

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 2378

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29, 2010

Received; read twice and referred to the Committee on Finance

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## AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Currency Reform for  
3 Fair Trade Act”.

4 **SEC. 2. CLARIFICATION REGARDING DEFINITION OF**  
5 **COUNTERAVAILABLE SUBSIDY.**

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

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

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

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

14 “(v) in the case in which the currency  
15 of a country in which the subject merchan-  
16 dise is produced is exchanged for foreign  
17 currency obtained from export trans-  
18 actions, and the currency of such country  
19 is a fundamentally undervalued currency,  
20 as defined in paragraph (37), the dif-  
21 ference between the amount of the cur-  
22 rency of such country provided and the  
23 amount of the currency of such country  
24 that would have been provided if the real  
25 effective exchange rate of the currency of

1           such country were not undervalued, as de-  
2           termined pursuant to paragraph (38).”.

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

11          (c) DEFINITION OF FUNDAMENTALLY UNDER-  
12 VALUED CURRENCY.—Section 771 of the Tariff Act of  
13 1930 (19 U.S.C. 1677) is amended by adding at the end  
14 the following new paragraph:

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

20           “(A) the government of the country (in-  
21 cluding any public entity within the territory of  
22 the country) engages in protracted, large-scale  
23 intervention in one or more foreign exchange  
24 markets during part or all of the 18-month pe-  
25 riod that represents the most recent 18 months

1 for which the information required under para-  
2 graph (38) is reasonably available, but that  
3 does not include any period of time later than  
4 the final month in the period of investigation or  
5 the period of review, as applicable;

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

12 “(C) during the 18-month period, the  
13 country has experienced significant and per-  
14 sistent global current account surpluses; and

15 “(D) during the 18-month period, the for-  
16 eign asset reserves held by the government of  
17 the country exceed—

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

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

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

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

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

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

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

22 “(B) rely upon data that are publicly avail-  
23 able, reliable, and compiled and maintained by  
24 the International Monetary Fund or, if the  
25 International Monetary Fund cannot provide

1 the data, by other international organizations or  
2 by national governments; and

3 “(C) use inflation-adjusted, trade-weighted  
4 exchange rates.”.

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

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

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

Passed the House of Representatives September 29,  
2010.

Attest: LORRAINE C. MILLER,  
*Clerk.*