

115TH CONGRESS  
1ST SESSION

# H. R. 2039

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.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 6, 2017

Mr. LEVIN (for himself, Mr. PASCARELL, and Mr. RYAN of Ohio) introduced the following bill; which was referred to the Committee on Ways and Means

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## 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.

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 Reform for  
5 Fair Trade Act”.

1 **SEC. 2. CLARIFICATION REGARDING DEFINITION OF**  
2 **COUNTERAVAILABLE SUBSIDY.**

3 (a) **BENEFIT CONFERRED.**—Section 771(5)(E) of  
4 the Tariff Act of 1930 (19 U.S.C. 1677(5)(E)) is amend-  
5 ed—

6 (1) in clause (iii), by striking “and” at the end;

7 (2) in clause (iv), by striking the period at the  
8 end and inserting “, and”; and

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

11 “(v) in the case in which the currency  
12 of a country in which the subject merchan-  
13 dise is produced is exchanged for foreign  
14 currency obtained from export trans-  
15 actions, and the currency of such country  
16 is a fundamentally undervalued currency,  
17 as defined in paragraph (37), the dif-  
18 ference between the amount of the cur-  
19 rency of such country provided and the  
20 amount of the currency of such country  
21 that would have been provided if the real  
22 effective exchange rate of the currency of  
23 such country were not undervalued, as de-  
24 termined pursuant to paragraph (38).”.

25 (b) **EXPORT SUBSIDY.**—Section 771(5A)(B) of the  
26 Tariff Act of 1930 (19 U.S.C. 1677(5A)(B)) is amended

1 by adding at the end the following new sentence: “In the  
2 case of a subsidy relating to a fundamentally undervalued  
3 currency, the fact that the subsidy may also be provided  
4 in circumstances not involving export shall not, for that  
5 reason alone, mean that the subsidy cannot be considered  
6 contingent upon export performance.”.

7 (c) DEFINITION OF FUNDAMENTALLY UNDER-  
8 VALUED CURRENCY.—Section 771 of the Tariff Act of  
9 1930 (19 U.S.C. 1677) is amended by adding at the end  
10 the following new paragraph:

11 “(37) FUNDAMENTALLY UNDERVALUED CUR-  
12 RENCY.—The administering authority shall deter-  
13 mine that the currency of a country in which the  
14 subject merchandise is produced is a ‘fundamentally  
15 undervalued currency’ if—

16 “(A) the government of the country (in-  
17 cluding any public entity within the territory of  
18 the country) engages in protracted, large-scale  
19 intervention in one or more foreign exchange  
20 markets during part or all of the 18-month pe-  
21 riod that represents the most recent 18 months  
22 for which the information required under para-  
23 graph (38) is reasonably available, but that  
24 does not include any period of time later than

1 the final month in the period of investigation or  
2 the period of review, as applicable;

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

9 “(C) during the 18-month period, the  
10 country has experienced significant and per-  
11 sistent global current account surpluses; and

12 “(D) during the 18-month period, the for-  
13 eign asset reserves held by the government of  
14 the country exceed—

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

18 “(ii) 20 percent of the country’s  
19 money supply, using standard measures of  
20 M2; and

21 “(iii) the value of the country’s im-  
22 ports during the previous 4 months.”.

23 (d) DEFINITION OF REAL EFFECTIVE EXCHANGE  
24 RATE UNDERVALUATION.—Section 771 of the Tariff Act  
25 of 1930 (19 U.S.C. 1677), as amended by subsection (c)

1 of this section, is further amended by adding at the end  
2 the following new paragraph:

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

7                   “(A)(i) rely upon, and where appropriate  
8                   be the simple average of, the results yielded  
9                   from application of the approaches described in  
10                  the guidelines of the International Monetary  
11                  Fund’s Consultative Group on Exchange Rate  
12                  Issues; or

13                   “(ii) if the guidelines of the International  
14                  Monetary Fund’s Consultative Group on Ex-  
15                  change Rate Issues are not available, be based  
16                  on generally accepted economic and econometric  
17                  techniques and methodologies to measure the  
18                  level of undervaluation;

19                   “(B) rely upon data that are publicly avail-  
20                  able, reliable, and compiled and maintained by  
21                  the International Monetary Fund or, if the  
22                  International Monetary Fund cannot provide  
23                  the data, by other international organizations or  
24                  by national governments; and

1                   “(C) use inflation-adjusted, trade-weighted  
2                   exchange rates.”.

3 **SEC. 3. REPORT ON IMPLEMENTATION OF ACT.**

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

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

17 **SEC. 4. APPLICATION TO GOODS FROM CANADA AND MEX-**  
18 **ICO.**

19           Pursuant to article 1902 of the North American Free  
20 Trade Agreement and section 408 of the North American  
21 Free Trade Agreement Implementation Act of 1993 (19  
22 U.S.C. 3438), the amendments made by section 2 of this  
23 Act shall apply to goods from Canada and Mexico.

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