



# **FAIR CURRENCY COALITION**

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May 13, 2009  
EMBARGOED until 12:00 PM ET

Contact: Lloyd Wood  
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## **Media Packet for Press Conference to Introduce the Currency Reform for Fair Trade Act of 2009 (CRFTA)**

Included in this press packet are the following documents:

- Press statement from U.S. Senators Stabenow and Bunning and Cong. Ryan and Murphy
- Press statement from the Fair Currency Coalition (FCC)
- Additional quotes from FCC member organizations.
- List of congressional sponsors of CRFTA by state
- List of scheduled press conference participants
- List of FCC members
- Summary of CRFTA
- Comparison of CRFTA to currency bills introduced in previous Congresses
- Copy of bill

# Congress of the United States

Washington, DC 20515

## Press Release

### FOR IMMEDIATE RELEASE

May 12, 2009

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### **Senator Debbie Stabenow, Senator Jim Bunning, Congressman Tim Ryan and Congressman Tim Murphy Introduce Currency Reform for Fair Trade Act**

*Bill would target nations that manipulate currency values to receive export and manufacturing advantage*

**Washington, DC** –Senator Jim Bunning (KY), Senator Debbie Stabenow (MI), Congressman Tim Ryan (OH-17) and Congressman Tim Murphy (PA-18) reintroduced the Currency Reform for Fair Trade Act today. The bipartisan coalition of lawmakers was joined by business leaders, industry groups and labor who have been harmed by the unfair disadvantages in manufacturing and export that currency misalignment can create. The Currency Reform for Fair Trade Act would target exchange rate misalignment between the U.S. Dollar, Chinese Yuan and other major trading partners, in order to reduce the unnatural comparative advantages that command economies can use against market economies.

**“This is one of the most broad based coalitions I’ve ever had the pleasure to work with,”** said Congressman Tim Ryan, **“Democrats and Republicans, manufacturers and labor, and representatives from all over the country have come together on this common sense legislation which only asks countries to live up to the standards they agreed to when they joined the WTO.”**

**“China continues to illegally subsidize products by a third of the costs by manipulating their currency to undercut American goods,”** said Congressman Tim Murphy. **“The time has come for Congress to stand up for American workers and not allow China to run roughshod over the American economy. With this legislation we will finally force China to stop cheating and level the playing field for America’s manufacturers,”**

**“The global economy is facing its greatest challenge in modern times. Families in Michigan and across the country are having a hard time putting food on the table. I frequently hear from workers worried about finding good paying jobs and businesses that are unsure how long they will be able to keep their doors open,”** said Senator Debbie

**Stabenow. “ I’m fighting to level the playing field for them. This crisis is an opportunity to reflect on the mistakes of the past and update our trade laws to ensure that they are fair and transparent. Our laws must provide mechanisms to cite countries for manipulating their currency and also provide remedies, so U.S. workers are not put at a competitive disadvantage.”**

**“American workers and businesses have been competing with both hands tied behind their backs for too long, and it’s time to treat illegal currency intervention like the outrageous trade subsidy it is,” said Senator Jim Bunning. “Our legislation will put in place the tools and policies necessary to level the playing field with our trading partners and help protect American businesses from those countries who manipulate their currency in order to achieve an unfair trading advantage.”**

The Currency Reform for Fair Trade Act has 39 cosponsors.

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## **Coalition of American Manufacturers, Farmers, and Workers Welcomes the Currency Reform for Fair Trade Act of 2009**

Washington, DC – The Fair Currency Coalition (FCC), an alliance of industry, agriculture, and worker organizations whose mission is to support U.S. manufacturing and production, thanked U.S. Senators Debbie Stabenow (D-MI) and Jim Bunning (R-KY) and Congressmen Tim Ryan (D-OH) and Tim Murphy (R-PA) for introducing the Currency Reform for Fair Trade Act of 2009 (CRFTA). Including Congressmen Ryan and Murphy, a bipartisan group of 40 Members, 23 Democrats and 17 Republicans, have sponsored the House bill, H.R. 2378. U.S. Senators Sherrod Brown (D-OH) and Olympia Snowe (R-ME) have also sponsored the Senate bill (no bill number yet available).

CRFTA makes the unfair trade practice of prolonged currency misalignment actionable under U.S. countervailing duty (CVD) and anti-dumping law. Prolonged currency misalignment occurs when a foreign country aligns its currency to the U.S. dollar for a prolonged period at a below market rate. This acts both as a trade barrier and as an illegal export subsidy by making goods from the offending country artificially less expensive compared to products made in the United States.

AFL-CIO Secretary-Treasurer and FCC Co-Chair Richard L. Trumka said, "Job creation is the number one issue on the minds of the AFL-CIO's 10 million members right now. While enacting the stimulus has provided critical short-term relief, the United States will not see sustained employment growth until our government stops China, Japan and others from using their undervalued currencies to steal American jobs. That is why Congress must pass the Ryan-Murphy CRFTA as quickly as possible."

FCC Executive Director Charles H. Blum said, "We thank Senators Stabenow and Bunning and Congressmen Ryan and Murphy for introducing the Currency Reform for Fair Trade Act of 2009. Export subsidies are prohibited under the WTO rules. When subsidies cause injury, those rules mandate a countervailing remedy. Because the U.S. Commerce Department continues to refuse even to investigate allegations of prolonged currency misalignment, tens of thousands of jobs and even entire industries are being lost. This legislation is a 'must have' if America is to enjoy a sustainable recovery."

"The FCC is mobilizing its growing grassroots network in support of the Stabenow/Bunning and Ryan/Murphy bills introduced today. We are committed to working with the Obama Administration and Democrats and Republicans in Congress to make CRFTA law," Blum added.

With respect to China, the FCC estimates that the Yuan remains undervalued by about 30 percent as a result of the Chinese government's manipulation of its currency. "Products from China are frequently priced at less than the cost of the materials contained in the products," Blum continued. "This is illegal government subsidization, pure and simple."

Since 2001, the United States has lost nearly five million manufacturing jobs. During that same time period, America has run a cumulative trade deficit in manufacturing goods in excess of \$3.6 trillion, including deficits of more than \$1.4 trillion with China and \$645 billion with Japan. In 2008 alone, China and Japan combined to account for 78.6 percent of the \$456 billion U.S. trade deficit in manufactured goods.

The FCC is an alliance of industry, agriculture, and worker organizations whose mission is to support U.S. manufacturing and production by seeking an end to the illegal export subsidy of prolonged currency misalignment. Additional information that describes the FCC and its mission can be found at [www.faircurrency.org](http://www.faircurrency.org).

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## Additional Quotes from Fair Currency Coalition Members Concerning the Introduction of the Currency Reform for Fair Trade Act of 2009

Thomas J. Gibson, President and CEO of the **American Iron and Steel Institute**, said, "AISI commends Senators Debbie Stabenow, Sherrod Brown and Jim Bunning and Congressmen Tim Ryan and Tim Murphy for reintroducing the Currency Reform for Fair Trade Act, a critical step toward leveling the playing field for American manufacturers. Currency manipulation by foreign governments has contributed to persistent and serious global structural imbalances and, in turn, to the current world economic crisis. It has led to enormous U.S. manufacturing job losses and provides a huge unfair -- and artificial -- competitive advantage. Prompt enactment of this new and streamlined trade remedy bill is urgently needed to address this significant problem. We are thankful to the growing list of Members who have joined as co-sponsors, and we urge Congress to enact it into law."

Auggie Tantillo, Executive Director of the **American Manufacturing Trade Action Coalition**, said, "The United States Congress and the Obama Administration insist that they stand for "fair trade" in the international marketplace. Well, there is no better way to prove that they actually mean what they say than to enact the Currency Reform for Fair Trade Act of 2009. Failure to do so will signal that the U.S. government is content to allow China and other non-market economies free reign to circumvent international trade law, while running roughshod over the U.S. market, U.S. companies and U.S. workers. The time for action is now."

R. Thomas Buffenbarger, President of the **International Association of Machinists and Aerospace Workers**, said, "The Currency Reform for Fair Trade Act of 2009 represents a giant leap forward in fixing our enormous trade imbalance and restoring our Nation's economic health."

Robert J. Dumont, President & CEO of the **Tooling, Manufacturing & Technologies Association** (TMTA) of Farmington Hills, MI, said, "The TMTA together with its 670+ member companies employing over 55,000 workers in 24 States fully supports this much needed legislation. The negative impact currency misalignment has on manufacturing cannot be ignored because manufacturers in America can not survive its unabated continuation. This legislation will not only save, but create jobs, in the United States so that we can 'Keep It Made In America'."

Thomas A. Danjczek, President of the **Steel Manufacturers Association**, said, "The United States in the past has attempted to obtain a solution to the persistent foreign currency under-valuations against the dollar -- particularly that of the Chinese Yuan -- with little success. This bill would help significantly. The United States is no longer in an economic position to provide unfettered access based on undervalued currency manipulation."

Kevin L. Kearns, President, **U.S. Business and Industry Council**, said, "Candidate Obama endorsed a currency-manipulation bill last year -- when the Democratic primaries entered the big, manufacturing-heavy, battleground states. President Obama should keep his word to working people and factory owners by demanding prompt Congressional passage of such a bill this year. It's time for Speaker Pelosi and Leader Reid to help the President keep his promise by putting a currency manipulation bill on his desk shortly."

Ruth Stephens, Executive Director of the **U.S. Industrial Fabrics Institute** (USIFI) of Roseville, MN, said, "The U.S. technical textile community has borne the brunt of currency exploitation for some time, with disastrous effect on U.S. employment in the textile industry. We welcome this effort to help our world have ethical and logical currency principles."



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## House and Senate Sponsorship Lists for the Currency Reform for Fair Trade Act of 2009

May 13, 2009

There are 3 original sponsors (2 Democrats and 1 Republican) of the Stabenow-Bunning Currency Reform for Fair Trade Act of 2009 in the **U.S. Senate** as of Friday, May 8.

1. **U.S. Sen. Jim Bunning (R-KY)**
2. **U.S. Sen. Debbie Stabenow (D-MI)**
3. U.S. Sen. Sherrod Brown (D-OH)
4. *U.S. Sen. Olympia Snowe (R-ME)*

Original sponsors are listed by state. Republican cosponsors are in *italics*. Lead sponsors are in **bold**.

There are 40 original sponsors (23 Democrats and 17 Republicans) of the Ryan-Murphy Currency Reform for Fair Trade Act of 2009 in the **U.S. House of Representatives** as of Friday, May 8.

Original sponsors are listed by state. Republican cosponsors are in *italics*. Lead sponsors are in **bold**.

1. *U.S. Rep. Dana Rohrabacher (R-CA)*
2. *U.S. Rep. Lynn Westmoreland (R-GA)*
3. U.S. Rep. Jerry Costello (D-IL)
4. U.S. Rep. Phil Hare (D-IL)
5. *U.S. Rep. Don Manzullo (R-IL)*
6. *U.S. Rep. Dan Burton (R-IN)*
7. *U.S. Rep. Mark Souder (R-IN)*
8. U.S. Rep. Peter Visclosky (D-IN)
9. U.S. Rep. Bruce Braley (D-IA)
10. U.S. Rep. Leonard Boswell (D-IA)
11. U.S. Rep. Mike Michaud (D-ME)
12. U.S. Rep. John Olver (D-MA)
13. U.S. Rep. John Conyers (D-MI)
14. U.S. Rep. Dale Kildee (D-MI)
15. *U.S. Rep. Mike Rogers (R-MI)*
16. U.S. Rep. Rush Holt (D-NJ)
17. U.S. Rep. Michael Arcuri (D-NY)
18. U.S. Rep. Brian Higgins (D-NY)
19. *U.S. Rep. Christopher Lee (R-NY)*
20. *U.S. Rep. John McHugh (R-NY)*
21. *U.S. Rep. Howard Coble (R-NC)*
22. *U.S. Rep. Walter Jones (R-NC)*
23. U.S. Rep. Sue Myrick (R-NC)
24. U.S. Rep. Heath Shuler (D-NC)
25. **U.S. Rep. Tim Ryan (D-OH)**
26. U.S. Rep. Betty Sutton (D-OH)
27. U.S. Rep. Charlie Wilson (D-OH)
28. U.S. Rep. Peter DeFazio (D-OR)
29. U.S. Rep. Jason Altmire (D-PA)
30. U.S. Rep. Tim Holden (D-PA)
31. **U.S. Rep. Tim Murphy (R-PA)**
32. *U.S. Rep. Todd Platts (R-PA)*
33. *U.S. Rep. Bill Shuster (R-PA)*
34. *U.S. Rep. Gresham Barrett (R-SC)*
35. *U.S. Rep. Henry Brown (R-SC)*
36. *U.S. Rep. Joe Wilson (R-SC)*
37. U.S. Rep. Gene Green (D-TX)
38. U.S. Rep. Eddie Bernice Johnson (D-TX)
39. U.S. Rep. Rick Boucher (D-VA)
40. U.S. Rep. Steve Kagen (D-WI)



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## List of Scheduled Press Conference Participants

**Members of the U.S. House and Senate scheduled to participate in the press conference include:**

- U.S. Senator Debbie Stabenow (D-MI)
- U.S. Senator Jim Bunning (R-KY)
- U.S. Rep. Tim Ryan (D-OH)
- U.S. Rep. Tim Murphy (R-PA)

**Industry and Labor speakers scheduled for the press event include:**

- Tom Buffenbarger, President of The International Association of Machinists and Aerospace Workers (IAM)
- Charles H. Blum, Executive Director of the Fair Currency Coalition (FCC) and Member of the Board of Directors for the Coalition for a Prosperous America (CPA)
- Bill Kerins, Wheatland Tube

**Expected Industry/Union Attendees Available for Questions and Answers:**

- Bob Baugh, Director of the AFL-CIO Industrial Union Council
- Thomas A. Danjczek, President of the Steel Manufacturers Association (SMA)
- Kevin L. Kearns, President of the U.S. Business and Industry Council (USBIC)
- Barry Solarz, Senior Vice President of Trade and Economic Policy for the American Iron and Steel Institute (AISI)
- Jonathan Kalkwarf, Vice President of Finance and Administration for the Metals Service Institute
- Lloyd Wood, Communications Director of the Fair Currency Coalition (FCC) and Director of Membership and Media Outreach, American Manufacturing Trade Action Coalition (AMTAC)

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## FAIR CURRENCY COALITION: MEMBERS (As of May 12, 2009)

- Allegheny Technologies Incorporated
- American Cotton Shippers Association
- American Federation of Labor Industrial Union Council
- American Foundry Society
- American Iron and Steel Institute
- American Manufacturing Trade Action Coalition
- American Mold Builders Association
- Bakery, Confectionary, Tobacco Workers and Grain Millers International Union (BCTGM)
- Coalition for a Prosperous America
- Communication Workers of America (CWA)
- EXEL Industrial
- The Copper & Brass Fabricators Council, Inc.
- International Association of Machinists and Aerospace Workers (IAM)
- International Brotherhood of Boilermakers (IBB)
- International Brotherhood of Electrical Workers (IBEW)
- International Federation of Professional Employees (IFPTE)
- Metals Service Center Institute
- National Council of Textile Organizations
- National Textile Association
- National Tooling and Machining Association
- Nucor Corporation
- Organization for Competitive Markets
- Precision Machined Products Association
- Precision Metalforming Association
- Sheet Metal Workers International Association (SMWIA)
- Specialty Steel Industry of North America
- Spring Manufacturers Institute
- Steel Dynamics, Inc.
- Steel Manufacturers Association
- Tooling & Manufacturing Association
- Tooling, Manufacturing, and Technologies Association
- United Automobile Workers (UAW)
- United Mineworkers of America (UMWA)
- United States Business & Industry Council
- United Steelworkers of America (USW)

- US Industrial Fabrics Institute
- Wood Machinery Manufacturers of America (WMMA)

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## **SUMMARY OF THE CURRENCY REFORM FOR FAIR TRADE ACT OF 2009**

**May 2009**

Fundamental exchange-rate misalignment occurs when a foreign government engages in protracted, large-scale intervention in the exchange markets with the result that its currency is undervalued or overvalued on an inflation-adjusted, trade-weighted basis by at least 5 percent, on average, during a specified 18-month period. This misalignment is hybrid in nature, a monetary measure that distorts international trade by acting (a) as a subsidy that reduces prices on exports from the country undervaluing its currency and (b) as an added tariff on imports into that country. U.S. trade remedies have not yet been applied to offset the subsidy-effects of currency undervaluation.

The Currency Reform for Fair Trade Act of 2009 departs from previous bills by focusing only on the trade aspect of currency misalignment and will:

- Ensure that standard, World Trade Organization (WTO)-consistent trade remedies are available to complement the diplomatic process from a monetary standpoint under the Omnibus Trade and Competitiveness Act of 1988.
- Direct the U.S. Department of Commerce to measure whether a country's currency is fundamentally misaligned. These calculations will be public and will use reliable public data available from the IMF as well as the two primary methodologies and guidelines that the IMF follows in its computations of exchange-rate misalignment.
- Clarify that any foreign government's undervaluation of its currency by means of such intervention can be offset by means of either countervailing duties or antidumping duties. Consistent with WTO rules, these remedies are imposed only when the U.S. International Trade Commission (USITC) determines that the unfair practice has caused or threatens to cause material injury to U.S. companies and workers. It is the effect or impact of the exchange-rate misalignment that is controlling as far as the WTO's agreements are concerned, not the foreign government's purpose or intent underlying its policy.
- Consistent with WTO rules, direct the U.S. Department of Commerce to treat currency undervaluation as a prohibited export-contingent subsidy. Both the text of the WTO Agreement on Subsidies and Countervailing Measures and related jurisprudence support the conclusion that undervaluation of a currency through a government's protracted, large-scale intervention in exchange markets constitutes a prohibited, countervailable export subsidy.

- Consistent with WTO rules, alternatively provide, that when calculating dumping margins, adjustments will be made to the foreign exporter's U.S. price to offset undervaluation. Also consistent with the WTO's standards, imposition of only one or the other remedy of countervailing and antidumping duties will be allowed. Existing U.S. law prohibits such "double-counting," that is, the simultaneous application of countervailing and antidumping duties to counter the same export subsidy.

In the final analysis, whether a measure is compliant with the WTO's rules cannot be definitively determined absent resolution in a formal dispute settlement at the WTO, but special care has been taken to make the provisions of this currency bill consistent with the rights and obligations of the United States in accordance with the WTO's relevant agreements and provisions.

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## COMPARISON OF CURRENCY REFORM FOR FAIR TRADE ACT OF 2009 AND PREVIOUSLY INTRODUCED LEGISLATION

May 2009

The Currency Reform for Fair Trade Act of 2009 (CRFTA) is based on, refines and streamlines earlier proposals made in the 109<sup>th</sup> and 110<sup>th</sup> Congresses: H.R. 1498, the Chinese Currency Act of 2005; H.R. 782/S. 796, the Fair Currency Act of 2007; H.R. 2942, the Currency Reform for Fair Trade Act of 2007; S. 1607, the Currency Exchange Rate Reform Act of 2007; and S. 1677, Currency Reform and Financial Markets Access Act of 2007. Like all of them but S. 1677, CRFTA aims to establish an effective trade law remedy to currency undervaluation.

At the same time, the current bill differs significantly from the previous bills:

- CRFTA would allow injured American industries to seek off-setting duties under *either* the antidumping or the countervailing duty (CVD) law in a manner consistent with US obligations under the WTO. H.R. 1498, H.R. 782, and S. 796 authorized the use of the CVD law only. S. 1607 authorized use of the antidumping law only, subject to multiple conditions and restrictions. Only H.R. 2942 also authorized the use of either remedy.
- CRFTA defines the actionable offense as “fundamental and actionable misalignment.” Consistent with IMF policy guidelines, this standard does not require any finding with regard to the intent of the foreign government as arguably might have been required under H.R. 1498 and S. 1607.
- At the same time, the new standard differs from all previous legislation in that it addresses the practice of currency misalignment and prescribes adjustments to antidumping and countervailing duty calculations depending on whether the misaligned currency is under- or over-valued.
- CRFTA prescribes the factors to be considered in determining whether a currency is misaligned over an 18-month period and, unlike most previous bills, prescribes the use of IMF methodologies for computing the magnitude of misalignment, using publicly available data.
- Unlike H.R. 782, H.R. 2942, and S. 796, CRFTA does not specifically provide for the application of the CVD law to imports from non-market economy countries. The Department of Commerce changed its policy with regard to this issue in 2007 and has completed more than \_\_\_ CVD investigations involving allegedly subsidized goods from non-market economy countries.
- Unlike H.R. 2942, S. 1607 and S. 1677, the bill does not seek to change the provisions of the Omnibus Trade and Competitiveness Act of 1988 under which the Treasury is required to make periodic determinations with regard to foreign government exchange rate practices and report to the Congress. These matters are beyond the purview of a trade law remedy bill.



.....  
(Original Signature of Member)

111TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

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.

\_\_\_\_\_  
IN THE HOUSE OF REPRESENTATIVES

Mr. RYAN of Ohio introduced the following bill; which was referred to the Committee on \_\_\_\_\_

\_\_\_\_\_  
**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 and antidumping duty laws, 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 Reform for  
5 Fair Trade Act”.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) The strength, vitality, and stability of the  
4 United States economy and, more broadly, the open-  
5 ness and effectiveness of the global trading system  
6 are critically dependent upon an international mone-  
7 tary regime of orderly and flexible exchange rates.

8 (2) Increasingly in recent years, a number of  
9 foreign governments have undervalued their cur-  
10 rencies by means of protracted, large-scale interven-  
11 tion directly or indirectly through surrogates in for-  
12 eign exchange markets, and this fundamental mis-  
13 alignment has substantially contributed to distor-  
14 tions in trade flows, unsustainable current account  
15 imbalances, and serious competitive problems for  
16 countries like the United States that permit their  
17 currencies to fluctuate in response to changes in  
18 market forces.

19 (3) This exchange depreciation serves as a sub-  
20 sidy for, and facilitates dumping of, exports from  
21 countries that engage in this mercantilist practice.

22 (4) It is consistent with the agreements of the  
23 World Trade Organization and the International  
24 Monetary Fund that United States trade law be  
25 amended to clarify and make explicit that funda-  
26 mental undervaluation by an exporting country of its

1 currency is actionable as a countervailable export  
2 subsidy and alternatively can be offset by anti-  
3 dumping duties when injury to producers and work-  
4 ers in the United States is caused by such subsidized  
5 and dumped imports.

6 **SEC. 3. FUNDAMENTAL AND ACTIONABLE MISALIGNMENT**  
7 **OF A CURRENCY.**

8 (a) IN GENERAL.—Subtitle D of title VII of the Tar-  
9 iff Act of 1930 (19 U.S.C. 1677 et seq.) is amended by  
10 inserting after section 771B the following new section:

11 **“SEC. 771C. FUNDAMENTAL AND ACTIONABLE MISALIGN-**  
12 **MENT OF A CURRENCY.**

13 “(a) FUNDAMENTAL AND ACTIONABLE UNDERVALU-  
14 ATION OF A CURRENCY.—For purposes of subsection (c),  
15 the currency of an exporting country is fundamentally and  
16 actionably undervalued if—

17 “(1) the real effective exchange rate of the ex-  
18 porting country’s currency is undervalued by at least  
19 5 percent, on average, during an 18-month period  
20 that represents the most recent 18 months for which  
21 the information required under subsection (c) is rea-  
22 sonably available, but that does not include any time  
23 later than the final month in the period of investiga-  
24 tion or the period of review, as applicable;

1           “(2) during part or all of the 18-month period,  
2           the government of the exporting country has en-  
3           gaged directly or indirectly through surrogates in  
4           protracted, large-scale intervention in foreign ex-  
5           change markets, and that intervention has involved  
6           the direct transfer of funds or the potential direct  
7           transfer of funds or liabilities;

8           “(3) during part or all of the 18-month period,  
9           the exporting country has experienced a significant  
10          and prolonged global current account surplus;

11          “(4) during part or all of the 18-month period,  
12          the exporting country has experienced a significant  
13          and prolonged bilateral current account surplus with  
14          the United States; and

15          “(5) during part or all of the 18-month period,  
16          the foreign exchange reserves held or controlled by  
17          the government of the exporting country have ex-  
18          ceeded the amount necessary to repay its external  
19          debt obligations falling due within the coming twelve  
20          months, except that the requirement of this para-  
21          graph shall not be satisfied and no fundamental and  
22          actionable undervaluation shall be found as to the  
23          currency of an exporting country if the exporting  
24          country during any part of the 18-month period has  
25          been allowed under Article XII or Article XVIII, sec-

1       tion B of the GATT 1994 (as defined in section  
2       2(1)(B) of the Uruguay Round Agreements Act (19  
3       U.S.C. 3501(1)(B)) to impose restrictions to safe-  
4       guard its balance of payments.

5       “(b) FUNDAMENTAL AND ACTIONABLE OVER-  
6 VALUATION OF A CURRENCY.—For purposes of subsection  
7 (c), the currency of an exporting country is fundamentally  
8 and actionably overvalued if—

9               “(1) the real effective exchange rate of the ex-  
10       porting country’s currency is overvalued by at least  
11       5 percent, on average, during an 18-month period  
12       that represents the most recent 18 months for which  
13       the information required under subsection (c) is rea-  
14       sonably available, but that does not include any time  
15       later than the final month in the period of investiga-  
16       tion or the period of review, as applicable;

17               “(2) during part or all of the 18-month period,  
18       the government of the exporting country has en-  
19       gaged directly or indirectly through surrogates in  
20       protracted, large-scale intervention in foreign ex-  
21       change markets, and that intervention has involved  
22       the direct transfer of funds or the potential direct  
23       transfer of funds or liabilities;

1           “(3) during part or all of the 18-month period,  
2           the exporting country has experienced a significant  
3           and prolonged global current account deficit;

4           “(4) during part or all of the 18-month period,  
5           the exporting country has experienced a significant  
6           and prolonged bilateral current account deficit with  
7           the United States; and

8           “(5) during part or all of the 18-month period,  
9           the foreign exchange reserves held or controlled by  
10          the government of the exporting country have been  
11          less than the amount necessary to repay its external  
12          debt obligations falling due within the coming twelve  
13          months, except that the requirement of this para-  
14          graph shall not be satisfied and no fundamental and  
15          actionable overvaluation shall be found as to the cur-  
16          rency of an exporting country if the exporting coun-  
17          try during any part of the 18-month period has been  
18          allowed under Article XII or Article XVIII, section  
19          B of the GATT 1994 (as defined in section 2(1)(B)  
20          of the Uruguay Round Agreements Act (19 U.S.C.  
21          3501(1)(B)) to impose restrictions to safeguard its  
22          balance of payments.

23          “(c) IDENTIFICATION OF FUNDAMENTAL AND AC-  
24          TIONABLE MISALIGNMENT OF A CURRENCY.—In calcu-  
25          lating under subsection (a) or (b) whether the currency

1 of an exporting country was fundamentally and actionably  
2 misaligned during the applicable 18-month period de-  
3 scribed in such subsection, the administering authority  
4 shall—

5           “(1) measure the level of any such misalign-  
6           ment as the simple average of the results yielded  
7           from application of the macroeconomic-balance ap-  
8           proach and the equilibrium-real-exchange-rate ap-  
9           proach;

10           “(2) rely upon data that are publicly available,  
11           reliable, and compiled and maintained by the Inter-  
12           national Monetary Fund or the World Bank or, if  
13           the International Monetary Fund or the World Bank  
14           cannot provide such data, by other international or-  
15           ganizations or by national governments;

16           “(3) for the purposes of the initiation and the  
17           preliminary and final determinations of an investiga-  
18           tion and for purposes of the preliminary and final  
19           results of a review, rely upon data for an 18-month  
20           period that represents the most recent 18 months  
21           for which the information needed under this sub-  
22           section is reasonably available at the time, but that  
23           does not include any time later than the final month  
24           in the period of investigation or the period of review,  
25           as applicable;

1           “(4) use inflation-adjusted, trade-weighted ex-  
2           change rates;

3           “(5) implement the macroeconomic-balance ap-  
4           proach and the equilibrium-real-exchange-rate ap-  
5           proach using the methodologies described in the  
6           guidelines of the International Monetary Fund’s  
7           Consultative Group on Exchange Rate Issues, when-  
8           ever possible; and

9           “(6) in the event that the guidelines of the  
10          International Monetary Fund’s Consultative Group  
11          on Exchange Rate Issues are not available, employ  
12          generally accepted economic and econometric tech-  
13          niques to implement the macroeconomic-balance ap-  
14          proach and the equilibrium-real-exchange-rate ap-  
15          proach.

16          “(d) IDENTIFICATION OF UNDERVALUATION OR  
17          OVERVALUATION OF A CURRENCY DURING THE PERIOD  
18          OF INVESTIGATION OR THE PERIOD OF REVIEW.—If fun-  
19          damental and actionable misalignment within the meaning  
20          of subsection (a) or (b) is identified under subsection (c)  
21          as to an exporting country’s currency for the applicable  
22          18-month period described in subsection (a) or (b), the  
23          administering authority shall—

24                 “(1) calculate for the period of investigation or  
25                 the period of review, as applicable, the level of

1 undervaluation or overvaluation, as the case may be,  
2 of the real effective exchange rate of the exporting  
3 country's currency in accordance with the proce-  
4 dures, methodologies, and standards set forth in  
5 subsection (c);

6 “(2) calculate for the period of investigation or  
7 the period of review, as applicable, using the results  
8 from each approach described in subsection (c)(1),  
9 the level of undervaluation or overvaluation, as the  
10 case may be, of the real exchange rate between the  
11 exporting country and the United States, deriving  
12 such level from each level of undervaluation or over-  
13 valuation, as the case may be, of the real effective  
14 exchange rate determined under paragraph (1) by  
15 allocating appreciations or depreciations, as the case  
16 may be, in the bilateral real exchange rates of the  
17 exporting country to its trading partners on the  
18 basis of the overall current account balances of such  
19 trading partners; and

20 “(3) take the simple average of each level of  
21 undervaluation or overvaluation, as the case may be,  
22 calculated under paragraph (2) to measure the level  
23 of undervaluation or overvaluation, as the case may  
24 be, of the bilateral real exchange rate between the  
25 exporting country and the United States.

1       “(e) CONSIDERATION OF UNDERVALUATION OF A  
2 CURRENCY IN COUNTERVAILING AND ANTIDUMPING  
3 DUTY PROCEEDINGS.—If the administering authority de-  
4 termines under subsection (d) that the currency of an ex-  
5 porting country was undervalued in relation to the United  
6 States dollar during the period of investigation or the pe-  
7 riod of review, as applicable—

8               “(1) in a countervailing duty proceeding, the  
9 administering authority shall include in the net  
10 countervailable subsidy the amount that reflects the  
11 level of undervaluation determined under subsection  
12 (d)(3) in the bilateral real exchange rate between the  
13 currency of the exporting country and the United  
14 States dollar; and

15               “(2) in an antidumping duty proceeding, the  
16 administering authority shall adjust the export price  
17 and constructed export price downward by the  
18 amount that reflects the level of undervaluation de-  
19 termined under subsection (d)(3) in the bilateral real  
20 exchange rate between the currency of the exporting  
21 country and the United States dollar.

22       “(f) CONSIDERATION OF OVERVALUATION OF A CUR-  
23 RENCY IN ANTIDUMPING DUTY PROCEEDINGS.—If the  
24 administering authority determines under subsection (d)  
25 that the currency of an exporting country was overvalued

1 in relation to the United States dollar during the period  
2 of investigation or the period of review, as applicable, the  
3 administering authority shall adjust the export price and  
4 constructed export price upward by the amount that re-  
5 flects the level of overvaluation determined under sub-  
6 section (d)(3) in the bilateral real exchange rate between  
7 the currency of the exporting country and the United  
8 States dollar.

9 “(g) TYPE OF ECONOMY.—Any determination with  
10 respect to the currency of an exporting country by the ad-  
11 ministering authority under this section shall be made re-  
12 gardless of whether the exporting country has a market  
13 economy, a nonmarket economy, or a combination thereof.

14 “(h) DEFINITIONS.—In this section:

15 “(1) PROTRACTED, LARGE-SCALE INTERVEN-  
16 TION IN FOREIGN EXCHANGE MARKETS.—

17 “(A) IN GENERAL.—The term ‘protracted,  
18 large-scale intervention in foreign exchange  
19 markets’ means involvement in foreign ex-  
20 change markets by the government of an ex-  
21 porting country, either directly or indirectly  
22 through surrogates, in such a way as to con-  
23 tribute significantly to fundamental and action-  
24 able misalignment of the currency of the export-  
25 ing country within the meaning of subsection

1 (a) or (b). Such involvement may include one or  
2 more of the following:

3 “(i) Governmental purchases, sales, or  
4 other exchanges of currencies in foreign ex-  
5 change markets.

6 “(ii) Requirement by law or policy of  
7 the government of the exporting country  
8 that some or all of the foreign currency  
9 earnings by an exporter or producer in the  
10 exporting country be converted into the  
11 currency of the exporting country.

12 “(iii) Any other practice by the gov-  
13 ernment of the exporting country that has  
14 the effect of causing fundamental and ac-  
15 tionable misalignment of the exchange rate  
16 of the exporting country’s currency and  
17 that involves the direct transfer of funds or  
18 the potential direct transfer of funds or li-  
19 abilities.

20 “(B) RULE OF CONSTRUCTION.—Funda-  
21 mental and actionable misalignment of the cur-  
22 rency of an exporting country within the mean-  
23 ing of subsection (a) or (b) shall be attributed  
24 to the protracted, large-scale intervention in  
25 foreign exchange markets by the government of

1 the exporting country unless it is determined  
2 that such intervention was not a significant  
3 cause of the fundamental and actionable mis-  
4 alignment.

5 “(2) MACROECONOMIC-BALANCE APPROACH.—

6 The term ‘macroeconomic-balance approach’ means  
7 a methodology under which the level of undervalu-  
8 ation or overvaluation of the real effective exchange  
9 rate of the exporting country’s currency is defined as  
10 the change in the real effective exchange rate needed  
11 to achieve equilibrium in the exporting country’s bal-  
12 ance of payments.

13 “(3) EQUILIBRIUM-REAL-EXCHANGE-RATE AP-

14 PROACH.—The term ‘equilibrium-real-exchange-rate  
15 approach’ means a methodology under which the  
16 level of undervaluation or overvaluation of the real  
17 effective exchange rate of the exporting country’s  
18 currency is defined as the difference between the ob-  
19 served real effective exchange rate and the real ef-  
20 fective exchange rate predicted by an econometric  
21 model.”.

22 (b) CLERICAL AMENDMENT.—The table of contents  
23 of title VII of the Tariff Act of 1930 is amended by insert-  
24 ing after the item relating to section 771B the following  
25 new item:

“Sec. 771C. Fundamental and actionable misalignment of a currency.”.

1 **SEC. 4. CLARIFICATIONS REGARDING DEFINITION OF**  
2 **COUNTERAVAILABLE SUBSIDY.**

3 (a) FINANCIAL CONTRIBUTION.—Section 771(5)(D)  
4 of the Tariff Act of 1930 (19 U.S.C. 1677(5)(D)) is  
5 amended by adding at the end the following new sentence:

6 “A fundamentally and actionably undervalued cur-  
7 rency (as determined under section 771C) constitutes a  
8 financial contribution under clause (i).”

9 (b) BENEFIT CONFERRED.—Section 771(5)(E) of  
10 the Tariff Act of 1930 (19 U.S.C. 1677(5)(E)) is amend-  
11 ed—

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

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

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

17 “(v) in the case of a fundamentally  
18 and actionably undervalued currency (as  
19 determined under section 771C), if the ex-  
20 porter or producer receives or is entitled to  
21 receive more of the exporting country’s  
22 currency in exchange for the United States  
23 dollars paid for the subject merchandise  
24 than if the exporting country’s currency  
25 were not fundamentally and actionably un-  
26 dervalued.”.

1 (c) SPECIFICITY.—Section 771(5A)(B) of the Tariff  
2 Act of 1930 (19 U.S.C. 1677(5A)(B)) is amended by add-  
3 ing at the end the following new sentence: “For purposes  
4 of this subparagraph, a fundamentally and actionably un-  
5 dervalued currency (as determined under section 771C)  
6 constitutes an export subsidy.”.

7 **SEC. 5. CLARIFICATIONS REGARDING DUMPING.**

8 (a) ADJUSTMENTS FOR EXPORT PRICE AND CON-  
9 STRUCTED EXPORT PRICE.—Section 772(c) of the Tariff  
10 Act of 1930 (19 U.S.C. 1677a(c)) is amended—

11 (1) in paragraph (1)—

12 (A) in subparagraph (B) by striking “and”  
13 at the end; and

14 (B) by adding at the end the following new  
15 subparagraph:

16 “(D) the amount that reflects the level of  
17 overvaluation in the bilateral real exchange rate  
18 between the exporting country and the United  
19 States (as determined under section 771C),  
20 and”; and

21 (2) in paragraph (2)—

22 (A) in subparagraph (A) by striking “and”  
23 at the end;

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

1 (C) by adding at the end the following new  
2 subparagraph:

3 “(C) the amount that reflects the level of  
4 undervaluation in the bilateral real exchange  
5 rate between the exporting country and the  
6 United States (as determined under section  
7 771C).”.

8 (b) AMENDMENTS TO DEFINITION OF NONMARKET  
9 ECONOMY COUNTRY.—Section 771(18)(B) of the Tariff  
10 Act of 1930 (19 U.S.C. 1677(18)(B)) is amended—

11 (1) in clause (v), by striking “and” at the end;

12 (2) by redesignating clause (vi) as clause (vii);

13 and

14 (3) by inserting after clause (v) the following  
15 new clause:

16 “(vi) whether in the view of the ad-  
17 ministering authority the currency of the  
18 foreign country is fundamentally and ac-  
19 tionably undervalued or fundamentally and  
20 actionably overvalued (as determined under  
21 section 771C), and”.

22 **SEC. 6. APPLICATION TO GOODS FROM CANADA AND MEX-**  
23 **ICO.**

24 Pursuant to article 1902 of the North American Free  
25 Trade Agreement and section 408 of the North American

1 Free Trade Agreement Implementation Act of 1993 (19  
2 U.S.C. 3438), the amendments made by this Act shall  
3 apply with respect to goods from Canada and Mexico.

4 **SEC. 7. EFFECTIVE DATE.**

5       The amendments made by this Act apply with respect  
6 to countervailing and antidumping duty proceedings initi-  
7 ated under title VII of the Tariff Act of 1930 before, on,  
8 or after the date of enactment of this Act.