

110TH CONGRESS
1ST SESSION

S. 796

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.

IN THE SENATE OF THE UNITED STATES

MARCH 7, 2007

Mr. BUNNING (for himself, Ms. STABENOW, Mr. BAYH, Ms. SNOWE, and Mr. LEVIN) introduced the following bill; which was read twice and referred to the Committee on Finance

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”.

1 **TITLE I—SUBSIDIES AND PROD-**
2 **UCT-SPECIFIC SAFEGUARD**
3 **MECHANISM**

4 **SEC. 101. FINDINGS.**

5 Congress makes the following findings:

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

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

16 (3) The International Monetary Fund, the G-
17 8, and other international organizations have repeat-
18 edly noted that exchange-rate misalignment can
19 cause imbalances in the international trading system
20 that could ultimately undercut the stability of the
21 system, but have taken no action to redress such
22 misalignments and imbalances.

23 (4) Since 1994, the People's Republic of China
24 and other countries have repeatedly intervened in
25 currency markets and taken measures that have sig-

1 significantly misaligned the values of their currencies
2 against the United States dollar and other cur-
3 rencies.

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

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

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

21 (8)(A) As members of both the World Trade
22 Organization and the International Monetary Fund,
23 the People's Republic of China and other countries
24 have assumed a series of international legal obliga-
25 tions to eliminate all subsidies for exports and to fa-

1 facilitate international trade by fostering a monetary
 2 system that does not tend to produce erratic disrup-
 3 tions, that does not prevent effective balance-of-pay-
 4 ments adjustment, and that does not gain unfair
 5 competitive advantage.

6 (B) These obligations are most prominently set
 7 forth in—

8 (i) Articles VI, XV, and XVI of the GATT
 9 1994 (as defined in section 2(1)(B) of the Uru-
 10 guay Round Agreements Act (19 U.S.C.
 11 3501(1)(B));

12 (ii) the Agreement on Subsidies and Coun-
 13 tervailing Measures (as described in section
 14 101(d)(12) of the Uruguay Round Agreements
 15 Act (19 U.S.C. 3511(d)(12)); and

16 (iii) Articles IV and VIII of the Inter-
 17 national Monetary Fund's Articles of Agree-
 18 ment.

19 (9) Under the foregoing circumstances, it is
 20 consistent with the international legal obligations of
 21 the People's Republic of China and similarly situ-
 22 ated countries and with the corresponding inter-
 23 national legal rights of the United States to amend
 24 relevant United States trade laws to make explicit

1 that exchange-rate misalignment by any country is
2 actionable as a countervailable export subsidy.

3 **SEC. 102. APPLICATION OF COUNTERVAILING DUTIES TO**
4 **NONMARKET ECONOMY COUNTRIES.**

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

9 (b) USE OF ALTERNATE METHODOLOGIES.—Section
10 771(5)(E) of the Tariff Act of 1930 (19 U.S.C.
11 1677(5)(E)) is amended by adding at the end the fol-
12 lowing: “With respect to a nonmarket economy country,
13 for purposes of identifying and measuring a subsidy ben-
14 efit described in clause (i), (ii), (iii), or (iv), or otherwise
15 conferred upon a recipient, the administering authority
16 shall use methodologies that take into account the possi-
17 bility that prevailing terms and conditions in that country
18 might not be available or might themselves be inappro-
19 priate benchmarks due to market distortions. In such cir-
20 cumstances, unless it is demonstrated that the nonmarket
21 economy country’s prevailing terms and conditions prac-
22 tically can be adjusted to serve as appropriate bench-
23 marks, the administering authority shall use as bench-
24 marks appropriate terms and conditions prevailing outside
25 the nonmarket economy country. When the party in pos-

1 session of the information necessary to identify and meas-
2 ure the benefit of a subsidy does not timely and completely
3 submit that information for the record, the administering
4 authority shall use for that purpose the facts otherwise
5 available and shall, as warranted, draw adverse infer-
6 ences.”.

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

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

19 (e) ANTIDUMPING PROVISIONS NOT AFFECTED.—
20 The amendments made by subsections (a), (b), and (c)
21 shall not affect the status of a country as a nonmarket
22 economy country for the purposes of any matter relating
23 to antidumping duties under the Tariff Act of 1930.

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

5 (a) AMENDMENTS TO DEFINITION OF
 6 COUNTERAVAILABLE SUBSIDY.—

7 (1) FINANCIAL CONTRIBUTION.—Section
 8 771(5)(D) of the Tariff Act of 1930 (19 U.S.C.
 9 1677(5)(D)) is amended—

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

12 (B) by striking “The term” and inserting
 13 “(i) The term”; and

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

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

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

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

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

1 (C) by inserting after clause (iv) the fol-
 2 lowing new clause:

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

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

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

18 “(5C) EXCHANGE-RATE MISALIGNMENT.—

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

1 observed exchange rate for a foreign currency is
 2 below the exchange rate that could reasonably
 3 be expected for that foreign currency absent the
 4 intervention.

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

9 “(i) shall consider the exporting coun-
 10 try’s—

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

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

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

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

22 “(V) mechanisms employed to
 23 maintain its currency at an under-
 24 valued exchange rate relative to an-
 25 other currency and, particularly, the

1 nature, duration, and monetary ex-
 2 penditures of those mechanisms;

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

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

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

23 “(D) TYPE OF ECONOMY.—An authority
 24 found to be engaged in exchange-rate misalign-

1 ment may have either a market economy or a
2 nonmarket economy or a combination thereof.”.

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

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

14 (a) MARKET DISRUPTION.—

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

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

21 “(4)(A) For purposes of this section, the term
22 ‘exchange-rate misalignment’ means an undervalu-
23 ation of the renminbi as a result of protracted large-
24 scale intervention by or at the direction of the Gov-
25 ernment of the People’s Republic of China in the ex-

1 change market. Such undervaluation shall be found
2 when the observed exchange rate for the renminbi is
3 below the exchange rate that could reasonably be ex-
4 pected for the renminbi absent the intervention.

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

8 “(i) shall consider the People’s Republic of
9 China’s—

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

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

15 “(III) foreign-direct investment in its
16 territory;

17 “(IV) currency-specific and aggregate
18 amounts of foreign currency reserves; and

19 “(V) mechanisms employed to main-
20 tain its currency at an undervalued ex-
21 change rate relative to another currency
22 and, particularly, the nature, duration, and
23 monetary expenditures of those mecha-
24 nisms;

1 “(ii) may consider such other economic
2 factors as are relevant; and

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

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

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

22 “If the petition alleges and reasonably documents that ex-
23 change-rate misalignment is occurring, such exchange-rate
24 misalignment shall be considered as a factor weighing in

1 favor of affirmative findings in subparagraphs (A) and
2 (B).”.

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

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

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

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

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

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

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

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

21 (a) COPY OF PETITION, REQUEST, OR RESOLUTION
 22 TO BE TRANSMITTED TO THE SECRETARY OF DE-
 23 FENSE.—Section 421(b)(4) of the Trade Act of 1974 (19
 24 U.S.C. 2451(b)(4)) is amended by inserting “, the Sec-
 25 retary of Defense” after “, the Trade Representative”.

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

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

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

18 (1) PROHIBITION.—If the United States Inter-
19 national Trade Commission makes an affirmative
20 determination under section 421(b) of the Trade Act
21 of 1974 (19 U.S.C. 2451(b)), or a determination
22 which the President or the United States Trade
23 Representative may consider as affirmative under
24 section 421(e) of such Act (19 U.S.C. 2451(e)), with
25 respect to articles of the People’s Republic of China

1 that the Secretary of Defense has determined are
 2 like or directly competitive with articles produced by
 3 a domestic industry that are critical to the defense
 4 industrial base of the United States, the Secretary
 5 of Defense may not procure, directly or indirectly,
 6 such articles of the People's Republic of China.

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

13 **SEC. 106. APPLICATION TO GOODS FROM CANADA AND**
 14 **MEXICO.**

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

21 **TITLE II—INTERNATIONAL MON-**
 22 **ETARY AND FINANCIAL POL-**
 23 **ICY**

24 **SEC. 201. FINDINGS.**

25 Congress makes the following findings:

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

12 (2) Exchange rates among major trading na-
13 tions are occasionally manipulated or fundamentally
14 misaligned due to direct or indirect governmental
15 intervention in the exchange market.

16 (3) A major focus of national economic policy
17 should be a market-driven exchange rate for the
18 United States dollar at a level consistent with a sus-
19 tainable balance in the United States current ac-
20 count.

21 (4) While some degree of surpluses and deficits
22 in payments balances may be expected, particularly
23 in response to increasing economic globalization,
24 large and growing imbalances raise concerns of pos-
25 sible disruption to financial markets. In part, such

1 imbalances often reflect exchange rate policies that
2 foster fundamental misalignment of currencies.

3 (5) Currencies in fundamental misalignment
4 can seriously impair the ability of international mar-
5 kets to adjust appropriately to global capital and
6 trade flows, distorting trade flows and causing eco-
7 nomic harm to the United States.

8 (6) The effects of a fundamentally misaligned
9 currency may be so harmful that it is essential to
10 correct the fundamental misalignment without re-
11 gard to the purpose of any policy that contributed
12 to the misalignment.

13 (7) In the interests of facilitating the exchange
14 of goods, services, and capital among countries, sus-
15 taining sound economic growth, and fostering finan-
16 cial and economic stability, Article IV of the Inter-
17 national Monetary Fund's Articles of Agreement ob-
18 ligates each member of the International Monetary
19 Fund to avoid manipulating exchange rates in order
20 to prevent effective balance of payments adjustments
21 or to gain an unfair competitive advantage over
22 other members.

23 (8) The failure of a government to acknowledge
24 a fundamental misalignment of its currency or to
25 take timely and effective steps to correct such a fun-

1 damental misalignment, either through inaction or
 2 mere token action, is a form of exchange rate ma-
 3 nipulation and is inconsistent with that govern-
 4 ment's obligations under Article IV of the Inter-
 5 national Monetary Fund's Articles of Agreement.

6 **SEC. 202. AMENDMENTS TO DEFINITIONS.**

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

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

19 “(4) EFFECTIVE EXCHANGE RATE.—The term
 20 ‘effective exchange rate’ means a weighted average
 21 of bilateral exchange rates, expressed in either nomi-
 22 nal or real terms.

23 “(5) GENERALLY ACCEPTED ECONOMIC RA-
 24 TIONALE.—The term ‘generally accepted economic
 25 rationale’ means an explanation drawn on widely

1 recognized macroeconomic theory for which there is
 2 a significant degree of empirical support.”.

3 **SEC. 203. BILATERAL NEGOTIATIONS.**

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

7 “(b) BILATERAL NEGOTIATIONS.—

8 “(1) IN GENERAL.—The Secretary of the
 9 Treasury shall analyze on an annual basis the ex-
 10 change rate policies of foreign countries, in consulta-
 11 tion with the International Monetary Fund, and con-
 12 sider whether countries—

13 “(A) manipulate the rate of exchange be-
 14 tween their currency and the United States dol-
 15 lar for purposes of preventing effective balance
 16 of payments adjustments or gaining unfair com-
 17 petitive advantage in international trade; or

18 “(B) have a currency that is in funda-
 19 mental misalignment.

20 “(2) AFFIRMATIVE DETERMINATION.—If the
 21 Secretary considers that such manipulation or fun-
 22 damental misalignment is occurring with respect to
 23 countries that—

24 “(A) have material global current account
 25 surpluses; or

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

12 “(3) EXCEPTION.—The Secretary shall not be
13 required to initiate negotiations if the Secretary de-
14 termines that such negotiations would have a serious
15 detrimental impact on vital national economic and
16 security interests. The Secretary shall inform the
17 chairman and the ranking minority member of the
18 Committee on Banking, Housing, and Urban Affairs
19 of the Senate and of the Committee on Financial
20 Services of the House of Representatives of the Sec-
21 retary’s determination.”.

22 **SEC. 204. REPORTING REQUIREMENTS.**

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

1 **“SEC. 3005. REPORTING REQUIREMENTS.**

2 “(a) REPORTS REQUIRED.—

3 “(1) IN GENERAL.—The Secretary, after con-
4 sulting with the Chairman of the Board, shall sub-
5 mit to Congress, on or before October 15 of each
6 year, a written report on international economic pol-
7 icy and currency exchange rates.

8 “(2) INTERIM REPORT.—The Secretary, after
9 consulting with the Chairman of the Board, shall
10 submit to Congress, on or before April 15 of each
11 year, a written report on interim developments with
12 respect to international economic policy and cur-
13 rency exchange rates.

14 “(b) CONTENTS OF REPORTS.—Each report sub-
15 mitted under subsection (a) shall contain—

16 “(1) an analysis of currency market develop-
17 ments and the relationship between the United
18 States dollar and the currencies of major economies
19 and United States trading partners;

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

24 “(3) a description of any currency intervention
25 by the United States or other major economies or
26 United States trading partners, or other actions un-

1 dertaken to adjust the actual exchange rate of the
2 dollar;

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

5 “(A) monetary and financial conditions;

6 “(B) foreign exchange reserve accumula-
7 tion;

8 “(C) macroeconomic trends;

9 “(D) trends in current and financial ac-
10 count balances;

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

13 “(F) the impact of the external sector on
14 economic changes;

15 “(G) the size and growth of external in-
16 debtedness;

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

19 “(I) capital controls, trade, and exchange
20 restrictions;

21 “(5) a list of currencies of the major economies
22 or economic areas that are manipulated or in funda-
23 mental misalignment and a description of any eco-
24 nomic models or methodologies used to establish the
25 list;

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

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

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

16 “(9)(A) a list of each occasion during the re-
17 porting period when the issue of exchange-rate mis-
18 alignment was raised in a countervailing duty pro-
19 ceeding under subtitle A of title VII of the Tariff
20 Act of 1930 or in an investigation under section 421
21 of the Trade Act of 1974;

22 “(B) a summary in each such instance of
23 whether or not exchange-rate misalignment was
24 found and the reasoning and data underlying that
25 finding; and

1 “(C) a discussion regarding each affirmative
 2 finding of exchange-rate misalignment to consider
 3 the circumstances underlying that exchange-rate
 4 misalignment and what action appropriately has
 5 been or might be taken by the Secretary apart from
 6 and in addition to import relief to correct the ex-
 7 change-rate misalignment.

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

17 **SEC. 205. INTERNATIONAL FINANCIAL INSTITUTION GOV-**
 18 **ERNANCE ARRANGEMENTS.**

19 (a) INITIAL REVIEW.—Notwithstanding any other
 20 provision of law, before the United States approves a pro-
 21 posed change in the governance arrangement of any inter-
 22 national financial institution, as defined in section
 23 1701(c)(2) of the International Financial Institutions Act
 24 (22 U.S.C. 262r(c)(2)), the Secretary of the Treasury
 25 shall determine whether any member of the international

1 financial institution that would benefit from the proposed
 2 change, in the form of increased voting shares or represen-
 3 tation, has a currency that is manipulated or in funda-
 4 mental misalignment, and if so, whether the manipulation
 5 or fundamental misalignment causes or contributes to a
 6 material adverse impact on the economy of the United
 7 States. The determination shall be reported to Congress.

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

13 (c) FURTHER ACTION.—The United States shall con-
 14 tinue to oppose any proposed change in the governance
 15 arrangement of an international financial institution, pur-
 16 suant to subsection (b), until the Secretary determines
 17 and reports to Congress that the currency of each member
 18 of the international financial institution that would benefit
 19 from the proposed change, in the form of increased voting
 20 shares or representation, is neither manipulated nor in
 21 fundamental misalignment.

22 **SEC. 206. NONMARKET ECONOMY STATUS.**

23 Paragraph (18)(B)(vi) of section 771 of the Tariff
 24 Act of 1930 (19 U.S.C. 1677(18)(B)(vi)) is amended by
 25 inserting before the period at the end the following: “, in-

1 cluding whether the currency of the foreign country has
2 been identified pursuant to section 3005(b)(7) of the Ex-
3 change Rates and International Economic Policy Coordi-
4 nation Act of 1988 (22 U.S.C. 5305(b)(7)) in any written
5 report required by such section 3005(b)(7) during the 24-
6 month period immediately preceding the month during
7 which the administering authority seeks to revoke a deter-
8 mination that such foreign country is a nonmarket econ-
9 omy country”.

○