

111TH CONGRESS  
2D SESSION

# S. 3134

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

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## 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

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## 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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