

114TH CONGRESS
1ST SESSION

S. 433

To establish a benefit calculation methodology with respect to currency undervaluation for purposes of countervailing duty investigations and reviews, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 10, 2015

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

A BILL

To establish a benefit calculation methodology with respect to currency undervaluation for purposes of countervailing duty investigations and reviews, 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 Undervalu-
5 ation Investigation Act”.

1 **SEC. 2. INVESTIGATION OR REVIEW OF CURRENCY UNDER-**
2 **VALUATION UNDER COUNTERVAILING DUTY**
3 **LAW.**

4 Subsection (c) of section 702 of the Tariff Act of
5 1930 (19 U.S.C. 1671a(c)) is amended by adding at the
6 end the following:

7 “(6) CURRENCY UNDERVALUATION.—For pur-
8 poses of a countervailing duty investigation under
9 this subtitle in which the determinations under
10 clauses (i) and (ii) of paragraph (1)(A) are affirma-
11 tive, or a review under subtitle C with respect to a
12 countervailing duty order, the administering author-
13 ity shall initiate an investigation to determine wheth-
14 er currency undervaluation by the government of a
15 country or any public entity within the territory of
16 a country is providing, directly or indirectly, a
17 countervailable subsidy, if—

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

23 “(B) the petition is accompanied by infor-
24 mation reasonably available to the petitioner
25 supporting those allegations.”.

1 **SEC. 3. BENEFIT CALCULATION METHODOLOGY WITH RE-**
2 **SPECT TO CURRENCY UNDERVALUATION.**

3 Section 771 of the Tariff Act of 1930 (19 U.S.C.
4 1677) is amended by adding at the end the following:

5 “(37) CURRENCY UNDERVALUATION BEN-
6 EFIT.—

7 “(A) CURRENCY UNDERVALUATION BEN-
8 EFIT.—For purposes of a countervailing duty
9 investigation under subtitle A, or a review
10 under subtitle C with respect to a counter-
11 vailing duty order, the following shall apply:

12 “(i) IN GENERAL.—If the admin-
13 istering authority determines to investigate
14 whether currency undervaluation provides
15 a countervailable subsidy, the admin-
16 istering authority shall determine whether
17 there is a benefit to the recipient of that
18 subsidy and measure such benefit by com-
19 paring the simple average of the real ex-
20 change rates derived from application of
21 the macroeconomic-balance approach and
22 the equilibrium-real-exchange-rate ap-
23 proach to the official daily exchange rate
24 identified by the administering authority.

25 “(ii) RELIANCE ON DATA.—In making
26 the determination under clause (i), the ad-

1 ministering authority shall rely upon data
2 that are publicly available, reliable, and
3 compiled and maintained by the Inter-
4 national Monetary Fund or the World
5 Bank, or other international organizations
6 or national governments if data from the
7 International Monetary Fund or World
8 Bank are not available.

9 “(B) DEFINITIONS.—In this paragraph:

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

23 “(ii) EQUILIBRIUM-REAL-EXCHANGE-
24 RATE APPROACH.—The term ‘equilibrium-
25 real-exchange-rate approach’ means a

1 methodology under which the level of
2 undervaluation of the real effective ex-
3 change rate of the currency of the export-
4 ing country is defined as the difference be-
5 tween the observed real effective exchange
6 rate and the real effective exchange rate,
7 as such methodology is described in the
8 guidelines of the International Monetary
9 Fund’s Consultative Group on Exchange
10 Rate Issues, if available.

11 “(iii) REAL EXCHANGE RATES.—The
12 term ‘real exchange rates’ means the bilat-
13 eral exchange rates derived from con-
14 verting the trade-weighted multilateral ex-
15 change rates yielded by the macro-
16 economic-balance approach and the equi-
17 librium-real-exchange-rate approach into
18 real bilateral terms.”.

19 **SEC. 4. MODIFICATION OF DEFINITION OF SPECIFICITY**
20 **WITH RESPECT TO EXPORT SUBSIDY.**

21 Section 771(5A)(B) of the Tariff Act of 1930 (19
22 U.S.C. 1677(5A)(B)) is amended by adding at the end
23 the following new sentence: “The fact that a subsidy may
24 also be provided in circumstances that do not involve ex-
25 port shall not, for that reason alone, mean that the sub-

1 sity cannot be considered contingent upon export perform-
2 ance.”.

3 **SEC. 5. APPLICATION TO CANADA AND MEXICO.**

4 Pursuant to article 1902 of the North American Free
5 Trade Agreement and section 408 of the North American
6 Free Trade Agreement Implementation Act (19 U.S.C.
7 3438), the amendments made by this Act shall apply with
8 respect to goods from Canada and Mexico.

9 **SEC. 6. EFFECTIVE DATE.**

10 The amendments made by this Act apply to counter-
11 vailing duty investigations initiated under subtitle A of
12 title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et
13 seq.) and reviews initiated under subtitle C of title VII
14 of such Act (19 U.S.C. 1675 et seq.)—

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

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

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