111TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
111–646

CURRENCY REFORM FOR FAIR TRADE ACT

SEPTEMBER 28, 2010.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. LEVIN, from the Committee on Ways and Means, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 2378]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 2378) to amend title VII of the Tariff Act of 1930 to clarify that fundamental exchange-rate misalignment by any foreign nation is actionable under United States countervailing and antidumping duty laws, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Currency Reform for Fair Trade Act".

SEC. 2. CLARIFICATION REGARDING DEFINITION OF COUNTERVAILABLE SUBSIDY.

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

(1) in clause (iii), by striking "and" at the end;

(2) in clause (iv), by striking the period at the end and inserting ", and"; and

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

"(v) in the case in which the currency of a country in which the subject merchandise is produced is exchanged for foreign currency obtained from export transactions, and the currency of such country is a fundamentally undervalued currency, as defined in paragraph (37), the difference between the amount of the currency of such country provided and the amount of the currency of such country that would have been

provided if the real effective exchange rate of the currency of such country were not undervalued, as determined pursuant to paragraph (38).".

(b) EXPORT SUBSIDY.—Section 771(5A)(B) of the Tariff Act of 1930 (19 U.S.C. 1677(5A)(B)) is amended by adding at the end the following new sentence: "In the case of a subsidy relating to a fundamentally undervalued currency, the fact that the subsidy may also be provided in circumstances not involving export shall not, for that reason alone, mean that the subsidy cannot be considered contingent upon export performance.".

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

"(37) FUNDAMENTALLY UNDERVALUED CURRENCY.—The administering authority shall determine that the currency of a country in which the subject merchandise is produced is a 'fundamentally undervalued currency' if—

"(A) the government of the country (including any public entity within the territory of the country) engages in protracted, large-scale intervention in one or more foreign exchange markets during part or all of the 18-month period that represents the most recent 18 months for which the information required under paragraph (38) is reasonably available, but that does not include any period of time later than the final month in the period of investigation or the period of review, as applicable;

"(B) the real effective exchange rate of the currency is undervalued by at least 5 percent, on average and as calculated under paragraph (38), relative to the equilibrium real effective exchange rate for the country's currency during the 18-month period;

"(C) during the 18-month period, the country has experienced significant and persistent global current account surpluses; and

"(D) during the 18-month period, the foreign asset reserves held by the government of the country exceed—

"(i) the amount necessary to repay all debt obligations of the government falling due within the coming 12 months;

"(ii) 20 percent of the country's money supply, using standard measures of M2; and

"(iii) the value of the country's imports during the previous 4 months.".

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

"(38) REAL EFFECTIVE EXCHANGE RATE UNDERVALUATION.—The calculation of real effective exchange rate undervaluation, for purposes of paragraph (5)(E)(v) and paragraph (37), shall—

"(A)(i) rely upon, and where appropriate be the simple average of, the results yielded from application of the approaches described in the guidelines of the International Monetary Fund's Consultative Group on Exchange Rate Issues; or

"(ii) if the guidelines of the International Monetary Fund's Consultative Group on Exchange Rate Issues are not available, be based on generally accepted economic and econometric techniques and methodologies to measure the level of undervaluation;

"(B) rely upon data that are publicly available, reliable, and compiled and maintained by the International Monetary Fund or, if the International Monetary Fund cannot provide the data, by other international organizations or by national governments; and

"(C) use inflation-adjusted, trade-weighted exchange rates.".

SEC. 3. REPORT ON IMPLEMENTATION OF ACT.

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

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

Amend the title so as to read:

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

I. SUMMARY AND BACKGROUND

PURPOSE AND SUMMARY

The bill, H.R. 2378, the "Currency Reform for Fair Trade Act", as amended, contains sections amending Title VII of the Tariff Act of 1930 to clarify that countervailing duties may be imposed to address subsidies relating to a fundamentally undervalued currency.

BACKGROUND AND NEED FOR LEGISLATION

In recent years the People's Republic of China (China), and, to a lesser extent, other countries, have engaged in protracted, large-scale intervention in foreign exchange markets. As a result, these countries have accumulated vast foreign currency reserves and assets that greatly exceed levels to insure against capital account or current account crises, or to meet external debt payment obligations. These interventions in the foreign exchange markets are not necessary to counter disorderly market conditions and serve no other legitimate purpose. In the case of China, the Government accumulates roughly $1 billion each day in foreign assets as a result of these interventions. China now holds more than $2.4 trillion in foreign assets—reserves that are far greater than those of any other country today and generally believed to be greater than those held by any other country in history.[1]

The Committee held three hearings on the issue of China's currency policy over the last year: March 24, 2010, September 15, 2010 and September 16, 2010. In the course of those hearings, the Committee learned that China's exchange rate policy (1) contributes to large trade deficits in the United States[2] (and other economies), putting a drag on economic growth and job creation; (2) has a negative impact on trade policies, as some countries are reluctant to open their economies further to imports (including in WTO Doha negotiations); (3) depresses interest rates, and may have contributed to the financial crisis[3]; and (4) distorts investment patterns, as China looks to invest overseas the dollars it accumulates to keep the RMB undervalued.

With regard to trade, the undervalued RMB makes China's exports cheaper than they would be if China allowed its currency to appreciate, leading many economists to describe China's policy as

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[1] International Monetary Fund, *International Financial Statistics*, 1940 to 2009, foreign exchange reserves, data series 1D.SZF and 1D.DZF. In fact, China currently has more foreign exchange reserves than the entire world did in 2000.

[2] President George W. Bush recognized this more than six years ago, in 2004, and again in 2007: "We still have got a huge trade deficit with China which then causes us to want to work with them to adjust—to let their currency float. We think that would be helpful in terms of adjusting trade balances."

[3] *See, e.g.,* Sebastian Mallaby, "What OPEC Teaches China," *Washington Post,* January 25, 2009 ("[China's currency] manipulation is arguably the most important cause of the financial crisis".); see also White House Press Release, December 21, 2008 ("[T]he most significant factor leading to the housing crisis was cheap money flowing into the U.S. from the rest of the world so that there was no natural restraint on flush lenders to push loans on Americans in risky ways").

effectively operating as an export subsidy.[4] It also makes U.S. and other countries' exports to China more expensive. The Committee notes that U.S. trade deficit with China is by far the largest contributor to the overall U.S. trade deficit, which has been at record levels over the past ten years.

Several economists have estimated the effect of China's policy on the U.S. trade deficit, economy, and employment. Peter Morici, the former chief economist of the International Trade Commission recently estimated that the U.S. trade deficit with China will reduce U.S. GDP in 2010 by more than $400 billion, or nearly 3 percent.[5] Paul Krugman, winner of the 2008 Nobel Prize in Economics, estimates that China's exchange rate policy reduces U.S. GDP by 1.4 to 1.5 percentage points annually and reduces U.S. employment by 1.4 or 1.5 million jobs.[6] Fred Bergsten, Director of the Peterson Institute for International Economics, testified recently before the Committee that eliminating the Chinese misalignment would create about half a million U.S. jobs, mainly in manufacturing and with above-average wages, over the next couple of years. He also noted that the budget cost of this effective stimulus effort would be zero.

The National Association of Manufacturers recently reported that "NAM members, especially smaller manufacturers, have made it clear that the number-one factor affecting their exports is the value of the dollar."[7] Based on a historical analysis going back to 1972, NAM concluded that, if the dollar is overvalued relative to other currencies, "there is virtually no chance of doubling U.S. exports in five years [an objective of President Obama's]—or even seeing any amount of significant growth."[8] NAM therefore urged the Administration to "spare no effort to see that other currencies are market-determined and free of government intervention[.]"[9]

Efforts to date to address this issue through dialogue have failed to resolve the issue. For the past seven years, the United States has pressed China to revalue its currency in various bilateral and multilateral fora. U.S. officials have raised the issue at the highest levels of government, including in bilateral meetings of the U.S-China Strategic and Economic Dialogue and the U.S.-China Joint Commission on Commerce and Trade (JCCT). The issue is also regularly discussed at the IMF, as the IMF's Articles of Agreement prohibit members from "manipulating exchange rates . . . to gain an unfair competitive advantage over other members[.]" IMF staff review the exchange rate policies of Members, but the IMF is a consensus-based organization, and China has blocked any meaning-

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[4] *See, e.g.,* Federal Reserve Chairman Ben Bernanke, December 2006 (and reiterated in July 2010): Describing China's exchange rate policy as an "effective subsidy that an undervalued currency provides for Chinese firms that focus on exporting rather than producing for the domestic market." And Martin Wolf, Chief Economics Commentator for the Financial Times, December 2009: "[T]he policy of keeping the exchange rate down is equivalent to an export subsidy . . . in other words, to protectionism."

[5] Ariana Eunjung Cha and Sonja Ryst, "Stocks Plunge as U.S. Trade Deficit Is Wider Than Expected," Washington Post, August 12, 2010.

[6] See Paul Krugman, "Chinese New Year," New York Times, January 1, 2010 (China "follows a mercantilist policy, keeping its trade surplus artificially high. And in today's depressed world, that policy is, to put it bluntly, predatory."); and Comments at Economic Policy Institute Forum, March 12, 2010.

[7] "Blueprint to Double Exports in Five Years," National Association of Manufacturers, July 26, 2010.

[8] *Id.*

[9] *Id.*

ful action on the issue. (Unlike the WTO, the IMF has no real mechanism to resolve disputes between its members.)

The United States also recently initiated multilateral discussions of global imbalances in the G–20 summit meetings. In particular, at the September 2009 Summit in Pittsburgh, the G–20 leaders recognized, apparently for the first time, the need to work together to manage the transition "to a more balanced pattern of global growth." They launched a "Framework for Strong, Sustainable, and Balanced Growth" and pledged to work together, and with the IMF, to "ensure that our fiscal, monetary, trade, and structural policies are collectively consistent with more sustainable and balanced trajectories for growth." This initiative was widely understood to include discussions of exchange rate policies.

On June 16, 2010, in a letter to his G–20 counterparts shortly before a G–20 Summit in Toronto, President Obama expressed concern with "continued heavy reliance on exports by some countries with already large external surpluses." According to the President, "[o]ur ability to achieve a durable global recovery depends on our ability to achieve a pattern of global demand growth that avoids the imbalances of the past." The President "underscore[d] that market-determined exchange rates are essential to global economic vitality."

While the Government of China announced that it would begin to allow some flexibility in the exchange rate on June 19, 2010, the Government of China continues to intervene massively in the currency markets and has allowed the RMB to appreciate less than two percent against the dollar in the past three months. Thus, the currency continues to be "substantially undervalued," in the assessment of the IMF. According to one often cited estimate by the Peterson Institute of International Economics, the RMB is undervalued by about 24 percent against the dollar.

The bill, as amended in the Chairman's amendment in the nature of a substitute, responds directly to the problem by providing relief for American companies and workers materially injured by mercantilist exchange rate policies—and it does so in a manner that is fully consistent with U.S. obligations under the *Agreement Establishing the World Trade Organization.* At the same time, it does not foreclose the need for continued multilateral engagement with China and other countries employing mercantilist exchange rate policies, which will be critical to addressing the whole spectrum of trade issues which result from such exchange rate policies. Secretary Geithner made this point in testimony before the Committee: "[Y]ou raise the important question of what is the right mix of multilateral or U.S. actions. And my own view on these things—and I am talking more broadly about the trade challenges we face in the relationship—is that we have to use all those devices. Many of the things we are talking about today that we care about in the United States are a huge concern to China's other trading partners as well; and the more effective we are in making these international issues multilateral issues, in my view, the more likely we are going to have an impact on their behavior." (Testimony of Secretary Geithner, September 16, 2010.)

LEGISLATIVE HISTORY

H.R. 2378, a bill to amend Title VII of the Tariff Act of 1930 to clarify that fundamental exchange-rate misalignment by any foreign nation is actionable under United States countervailing duty and antidumping duty laws, and for other purposes, was introduced on May 13, 2009, and referred to the House Committee on Ways and Means.

The House Committee on Ways and Means marked up H.R. 2378 on September 24, 2010, and ordered the bill, as amended, favorably reported by a voice vote, with a quorum present.

II. EXPLANATION OF THE BILL

Section 1. Short title

Section 1 sets forth the short title of the bill as the "Currency Reform for Fair Trade Act."

Section 2. Clarification Regarding Definition of Countervailable Subsidy

PRESENT LAW

Current law generally provides for the imposition of a countervailing duty where a government or any public entity of a country (an "authority") provides a "countervailable subsidy" with respect to the manufacture, production, or export of merchandise imported into the United States, if an industry in the United States is materially injured or is threatened with material injury, or if the establishment of an industry in the United States is materially retarded, by reason of that merchandise.

A "subsidy" exists where an authority provides a "financial contribution" (such as a "direct transfer of funds") to a person and "a benefit is thereby conferred." A subsidy is a "countervailable subsidy" if it is "specific" (i.e., if it is "specific . . . to an enterprise or industry").

Current law provides that subsidies that are "contingent on export" (i.e., where receipt of the subsidy is tied to export performance, alone or as one of two or more conditions) are deemed to be "specific." These subsidies are known as "export subsidies."

Current law also clarifies how a determination is to be made that a "benefit is thereby conferred" in four different situations (involving government-provided equity infusions, loans, loan guarantees, and the provision of goods or services).

EXPLANATION OF THE PROVISION

The provision provides certain clarifications that apply in assessing claims that a country has provided countervailable subsidies in maintaining a "fundamentally undervalued currency." These clarifications include guidance: (1) On evaluating whether a currency is "fundamentally undervalued"; (2) on how to measure the benefit provided by a subsidy related to a "fundamentally undervalued currency"; and (3) in determining whether the subsidy related to a "fundamentally undervalued currency" is export contingent.

Fundamentally Undervalued Currency. The provision defines a "fundamentally undervalued currency" as one where: (1) An authority of the country engages in protracted, large-scale interven-

tion in one or more foreign exchange markets; (2) the real effective exchange rate of the country is undervalued by at least 5 percent; (3) the country has experienced significant and persistent global current account surpluses; and (4) the foreign asset reserves of the country are excessive.

The bill also lays out the methodology to calculate the level of undervaluation for purposes of determining whether a currency is "fundamentally undervalued" and for purposes of determining the amount of the benefit (see discussion below). Specifically, the bill directs Commerce to use of the guidelines of the International Monetary Fund's Consultative Group on Exchange Rate Issues (CGER), wherever possible. In addition, the bill directs Commerce to rely on IMF results from those models, if available.

Benefit. The provision clarifies that a "benefit" is conferred in such cases when the currency of an allegedly subsidizing country is exchanged for foreign currency (such as U.S. dollars) obtained from export transactions. The bill directs Commerce to measure the benefit conferred under such circumstances as the difference between the amount of currency provided and the amount of currency that would have been provided if the currency of that country were not fundamentally undervalued.

Specificity/Export Contingency. Finally, the bill provides a clarification with respect to export contingency. The bill clarifies that Commerce may not refuse to find that there is export contingency in a given case based on the single fact that a subsidy is available in circumstances in addition to export. While this provision relates to the case of subsidy claims relating to a fundamentally undervalued currency, the Committee expects that Commerce would apply the same, WTO-consistent principle broadly in other contexts as well.

REASONS FOR CHANGE

On August 30, 2010, in two pending countervailing duty investigations *(Aluminum Extrusions from the People's Republic of China and Certain Coated Paper suitable for High-Quality Print Graphics Using Sheet-Fed Presses from the People's Republic of China),* the Department of Commerce decided not to investigate allegations that the undervaluation of the currency of the People's Republic of China (the renminbi, or "RMB") confers a countervailable subsidy. The petitioners in those investigations noted that the subsidy would be provided if the merchandise subject to the investigation (i.e., aluminum extrusions, paper) were exported, but would not be provided if that merchandise were sold in the Chinese market. The petitioners also cited data showing that exporters account for 70 percent of China's foreign currency earnings.

This legislation clarifies that maintenance by a foreign government of a fundamentally undervalued currency can be considered to be contingent upon exportation, and so to constitute a countervailable export subsidy, notwithstanding that the subsidy is also available in circumstances other than export. The change responds to the determinations described above, in which Commerce found that the receipt of potential subsidies through China's currency regime was not contingent upon exportation, because such

subsidies were provided not only to exporters, but also to parties not engaged in exportation.

In the view of the Committee, the principle applied by the Department (i.e., that a subsidy cannot be contingent upon export if the subsidy can be provided in circumstances not involving export) is more restrictive than required under WTO disciplines. Moreover, it is at odds with World Trade Organization (WTO) precedent recognizing that a subsidy may still be export contingent, even if it is available in some circumstances that do not involve export.

The WTO Agreement on Subsidies on Countervailing Measures (SCM Agreement) specifically provides that the requirement of "export contingency" can be met either by showing there is a link to export contingency in law (either express or implicit) or "when *the facts* demonstrate that the granting of a subsidy, without having been made legally contingent upon export performance, is in fact tied to actual or anticipated exportation or export earnings." (Footnote 4 to the SCM Agreement) The SCM Agreement does not support an approach that would have a single fact—the existence of a subsidy recipient other than an exporter—being determinative in all cases.

The WTO Appellate Body has affirmed this principle in the context of de facto export subsidy claims (that is, where the facts demonstrate export contingency).

> [The SCM Agreement] makes it clear that de facto export contingency must be demonstrated by the facts. We agree with the Panel that what facts should be taken into account in a particular case will depend on the circumstances of that case. We also agree with the Panel that there can be no general rule as to what facts or what kinds of facts must be taken into account. (need citation to Canada Aircraft)

WTO precedent also deals directly with the assessment of "export contingency" in situations where subsidies are provided both for export and in circumstances not involving export. Those cases deal primarily with de jure export subsidy claims. However, as the Appellate Body has stated:

> In our view, the legal standard expressed by the word "contingent" is the same for both *de jure* or *de facto* contingency. There is a difference, however, in what evidence may be employed to prove that a subsidy is export contingent. *De jure* export contingency is demonstrated on the basis of the words of the relevant legislation, regulation or other legal instrument. Proving *de facto* export contingency is a much more difficult task. There is no single legal document which will demonstrate, on its face, that a subsidy is "contingent . . . in fact . . . upon export performance". Instead, the existence of this relationship of contingency, between the subsidy and export performance, must be *inferred* from the total configuration of the facts constituting and surrounding the granting of the subsidy, none of which on its own is likely to be decisive in any given case. (Appellate Body Report, *Canada—Aircraft,* WT/DS70/AB/R, 2 August 1999, p. 43, para. 167.)

One such relevant WTO precedent arises out of the *United States—Tax Treatment for "Foreign Sales Corporations"* Recourse to Article 21.5 of the DSU by the European Communities, WT/DS108/AB/RW, adopted January 29, 2002. In that case, Congress

enacted the Extraterritorial Income Exclusion Act of 2000 after the WTO ruled the Foreign Sales Corporation (FSC) Act to be WTO inconsistent. Under the ETI Act, a tax break would be available in two different situations: (1) when goods were produced domestically and sold for use abroad (i.e., exported); and (2) when goods were produced abroad and sold for use abroad. The WTO dispute settlement panel ruled that, in the first situation, export is a "necessary precondition" for receiving the subsidy, and therefore "export contingency" under WTO rules exists. The panel then stated that any possibility for receiving the subsidy without exporting (i.e., the second situation) does not "vitiate" the export contingency that exists with respect to goods produced in the United States.

The Appellate Body reached the same conclusion:

> We recall that the ETI measure grants a tax exemption in two different sets of circumstances: (a) where property is produced *within* the United States and held for use *outside* the United States; and (b) where property is produced *outside* the United States and held for use outside the United States. Our conclusion that the ETI measure grants subsidies that are export contingent in the first set of circumstances is not affected by the fact that the subsidy can also be obtained in the second set of circumstances. The fact that the subsidies granted in the second set of circumstances *might* not be export contingent does not dissolve the export contingency arising in the first set of circumstances. (Appellate Body Report, p. 37, para. 119; see also *United States—Subsidies on Upland Cotton,* WT/DS267).

The Committee also notes with interest the line of reasoning of the Panel and the Appellate Body that led to the conclusion that the subsidy was contingent upon export performance in the first set of circumstances. The panel noted that, in the first set of circumstances, the subsidy was available with respect to goods produced *within* the United States that are *exported,* but "the subsidy is not available in relation to goods produced *within* the United States sold for use *within* the United States[.] . . . Thus, in relation to U.S.-produced goods, the words of the statute itself make it clear that exporting is a necessary precondition to qualify for the subsidy. . . . [T]he existence and amount of the subsidy depends upon the existence of income arising from the exportation of such goods." (Panel Report, *United States—Tax Treatment for "Foreign Sales Corporations"—Recourse to Article 21.5 of the DSU by the European Communities,* WT/DS108/RW, pp. 31–32, para. 8.60.) The Appellate Body took the same approach to this issue. (Appellate Body Report, *United States—Tax Treatment for "Foreign Sale Corporations"—Recourse to Article 21.5 of the DSU by the European Communities,* WT/DS108/AB/RW, p. 36, para. 117).

In the view of the Committee, it is important and appropriate to bring Commerce practice into line with the above-cited SCM Agreement provisions and WTO precedent on the issue of export contingency.

The provision also provides direction in how to determine the amount of the benefit that results from a fundamentally undervalued currency. While estimates of currency undervaluation can vary, the Committee understands that the International Monetary Fund's Consultative Group on Exchange Rate Issues has developed approaches, and may continue to refine approaches, to estimate as

closely as possible the degree of undervaluation of a currency. The bill also directs Commerce to use IMF data which is "publically available [and] reliable." If such data is not available, the Committee expects Commerce to use other public, reliable data, from an institution such the World Bank. In addition, the Committee understands that undervaluation is best estimated on a "real" (i.e., inflation-adjusted) and "effective" (i.e., trade-weighted) basis, but that it will be necessary to convert the estimate into a bilateral exchange rate (i.e., the difference between the amount of domestic currency the recipient received when the recipient exchanges its foreign currency and the amount the recipient would have received if the domestic currency were not fundamentally undervalued).

Finally, in the view of the Committee, it would be inappropriate to impose countervailing duties in cases in which a currency is not "fundamentally" undervalued. For example, in some cases a government or other public entity may intervene in the foreign exchange markets to accumulate foreign exchange reserves for reasons such as to provide a defense against substantial and rapid capital outflows. (See Annex to Report to Congress on International Economic and Exchange Rate Policies, U.S. Department of the Treasury, July 8, 2010.)

EFFECTIVE DATE

The provision goes into effect on the date of enactment.

Section 3. Report on Implementation of Act.

PRESENT LAW

No provision.

EXPLANATION OF PROVISION

The provision requires the Comptroller General of the United States to report to Congress on the implementation of the amendments made by this Act. The report is to include a description of the extent to which U.S. industries that have been materially injured by reason of imports of subject merchandise produced in countries with fundamentally undervalued currencies received relief.

REASON FOR CHANGE

The implementation of this Act will help to ensure that U.S. companies and workers who are materially injured by unfairly traded imports obtain relief, and this report will facilitate the Committee's oversight functions in connection with the trade remedy laws.

EFFECTIVE DATE

The provision goes into effect on the date of enactment.

III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statements are made concerning the votes of the Committee on Ways and Means in its consideration of H.R. 2378, the "Currency Reform for Fair Trade Act," was ordered favorably reported by a voice vote.

MOTION TO REPORT RECOMMENDATIONS

The bill, H.R. 2378, the "Currency Reform for Fair Trade Act," as amended, was ordered favorably reported by a voice vote.

Mr. Camp offered an amendment which would require the Comptroller General of the United States to consider the effect of the Act on United States manufacturers that are industrial users of imported products subject to countervailing duties under this Act. The amendment was defeated by a voice vote.

IV. BUDGET EFFECTS OF THE BILL

COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

In compliance with clause 3(d)(2) of rule XIII of the Rules of the House of Representatives, the following Statement is made concerning the effects on the budget of this bill, H.R. 2378, as reported:

The bill is estimated to have the following effects of Federal budget receipts for fiscal years 2008–2017:

The estimated budgetary impact of H.R. 2378 is shown in the following table. This legislation's effects on federal spending fall within budget function 150 (international affairs) and 370 (commerce and housing credit).

	By fiscal year, in millions of dolllars—											
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2011–2015	2011–2020
CHANGES IN REVENUES												
Estimated Revenues	0	5	15	15	20	20	15	15	10	10	55	125
CHANGES IN SPENDING SUBJECT TO APPROPRIATION												
Estimated Authorization Level	8	8	8	9	9	9	9	10	11	11	42	93
Estimated Outlays	7	8	8	9	9	9	9	10	11	11	41	92

STATEMENT REGARDING NEW BUDGET AUTHORITY OR TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves new or increased budget authority. The Committee further states that the revenue-reducing tax provisions involve increased tax expenditures. (See amounts in the Congressional Budget Office estimate provided below and in the table in Part IV.A., above.)

COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the CBO, the following report prepared by the CBO is provided.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 28, 2010.

Hon. SANDER M. LEVIN,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2378, the Currency Reform for Fair Trade Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Kalyani Parthasarathy.

Sincerely,

ROBERT A. SUNSHINE,
(For Douglas W. Elmendorf, Director.)

Enclosure.

H.R. 2378—Currency Reform for Fair Trade Act

Summary: H.R. 2378 would expand the definition of countervailing subsidies—financial benefits granted by governments to certain domestic exporting firms—that could trigger the imposition of additional import tariffs under current U.S. countervailing duty law. This bill would add to the list of such subsidies the benefit enjoyed by a firm exporting from a country with a "fundamentally undervalued" currency. The bill specifies the mechanisms for determining the size of this subsidy and for identifying a fundamentally undervalued currency. The bill would also provide that export subsidies by such countries could not be disregarded for purposes of assessing countervailing duties solely because the subsidy is also provided to non-exporters.

Because enacting H.R. 2378 would increase customs duties and thus federal revenues, pay-as-you-go procedures apply. CBO estimates those additional revenues would total $125 million over the 2011–2020 period. Enacting H.R. 2378 would not affect direct spending.

Based on information from the International Trade Administration (ITA) and the International Trade Commission (ITC), the two agencies that determine whether countervailing duties should be levied, CBO estimates that implementing H.R. 2378 would cost $41 million over the 2011–2015 period, assuming appropriation of the necessary amounts.

H.R. 2378 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

The bill would impose a private-sector mandate, as defined in UMRA, on importer goods that would be subject to higher tariffs imposed under the bill. The cost of the mandate would depend on the number and value of imports affected and the increase in the tariff rate. Based on information from ITC, ITA, and industry sources, CBO estimates that the cost of the mandate would fall below the annual threshold established in the Unfunded Mandates Reform Act for private-sector mandates ($141 million in 2010, adjusted annually for inflation) during each of the first five years that the mandate would be in effect.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 2378 is shown in the following table. This legislation's effects on federal spending fall within budget function 150 (international affairs) and 370 (commerce and housing credit).

	By fiscal year, in millions of dollars—											
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2010–2015	2010–2020
CHANGES IN REVENUES												
Estimated Revenues	0	5	15	15	20	20	15	15	10	10	55	125
CHANGES IN SPENDING SUBJECT TO APPROPRIATION												
Estimated Authorization Level	8	8	8	9	9	9	9	10	11	11	42	93
Estimated Outlays	7	8	8	9	9	9	9	10	11	11	41	92

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted late in calendar year 2010.

Revenues

Under current law, if ITA identifies that a countervailing subsidy has been conferred on certain goods, and if ITC determines that a U.S. industry has been materially injured by that subsidy, countervailing duties—additional import tariffs—are imposed on those goods. In the past few years, no such duties have been collected as a result of successful petitions alleging that countervailing subsidies were conferred on products that were exported from countries likely to meet the definition of having a "fundamentally undervalued currency" as defined in the bill. However, H.R. 2378 would expand the set of actionable subsidies under current law and would stipulate that export subsidies from countries with fundamentally undervalued currencies would be actionable even if also provided to non-exporters; thus, the bill would likely increase the amount of countervailing duties applied.

Based on information provided by ITC, ITA, and industry experts, CBO estimates that a small share of imports from countries with undervalued currencies would be found to cause such material injury to domestic firms; therefore, enacting H.R. 2378 would lead to an increase of $125 million in federal revenues (net of income and payroll tax offsets) over the 2011–2020 period. CBO expects that countervailing duties would increase to an amount that would make them smaller than existing antidumping duties applied to countries potentially having undervalued currencies as defined by the bill.

The estimated revenue effect is lower than it would otherwise be in part because the bill does not affect the determination of material injury to a U.S. industry. In addition, many imports do not injure domestic firms because there are no competitors currently operating in the United States. Finally, a projected decline in the value of the U.S. dollar would also reduce any potential revenues. The estimate is subject to considerable uncertainty with respect to how the provisions would be implemented and the relative values of various currencies.

Spending subject to appropriation

Based on information from both ITA and ITC, CBO estimates that implementing H.R. 2378 would cost $41 million over the 2011–

2015 period, assuming appropriation of the necessary amounts, for salaries, benefits, and administrative expenses to hire 36 additional staff at ITA and for additional administrative activities at ITC to conduct investigations under the new requirements. The number of countervailing duty petitions that could arise under the bill is very uncertain, and the agencies' administrative costs could be higher if the volume of cases increased significantly.

Pay-as-you-go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget reporting and enforcement procedures for legislation affecting direct spending or revenues. CBO estimates that enacting H.R. 2378 would increase revenues and would not affect direct spending.

The changes in revenues that are subject to pay-as-you go procedures are shown in the following table.

	By fiscal year, in millions of dollars—												
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2010–2015	2010–2020
	NET INCREASE OR DECREASE (−) IN THE DEFICIT												
Statutory Pay-As-You Go Impact	0	0	−5	−15	−15	−20	−20	−15	−15	−10	−10	−55	−125

Intergovernmental and private-sector impact: H.R. 2378 contains no intergovernmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

The bill would impose a private-sector mandate, as defined in UMRA, on importers of goods that would be subject to higher tariffs imposed under the bill. The cost of the mandate would depend on the number and value of imports affected and the increase in the tariff rate. Based on information from ITC, ITA, and industry sources, CBO estimates that the cost of the mandate would fall below the annual threshold established in the Unfunded Mandates Reform Act for private-sector mandates ($141 million in 2010, adjusted annually for inflation) during each of the first five years that the mandate would be in effect.

Estimate prepared by: Federal Revenues: Kalyani Parthasarathy; Federal Spending: Susan Willie and Sunita D'Monte; Impact on State, Local, and Tribal Governments: Ryan Miller; Impact on the Private Sector: Samuel Wice.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis; Frank Sammartino, Assistant Director for Tax Analysis.

MACROECONOMIC IMPACT ANALYSIS

In compliance with clause 3(h)(2) of rule XIII of the Rules of the House of Representatives, the following statement is made by the Joint Committee on Taxation with respect to the provisions of the bill amending the Internal Revenue Code of 1986: the effects of the bill on economic activity are so small as to be incalculable within the context of a model of the aggregate economy.

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. Committee Oversight Findings and Recommendations

With respect to clause 3(c)(1) of rule XIII of the House of Representatives (relating to oversight findings), the Committee advises that it is appropriate and timely to consider H.R. 2378 as reported.

B. Statement of General Performance Goals and Objectives

With respect clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill contains no measure that authorizes funding, so no statement of general performance goals and objectives for which any measure authorizes funding is required.

C. Constitutional Authority Statement

With respect to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives (relating to Constitutional Authority), the Committee states that the Committee's action in reporting this bill is derived from Article I of the Constitution, Section 8 ("The Congress shall have Power To lay and collect Taxes, Duties, Imposes and Excises . . .").

D. Information Relating to Unfunded Mandates

This information is provided in accordance with section 423 of the Unfunded Mandates Act of 1995 (Pub. L. No. 104–4).

H.R. 2378 contains no intergovernmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. The bill would impose a private-sector mandate, as defined in UMRA, on importers of goods that would be subject to higher tariffs imposed under the bill.

The Committee has determined that the revenue provisions of the bill do not impose a Federal intergovernmental mandate on State, local, or tribal governments.

E. Applicability of House Rule XXI 5(b)

Clause 5(b) of rule XXI of the Rules of the House of Representatives provides, in part, that "A bill or join resolution, amendment, or conference report carrying a Federal income tax rate increase may not be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting, a quorum being present." The Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not involve any Federal income tax rate increases within the meaning of the rule.

F. Limited Tax Benefits

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Ways and Means Committee has determined that the bill as reported contains no congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of that rule.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TARIFF ACT OF 1930

* * * * * * *

TITLE VII—COUNTERVAILING AND ANTIDUMPING DUTIES

* * * * * * *

Subtitle D—General Provisions

SEC. 771. DEFINITIONS; SPECIAL RULES.

For purposes of this title—

(1) * * *

* * * * * * *

(5) COUNTERVAILABLE SUBSIDY.—

(A) * * *

* * * * * * *

(E) BENEFIT CONFERRED.—A benefit shall normally be treated as conferred where there is a benefit to the recipient, including—

(i) * * *

* * * * * * *

(iii) in the case of a loan guarantee, if there is a difference, after adjusting for any difference in guarantee fees, between the amount the recipient of the guarantee pays on the guaranteed loan and the amount the recipient would pay for a comparable commercial loan if there were no guarantee by the authority, [and]

(iv) in the case where goods or services are provided, if such goods or services are provided for less than adequate remuneration, and in the case where goods are purchased, if such goods are purchased for more than adequate remuneration[.]*, and*

(v) in the case in which the currency of a country in which the subject merchandise is produced is exchanged for foreign currency obtained from export transactions, and the currency of such country is a fundamentally undervalued currency, as defined in paragraph (37), the difference between the amount of the currency of such country provided and the amount of the currency of such country that would have been provided if the real effective exchange rate of the currency of such country were not undervalued, as determined pursuant to paragraph (38).

* * * * * * *

(5A) SPECIFICITY.—

(A) * * *

(B) EXPORT SUBSIDY.—An export subsidy is a subsidy that is, in law or in fact, contingent upon export performance, alone or as 1 of 2 or more conditions. *In the case of a subsidy relating to a fundamentally undervalued currency, the fact that the subsidy may also be provided in circumstances not involving export shall not, for that reason alone, mean that the subsidy cannot be considered contingent upon export performance.*

* * * * * * *

(37) FUNDAMENTALLY UNDERVALUED CURRENCY.—The administering authority shall determine that the currency of a country in which the subject merchandise is produced is a "fundamentally undervalued currency" if—

(A) the government of the country (including any public entity within the territory of the country) engages in protracted, large-scale intervention in one or more foreign exchange markets during part or all of the 18-month period that represents the most recent 18 months for which the information required under paragraph (38) is reasonably available, but that does not include any period of time later than the final month in the period of investigation or the period of review, as applicable;

(B) the real effective exchange rate of the currency is undervalued by at least 5 percent, on average and as calculated under paragraph (38), relative to the equilibrium real effective exchange rate for the country's currency during the 18-month period;

(C) during the 18-month period, the country has experienced significant and persistent global current account surpluses; and

(D) during the 18-month period, the foreign asset reserves held by the government of the country exceed—

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

(ii) 20 percent of the country's money supply, using standard measures of M2; and

(iii) the value of the country's imports during the previous 4 months.

(38) REAL EFFECTIVE EXCHANGE RATE UNDERVALUATION.—The calculation of real effective exchange rate undervaluation, for purposes of paragraph (5)(E)(v) and paragraph (37), shall—

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

(ii) if the guidelines of the International Monetary Fund's Consultative Group on Exchange Rate Issues are not available, be based on generally accepted economic and econometric techniques and methodologies to measure the level of undervaluation;

(B) rely upon data that are publicly available, reliable, and compiled and maintained by the International Mone-

tary Fund or, if the International Monetary Fund cannot provide the data, by other international organizations or by national governments; and

(C) use inflation-adjusted, trade-weighted exchange rates.

* * * * * * *

ADDITIONAL VIEWS

Although some of us support and some of us oppose H.R. 2378, as modified by the Chairman's amendment in the nature of a substitute, we all share the following views. First, China's currency is fundamentally misaligned. We all agree that China must take prompt action to allow market forces to determine the value of its currency. Since the Obama Administration took office, the RMB has appreciated by less than 1.5%. In contrast, from 2005–2008, under the Bush Administration, the RMB appreciated by approximately 20%. The lack of progress over the last 20 months is unacceptable.

WTO-CONSISTENCY IS ESSENTIAL

We all agree that any legislative action meant to address currency undervaluation must be consistent with international commitments and the overarching values of the multilateral trading system.[1] Legislation that is WTO-inconsistent exposes the United States to WTO-sanctioned retaliation and undoubtedly does more harm than good. Such legislation would set American exporters and American workers up for significant legal retaliation and would inevitably undermine multilateral efforts to address China's undervalued currency. We cannot credibly pursue remedies to China's WTO violations if we are acting inconsistently with our own obligations.

At our hearing on September 16, 2010, Secretary Geithner emphasized the importance of our compliance with WTO rules, explaining that legislation must "be consistent with our international obligations. We have to be confident that if we take action under it, it will withstand challenge in the WTO." He added, "If we took action that was inconsistent, that could be challenged, then China or any other country involved could then, under the WTO, take additional action that would disadvantage other U.S. parties, including people completely unrelated to the underlying case."

The next day, Ranking Member Camp and Subcommittee on Trade Ranking Member Brady sent a letter to Ambassador Kirk asking him whether H.R. 2378, as originally drafted, is WTO consistent. We are concerned that we still have not received an answer and that an Administration official was not present during Committee consideration of the bill to opine on its consequences and how it would be applied.

Testimony at our hearing on September 15, 2010, clearly identified pitfalls in the original version of H.R. 2378. At that hearing, former USTR General Counsel Ira Shapiro expressed serious doubt

[1] We note that while the original version of H.R. 2378 and the Chairman's amendment in the nature of a substitute apply to any country that undervalues its currency, the Committee's hearings and legislative history make clear that China is the primary country of concern.

about the WTO-consistency of the original bill. Similarly, in a memorandum that was discussed at length at the hearing and included in the hearing record, former WTO Appellate Body Chairman Jim Bacchus warned that legislation amending the countervailing duty law to require Commerce to apply antidumping and countervailing duties would likely run afoul of our WTO obligations. We all believe that H.R. 2378, in its original form, would have invited WTO-authorized retaliation against U.S. exports.

CHAIRMAN'S SUBSTITUTE ADDRESSES "ON ITS FACE" WTO VIOLATIONS

H.R. 2378, as modified by the Chairman's amendment in the nature of a substitute, is substantially different than the bill as introduced and addresses many of the concerns we expressed over the course of the four hearings this Committee held this year on China. Those of us who support the bill do so only because the Chairman took into account the critical issues that many witnesses and Republican Members raised at our hearings, especially the importance of ensuring that the legislation, on its face, is compliant with our WTO obligations.

At the outset, the Chairman's amendment removes entirely the antidumping portion of the original bill, which would have required an adjustment to take account of currency undervaluation even though the price in the United States already reflects that undervaluation.

With respect to countervailing duties, the substitute does not require the Administration to take action that would violate our obligations, unlike the original version of H.R. 2378, which would have mandated that the Department of Commerce automatically adjust countervailing duty calculations to account for a country's currency policy. Instead, the substitute leaves the decision to impose countervailing duties entirely in the discretion of the Department of Commerce, as under current law, allowing Commerce to consider many factors in determining whether or not a country's currency policy satisfies the technical definition of an export subsidy. It does not presuppose an outcome.

In fact, contrary to majority staff testimony at the markup and other statements by the majority, we are not convinced that this legislation invalidates Commerce's reasoning to date, in which Commerce has found that a country's currency policy does not constitute a countervailable substitute.[2] Specifically, we do not believe the fact that the alleged subsidy is available to non-exporters is the only reason for Commerce to find that a country's currency policy does not constitute an export subsidy.

We also question whether reference to the FSC/ETI decision made by majority staff during the Committee consideration of this legislation to justify a finding that currency undervaluation constitutes a countervailable subsidy is appropriate here[3] That case

[2] *See, e.g.,* Memorandum to Ronald K. Lorentzen Deputy Assistant Secretary for Import Administration regarding Countervailing Duty Investigation: *Aluminum Extrusions from the People's Republic of China,* August 30, 2010.

[3] *See* Appellate Body Report, *United States—Tax Treatment for "Foreign Sales Corporations"—Recourse to Article 21.5 of the DSU by the European Communities,* WT/DS108/AB/RW, adopted 29 January 2002, DSR 2002:I, 55.

involved a *de jure* export contingent subsidy—a subsidy that was written directly into the law—that is not evident here. Under the ETI regime, the law specified that a good was required to be sent overseas to obtain the tax benefit. The same is not true of an exchange rate regime such as China's. Rather, we would expect that the WTO would use a *de facto* analysis, which, as USTR has previously argued, requires the WTO to evaluate the totality of the circumstances.[4] Using such an analysis, it is hard to imagine that China's currency policy would be considered export contingent given that anyone who seeks to exchange currency, whether an exporter, a tourist, an investor, or a Chinese purchaser of imports, benefits.

Furthermore, we note that the substitute does not amend the definition of "financial contribution," another element of the three-part test applied to determine whether a subsidy is countervailable. Accordingly, Commerce will continue to analyze this issue based on current law. At our hearings, we heard from witnesses who questioned whether China's currency policy satisfies the definition of "financial contribution" because the exchange rate policy does not effect the government in one of the ways contemplated under current law, which reflects the obligations of the WTO Agreement on Subsidies and Countervailing Measure.[5] We are not convinced that it does.

Finally, with respect to the definition of "benefit," the final element in determining countervailability, we believe that the Chairman's substitute merely restates the analysis that Commerce already applies.

We all remain deeply concerned about using the countervailing duty law to address China's currency policy. However, while we continue to believe it is potentially problematic to link the application of countervailing duty laws to currency undervaluation, the bill does not appear to violate our WTO obligations on its face. There is reason to believe that Commerce, in carrying out these provisions should the Chairman's substitute become law, would exercise its discretion with respect to countervailing currency policy as it has been doing, so the risk of an "as applied" violation is substantially reduced.

We also have some concerns with ambiguities in the legislation. For example, terms like "significant and persistent global account surpluses" in section 2(c) (lines 21–2 of page 3) should be more precisely defined. Similarly, the legislation would benefit if there were greater clarity about what data the Department of Commerce should use if IMF data is not available in section 2(d) (line 9 of page 5). Commerce should limit its data collection to reputable multilateral organizations that have well-developed expertise, like

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[4] *See* Panel Report, *Australia—Subsidies Provided to Producers and Exporters of Automotive Leather,* WT/DS 126/R, adopted 16 June 1999, DSR 1999:III 951 at paras. 9.50–9.51 ("The United States argues that a contingent-in-fact export subsidy will exist when actual or anticipated exportation is merely one of several potential criteria influencing the bestowal of benefits. Thus, if the totality of the circumstances reveal that these benefits are signed to promote exports, then such benefits fall within the broad definition of Article 3.1(a).").

[5] *See* Written Testimony of Ira Shapiro Before the Committee on Ways and Means Hearing on China's Exchange Rate Policy, September 15, 2010. *See also* Memorandum from James L. Bacchus and Ira Shapiro to Jim Jarrett, Chairman, International Economic Affairs Policy Group, National Association of Manufacturers, regarding The Consistency with the WTO Obligations of the United States of H.R. 1498, the Hunter-Ryan bill, September 12, 2006.

the World Bank, rather than unspecified other "international organizations." In addition, we question whether the Department of Commerce is the appropriate Administration agency to determine undervaluation given the expertise at the Department of the Treasury. We hope that our concerns will be taken into account should this bill move forward in the legislative process.

Nevertheless, for those of us that are supportive of the legislation, we believe that passage of the legislation sends a clear signal to China that Congress's patience is running out.

ADMINISTRATION SHOULD IMPROVE MULTILATERAL EFFORTS, A MORE EFFECTIVE APPROACH

Regardless of whether we support or oppose the legislation, we all strongly agree that it is time for this Administration to produce results. Congress has waited patiently for too long. We firmly believe that the reason that we are considering currency legislation at all is because this Administration has not moved aggressively enough to combat China's currency intervention. The Administration should promptly develop a more robust plan to aggressively address China's currency policy in high-level bilateral summits, including the Strategic and Economic Dialogue, and in multilateral summits, including the G–20.

In particular, the Administration must find ways to strengthen and improve its efforts to work with our trading partners to address global imbalances. We must work with our partners in Europe, Japan, Brazil, India, and other Asian countries to set a clear timeline for action. We believe that the first step is to elevate the issue of global imbalances—which naturally includes China's currency policy— and include it as a key deliverable at the November G–20 meetings in Seoul. The Administration should also work to establish a robust, multilateral process—perhaps through the G–20, a G–20 sub-group, the IMF, or elsewhere—so that other countries, particularly China's neighbors in Asia, can bring new points of pressure to bear.

While rebalancing the global economy will take time, the Administration must begin by developing a timetable for action and a clear path for achieving its goals. In addition, we call on the Administration to issue by the statutory deadline its October report identifying currency manipulators.

CURRENCY LEGISLATION FAILS TO RESOLVE MORE IMPORTANT PRIORITIES WITH CHINA

Opinions vary as to whether this legislation will be effective in getting China to revalue its currency to reflect market norms, reduce the trade deficit, and create American jobs. An undervalued RMB is only one issue that we face in our complicated trading relationship with China. We all believe that there are more important priorities in our trading relationship, and bigger barriers to U.S. exports than China's undervalued currency. We must assure that efforts to address China's currency misalignment not undermine our ability to address with China more pressing issues like intellectual property rights, indigenous innovation and a host of other non-tariff barriers that are wreaking havoc on American employers,

their workers, and our economy. Those issues impact a far broader base of America's job creators, who are trying to sell American goods and services to a growing Chinese market.

We are frustrated by China's continued bad faith and aggressive pursuit of protectionist policies that jeopardize our economic relationship. China must end its policy of economic nationalism and open its market to American-made goods and services and American investors. We cannot lose sight of the more fundamental problems with China's economy that have a greater impact on our trade balance, including the disturbing increase in the economic dominance of state-owned enterprises, the proliferation of non-tariff barriers preventing U.S. companies from exporting to China, and a growth strategy dominated by aggressive export expansion without developing a strong domestic consumption base within China.

We must persuade China, through every tool at our disposal including our trade laws and our rights under WTO agreements, to address its woefully inadequate protection of intellectual property, eliminate subsidies to Chinese companies, remove harmful "indigenous innovation" policies, end its restraints on exports of raw materials and rare earth minerals, and eliminate the myriad other barriers to U.S. exports. China must introduce global best practices into its banking sector, mature its financial markets, move towards liberalizing its capital account, and open more comprehensively to foreign direct investment. It also must do more to ensure that Americans are not injured by goods with dangerous features or harmful ingredients.

While some of us support and some of us oppose this legislation, we all agree that it is time to signal to China and the Obama Administration that enough is enough. We must work together to develop an action plan that will promptly address China's undervalued currency, remove other barriers that limit U.S. exports, and create American jobs by establishing new markets for U.S. goods and services.

MAJORITY'S LACK OF TRADE AGENDA IS A LOST OPPORTUNITY

Finally, we are disappointed that this bill amounts to the sum total of the majority's trade agenda this Congress: this is the only trade bill that we have moved to the floor this Congress under regular order.

This legislation is no substitute for creating new U.S. jobs by opening markets for U.S. goods and services. While this legislation addresses an important issue, it will not advance the goal of doubling exports in five years. We must move expeditiously on the pending free trade agreements, work harder to open new markets to our exports, and address our broader economic issues all over the world and with China, including by restarting the languishing bilateral investment treaty negotiations.

Signed:

DAVE CAMP.
SAM JOHNSON.
KEVIN BRADY.
ERIC CANTOR.
JOHN LINDER.
DEVIN NUNES.

PAT TIBERI.
GINNY BROWN-WAITE.
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