

Union Calendar No. 386

111TH CONGRESS
2^D SESSION

H. R. 2378

[Report No. 111-646]

To amend title VII of the Tariff Act of 1930 to clarify that fundamental exchange-rate misalignment by any foreign nation is actionable under United States countervailing and antidumping duty laws, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 13, 2009

Mr. RYAN of Ohio (for himself, Mr. TIM MURPHY of Pennsylvania, Mr. ALTMIRE, Mr. JONES, Mr. DEFazio, Mr. WILSON of Ohio, Mr. BURTON of Indiana, Mr. MICHAUD, Mr. SOUDER, Mr. SHULER, Mr. MCHUGH, Mr. COBLE, Mr. BARRETT of South Carolina, Mr. BOUCHER, Ms. SUTTON, Mr. PLATTS, Mr. ARCURI, Mr. HIGGINS, Mr. BOSWELL, Mr. CONYERS, Mr. GENE GREEN of Texas, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. COSTELLO, Mr. LEE of New York, Mr. HOLT, Mr. WESTMORELAND, Mr. ROHRABACHER, Mr. SHUSTER, Mr. BRALEY of Iowa, Mr. WILSON of South Carolina, Mr. HOLDEN, Mr. OLVER, Mr. KAGEN, Mr. KILDEE, Mr. HARE, Mrs. MYRICK, Mr. VISCLOSKY, Mr. MANZULLO, Mr. ROGERS of Michigan, and Mr. BROWN of South Carolina) introduced the following bill; which was referred to the Committee on Ways and Means

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Additional sponsors: Mr. HUNTER, Mr. LIPINSKI, Mr. McCOTTER, Mr. MCHENRY, Mr. BERRY, Mr. INGLIS, Mr. KISSELL, Mr. HOEKSTRA, Mr. BISHOP of Utah, Mr. CARNEY, Mr. PITTS, Mr. THOMPSON of Pennsylvania, Ms. SLAUGHTER, Mr. SENSENBRENNER, Mr. MURTHA, Mr. PETERS, Mr. MILLER of North Carolina, Mr. MASSA, Mr. SHERMAN, Mr. SPACE, Mrs. DAHLKEMPER, Mr. BACA, Ms. RICHARDSON, Mr. DOYLE, Mr. DONNELLY of Indiana, Ms. DELAURO, Mr. DINGELL, Mr. SPRATT, Mr. WHITFIELD, Mr. PERRIELLO, Mr. EHLERS, Mr. ROGERS of Kentucky, Mr. FILNER, Ms. KAPTUR, Mr. ROGERS of Alabama, Mr. MOLLOHAN, Mr. BACHUS, Mrs. MILLER of Michigan, Mr. SCHAUER, Mr. COFFMAN of Colorado, Mr. TURNER, Mr. DAVIS of Tennessee, Mr. GER-

LACH, Mr. DENT, Ms. KILROY, Mr. BOCCIERI, Mr. CUMMINGS, Mr. LARSON of Connecticut, Mr. GUTIERREZ, Mr. LYNCH, Mr. DELAHUNT, Mr. ANDREWS, Ms. SHEA-PORTER, Ms. LORETTA SANCHEZ of California, Mr. CONNOLLY of Virginia, Mr. BARROW, Mrs. MCCARTHY of New York, Mr. WELCH, Mr. BRADY of Pennsylvania, Mr. DUNCAN, Mr. PATRICK J. MURPHY of Pennsylvania, Mrs. HALVORSON, Mr. LATOURETTE, Mr. HILL, Mr. FOSTER, Mr. MCINTYRE, Mr. MAFFEI, Ms. WOOLSEY, Mr. BOREN, Mr. HODES, Mr. LOEBSACK, Mr. MURPHY of Connecticut, Mr. JACKSON of Illinois, Ms. LINDA T. SÁNCHEZ of California, Mr. ELLSWORTH, Mr. CALVERT, Mr. ROSS, Mr. RAHALL, Mr. GRIFFITH, Mr. HINCHEY, Mr. CRITZ, Mr. STARK, Mr. BUYER, Mr. EDWARDS of Texas, Mr. LUETKEMEYER, Ms. SCHAKOWSKY, Mr. STUPAK, Mr. YOUNG of Alaska, Ms. BALDWIN, Mr. COURTNEY, Mr. MCGOVERN, Mr. GEORGE MILLER of California, Mr. SESTAK, Mr. KANJORSKI, Mr. BISHOP of Georgia, Mr. ELLISON, Ms. MCCOLLUM, Mr. UPTON, Mr. GRIJALVA, Ms. FUDGE, Ms. SPEIER, Mr. AKIN, Mr. HASTINGS of Florida, Ms. PINGREE of Maine, Mr. KUCINICH, Mr. HEINRICH, Mr. BLUMENAUER, Mr. PETRI, Mr. PASCRELL, Ms. BERKLEY, Mr. OWENS, Mr. TONKO, Ms. NORTON, Mr. MARKEY of Massachusetts, Mr. SALAZAR, Mr. RUSH, Mr. AL GREEN of Texas, Mr. HALL of New York, Mr. CLEAVER, and Ms. MATSUI

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Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on May 13, 2009]

A BILL

To amend title VII of the Tariff Act of 1930 to clarify that fundamental exchange-rate misalignment by any foreign nation is actionable under United States countervailing and antidumping duty laws, 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 Reform for*
5 *Fair Trade Act”.*

6 **SEC. 2. CLARIFICATION REGARDING DEFINITION OF**
7 **COUNTERAVAILABLE SUBSIDY.**

8 *(a) BENEFIT CONFERRED.—Section 771(5)(E) of the*
9 *Tariff Act of 1930 (19 U.S.C. 1677(5)(E)) is amended—*

10 *(1) in clause (iii), by striking “and” at the end;*

11 *(2) in clause (iv), by striking the period at the*
12 *end and inserting “, and”; and*

13 *(3) by inserting after clause (iv) the following*
14 *new clause:*

15 *“(v) in the case in which the currency*
16 *of a country in which the subject merchan-*
17 *dise is produced is exchanged for foreign*
18 *currency obtained from export transactions,*
19 *and the currency of such country is a fun-*
20 *damentally undervalued currency, as de-*
21 *finied in paragraph (37), the difference be-*
22 *tween the amount of the currency of such*
23 *country provided and the amount of the*
24 *currency of such country that would have*
25 *been provided if the real effective exchange*

1 rate of the currency of such country were
2 not undervalued, as determined pursuant to
3 paragraph (38).”.

4 (b) *EXPORT SUBSIDY*.—Section 771(5A)(B) of the
5 *Tariff Act of 1930 (19 U.S.C. 1677(5A)(B))* is amended by
6 adding at the end the following new sentence: “In the case
7 of a subsidy relating to a fundamentally undervalued cur-
8 rency, the fact that the subsidy may also be provided in
9 circumstances not involving export shall not, for that reason
10 alone, mean that the subsidy cannot be considered contin-
11 gent upon export performance.”.

12 (c) *DEFINITION OF FUNDAMENTALLY UNDERVALUED*
13 *CURRENCY*.—Section 771 of the *Tariff Act of 1930 (19*
14 *U.S.C. 1677)* is amended by adding at the end the following
15 new paragraph:

16 “(37) *FUNDAMENTALLY UNDERVALUED CUR-*
17 *RENCY*.—The administering authority shall determine
18 that the currency of a country in which the subject
19 merchandise is produced is a ‘fundamentally under-
20 valued currency’ if—

21 “(A) the government of the country (includ-
22 ing any public entity within the territory of the
23 country) engages in protracted, large-scale inter-
24 vention in one or more foreign exchange markets
25 during part or all of the 18-month period that

1 *represents the most recent 18 months for which*
2 *the information required under paragraph (38)*
3 *is reasonably available, but that does not include*
4 *any period of time later than the final month in*
5 *the period of investigation or the period of re-*
6 *view, as applicable;*

7 *“(B) the real effective exchange rate of the*
8 *currency is undervalued by at least 5 percent, on*
9 *average and as calculated under paragraph (38),*
10 *relative to the equilibrium real effective exchange*
11 *rate for the country’s currency during the 18-*
12 *month period;*

13 *“(C) during the 18-month period, the coun-*
14 *try has experienced significant and persistent*
15 *global current account surpluses; and*

16 *“(D) during the 18-month period, the for-*
17 *ign asset reserves held by the government of the*
18 *country exceed—*

19 *“(i) the amount necessary to repay all*
20 *debt obligations of the government falling*
21 *due within the coming 12 months;*

22 *“(ii) 20 percent of the country’s money*
23 *supply, using standard measures of M2;*
24 *and*

1 “(iii) the value of the country’s im-
2 ports during the previous 4 months.”.

3 (d) *DEFINITION OF REAL EFFECTIVE EXCHANGE*
4 *RATE UNDERVALUATION.*—Section 771 of the Tariff Act of
5 1930 (19 U.S.C. 1677), as amended by subsection (c) of this
6 section, is further amended by adding at the end the fol-
7 lowing new paragraph:

8 “(38) *REAL EFFECTIVE EXCHANGE RATE UNDER-*
9 *VALUATION.*—The calculation of real effective ex-
10 *change rate undervaluation, for purposes of para-*
11 *graph (5)(E)(v) and paragraph (37), shall—*

12 “(A)(i) rely upon, and where appropriate be
13 the simple average of, the results yielded from
14 application of the approaches described in the
15 guidelines of the International Monetary Fund’s
16 Consultative Group on Exchange Rate Issues; or

17 “(i) if the guidelines of the International
18 Monetary Fund’s Consultative Group on Ex-
19 change Rate Issues are not available, be based on
20 generally accepted economic and econometric
21 techniques and methodologies to measure the level
22 of undervaluation;

23 “(B) rely upon data that are publicly avail-
24 able, reliable, and compiled and maintained by
25 the International Monetary Fund or, if the

1 *International Monetary Fund cannot provide the*
2 *data, by other international organizations or by*
3 *national governments; and*

4 “(C) *use inflation-adjusted, trade-weighted*
5 *exchange rates.*”

6 **SEC. 3. REPORT ON IMPLEMENTATION OF ACT.**

7 (a) *IN GENERAL.*—*Not later than 9 months after the*
8 *date of the enactment of this Act, the Comptroller General*
9 *of the United States shall submit to Congress a report on*
10 *the implementation of the amendments made by this Act.*

11 (b) *MATTERS TO BE INCLUDED.*—*The report required*
12 *by subsection (a) shall include a description of the extent*
13 *to which United States industries that have been materially*
14 *injured by reason of imports of subject merchandise pro-*
15 *duced in foreign countries with fundamentally undervalued*
16 *currencies have received relief under title VII of the Tariff*
17 *Act of 1930 (19 U.S.C. 1671 et seq.), as amended by this*
18 *Act.*

Amend the title so as to read: “A bill to amend title VII of the Tariff Act of 1930 to clarify that countervailing duties may be imposed to address subsidies relating to a fundamentally undervalued currency of any foreign country.”

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