI of the GATT  
14               1994 (as defined in section 2(1)(B) of the Uru-  
15               guay Round Agreements Act (19 U.S.C.  
16               3501(1)(B));

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

21               (iii) Articles IV and VIII of the Inter-  
22               national Monetary Fund's Articles of Agree-  
23               ment.

24          (9) Under the foregoing circumstances, it is  
25          consistent with the international legal obligations of

1 the People’s Republic of China and similarly situ-  
 2 ated countries and with the corresponding inter-  
 3 national legal rights of the United States to amend  
 4 relevant United States trade laws to make explicit  
 5 that exchange-rate misalignment by any country is  
 6 actionable as a countervailable export subsidy.

7 **SEC. 102. APPLICATION OF COUNTERVAILING DUTIES TO**  
 8 **NONMARKET ECONOMY COUNTRIES.**

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

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

1 ticably can be adjusted to serve as appropriate bench-  
 2 marks, the administering authority shall use as bench-  
 3 marks appropriate terms and conditions prevailing outside  
 4 the nonmarket economy country. When the party in pos-  
 5 session of the information necessary to identify and meas-  
 6 ure the benefit of a subsidy does not timely and completely  
 7 submit that information for the record, the administering  
 8 authority shall use for that purpose the facts otherwise  
 9 available and shall, as warranted, draw adverse infer-  
 10 ences.”.

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

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

23 (e) ANTIDUMPING PROVISIONS NOT AFFECTED.—  
 24 The amendments made by subsections (a), (b), and (c)  
 25 shall not affect the status of a country as a nonmarket

1 economy country for the purposes of any matter relating  
 2 to antidumping duties under the Tariff Act of 1930.

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

7 (a) AMENDMENTS TO DEFINITION OF  
 8 COUNTERAVAILABLE SUBSIDY.—

9 (1) FINANCIAL CONTRIBUTION.—Section  
 10 771(5)(D) of the Tariff Act of 1930 (19 U.S.C.  
 11 1677(5)(D)) is amended—

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

14 (B) by striking “The term” and inserting  
 15 “(i) The term”; and

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

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

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

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

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

3 (C) by inserting after clause (iv) the fol-  
 4 lowing new clause:

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

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

16 (b) DEFINITION OF EXCHANGE-RATE MISALIGN-  
 17 MENT.—Section 771 of the Tariff Act of 1930 (19 U.S.C.  
 18 1677) is amended by inserting after paragraph (5B) the  
 19 following new paragraph:

20 “(5C) EXCHANGE-RATE MISALIGNMENT.—

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

1 governmental authority in the exchange market.  
2 Such undervaluation shall be found when the  
3 observed exchange rate for a foreign currency is  
4 below the exchange rate that could reasonably  
5 be expected for that foreign currency absent the  
6 intervention.

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

11 “(i) shall consider the exporting coun-  
12 try’s—

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

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

19 “(III) foreign direct investment  
20 in its territory;

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

24 “(V) mechanisms employed to  
25 maintain its currency at an under-

1           valued exchange rate relative to an-  
2           other currency and, particularly, the  
3           nature, duration, and monetary ex-  
4           penditures of those mechanisms;

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

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

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

1           “(D) TYPE OF ECONOMY.—An authority  
 2           found to be engaged in exchange-rate misalign-  
 3           ment may have either a market economy or a  
 4           nonmarket economy or a combination thereof.”.

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

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

16           (a) MARKET DISRUPTION.—

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

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

23           “(4)(A) For purposes of this section, the term  
 24 ‘exchange-rate misalignment’ means an undervalu-  
 25 ation of the renminbi as a result of protracted large-

1 scale intervention by or at the direction of the Gov-  
2 ernment of the People’s Republic of China in the ex-  
3 change market. Such undervaluation shall be found  
4 when the observed exchange rate for the renminbi is  
5 below the exchange rate that could reasonably be ex-  
6 pected for the renminbi absent the intervention.

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

10 “(i) shall consider the People’s Republic of  
11 China’s—

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

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

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

19 “(IV) currency-specific and aggregate  
20 amounts of foreign currency reserves; and

21 “(V) mechanisms employed to main-  
22 tain its currency at an undervalued ex-  
23 change rate relative to another currency  
24 and, particularly, the nature, duration, and

1           monetary expenditures of those mecha-  
2           nisms;

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

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

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

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

24          “If the petition alleges and reasonably documents that ex-  
25          change-rate misalignment is occurring, such exchange-rate

1 misalignment shall be considered as a factor weighing in  
2 favor of affirmative findings in subparagraphs (A) and  
3 (B).”.

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

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

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

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

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

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

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

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

22 (a) COPY OF PETITION, REQUEST, OR RESOLUTION  
 23 TO BE TRANSMITTED TO THE SECRETARY OF DE-  
 24 FENSE.—Section 421(b)(4) of the Trade Act of 1974 (19

1 U.S.C. 2451(b)(4)) is amended by inserting “, the Sec-  
2 retary of Defense” after “, the Trade Representative”.

3 (b) DETERMINATION OF SECRETARY OF DEFENSE.—  
4 Section 421(b) of the Trade Act of 1974 (19 U.S.C.  
5 2451(b)) is amended by adding at the end the following  
6 new paragraph:

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

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

20 (1) PROHIBITION.—If the United States Inter-  
21 national Trade Commission makes an affirmative  
22 determination under section 421(b) of the Trade Act  
23 of 1974 (19 U.S.C. 2451(b)), or a determination  
24 which the President or the United States Trade  
25 Representative may consider as affirmative under

1 section 421(e) of such Act (19 U.S.C. 2451(e)), with  
2 respect to articles of the People's Republic of China  
3 that the Secretary of Defense has determined are  
4 like or directly competitive with articles produced by  
5 a domestic industry that are critical to the defense  
6 industrial base of the United States, the Secretary  
7 of Defense may not procure, directly or indirectly,  
8 such articles of the People's Republic of China.

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

15 **SEC. 106. APPLICATION TO GOODS FROM CANADA AND**  
16 **MEXICO.**

17 Pursuant to article 1902 of the North American Free  
18 Trade Agreement and section 408 of the North American  
19 Free Trade Agreement Implementation Act of 1993 (19  
20 U.S.C. 3438), the amendments made by sections 102,  
21 103, and 206 of this Act shall apply to goods from Canada  
22 and Mexico.

1 **TITLE II—INTERNATIONAL MON-**  
2 **ETARY AND FINANCIAL POL-**  
3 **ICY**

4 **SEC. 201. FINDINGS.**

5 Congress makes the following findings:

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

17 (2) Exchange rates among major trading na-  
18 tions are occasionally manipulated or fundamentally  
19 misaligned due to direct or indirect governmental  
20 intervention in the exchange market.

21 (3) A major focus of national economic policy  
22 should be a market-driven exchange rate for the  
23 United States dollar at a level consistent with a sus-  
24 tainable balance in the United States current ac-  
25 count.

1           (4) While some degree of surpluses and deficits  
2       in payments balances may be expected, particularly  
3       in response to increasing economic globalization,  
4       large and growing imbalances raise concerns of pos-  
5       sible disruption to financial markets. In part, such  
6       imbalances often reflect exchange rate policies that  
7       foster fundamental misalignment of currencies.

8           (5) Currencies in fundamental misalignment  
9       can seriously impair the ability of international mar-  
10      kets to adjust appropriately to global capital and  
11      trade flows, distorting trade flows and causing eco-  
12      nomic harm to the United States.

13          (6) The effects of a fundamentally misaligned  
14      currency may be so harmful that it is essential to  
15      correct the fundamental misalignment without re-  
16      gard to the purpose of any policy that contributed  
17      to the misalignment.

18          (7) In the interests of facilitating the exchange  
19      of goods, services, and capital among countries, sus-  
20      taining sound economic growth, and fostering finan-  
21      cial and economic stability, Article IV of the Inter-  
22      national Monetary Fund's Articles of Agreement ob-  
23      ligates each member of the International Monetary  
24      Fund to avoid manipulating exchange rates in order  
25      to prevent effective balance of payments adjustments

1 or to gain an unfair competitive advantage over  
2 other members.

3 (8) The failure of a government to acknowledge  
4 a fundamental misalignment of its currency or to  
5 take timely and effective steps to correct such a fun-  
6 damental misalignment, either through inaction or  
7 mere token action, is a form of exchange rate ma-  
8 nipulation and is inconsistent with that govern-  
9 ment's obligations under Article IV of the Inter-  
10 national Monetary Fund's Articles of Agreement.

11 **SEC. 202. AMENDMENTS TO DEFINITIONS.**

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

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

24 “(4) EFFECTIVE EXCHANGE RATE.—The term  
25 ‘effective exchange rate’ means a weighted average

1 of bilateral exchange rates, expressed in either nomi-  
 2 nal or real terms.

3 “(5) GENERALLY ACCEPTED ECONOMIC RA-  
 4 TIONALE.—The term ‘generally accepted economic  
 5 rationale’ means an explanation drawn on widely  
 6 recognized macroeconomic theory for which there is  
 7 a significant degree of empirical support.”.

8 **SEC. 203. BILATERAL NEGOTIATIONS.**

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

12 “(b) BILATERAL NEGOTIATIONS.—

13 “(1) IN GENERAL.—The Secretary of the  
 14 Treasury shall analyze on an annual basis the ex-  
 15 change rate policies of foreign countries, in consulta-  
 16 tion with the International Monetary Fund, and con-  
 17 sider whether countries—

18 “(A) manipulate the rate of exchange be-  
 19 tween their currency and the United States dol-  
 20 lar for purposes of preventing effective balance  
 21 of payments adjustments or gaining unfair com-  
 22 petitive advantage in international trade; or

23 “(B) have a currency that is in funda-  
 24 mental misalignment.

1           “(2) AFFIRMATIVE DETERMINATION.—If the  
2       Secretary considers that such manipulation or fun-  
3       damental misalignment is occurring with respect to  
4       countries that—

5           “(A) have material global current account  
6       surpluses; or

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

18          “(3) EXCEPTION.—The Secretary shall not be  
19      required to initiate negotiations if the Secretary de-  
20      termines that such negotiations would have a serious  
21      detrimental impact on vital national economic and  
22      security interests. The Secretary shall inform the  
23      chairman and the ranking minority member of the  
24      Committee on Banking, Housing, and Urban Affairs  
25      of the Senate and of the Committee on Financial

1 Services of the House of Representatives of the Sec-  
2 retary's determination.”.

3 **SEC. 204. REPORTING REQUIREMENTS.**

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

7 **“SEC. 3005. REPORTING REQUIREMENTS.**

8 **“(a) REPORTS REQUIRED.—**

9 **“(1) IN GENERAL.—**The Secretary, after con-  
10 sulting with the Chairman of the Board, shall sub-  
11 mit to Congress, on or before October 15 of each  
12 year, a written report on international economic pol-  
13 icy and currency exchange rates.

14 **“(2) INTERIM REPORT.—**The Secretary, after  
15 consulting with the Chairman of the Board, shall  
16 submit to Congress, on or before April 15 of each  
17 year, a written report on interim developments with  
18 respect to international economic policy and cur-  
19 rency exchange rates.

20 **“(b) CONTENTS OF REPORTS.—**Each report sub-  
21 mitted under subsection (a) shall contain—

22 **“(1)** an analysis of currency market develop-  
23 ments and the relationship between the United  
24 States dollar and the currencies of major economies  
25 and United States trading partners;

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

5           “(3) a description of any currency intervention  
6           by the United States or other major economies or  
7           United States trading partners, or other actions un-  
8           dertaken to adjust the actual exchange rate of the  
9           dollar;

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

12               “(A) monetary and financial conditions;

13               “(B) foreign exchange reserve accumula-  
14               tion;

15               “(C) macroeconomic trends;

16               “(D) trends in current and financial ac-  
17               count balances;

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

20               “(F) the impact of the external sector on  
21               economic changes;

22               “(G) the size and growth of external in-  
23               debtedness;

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

1                   “(I) capital controls, trade, and exchange  
2                   restrictions;

3                   “(5) a list of currencies of the major economies  
4                   or economic areas that are manipulated or in funda-  
5                   mental misalignment and a description of any eco-  
6                   nomic models or methodologies used to establish the  
7                   list;

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

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

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

23                  “(9)(A) a list of each occasion during the re-  
24                  porting period when the issue of exchange-rate mis-  
25                  alignment was raised in a countervailing duty pro-

1       ceeding under subtitle A of title VII of the Tariff  
2       Act of 1930 or in an investigation under section 421  
3       of the Trade Act of 1974;

4           “(B) a summary in each such instance of  
5       whether or not exchange-rate misalignment was  
6       found and the reasoning and data underlying that  
7       finding; and

8           “(C) a discussion regarding each affirmative  
9       finding of exchange-rate misalignment to consider  
10      the circumstances underlying that exchange-rate  
11      misalignment and what action appropriately has  
12      been or might be taken by the Secretary apart from  
13      and in addition to import relief to correct the ex-  
14      change-rate misalignment.

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

1 **SEC. 205. INTERNATIONAL FINANCIAL INSTITUTION GOV-**  
2 **ERNANCE ARRANGEMENTS.**

3 (a) INITIAL REVIEW.—Notwithstanding any other  
4 provision of law, before the United States approves a pro-  
5 posed change in the governance arrangement of any inter-  
6 national financial institution, as defined in section  
7 1701(c)(2) of the International Financial Institutions Act  
8 (22 U.S.C. 262r(c)(2)), the Secretary of the Treasury  
9 shall determine whether any member of the international  
10 financial institution that would benefit from the proposed  
11 change, in the form of increased voting shares or represen-  
12 tation, has a currency that is manipulated or in funda-  
13 mental misalignment, and if so, whether the manipulation  
14 or fundamental misalignment causes or contributes to a  
15 material adverse impact on the economy of the United  
16 States. The determination shall be reported to Congress.

17 (b) SUBSEQUENT ACTION.—The United States shall  
18 oppose any proposed change in the governance arrange-  
19 ment of any international financial institution (as defined  
20 in subsection (a)) if the Secretary renders an affirmative  
21 determination pursuant to subsection (a).

22 (c) FURTHER ACTION.—The United States shall con-  
23 tinue to oppose any proposed change in the governance  
24 arrangement of an international financial institution, pur-  
25 suant to subsection (b), until the Secretary determines  
26 and reports to Congress that the currency of each member

1 of the international financial institution that would benefit  
2 from the proposed change, in the form of increased voting  
3 shares or representation, is neither manipulated nor in  
4 fundamental misalignment.

5 **SEC. 206. NONMARKET ECONOMY STATUS.**

6 Paragraph (18)(B)(vi) of section 771 of the Tariff  
7 Act of 1930 (19 U.S.C. 1677(18)(B)(vi)) is amended by  
8 inserting before the period at the end the following: “, in-  
9 cluding whether the currency of the foreign country has  
10 been identified pursuant to section 3005(b)(7) of the Ex-  
11 change Rates and International Economic Policy Coordi-  
12 nation Act of 1988 (22 U.S.C. 5305(b)(7)) in any written  
13 report required by such section 3005(b)(7) during the 24-  
14 month period immediately preceding the month during  
15 which the administering authority seeks to revoke a deter-  
16 mination that such foreign country is a nonmarket econ-  
17 omy country”.

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