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2D SESSION

S. 3134

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

IN THE SENATE OF THE UNITED STATES

MARCH 17, 2010

Mr. SCHUMER (for himself, Ms. STABENOW, Mr. GRAHAM, Mr. BROWNBACK, Mr. BROWN of Ohio, Ms. SNOWE, Mr. FEINGOLD, Mr. SPECTER, Mr. CASEY, Mr. BAYH, Mr. LEVIN, Mr. CARDIN, Mrs. GILLIBRAND, Mr. WEBB, Mr. REED, Mrs. LINCOLN, and Ms. COLLINS) introduced the following bill; which was read twice and referred to the Committee on Finance

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 2010”.

1 **TITLE I—CURRENCY EXCHANGE**
2 **RATE OVERSIGHT REFORM**

3 **SEC. 101. DEFINITIONS.**

4 In this title:

5 (1) **ADMINISTERING AUTHORITY.**—The term
6 “administering authority” means the authority re-
7 ferred to in section 771(1) of the Tariff Act of 1930
8 (19 U.S.C. 1677(1)).

9 (2) **AGREEMENT ON GOVERNMENT PROCURE-**
10 **MENT.**—The term “Agreement on Government Pro-
11 curement” means the agreement referred to in sec-
12 tion 101(d)(17) of the Uruguay Round Agreements
13 Act (19 U.S.C. 3511(d)(17)).

14 (3) **COUNTRY.**—The term “country” means a
15 foreign country, dependent territory, or possession of
16 a foreign country, and may include an association of
17 2 or more foreign countries, dependent territories, or
18 possessions of countries into a customs union out-
19 side the United States.

20 (4) **EXPORTING COUNTRY.**—The term “export-
21 ing country” means the country in which the subject
22 merchandise is produced or manufactured.

23 (5) **FUNDAMENTAL MISALIGNMENT.**—The term
24 “fundamental misalignment” means a significant
25 and sustained undervaluation of the prevailing real

1 effective exchange rate, adjusted for cyclical and
2 transitory factors, from its medium-term equilibrium
3 level.

4 (6) FUNDAMENTALLY MISALIGNED CUR-
5 RENCY.—The term “fundamentally misaligned cur-
6 rency” means a foreign currency that is in funda-
7 mental misalignment.

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

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

14 (9) STERILIZATION.—The term “sterilization”
15 means domestic monetary operations taken to neu-
16 tralize the monetary impact of increases in reserves
17 associated with intervention in the currency ex-
18 change market.

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

24 (11) WTO AGREEMENT.—The term “WTO
25 Agreement” means the agreement referred to in sec-

1 tion 2(9) of the Uruguay Round Agreements Act (19
2 U.S.C. 3501(9)).

3 **SEC. 102. REPORT ON INTERNATIONAL MONETARY POLICY**
4 **AND CURRENCY EXCHANGE RATES.**

5 (a) REPORTS REQUIRED.—

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

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

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

1 (1) An analysis of currency market develop-
2 ments and the relationship between the United
3 States dollar and the currencies of major economies
4 and trading partners of the United States.

5 (2) A review of the economic and monetary
6 policies of major economies and trading partners of
7 the United States, and an evaluation of how such
8 policies impact currency exchange rates.

9 (3) A description of any currency intervention
10 by the United States or other major economies or
11 trading partners of the United States, or other ac-
12 tions undertaken to adjust the actual exchange rate
13 relative to the United States dollar.

14 (4) An evaluation of the domestic and global
15 factors that underlie the conditions in the currency
16 markets, including—

17 (A) monetary and financial conditions;

18 (B) accumulation of foreign assets;

19 (C) macroeconomic trends;

20 (D) trends in current and financial ac-
21 count balances;

22 (E) the size, composition, and growth of
23 international capital flows;

24 (F) the impact of the external sector on
25 economic growth;

1 (G) the size and growth of external indebt-
2 edness;

3 (H) trends in the net level of international
4 investment; and

5 (I) capital controls, trade, and exchange
6 restrictions.

7 (5) A list of currencies designated as fun-
8 damentally misaligned currencies pursuant to section
9 103(a)(2), and a description of any economic models
10 or methodologies used to establish the list.

11 (6) A list of currencies designated for priority
12 action pursuant to section 103(a)(3).

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

17 (8) A description of any consultations con-
18 ducted or other steps taken pursuant to section 104,
19 105, or 106, including any actions taken to elimi-
20 nate the fundamental misalignment.

21 (9) A description of any determination made
22 pursuant to section 108(a).

23 (c) CONSULTATIONS.—The Secretary shall consult
24 with the Chairman of the Board of Governors of the Fed-
25 eral Reserve System and the Advisory Committee on

1 International Exchange Rate Policy with respect to the
2 preparation of each report required under subsection (a).
3 Any comments provided by the Chairman of the Board
4 of Governors of the Federal Reserve System or the Advi-
5 sory Committee on International Exchange Rate Policy
6 shall be submitted to the Secretary not later than the date
7 that is 15 days before the date each report is due under
8 subsection (a). The Secretary shall submit the report to
9 Congress after taking into account all such comments re-
10 ceived.

11 **SEC. 103. IDENTIFICATION OF FUNDAMENTALLY MIS-**
12 **ALIGNED CURRENCIES.**

13 (a) IDENTIFICATION.—

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

17 (2) DESIGNATION OF FUNDAMENTALLY MIS-
18 ALIGNED CURRENCIES.—With respect to the cur-
19 rencies of countries that have significant bilateral
20 trade flows with the United States, and currencies
21 that are otherwise significant to the operation, sta-
22 bility, or orderly development of regional or global
23 capital markets, the Secretary shall determine
24 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
2 102.

3 **SEC. 104. NEGOTIATIONS AND CONSULTATIONS.**

4 (a) IN GENERAL.—Upon designation of a currency
5 pursuant to section 103(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
12 103(a)(3), the Secretary shall, in addition to seeking to
13 consult with a country pursuant to subsection (a)—

14 (1) seek the advice of the International Mone-
15 tary Fund with respect to the Secretary's findings in
16 the report submitted to Congress pursuant to section
17 102(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. 105. FAILURE TO ADOPT APPROPRIATE POLICIES.**

24 (a) IN GENERAL.—Not later than 90 days after the
25 date on which a currency is designated for priority action

1 pursuant to section 103(a)(3), the Secretary shall deter-
2 mine whether the country that issues such currency has
3 adopted appropriate policies, and taken identifiable action,
4 to eliminate the fundamental misalignment. The Secretary
5 shall promptly notify Congress of such determination and
6 publish notice of the determination in the Federal Reg-
7 ister. If the Secretary determines that the country that
8 issues such currency has failed to adopt appropriate poli-
9 cies, or take identifiable action, to eliminate the funda-
10 mental misalignment, the following shall apply with re-
11 spect to the country until a notification described in sec-
12 tion 106(b) is published in the Federal Register:

13 (1) ADJUSTMENT UNDER ANTIDUMPING LAW.—

14 For purposes of an antidumping investigation under
15 subtitle B of title VII of the Tariff Act of 1930 (19
16 U.S.C. 1673 et seq.), or a review under subtitle C
17 of such Act (19 U.S.C. 1675 et seq.), the following
18 shall apply:

19 (A) IN GENERAL.—The administering au-
20 thority shall ensure a fair comparison between
21 the export price and the normal value by ad-
22 justing the price used to establish export price
23 or constructed export price to reflect the funda-
24 mental misalignment of the currency of the ex-
25 porting country.

1 (B) SALES SUBJECT TO ADJUSTMENT.—

2 The adjustment described in subparagraph (A)
3 shall apply with respect to subject merchandise
4 sold on or after the date that is 30 days after
5 the date the currency of the exporting country
6 is designated for priority action pursuant to
7 section 103(a)(3).

8 (2) FEDERAL PROCUREMENT.—

9 (A) IN GENERAL.—The President shall
10 prohibit the procurement by the Federal Gov-
11 ernment of products or services from the coun-
12 try.

13 (B) EXCEPTION.—The prohibition pro-
14 vided for in subparagraph (A) shall not apply
15 with respect to a country that is a party to the
16 Agreement on Government Procurement.

17 (3) REQUEST FOR IMF ACTION.—The United
18 States shall inform the Managing Director of the
19 International Monetary Fund of the failure of the
20 country to adopt appropriate policies, or to take
21 identifiable action, to eliminate the fundamental mis-
22 alignment, and the actions the country is engaging
23 in that are identified in section 103(a)(3), and shall
24 request that the Managing Director of the Inter-
25 national Monetary Fund—

1 (A) consult with such country regarding
2 the observance of the country's obligations
3 under article IV of the International Monetary
4 Fund Articles of Agreement, including through
5 special consultations, if necessary; and

6 (B) formally report the results of such con-
7 sultations to the Executive Board of the Inter-
8 national Monetary Fund within 180 days of the
9 date of such request.

10 (4) OPIC FINANCING.—The Overseas Private
11 Investment Corporation shall not approve any new
12 financing (including insurance, reinsurance, or guar-
13 antee) with respect to a project located within the
14 country.

15 (5) MULTILATERAL BANK FINANCING.—The
16 Secretary shall instruct the United States Executive
17 Director at each multilateral bank to oppose the ap-
18 proval of any new financing (including loans, other
19 credits, insurance, reinsurance, or guarantee) to the
20 government of the country or for a project located
21 within the country.

22 (b) WAIVER.—

23 (1) IN GENERAL.—The President may waive
24 any action provided for under subsection (a) if the
25 President determines that—

1 (A) taking such action would cause serious
2 harm to the national security of the United
3 States; or

4 (B) it is in the vital economic interest of
5 the United States to do so and taking such ac-
6 tion would have an adverse impact on the
7 United States economy greater than the bene-
8 fits of such action.

9 (2) NOTIFICATION.—The President shall
10 promptly notify Congress of a determination under
11 paragraph (1) (and the reasons for the determina-
12 tion, if made under paragraph (1)(B)) and shall
13 publish notice of the determination (and the reasons
14 for the determination, if made under paragraph
15 (1)(B)) in the Federal Register.

16 (c) REPORTS.—The Secretary shall describe any ac-
17 tion or determination pursuant to subsection (a) or (b)
18 in the first semiannual report required by section 102
19 after the date of such action or determination.

20 **SEC. 106. PERSISTENT FAILURE TO ADOPT APPROPRIATE**
21 **POLICIES.**

22 (a) PERSISTENT FAILURE TO ADOPT APPROPRIATE
23 POLICIES.—Not later than 360 days after the date on
24 which a currency is designated for priority action pursuant
25 to section 103(a)(3), the Secretary shall determine wheth-

1 er the country that issues such currency has adopted ap-
2 propriate policies, and taken identifiable action, to elimi-
3 nate the fundamental misalignment. The Secretary shall
4 promptly notify Congress of such determination and shall
5 publish notice of the determination in the Federal Reg-
6 ister. If the Secretary determines that the country that
7 issues such currency has failed to adopt appropriate poli-
8 cies, or take identifiable action, to eliminate the funda-
9 mental misalignment, in addition to the actions described
10 in section 105(a), the following shall apply with respect
11 to the country until a notification described in subsection
12 (b) is published in the Federal Register:

13 (1) ACTION AT THE WTO.—The United States
14 Trade Representative shall request consultations in
15 the World Trade Organization with the country re-
16 garding the consistency of the country’s actions with
17 its obligations under the WTO Agreement.

18 (2) REMEDIAL INTERVENTION.—

19 (A) IN GENERAL.—The Secretary shall
20 consult with the Board of Governors of the
21 Federal Reserve System to consider under-
22 taking remedial intervention in international
23 currency markets in response to the funda-
24 mental misalignment of the currency designated
25 for priority action, and coordinating such inter-

1 vention with other monetary authorities and the
2 International Monetary Fund. In doing so, the
3 Secretary shall consider the impact of such
4 intervention on domestic economic growth and
5 stability, including the impact on interest rates.

6 (B) NOTICE TO COUNTRY.—At the same
7 time the Secretary takes action under subpara-
8 graph (A), the Secretary shall notify the coun-
9 try that issues such currency of the consulta-
10 tions under subparagraph (A).

11 (b) NOTIFICATION.—The Secretary shall promptly
12 notify Congress when a country that issues a currency des-
13 ignated for priority action pursuant to section 103(a)(3)
14 adopts appropriate policies, or takes identifiable action, to
15 eliminate the fundamental misalignment, and publish no-
16 tice of the action of that country in the Federal Register.

17 (c) WAIVER.—

18 (1) IN GENERAL.—The President may waive
19 any action provided for under this section, or extend
20 any waiver provided for under section 105(b), if the
21 President determines that—

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

1 (B) it is in the vital economic interest of
2 the United States to do so, and that taking
3 such action would have an adverse impact on
4 the United States economy substantially out of
5 proportion to the benefits of such action.

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

13 (d) DISAPPROVAL OF WAIVER.—If the President
14 waives an action pursuant to subsection (c)(1)(B), or ex-
15 tends a waiver provided for under section 105(b)(1)(B),
16 the waiver shall cease to have effect upon the enactment
17 of a joint resolution described in section 107(a)(2).

18 (e) REPORTS.—The Secretary shall describe any ac-
19 tion or determination pursuant to subsection (a), (b), or
20 (c) in the first semiannual report required by section 102
21 after the date of such action or determination.

22 **SEC. 107. CONGRESSIONAL DISAPPROVAL OF WAIVER.**

23 (a) RESOLUTION OF DISAPPROVAL.—

24 (1) INTRODUCTION.—If a resolution of dis-
25 approval is introduced in the House of Representa-

1 tives or the Senate during the 90-day period (not
2 counting any day which is excluded under section
3 154(b)(1) of the Trade Act of 1974 (19 U.S.C.
4 2194(b)(1))), beginning on the date on which the
5 President first notifies Congress of a determination
6 to waive action with respect to a country pursuant
7 to section 106(c)(1)(B), that resolution of dis-
8 approval shall be considered in accordance with this
9 subsection.

10 (2) RESOLUTION OF DISAPPROVAL.—In this
11 subsection, the term “resolution of disapproval”
12 means only a joint resolution of the two Houses of
13 the Congress, the sole matter after the resolving
14 clause of which is as follows: “That Congress does
15 not approve the determination of the President
16 under section 106(c)(1)(B) of the Currency Ex-
17 change Rate Oversight Reform Act of 2010 with re-
18 spect to _____, of which Congress was noti-
19 fied on _____.”, with the first blank space
20 being filled with the name of the appropriate country
21 and the second blank space being filled with the ap-
22 propriate 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;

6 (II) shall be referred to the Com-
7 mittee on Financial Services and, in
8 addition, to the Committee on Rules;
9 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 such subsection (f)) (19 U.S.C. 2192(c)
24 through (f)) (relating to committee discharge
25 and floor consideration of certain resolutions in

1 the House and Senate) apply to a joint resolu-
2 tion of disapproval under this section to the
3 same extent as such subsections apply to joint
4 resolutions 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 such 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. 108. INTERNATIONAL FINANCIAL INSTITUTION GOV-**
21 **ERNANCE ARRANGEMENTS.**

22 (a) INITIAL REVIEW.—Notwithstanding any other
23 provision of law, before the United States approves a pro-
24 posed change in the governance arrangement of any inter-
25 national financial institution, as defined in section

1 1701(c)(2) of the International Financial Institutions Act
2 (22 U.S.C. 262r(c)(2)), the Secretary shall determine
3 whether any member of the international financial institu-
4 tion that would benefit from the proposed change, in the
5 form of increased voting shares or representation, has a
6 currency that was designated a currency for priority action
7 pursuant to section 103(a)(3) in the most recent report
8 required by section 102. The determination shall be re-
9 ported to Congress.

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

15 (c) FURTHER ACTION.—The United States shall con-
16 tinue to oppose any proposed change in the governance
17 arrangement of the international financial institution, pur-
18 suant to subsection (b), until the Secretary determines
19 and reports to Congress that the proposed change would
20 not benefit any member of the international financial insti-
21 tution, in the form of increased voting shares or represen-
22 tation, that has a currency that is designated a currency
23 for priority action pursuant to section 103(a)(3).

1 **SEC. 109. ADJUSTMENT FOR FUNDAMENTALLY MIS-**
2 **ALIGNED CURRENCY DESIGNATED FOR PRI-**
3 **ORITY ACTION.**

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

7 (1) by striking “and” at the end of subpara-
8 graph (A);

9 (2) by striking the period at the end of sub-
10 paragraph (B) and inserting “; and”; and

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

12 “(C) if required by section 105(a)(1) of the
13 Currency Exchange Rate Oversight Reform Act
14 of 2010, the percentage by which the domestic
15 currency of the producer or exporter is under-
16 valued in relation to the United States dollar as
17 determined under section 771(37).”.

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

21 “(37) PERCENTAGE UNDERVALUATION.—The
22 administering authority shall determine the percent-
23 age by which the domestic currency of the producer
24 or exporter is undervalued in relation to the United
25 States dollar by comparing the nominal value associ-
26 ated with the medium-term equilibrium exchange

1 rate of the domestic currency of the producer or ex-
 2 porter, identified by the Secretary pursuant to sec-
 3 tion 102(b)(7) of the Currency Exchange Rate Over-
 4 sight Reform Act of 2010, to the official daily ex-
 5 change rate identified by the administering author-
 6 ity.”.

7 **SEC. 110. CURRENCY UNDERVALUATION UNDER COUNTER-**
 8 **VAILING DUTY LAW.**

9 (a) INVESTIGATION OR REVIEW.—Subsection (c) of
 10 section 702 of the Tariff Act of 1930 (19 U.S.C.
 11 1671a(c)) is amended by adding at the end the following:

12 “(6) CURRENCY UNDERVALUATION.—For pur-
 13 poses of a countervailing duty investigation under
 14 this subtitle, or a review under subtitle C of this
 15 title, the following shall apply:

16 “(A) IN GENERAL.—The administering au-
 17 thority shall initiate an investigation to deter-
 18 mine whether currency undervaluation by the
 19 government of a country or any public entity
 20 within the territory of a country is providing,
 21 directly or indirectly, a countervailable subsidy
 22 as described in section 771(5), if—

23 “(i) a petition filed by an interested
 24 party (described in subparagraph (C), (D),
 25 (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) DESIGNATION OF FUNDAMENTALLY
7 MISALIGNED CURRENCY FOR PRIORITY AC-
8 TION.—Upon designation of a currency as a
9 fundamentally misaligned currency for priority
10 action pursuant to section 103(a)(3) of the
11 Currency Exchange Rate Oversight Reform Act
12 of 2010, the administering authority shall ini-
13 tiate an investigation to determine whether the
14 country that issues such currency is providing,
15 directly or indirectly, a countervailable subsidy
16 as defined in section 771(5), if—

17 “(i) a petition filed by an interested
18 party (described in subparagraph (C), (D),
19 (E), (F), or (G) of section 771(9)) alleges
20 the elements necessary for the imposition
21 of the duty imposed by section 701(a); and

22 “(ii) the petition is accompanied by
23 information reasonably available to the pe-
24 titioner supporting those allegations.”.

1 (b) BENEFIT CALCULATION METHODOLOGY.—Sec-
2 tion 771 of the Tariff Act of 1930 (19 U.S.C. 1677), as
3 amended by section 109(b), is amended by adding at the
4 end the following:

5 “(38) CURRENCY UNDERVALUATION BEN-
6 EFIT.—For purposes of a countervailing duty inves-
7 tigation under subtitle A of this title, or a review
8 under subtitle C of this title, the following shall
9 apply:

10 “(A) IN GENERAL.—If the administering
11 authority determines to investigate whether cur-
12 rency undervaluation is a countervailable sub-
13 sidy as defined in section 771(5), the admin-
14 istering authority shall determine whether there
15 is a benefit to the recipient and measure such
16 benefit as the simple average of the results
17 yielded from application of the macroeconomic-
18 balance approach and the equilibrium-real-ex-
19 change-rate approach. The administering au-
20 thority shall rely upon data that are publicly
21 available, reliable, and compiled and maintained
22 by the International Monetary Fund or the
23 World Bank, or other international organiza-
24 tions or national governments if International

1 Monetary Fund or World Bank data is not
2 available.

3 “(B) DESIGNATION OF FUNDAMENTALLY
4 MISALIGNED CURRENCY FOR PRIORITY AC-
5 TION.—In the case of designation of a currency
6 as a fundamentally misaligned currency for pri-
7 ority action pursuant to section 103(a)(3) of
8 the Currency Exchange Rate Oversight Reform
9 Act of 2010, the administering authority shall
10 determine whether there is a benefit to the re-
11 cipient and measure such benefit by comparing
12 the nominal value associated with the medium-
13 term equilibrium exchange rate of the currency
14 of the exporting country, identified by the Sec-
15 retary pursuant to section 102(b)(7) of such
16 Act, to the official daily exchange rate identified
17 by the administering authority.

18 “(C) DEFINITIONS.—

19 “(i) MACROECONOMIC-BALANCE AP-
20 PROACH.—The term ‘macroeconomic-bal-
21 ance approach’ means a methodology
22 under which the level of undervaluation of
23 the real effective exchange rate of the ex-
24 porting country’s currency is defined as
25 the change in the real effective exchange

1 rate needed to achieve equilibrium in the
2 exporting country's balance of payments,
3 as such methodology is described in the
4 guidelines of the International Monetary
5 Fund's Consultative Group on Exchange
6 Rate Issues, if available.

7 “(ii) EQUILIBRIUM-REAL-EXCHANGE-
8 RATE APPROACH.—The term ‘equilibrium-
9 real-exchange-rate approach’ means a
10 methodology under which the level of
11 undervaluation of the real effective ex-
12 change rate of the exporting country's cur-
13 rency is defined as the difference between
14 the observed real effective exchange rate
15 and the real effective exchange rate pre-
16 dicted by an econometric model, as such
17 methodology is described in the guidelines
18 of the International Monetary Fund's Con-
19 sultative Group on Exchange Rate Issues,
20 if available.”.

21 **SEC. 111. NONMARKET ECONOMY STATUS.**

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

24 (1) by striking “and” at the end of clause (v);

25 and

1 (2) by redesignating clause (vi) as clause (vii)
2 and inserting after clause (v) the following:

3 “(vi) whether the currency of the for-
4 foreign country is designated, or has been
5 designated at any time over the 5 years
6 prior to review of nonmarket economy sta-
7 tus, a currency for priority action pursuant
8 to section 103(a)(3) of the Currency Ex-
9 change Rate Oversight Reform Act of
10 2010, and”.

11 **SEC. 112. APPLICATION TO CANADA AND MEXICO.**

12 Pursuant to article 1902 of the North American Free
13 Trade Agreement and section 408 of the North American
14 Free Trade Agreement Implementation Act (19 U.S.C.
15 3438), section 105(a)(1) and the amendments made by
16 sections 109, 110, and 111 shall apply with respect to
17 goods from Canada and Mexico.

18 **SEC. 113. ADVISORY COMMITTEE ON INTERNATIONAL EX-**

19 **CHANGE RATE POLICY.**

20 (a) ESTABLISHMENT.—

21 (1) IN GENERAL.—There is established an Ad-
22 visory Committee on International Exchange Rate
23 Policy (in this section referred to as the “Com-
24 mittee”). The Committee shall be responsible for—

1 (A) advising the Secretary in the prepara-
2 tion of each report to Congress on international
3 monetary policy and currency exchange rates,
4 provided for in section 102; and

5 (B) advising Congress and the President
6 with respect to—

7 (i) international exchange rates and
8 financial policies; and

9 (ii) the impact of such policies on the
10 economy of the United States.

11 (2) MEMBERSHIP.—

12 (A) IN GENERAL.—The Committee shall be
13 composed of 9 members as follows, none of
14 whom shall be from the Federal Government:

15 (i) CONGRESSIONAL APPOINTEES.—

16 (I) SENATE APPOINTEES.—Four
17 persons shall be appointed by the
18 President pro tempore of the Senate,
19 upon the recommendation of the
20 chairmen and ranking members of the
21 Committee on Banking, Housing, and
22 Urban Affairs and the Committee on
23 Finance of the Senate.

24 (II) HOUSE APPOINTEES.—Four
25 persons shall be appointed by the

1 Speaker of the House of Representa-
2 tives upon the recommendation of the
3 chairmen and ranking members of the
4 Committee on Financial Services and
5 the Committee on Ways and Means of
6 the House of Representatives.

7 (ii) PRESIDENTIAL APPOINTEE.—One
8 person shall be appointed by the President.

9 (B) QUALIFICATIONS.—Persons shall be
10 selected under subparagraph (A) on the basis of
11 their objectivity and demonstrated expertise in
12 finance, economics, or currency exchange.

13 (3) TERMS.—Members shall be appointed for a
14 term of 4 years or until the Committee terminates.
15 An individual may be reappointed to the Committee
16 for additional terms.

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

20 (b) DURATION OF COMMITTEE.—Notwithstanding
21 section 14(c) of the Federal Advisory Committee Act (5
22 U.S.C. App.), the Committee shall terminate on the date
23 that is 4 years after the date of the enactment of this
24 Act unless renewed by the President pursuant to section
25 14 of the Federal Advisory Committee Act (5 U.S.C.

1 App.) for a subsequent 4-year period. The President may
2 continue to renew the Committee for successive 4-year pe-
3 riods by taking appropriate action prior to the date on
4 which the Committee would otherwise terminate.

5 (c) PUBLIC MEETINGS.—The Committee shall hold
6 at least 2 public meetings each year for the purpose of
7 accepting public comments, including comments from
8 small business owners. The Committee shall also meet as
9 needed at the call of the Secretary or at the call of two-
10 thirds of the members of the Committee.

11 (d) CHAIRPERSON.—The Committee shall elect from
12 among its members a chairperson for a term of 4 years
13 or until the Committee terminates. A chairperson of the
14 Committee may be reelected chairperson but is ineligible
15 to serve consecutive terms as chairperson.

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

20 (f) APPLICATION OF FEDERAL ADVISORY COM-
21 MITTEE ACT.—

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

1 (2) EXCEPTION.—Except for the 2 annual pub-
2 lic meetings required under subsection (c), meetings
3 of the Committee shall be exempt from the require-
4 ments of subsections (a) and (b) of sections 10 and
5 11 of the Federal Advisory Committee Act (relating
6 to open meetings, public notice, public participation,
7 and public availability of documents), whenever and
8 to the extent it is determined by the President or the
9 Secretary that such meetings will be concerned with
10 matters the disclosure of which would seriously com-
11 promise the development by the United States Gov-
12 ernment of monetary and financial policy.

13 **SEC. 114. REPEAL OF THE EXCHANGE RATES AND INTER-**
14 **NATIONAL ECONOMIC POLICY COORDINA-**
15 **TION ACT OF 1988.**

16 The Exchange Rates and International Economic
17 Policy Coordination Act of 1988 (22 U.S.C. 5301 et seq.)
18 is repealed.

1 **TITLE II—PERMANENT EXTEN-**
2 **SION OF CERTAIN CHARI-**
3 **TABLE PROVISIONS**

4 **SEC. 201. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RE-**
5 **TIREMENT PLANS FOR CHARITABLE PUR-**
6 **POSES.**

7 (a) IN GENERAL.—Section 408(d)(8) of the Internal
8 Revenue Code of 1986 is amended by striking subpara-
9 graph (F).

10 (b) EFFECTIVE DATE.—The amendment made by
11 this section shall apply to distributions made in taxable
12 years beginning after December 31, 2009.

13 **SEC. 202. ENHANCED CHARITABLE DEDUCTION FOR CON-**
14 **TRIBUTIONS OF FOOD INVENTORY.**

15 (a) IN GENERAL.—Section 170(e)(3)(C) of the Inter-
16 nal Revenue Code of 1986 is amended by striking clause
17 (iv).

18 (b) EFFECTIVE DATE.—The amendment made by
19 this section shall apply to contributions made after De-
20 cember 31, 2009.

1 **SEC. 203. ENHANCED CHARITABLE DEDUCTION FOR CON-**
2 **TRIBUTIONS OF BOOK INVENTORIES TO PUB-**
3 **LIC SCHOOLS.**

4 (a) **IN GENERAL.**—Section 170(e)(3)(D) of the Inter-
5 nal Revenue Code of 1986 is amended by striking clause
6 (iv).

7 (b) **EFFECTIVE DATE.**—The amendment made by
8 this section shall apply to contributions made after De-
9 cember 31, 2009.

10 **SEC. 204. ENHANCED CHARITABLE DEDUCTION FOR COR-**
11 **PORATE CONTRIBUTIONS OF COMPUTER IN-**
12 **VENTORY FOR EDUCATIONAL PURPOSES.**

13 (a) **IN GENERAL.**—Section 170(e)(6) of the Internal
14 Revenue Code of 1986 is amended by striking subpara-
15 graph (G).

16 (b) **EFFECTIVE DATE.**—The amendment made by
17 this section shall apply to contributions made in taxable
18 years beginning after December 31, 2009.

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