

1 EXECUTIVE BUSINESS MEETING TO CONSIDER S. 1607, THE
2 CURRENCY EXCHANGE RATE OVERSIGHT REFORM ACT OF 2007, WITH
3 A SUBSTITUTE AMENDMENT; AND TO CONSIDER FAVORABLY
4 REPORTING THE NOMINATIONS OF DAVID H. McCORMICK, TO BE
5 UNDER SECRETARY OF THE TREASURY; U.S. DEPARTMENT OF THE
6 TREASURY; AND PETER B. MCCARTHY, TO BE ASSISTANT
7 SECRETARY OF THE TREASURY, U.S. DEPARTMENT OF THE
8 TREASURY

9 THURSDAY, JULY 26, 2007

10 U.S. Senate,
11 Committee on Finance,
12 Washington, DC.

13 The hearing was convened, pursuant to notice, at
14 3:03 p.m., in room 215, Dirksen Senate Office Building,
15 Hon. Max Baucus (chairman of the committee) presiding.

16 Present: Senators Kerry, Lincoln, Wyden, Schumer,
17 Stabenow, Cantwell, Grassley, Lott, Snowe, Kyl, Smith,
18 Bunning, Crapo, and Roberts.

19 Also present: Russ Sullivan, Democratic Staff
20 Director; Bill Dauster, Deputy Staff Director and Chief
21 Counsel; Kolan Davis, Republican Staff Director and Chief
22 Counsel; Dean Zerbe, Tax Counsel and Senior Counsel to
23 the Ranking Member; Carla Martin, Chief Clerk; Mark
24 Blair, Deputy Clerk; and Jewel Harper, Hearing Clerk.

25 Also present: Demetrios Marantis, Chief

1 International Trade Counsel; Stephen Schaefer, Republican
2 Chief International Trade Counsel; Janis Lazda,
3 International Trade Policy Advisor; David Ross,
4 International Trade Policy Advisor.

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

I N D E X

PAGE

STATEMENT OF:

THE HONORABLE MAX BAUCUS A United States Senator from the State of Montana	3
THE HONORABLE JIM BUNNING A United States Senator from the State of Kentucky	8
THE HONORABLE DEBBIE STABENOW A United States Senator from the State of Michigan	11
THE HONORABLE CHARLES E. GRASSLEY A United States Senator from the State of Iowa	15
THE HONORABLE JOHN F. KERRY A United States Senator from the State of Massachusetts	20
THE HONORABLE JON KYL A United States Senator from the State of Arizona	23
THE HONORABLE MARIA CANTWELL A United States Senator from the State of Washington	25

Gilmour
7-26-07
39 pp.

1

2 OPENING STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR FROM
3 MONTANA, CHAIRMAN, COMMITTEE ON FINANCE

4

5 The Chairman. The meeting will come to order.

6 The committee meets today to consider S. 1607, the
7 Currency Exchange Rate Oversight Reform Act of 2007, with
8 a substitute amendment, as well as the nominations of
9 David McCormick and Peter B. McCarthy to have positions
10 at Department of Treasury.

11 In July of 1944, delegates from 45 nations convened
12 at the Mt. Washington Hotel in Bretton Woods, New
13 Hampshire. For two weeks, these delegates considered the
14 devastating economics that contributed to the second
15 World War. They crafted policies that would sustain
16 growth, foster peaceful relations, and endure for
17 decades. Those two weeks at Bretton Woods laid the
18 foundation of today's global economy. Since that
19 meeting, the global economy has grown to nearly 10 times
20 what it was then.

21 China has grown steadily for three decades. One of
22 today's fastest-growing economies did not even exist in
23 1944. Today's economy is one of globally accessible
24 financial markets. Today's economy holds nearly
25 limitless potential for new markets and jobs, yet today,

1 as in 1944, our economic growth is only as good as the
2 policies that guide it.

3 Over the past few years, many of us had given
4 renewed scrutiny to the policies that guide today's
5 economy. We recognize that some international currency
6 exchange rate policies can be disruptive. We recognize
7 that when a country's policies keep its currency under-
8 valued, those policies make the country's products
9 unfairly cheap here, and we recognize that those policies
10 also make American products unduly expensive there.

11 Today, China's renminbi is the focus of our
12 concerns. Tomorrow, another economy's currency may
13 threaten even more devastating effects. These are
14 serious issues. They have real consequences. Many of my
15 colleagues on this committee have thought long and hard
16 about solutions.

17 Senators Bunning and Stabenow have dedicated a great
18 deal of energy to this issue, and for them I am very
19 thankful. Senators Snowe and Rockefeller have long made
20 it an important priority, and I thank them as well. This
21 issue has been the centerpiece of Senator Schumer's
22 international economic policy. He has worked even harder
23 than most of us. All of us share the same goal: we want
24 our trading partners to play by the rules. We want a
25 level playing field for American workers; on that, we all

1 agree.

2 And I expect we can also agree that we want a
3 durable solution. We want a solution that will
4 strengthen our rules-based economy. We want a solution
5 that will protect American workers. The solution that we
6 consider today is a compromise. It has been nearly one
7 year in the making.

8 The Currency Exchange Rate Oversight Reform Act
9 bridges differences between Senator Grassley, Senator
10 Schumer, Senator Graham, and myself. I have very much
11 enjoyed working with all three of my colleagues in
12 drafting this bill.

13 The solution that we offer and consider today is a
14 good one. It is firm, but it is fair. It does not
15 single out any one country. It is consistent with World
16 Trade Organization rules and International Monetary Fund
17 standards, giving national and international credibility.
18 It establishes a new framework that responds to the
19 imperative of today's global economy and it is designed
20 to address not just today's crises, but the challenges of
21 tomorrow and decades to come.

22 This bill abolishes the pejorative currency
23 manipulation formulation. That formulation has outlived
24 its usefulness. Instead, the bill requires the Treasury
25 Department to focus on objective economic indicators.

1 Treasury must identify what we call fundamentally
2 misaligned currencies. Where explicit government
3 policies drive the fundamental misalignment, Treasury
4 must designate that country for priority action.

5 Then if the offending country does not mend its
6 ways, the bill establishes tough consequences. The bill
7 ratchets up the pressure on the U.S. administration and
8 the bill ratchets up the pressure on the offending
9 country.

10 Most significantly, the bill requires that the
11 Commerce Department adjust its antidumping calculation to
12 account for currency under-valuation. This adjustment
13 would apply to both future investigations and existing
14 orders. This adjustment would be the most cost-effective
15 and quickest way to use our trade remedies to help our
16 workers and our companies, and this adjustment would not
17 violate our trade law obligations.

18 The bill also sets out other penalties for countries
19 that fail to do the right thing. Those penalties include
20 a procurement ban and possible remedial intervention.

21 The reaction to this bill has been strong. Some see
22 this bill as too harsh and accuse us of China bashing.
23 Others see this bill as too weak and believe that we have
24 given the administration too much discretion. I think
25 that we have struck the appropriate balance.

1 I believe this legislation finds the right
2 equilibrium between the policy role of Congress and the
3 role of the administration on currency issues. I am
4 especially pleased that after productive consultations
5 with my colleagues, we have made further improvements to
6 this legislation to broaden committee support and sharpen
7 this legislation's effectiveness.

8 This bill is no magic bullet to solve our trade
9 deficit, but it is part--an important part--of the
10 solution and we should act on it today. In so doing, let
11 us move to a more durable solution that is
12 internationally credible, let us strengthen our rules-
13 based international economy, and let us protect American
14 workers.

15 I now recognize other Senators wishing to make
16 opening statements. We are in a bit of a time crunch
17 here; nothing new. I think there may be a vote at 3:45.
18 We will have to work with it if that happens, and I
19 encourage Senators to limit their statements to no more
20 than four minutes.

21 I would like to recognize Senator Bunning, who is
22 seeking recognition first. Senator, you are recognized.
23 Make your statement.

24
25

1

2 OPENING STATEMENT OF HON. JIM BUNNING, A U.S. SENATOR
3 FROM KENTUCKY

4

5 Senator Bunning. Thank you, Mr. Chairman.

6 First, I appreciate the committee's effort to craft
7 legislation to address the problem of currency
8 manipulation. I commend you for recognizing the serious
9 trade problem we have with China and a few other
10 countries.

11 China has discovered, by joining the WTO and
12 maintaining a fixed or artificial low exchange rate, it
13 can gain free access to our markets while keeping its own
14 markets closed. Our failure to address this problem has
15 been a disaster. For our manufacturing workers in the
16 United States, in Kentucky and in many other States.

17 When we voted for China's accession to the World
18 Trade Organization, we agreed to a very low tariff on
19 Chinese goods and services. But China has found a series
20 loophole in the WTO regime that allows it to pursue
21 protectionist trade policies and to maintain illegal
22 nontariff barriers to trade.

23 We have heard a good deal of discussion about the
24 WTO consistency, but let us talk about the WTO legalities
25 of China trade policy. When China selectively rebates

1 its value added tax for selected products such as steel
2 pipe, is that consistent with WTO rules? When China
3 maintains a fixed exchange rate 40 percent below the free
4 floating rate is that consistent with WTO rules? I
5 maintain it is not.

6 Nevertheless, I have a few concerns with this bill
7 we have before us. First, it probably conflicts with the
8 jurisdiction of the Senate Banking Committee. I
9 understand that Senator Dodd and Senator Shelby have
10 written a letter objecting to this mark-up today on the
11 grounds that this bill should be referred to the Banking
12 Committee by the parliamentarian. I am originally a co-
13 sponsor of similar legislation introduced by Senators
14 Dodd and Shelby that I expect the Banking Committee will
15 mark up next week.

16 Second, as you know, I believe this legislation
17 should include a change to countervailing duty laws, as
18 well as the helpful changes to antidumping laws that this
19 bill already contains. Two remedies are better than one.

20 Thank you, Mr. Chairman.

21 The Chairman. Thank you, Senator, very much.

22 I just might, for the record, indicate that this
23 bill that was introduced was referred by the
24 parliamentarian to this committee. The parliamentarian
25 clearly felt this committee had jurisdiction. But I

1 certainly understand the need to find a single solution,
2 working with the Banking Committee, and we will certainly
3 do that. I do not see that as being a big issue at all.
4 Both committees are striving toward the same goal and
5 they have jurisdiction over whatever bill they might want
6 to work on. But we will work this out. I thank you very
7 much, Senator, for your statement.

8 Senator Stabenow is seeking recognition.

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1

2 OPENING STATEMENT OF HON. DEBBIE STABENOW, A U.S. SENATOR
3 FROM MICHIGAN

4

5 Senator Stabenow. Thank you, Mr. Chairman. I,
6 first, want to thank you and our Ranking Member, Senator
7 Grassley, for bringing forward this critical issue. I
8 want to thank Senator Schumer, who has been such a
9 champion as well. This is really historic. It is an
10 historic first step to addressing what is a cause of job
11 loss in my State and serious problems for many American
12 businesses. So I want to thank you.

13 I also want to indicate my pleasure in supporting
14 and working with Senator Bunning on our additional tools,
15 the additional tool of countervailing duties, and
16 appreciate his passion on this.

17 The reason I care so much about this is that in
18 Michigan alone we have lost one-quarter of our
19 manufacturing jobs. Two hundred and fifty-thousand jobs
20 were lost. There have been 3 million jobs lost in the
21 country. But when we think about that, 250,000 jobs in
22 one State alone -- our unemployment rate has gone from
23 3.7 percent to an alarming 7.2 percent, the highest in
24 the Nation.

25 We know that trade violations are not the only

1 issue, but they are a very significant issue for us. We
2 know we need to tackle issues on health care,
3 investments, and innovation. But the reality is, it is
4 an irrefutable fact that trade violations have had a huge
5 negative impact on the manufacturing economy, which is
6 why I care about it so much.

7 Eight of the world's largest auto parts companies
8 are headquartered in Michigan. They have laid off many,
9 many Michigan workers. Six of those companies have gone
10 into bankruptcy. When we look at this issue in very real
11 terms, with China alone, there can be up to a 40 percent
12 difference in price just because of currency
13 misalignment.

14 For instance, if you have an auto part that is a
15 \$100 auto part, a Chinese company can sell that for \$60
16 in the United States. That does not count wage
17 differential, health care, or anything else. So this is
18 real and tangible, which is why I very much appreciate
19 that the committee has chosen to take the word "intent"
20 out of the current law.

21 As a former member of the Banking Committee, I can
22 remember sitting many times hearing the Treasury
23 Secretary come in. We all know that China is
24 manipulation their currency, but they said, well, they
25 did not technically meet the law. Well, we have taken

1 out "intent", which is critically important to make sure
2 that, in fact, they can meet that.

3 I am very pleased to have worked, Mr. Chairman, with
4 you, the Ranking Member, Senator Schumer, Senator
5 Bunning, and so many people to offer some amendments that
6 would, in fact, decrease the time between identifying
7 currency misalignment and the ability to act, to be able
8 to also, with the new advisory committee that has been
9 set up, to have the advisory committee focus on small
10 business manufacturing as a part of this, because it is
11 not just our large manufacturers, but we also have many
12 auto supply parts, furniture stores, others that are
13 impacted. It is really a small business issue as well as
14 a large business issue.

15 I also appreciate the fact that you are including an
16 important study on how currency misalignment affects
17 manufacturing. I would say that this is not just about
18 China. In my State, as the Chairman has heard me say
19 many times, Japan is an issue. We are talking on an
20 automobile, a 7 or 8 percent differential of automobiles
21 coming in, which in these times is very, very
22 significant.

23 So I will put my full statement into the record, Mr.
24 Chairman, but this is a very important step. I support
25 whatever we can do to have meaningful tools to tackle

1 something that is costing jobs in America and hurting our
2 businesses.

3 The Chairman. Thank you, Senator. I want to thank
4 you. You have contributed a lot to this legislation in
5 lots of ways and I deeply appreciate it. I know the
6 problems in your home State and others, but especially in
7 your State, and I thank you very much.

8 [The prepared statement of Senator Stabenow appears
9 in the appendix.]

10 The Chairman. Senator Grassley?

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2 OPENING STATEMENT OF HON. CHARLES E. GRASSLEY, A U.S.

3 SENATOR FROM IOWA

4

5 Senator Grassley. I will put my full statement in
6 the record. I want to thank the Chairman for his
7 leadership on this. More importantly, over the previous
8 12 or 18 months, working with me when I was Chairman of
9 the committee on this issue. I want to thank Senator
10 Schumer for waiting into this year to do something in
11 this area. We, a year ago, agreed to have compromise,
12 and that compromise worked out. This is a product of it.

13 I would like to also make sure that everybody
14 understands that even though the papers only talk about
15 China, this is a generic policy issue because the
16 existing law is inadequate. It allows administrators in
17 the executive branch of government to pussyfoot around
18 too much in regard to what can be done and what should be
19 done, and nothing is done.

20 This legislation curtails that pussyfooting to a
21 considerable extent. If this bill were being written 20
22 years ago, it would not be China, it would be Japan.
23 Today people might say it is China, but next year or 20
24 years from now it could be country X. So, understand,
25 this is a policy change because we expect the people that

1 enforce this law in this country to do it vigorously to
2 protect our interests.

3 The Chairman. Thank you, Senator.

4 [The prepared statement of Senator Grassley appears
5 in the appendix.]

6 The Chairman. Are there other Senators who seek
7 recognition? Senator Schumer?

8 Senator Schumer. Well, thank you, Mr. Chairman. I
9 think this is a very important occasion. For the first
10 time in 20 years, a tough currency reform bill is poised
11 to pass a Senate committee with a broad bipartisan vote--
12 not a procedural vote like we have had before, but a vote
13 on an actual bill on an issue that the leadership has
14 made a commitment to addressing.

15 As you know, I have been, along with Senator Graham,
16 involved in this issue for a long time. When we first
17 started the issue of China currency, almost everyone said
18 it is not a problem. There were all these newspaper
19 editorials saying, do not even change it. Now we have a
20 consensus that it is a problem. The administration
21 admits it is a problem, economists admit it is a problem,
22 et cetera.

23 Our original bill, which was a really tough bill but
24 we knew was not WTO-compliant, achieved its purpose,
25 which was to get China's attention, get everyone's

1 attention, and put the issue on the map. But we always
2 knew that that original bill, even if it were to pass and
3 become law, would be ruled out of order by the WTO. The
4 time for bringing the issue to the fore evolved into the
5 time to passing legislation that could actually make a
6 difference.

7 I want to thank Chairman Baucus and Ranking Member
8 Grassley for their working hard to accommodate amendments
9 and to accommodate Senator Graham and I. This is a tough
10 bill, but a fair bill. It threads the needle to make a
11 bill with real teeth that will have a real difference,
12 but still be WTO-compliant. That is what the Chinese are
13 most afraid of in terms of making them yuan the line and
14 play by the rules of free trade, and we have achieved it.

15 I want to thank Senators Stabenow and Bunning, who I
16 know have a bill that was probably more similar to the
17 bill that Senator Graham and I had introduced. That
18 bill, I know, will be before the Banking Committee and we
19 will all have to work together. I am a member of both
20 committees. The important thing is to get a bill that
21 will work and that will pass. There has been a lot of
22 noise on this issue, but there has not been much real
23 action.

24 Now, I just want to say a couple of other points,
25 Mr. Chairman. I apologize. I think there are some who

1 think that this bill should be stronger, others who think
2 it is too strong. Some prefer certain trade sanctions to
3 others or a different set of carrots and sticks. Some
4 would like more discretion to the executive branch,
5 others would want less.

6 I think we have struck the right balance. This is a
7 little bit like Goldilocks: it is not too hot, it is not
8 too cold, it is just right. It is hard to get it just
9 right on trade issues, but I believe that this one is.
10 In the end, what all of us want, regardless of which
11 specific sanctions or definitions we may support, is
12 simply for a bill to become law that will prompt the
13 Chinese to take action. That is how we really help the
14 manufacturers and workers in our States.

15 Our objective should be to pass the strongest
16 possible bill with the largest possible vote that we can
17 that will not be thrown out by the WTO. At the end of
18 the day, if we let the perfect become the enemy of the
19 good, if each person says I only want it my way or no
20 way, we will get nothing done. We will have, again, a
21 lot of speeches and not much action.

22 This bill--and I know there are other attempts to do
23 the same thing that can be blended and merged, and I hope
24 they will be. I will be supportive of the Banking
25 Committee to do something as well--has a real chance to

1 get that done.

2 Again, I want to thank you, Mr. Chairman. I want to
3 thank Senator Grassley, I want to thank my colleague who
4 is not on this committee, Senator Lindsey Graham, who we
5 worked with long and hard to make this happen. Reporting
6 the Baucus-Grassley-Schumer-Graham bill is the first
7 major step towards producing a bill that can become law
8 this year, garner 67 votes in the Senate, 290 in the
9 House, and then allow our businesses to actually take
10 action against China when their currency is misaligned.
11 Thank you.

12 The Chairman. Any other Senators seek recognition?
13 Senator Kerry?

14
15
16
17
18
19
20
21
22
23
24
25

1

2 OPENING STATEMENT OF HON. JOHN F. KERRY, A U.S. SENATOR
3 FROM MASSACHUSETTS

4

5 Senator Kerry. Mr. Chairman, thank you very much.
6 I am sort of surprised and shocked that Senator Schumer
7 remembers what Goldilocks actually said. [Laughter].
8 Anyway, I am glad to join the anti-pussyfooting
9 legislation as a co-sponsor. [Laughter].

10 We tried, in the 109th Congress, to do something
11 about this, as some of you may remember. Obviously doing
12 something that is WTO-compliant has been sort of the key,
13 and tricky.

14 The Chinese originally pegged the yuan, as we all
15 remember, to the dollar, then in 2005 started a system
16 called, I think something like "controlled currency
17 management". We have all seen what that is with the
18 Central Bank intervening.

19 The result is, as Senator Stabenow has said and as
20 we feel in Massachusetts and other parts of the country,
21 Chinese goods are less expensive, American goods are more
22 expensive. Our access to their market is affected and
23 the economy is affected significantly. We obviously
24 cannot continue to tolerate that.

25 Mr. Chairman, you may recall when we had former

1 Secretary Snow in front of the committee. I remember
2 distinctly when he answered many of our frustrations by
3 sort of saying to American business, hey, we went over
4 there, we kind of negotiated, we did not get anywhere,
5 and if you are in business you are going to have to go
6 sue in the Chinese courts. That was basically the
7 recourse.

8 Two years later, nothing else has happened and we
9 are here. So, I thank Senator Schumer. I remember his
10 trip over there which raised a lot of hackles at the time
11 in some places, but I think he offered real leadership on
12 this. I mean, sometimes when people are opposed and they
13 do not respond and you are out there, that is leadership.
14 The result is, now there is a consensus. He was ahead of
15 the curve, with Senator Graham.

16 And you, yourself, have worked hard to help pull
17 this together, Mr. Chairman. So I thank you, Senator
18 Schumer, Senator Graham, and others, and I am happy to be
19 a co-sponsor of this. I think we may have a few
20 amendments to try to strengthen it, if I am correct, and
21 I will vote for those. But this is long overdue.

22 The Chairman. Thank you, Senator.

23 A quorum is present. Unless Senators seek
24 recognition --

25 Senator Kyl. Mr. Chairman?

1 The Chairman. Senator Kyl?
2 Senator Cantwell. Mr. Chairman?
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 OPENING STATEMENT OF HON. JON KYL, A U.S. SENATOR FROM
2 ARIZONA

3

4 Senator Kyl. Thank you, Mr. Chairman. I can be
5 very brief. I just wanted to express my concern about
6 the legislation, especially if it is amended in ways that
7 I hope it is not. I hope that this legislation is not
8 interpreted as a swing toward a more protectionist
9 Congress or a more protectionist United States away from
10 free trade that has characterized our policy in the last
11 several years, in both the Clinton administration and the
12 Bush administration, and has been partially responsible
13 for our great economic growth.

14 I am also troubled because I think less of a concern
15 than the currency issue is concern over enforcement of
16 the intellectual property and the failure of the Chinese
17 to meet their WTO milestones, both of which I think are
18 extraordinarily serious and have not received either
19 enough attention from the administration or from the
20 Congress.

21 If I support the legislation, it will be primarily
22 to send a message that it is not just the currency issue,
23 but other issues as well that will get the attention of
24 the Congress if the Chinese are not able to meet their
25 obligations under international law.

1 Thank you, Mr. Chairman.
2 Senator Cantwell. Mr. Chairman?
3 The Chairman. Senator Cantwell?
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 OPENING STATEMENT OF HON. MARIA CANTWELL, A U.S. SENATOR
2 FROM WASHINGTON

3

4 Senator Cantwell. Thank you, Mr. Chairman. I want
5 to thank you and Senator Grassley for your hard work on
6 this legislation. I do appreciate and share the concerns
7 of many of my colleagues. I do think that the Chinese
8 RMB is under-valued. I am not here to rain on my
9 colleagues' parade of a long time, but I am from Seattle.
10 I do have a different view on this policy.

11 I am not convinced that S. 1607 will achieve the
12 goal of pressing the Chinese to move faster towards a
13 market-determined exchange rate. We all want China to
14 reform its financial sector. We all want the banking
15 system and capital markets to be more similar to ours.
16 We want them to fully implement, as my colleague from
17 Arizona just said, the WTO commitments they have.
18 Movement towards these objectives, I believe, will
19 require constructive, but firm, dialogue.

20 But I question whether the legislative action that
21 we take will not be perceived as protectionist actions
22 against the United States. Now, I say this in the
23 context of, think about what we would say if the Chinese
24 parliament as passing legislation commenting on the U.S.
25 debt and the size of the U.S. debt.

1 But more importantly, what if, in retaliation to
2 this, the Chinese parliament actually passed legislation
3 prohibiting the United States, or trying to prohibit the
4 United States, from doing business in China based on that
5 debt? Or God forbid that they actually said, in
6 retaliation for this, let us start selling off Treasury
7 bonds purchased by China in reaction to the United
8 States.

9 I say this because I do believe that there are
10 important dialogues going on. I appreciate my
11 colleagues' frustration. I personally believe that China
12 needs a much strong legal structure, that trade
13 subsidies, intellectual property, environmental issues,
14 and as we have all heard, consumer safety issues ought to
15 be the paramount focus for us as a Nation in making sure
16 that imports into our country do not fail to meet certain
17 standards.

18 But I asked my colleagues, what really happens in
19 this issue of currency increases? We have a lot of
20 products coming from China, yes. I hope that their
21 products continue to rise in value. But to just assume
22 that a 30 percent increase in valuation of Chinese
23 currency does not impact the U.S. economy is not, I
24 think, adequately thinking through this issue.

25 The question, I believe, is what is the United

1 States going to sell to China, a market over 1.3 billion
2 people? The closer the U.S. and Chinese economies are
3 integrated, the more likely the Chinese economy is going
4 to move towards those market reforms that we want to see.

5 Now, I know that may not be fast enough for some of
6 my colleagues, but I do have concerns that this bill will
7 be perceived as protectionist. I know my colleagues have
8 worked hard not to do that, but to try to take currency
9 and put it in the antidumping framework of legislation
10 through our country, I think, is not a wise move. I hope
11 that the Chairman will record me as a "no" vote on this
12 legislation.

13 The Chairman. Thank you, Senator.

14 I think we all can tell from the remarks of all
15 those who have spoken that there are two views here, and
16 that is just what we tried to accomplish in this bill.
17 That is, we tried to thread that needle between those who
18 think this bill is too weak and those who think this bill
19 is too strong.

20 But we are also, in this committee, attempting to
21 advance our tradition of the committee being serious,
22 thoughtful, balanced, and significant, as has worked in
23 past legislation, that is very solid legislation. I
24 deeply respect the views of my colleague from Washington,
25 but I think this bill is very thoughtful and I think it

1 is about as good as we can get. I urge Senators to vote
2 for it.

3 I see a quorum is present, so I would like to move.
4 There is a modification before the committee, and the
5 mark is so modified.

6 I would like, now, Mr. Marantis --

7 Senator Bunning. Mr. Chairman?

8 The Chairman. Yes, Senator Bunning?

9 Senator Bunning. I would like to offer an
10 amendment.

11 The Chairman. At the appropriate time.

12 Senator Bunning. All right.

13 The Chairman. Yes. When we get to amendments.

14 Senator Bunning. I thought we were.

15 The Chairman. We will get there.

16 Senator Bunning. All right.

17 The Chairman. Thank you.

18 Let us walk through the mark if you could, very
19 briefly, Mr. Marantis.

20 Mr. Marantis. Thank you, Mr. Chairman. The
21 modification, Senators, that you have before you today
22 makes 10 changes to the mark that was circulated on
23 Tuesday. The first change accepts part of Senator
24 Stabenow's Amendment #1. Under this amendment, the
25 Treasury Department, in its semi-annual report, would be

1 required to report on actions, if any, taken by the
2 country in question to eliminate the fundamental
3 misalignment.

4 The second change accepts part of Senator Hatch's
5 Amendment #1, and that amendment clarifies the scope of
6 countries that the Treasury Department will analyze in
7 its report in order to focus attention on developing and
8 developed countries of bilateral and regional
9 significance.

10 The third change accepts part of Senator Stabenow's
11 Amendment #1, and that amends the criteria for
12 designation of currencies for priority action to clarify
13 that the economic concept of sterilization is not an
14 additional obligation.

15 The fourth change accepts part of Senator Hatch's
16 Amendment #1, and this is a technical change that
17 recognizes that the Treasury Department shall seek
18 consultations with the designated countries.

19 The fifth change accepts parts of Senator Stabenow's
20 Amendment #3, and that amendment accelerates the time
21 line for the operation of the bill's consequences,
22 including the antidumping provision. The time frame in
23 the original bill was 180 days from identification, and
24 the amendment will accelerate that time to 90 days.

25 The sixth change also accepts part of Senator

1 Stabenow's Amendment #1. That amendment tightens the
2 discretion of the Treasury Department in two
3 determinations: whether the designated country has failed
4 to adopt appropriate policies and whether there has been
5 persistent failure on the part of the designated country
6 to adopt appropriate policies.

7 The way the change is made, is it replaces the
8 original text which read "has adopted appropriate
9 policies to eliminate the fundamental misalignment" with
10 new language, which is, "has adopted appropriate policies
11 and taken identifiable action to eliminate the
12 fundamental misalignment."

13 The seventh change is designed to increase
14 transparency with respect to the President's vital
15 economic interest waiver, and in particular the
16 modification requires the President, if he invokes that
17 waiver, to publish the reasons for his determination in
18 the *Federal Register*.

19 The eighth change accepts Senator Bingaman's
20 Amendment #1. That change clarifies that if the
21 Secretary of the Treasury considers remedial intervention
22 as contemplated in the bill, he must take into account
23 the economic implications of any potential action he
24 considers.

25 The ninth change accepts Senator Conrad's Amendment

1 #1, part of Stabenow's Amendment #2, and Senator Snowe's
2 Amendment #2. This change makes the congressional
3 disapproval resolution in the bill binding, providing an
4 opportunity for a congressional override of the
5 President's waiver for vital economic interests.

6 The final change accepts parts of Senator Stabenow's
7 Amendment #3, and this change is designed to ensure that
8 small business owners have input into the advisory
9 committee process.

10 Thank you, Mr. Chairman.

11 The Chairman. Thank you, Mr. Marantis.

12 For the benefit of my colleagues, I notice that a
13 vote has started. I think we have about 10 minutes here.

14 I recognize Senator Bunning for any amendment he
15 might wish to discuss.

16 Senator Bunning. It is my Amendment #1.

17 The Chairman. I think, for the benefit of my
18 colleagues, we could --

19 Senator Bunning. This will take a very short time.

20 The Chairman. We could vote and report this bill
21 out before we go back to vote.

22 Senator Bunning. It is Amendment #1 that I would
23 like to call up and speak about, and then withdraw the
24 amendment.

25 The Chairman. Thank you, Senator.

1 Senator Bunning. Thank you, Mr. Chairman.

2 As I mentioned earlier, I commend you and your
3 staff, and Senators Grassley and Schumer, for developing
4 a novel approach to addressing the problem of currency
5 manipulation through the antidumping laws. I support
6 that approach, but I believe this legislation could be
7 strengthened if a countervailing duty remedy is included
8 as well. I understand that you would prefer not to have
9 a debate here about WTO consistency, so I will limit my
10 remarks.

11 However, I would point out that we have already
12 heard testimony in this room on this topic by a former
13 Chief of Staff of this committee, Robert Lighthouser.
14 Indeed, I have a list of seven prominent trade attorneys
15 or professors who have endorsed the countervailing duty
16 approach in my bill and Senator Stabenow's bill, the Fair
17 Currency Act, which we have co-sponsored with Senator
18 Snowe, Senator Conrad, and Senator Bayh on the Banking
19 Committee.

20 Senator Schumer and I have worked on this issue in
21 the past as well. I remain convinced that my approach is
22 tougher, realistic, and fully consistent with WTO rules.
23 But I will respect the wishes of the Chairman and the
24 Ranking Member. With your consent, Mr. Chairman, I will
25 offer my Amendment #1 so that other members who support

1 this approach may be heard, and then I would withdraw it
2 before a vote is taken.

3 I fully expect to pursue it further as China trade
4 legislation moves through the Senate, through the Banking
5 Committee, and I hope my colleagues will join me in that
6 effort.

7 Thank you very much.

8 The Chairman. Thank you, Senator, very much.

9 I really would like to move to a vote on this bill
10 as quickly as possible.

11 Senator Stabenow?

12 Senator Stabenow. Thank you. In the interest of
13 time, Mr. Chairman, I just want to associate myself with
14 my colleague's remarks and thank him for his work. We
15 will continue to pursue. I think it is important to have
16 this tool as a part of the toolbox for our businesses.
17 Thank you.

18 The Chairman. Thank you, Senator.

19 Senator Snowe. Mr. Chairman?

20 The Chairman. I might say, Senator Rockefeller has
21 filed two amendments he does not plan to offer. Both
22 relate to the topic which is of great concern to both
23 Senator Rockefeller and myself, and that is trade
24 enforcement. I agree with Senator Rockefeller that we
25 need to strengthen enforcement of our trade laws, and

1 look forward to working with him.

2 Senator Snowe?

3 Senator Snowe. Mr. Chairman, may I include a
4 statement in the record on behalf of Senator Bunning's
5 amendment? Because I strongly endorse it and I think it
6 would be a good adjunct in fighting these trade-
7 distorting practices. And so I appreciate the resolution
8 to this question.

9 The Chairman. Absolutely. Certainly.

10 Senator Snowe. And I also appreciate your efforts
11 in the overall bill. Thank you.

12 [The prepared statement of Senator Snowe appears in
13 the appendix.]

14 Senator Schumer. Mr. Chairman?

15 The Chairman. Senator Schumer?

16 Senator Schumer. Very briefly, I want to thank
17 Senator Bunning and Senator Stabenow. I think these are
18 two approaches that can work side by side, one through the
19 Banking Committee, one through Finance, and then marry
20 up. As I said, I intend to support your bill in the
21 Banking Committee and hope that it moves through.

22 The Chairman. If there are no further amendments,
23 I would entertain a motion that the committee report S.
24 1607, the Currency Exchange Rate Oversight Act of 2007.

25 Senator Kerry. So moved.

1 The Chairman. It has been moved. Is a recorded
2 vote requested? A recorded vote is requested. The Clerk
3 will call the roll.

4 The Clerk. Mr. Rockefeller?

5 The Chairman. Aye by proxy.

6 The Clerk. Mr. Conrad?

7 The Chairman. Aye by proxy.

8 The Clerk. Mr. Bingaman?

9 The Chairman. Aye by proxy.

10 The Clerk. Mr. Kerry?

11 Senator Kerry. Aye.

12 The Clerk. Mrs. Lincoln?

13 Senator Lincoln. Aye.

14 The Clerk. Mr. Wyden?

15 Senator Wyden. Aye.

16 The Clerk. Mr. Schumer?

17 Senator Schumer. Aye.

18 The Clerk. Ms. Stabenow?

19 Senator Stabenow. Aye.

20 The Clerk. Ms. Cantwell?

21 Senator Cantwell. No.

22 The Clerk. Mr. Salazar?

23 The Chairman. Aye by proxy.

24 The Clerk. Mr. Grassley?

25 Senator Grassley. Aye.

1 The Clerk. Mr. Hatch?
2 Senator Grassley. Aye by proxy.
3 The Clerk. Mr. Lott?
4 Senator Lott. Pass.
5 The Clerk. Ms. Snowe?
6 Senator Snowe. Aye.
7 The Clerk. Mr. Kyl?
8 Senator Kyl. Pass.
9 The Clerk. Mr. Smith?
10 Senator Smith. Pass.
11 The Clerk. Mr. Bunning?
12 Senator Bunning. Aye.
13 The Clerk. Mr. Crapo?
14 Senator Crapo. Aye.
15 The Clerk. Mr. Roberts?
16 Senator Roberts. Aye.
17 The Clerk. Mr. Ensign?
18 Senator Grassley. Ensign is aye by proxy.
19 The Clerk. Mr. Chairman?
20 The Chairman. Aye.
21 Senator Lott. Mr. Chairman?
22 The Chairman. Senator Lott?
23 Senator Lott. I ask to be recorded as "aye".
24 The Clerk. Mr. Lott changes his vote to "aye".
25 The Chairman. Any other Senators wish to change

1 their votes? Senator Kyl?

2 Senator Kyl. Aye.

3 The Clerk. Mr. Kyl changes his vote to "aye".

4 Senator Smith. Aye.

5 The Clerk. Mr. Smith changes his vote to "aye".

6 The Chairman. The Clerk will announce the results
7 of the vote.

8 The Clerk. Mr. Chairman, the tally is 20 ayes, 1
9 nay.

10 The Chairman. The ayes have it. The bill is so
11 reported.

12 Before Senators leave, I might say we have a little
13 bit more business to conduct, and that is two
14 nominations.

15 I ask consent that the staff have authority to make
16 technical and conforming changes to the bill just passed.
17 Without objection, so ordered.

18 I thank the Senators and ask their indulgence. Now,
19 we are not quite through. We have the nominations of
20 David McCormick and Peter McCarthy for Treasury
21 Department positions. I assume there is no debate.

22 Senator Kerry. Move their nominations.

23 The Chairman. The Chair hears a motion to move the
24 nominations. All those in favor, say aye.

25 [Chorus of ayes]

1 The Chairman. Those opposed, no.

2 [No response]

3 The Chairman. The ayes have it. The nominations
4 are ordered reported.

5 Again, I thank all Senators very much. Thank you
6 very much.

7 The committee is adjourned.

8 [Whereupon, at 3:03 p.m. the meeting was concluded.]

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

**UNITED STATES SENATE
COMMITTEE ON FINANCE**

Max Baucus, Chairman

Thursday, July 26, 2007

215 Dirksen Senate Office Building

Agenda for Business Meeting

- I. A bill (S. 1607) entitled “The Currency Exchange Rate Oversight Reform Act of 2007,” with a substitute amendment

- II. To consider favorably reporting the nominations of David H. McCormick, to be Under Secretary of the Treasury, U.S. Department of the Treasury and Peter B. McCarthy, to be Assistant Secretary of the Treasury, U.S. Department of the Treasury.

AMENDMENT NO. _____ Calendar No. _____

Purpose: To provide a complete substitute.

IN THE SENATE OF THE UNITED STATES—110th Cong., 1st Sess.

S. 1607

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

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by _____

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Currency Exchange
5 Rate Oversight Reform Act of 2007".

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) **ADMINISTERING AUTHORITY.**—The term
9 "administering authority" means the authority re-

1 ferred to in section 771(1) of the Tariff Act of 1930
2 (19 U.S.C. 1677(1)).

3 (2) AGREEMENT ON GOVERNMENT PROCURE-
4 MENT.—The term “Agreement on Government Pro-
5 curement” means the agreement referred to in sec-
6 tion 101(d)(17) of the Uruguay Round Agreements
7 Act (19 U.S.C. 3511(d)(17)).

8 (3) COUNTRY.—The term “country” means a
9 foreign country, dependent territory, or possession of
10 a foreign country, and may include an association of
11 2 or more foreign countries, dependent territories, or
12 possessions of countries into a customs union out-
13 side the United States.

14 (4) EXPORTING COUNTRY.—The term “export-
15 ing country” means the country in which the subject
16 merchandise is produced or manufactured.

17 (5) FUNDAMENTAL MISALIGNMENT.—The term
18 “fundamental misalignment” means a significant
19 and sustained undervaluation of the prevailing real
20 effective exchange rate, adjusted for cyclical and
21 transitory factors, from its medium-term equilibrium
22 level.

23 (6) FUNDAMENTALLY MISALIGNED CUR-
24 RENCY.—The term “fundamentally misaligned cur-

1 rency” means a foreign currency that is in funda-
2 mental misalignment.

3 (7) REAL EFFECTIVE EXCHANGE RATE.—The
4 term “real effective exchange rate” means a weight-
5 ed average of bilateral exchange rates, expressed in
6 price-adjusted terms.

7 (8) SECRETARY.—The term “Secretary” means
8 the Secretary of the Treasury.

9 (9) STERILIZATION.—The term “sterilization”
10 means domestic monetary operations taken to neu-
11 tralize the monetary impact of increases in reserves
12 associated with intervention in the currency ex-
13 change market.

14 (10) SUBJECT MERCHANDISE.—The term “sub-
15 ject merchandise” means the merchandise subject to
16 an antidumping investigation, review, suspension
17 agreement, or order referred to in section 771(25) of
18 the Tariff Act of 1930 (19 U.S.C. 1677(25)).

19 (11) WTO AGREEMENT.—The term “WTO
20 Agreement” means the agreement referred to in sec-
21 tion 2(9) of the Uruguay Round Agreements Act (19
22 U.S.C. 3501(9)).

23 **SEC. 3. REPORT ON INTERNATIONAL MONETARY POLICY**
24 **AND CURRENCY EXCHANGE RATES.**

25 (a) REPORTS REQUIRED.—

1 (1) IN GENERAL.—Not later than March 15
2 and September 15 of each calendar year, the Sec-
3 retary, after consulting with the Chairman of the
4 Board of Governors of the Federal Reserve System
5 and the Advisory Committee on International Ex-
6 change Rate Policy, shall submit to Congress, a
7 written report on international monetary policy and
8 currency exchange rates.

9 (2) CONSULTATIONS.—On or before March 30
10 and September 30 of each year, the Secretary shall
11 appear, if requested, before the Committee on Bank-
12 ing, Housing, and Urban Affairs and the Committee
13 on Finance of the Senate and the Committee on Fi-
14 nancial Services and the Committee on Ways and
15 Means of the House of Representatives to provide
16 testimony on the reports submitted pursuant to
17 paragraph (1).

18 (b) CONTENT OF REPORTS.—Each report submitted
19 under subsection (a) shall contain—

20 (1) an analysis of currency market develop-
21 ments and the relationship between the United
22 States dollar and the currencies of major economies
23 and trading partners of the United States;

24 (2) a review of the economic and monetary poli-
25 cies of major economies and trading partners of the

1 United States, and an evaluation of how such poli-
2 cies impact currency exchange rates;

3 (3) a description of any currency intervention
4 by the United States or other major economies or
5 trading partners of the United States, or other ac-
6 tions undertaken to adjust the actual exchange rate
7 relative to the United States dollar;

8 (4) an evaluation of the domestic and global
9 factors that underlie the conditions in the currency
10 markets, including—

11 (A) monetary and financial conditions;

12 (B) accumulation of foreign assets;

13 (C) macroeconomic trends;

14 (D) trends in current and financial ac-
15 count balances;

16 (E) the size, composition, and growth of
17 international capital flows;

18 (F) the impact of the external sector on
19 economic growth;

20 (G) the size and growth of external indebt-
21 edness;

22 (H) trends in the net level of international
23 investment; and

24 (I) capital controls, trade, and exchange
25 restrictions;

1 (5) a list of currencies designated as fundamen-
2 tally misaligned currencies pursuant to section
3 4(a)(2), and a description of any economic models or
4 methodologies used to establish the list;

5 (6) a list of currencies designated for priority
6 action pursuant to section 4(a)(3);

7 (7) an identification of the nominal value asso-
8 ciated with the medium-term equilibrium exchange
9 rate, relative to the United States dollar, for each
10 currency listed under paragraph (6);

11 (8) a description of any consultations conducted
12 or other steps taken pursuant to section 5, 6, or 7;
13 and

14 (9) a description of any determination made
15 pursuant to section 9(a).

16 (c) CONSULTATIONS.—The Secretary shall consult
17 with the Chairman of the Board of Governors of the Fed-
18 eral Reserve System and the Advisory Committee on
19 International Exchange Rate Policy with respect to the
20 preparation of each report required under subsection (a).
21 Any comments provided by the Chairman of the Board
22 of Governors of the Federal Reserve System or the Advi-
23 sory Committee on International Exchange Rate Policy
24 shall be submitted to the Secretary not later than the date
25 that is 15 days before the date each report is due under

1 subsection (a). The Secretary shall submit the report to
2 Congress after taking into account all such comments re-
3 ceived.

4 **SEC. 4. IDENTIFICATION OF FUNDAMENTALLY MISALIGNED**
5 **CURRENCIES.**

6 (a) IDENTIFICATION.—

7 (1) IN GENERAL.—The Secretary shall analyze
8 on a semiannual basis the prevailing real effective
9 exchange rates of foreign currencies.

10 (2) DESIGNATION OF FUNDAMENTALLY MIS-
11 ALIGNED CURRENCIES.—As a result of the analysis
12 conducted under paragraph (1), the Secretary shall
13 identify any foreign currency that is in fundamental
14 misalignment and shall designate such currency as a
15 fundamentally misaligned currency.

16 (3) DESIGNATION OF CURRENCIES FOR PRI-
17 ORITY ACTION.—The Secretary shall designate a
18 currency identified under paragraph (2) for priority
19 action if the country that issues such currency is—

20 (A) engaging in protracted large-scale
21 intervention in one direction in the currency ex-
22 change market, accompanied by partial or full
23 sterilization;

1 (B) engaging in excessive and prolonged
2 official or quasi-official accumulation of foreign
3 assets, for balance of payments purposes;

4 (C) introducing or substantially modifying
5 for balance of payments purposes a restriction
6 on, or incentive for, the inflow or outflow of
7 capital, that is inconsistent with the goal of
8 achieving full currency convertibility; or

9 (D) pursuing any other policy or action
10 that, in the view of the Secretary, warrants des-
11 ignation for priority action.

12 (b) REPORTS.—The Secretary shall include a list of
13 any foreign currency designated under paragraph (2) or
14 (3) of subsection (a) in each report required by section
15 3.

16 **SEC. 5. NEGOTIATIONS AND CONSULTATIONS.**

17 (a) IN GENERAL.—Upon designation of a currency
18 pursuant to section 4(a)(2), the Secretary shall seek to
19 consult bilaterally with the country that issues such cur-
20 rency in order to facilitate the adoption of appropriate
21 policies to address the fundamental misalignment.

22 (b) CONSULTATIONS INVOLVING CURRENCIES DES-
23 IGNATED FOR PRIORITY ACTION.—With respect to each
24 currency designated for priority action pursuant to section

1 4(a)(3), the Secretary shall, in addition to the consulta-
2 tions with the country described in subsection (a)—

3 (1) seek the advice of the International Mone-
4 tary Fund with respect to the Secretary's findings in
5 the report submitted to Congress pursuant to section
6 3(a); and

7 (2) encourage other governments, whether bilat-
8 erally or in appropriate multinational fora, to join
9 the United States in seeking the adoption of appro-
10 priate policies by the country described in subsection
11 (a) to eliminate the fundamental misalignment.

12 **SEC. 6. FAILURE TO ADOPT APPROPRIATE POLICIES.**

13 (a) IN GENERAL.—Not later than 180 days after the
14 date on which a currency is designated for priority action
15 pursuant to section 4(a)(3), the Secretary shall determine
16 whether the country that issues such currency has adopted
17 appropriate policies to eliminate the fundamental mis-
18 alignment. The Secretary shall promptly notify Congress
19 of such determination and publish notice of the determina-
20 tion in the Federal Register. If the Secretary determines
21 that the country that issues such currency has failed to
22 adopt appropriate policies to eliminate the fundamental
23 misalignment, the following shall apply with respect to the
24 country until a notification described in section 7(b) is
25 published in the Federal Register:

1 (1) ADJUSTMENT UNDER ANTIDUMPING LAW.—
2 For purposes of an antidumping investigation or re-
3 view under title VII of the Tariff Act of 1930 (19
4 U.S.C. 1673 et seq.) the following shall apply:

5 (A) IN GENERAL.—The administering au-
6 thority shall ensure a fair comparison between
7 the export price and the normal value by ad-
8 justing the price used to establish export price
9 or constructed export price to reflect the funda-
10 mental misalignment of the currency of the ex-
11 porting country.

12 (B) SALES SUBJECT TO ADJUSTMENT.—
13 The adjustment described in subparagraph (A)
14 shall apply with respect to subject merchandise
15 sold on or after the date that is 30 days after
16 the date the currency of the exporting country
17 is designated for priority action pursuant to
18 section 4(a)(3).

19 (2) FEDERAL PROCUREMENT.—

20 (A) IN GENERAL.—The President shall
21 prohibit the procurement by the Federal Gov-
22 ernment of products or services from the coun-
23 try.

24 (B) EXCEPTION.—The prohibition pro-
25 vided for in subparagraph (A) shall not apply

1 with respect to a country that is a party to the
2 Agreement on Government Procurement.

3 (3) REQUEST FOR IMF ACTION.—The United
4 States shall inform the Managing Director of the
5 International Monetary Fund of the failure of the
6 country to adopt appropriate policies to eliminate
7 the fundamental misalignment, and the actions the
8 country is engaging in that are identified in section
9 4(a)(3), and shall request that the Managing Direc-
10 tor of the International Monetary Fund—

11 (A) consult with such country regarding
12 the observance of the country's obligations
13 under article IV of the International Monetary
14 Fund Articles of Agreement, including through
15 special consultations, if necessary; and

16 (B) formally report the results of such con-
17 sultations to the Executive Board of the Inter-
18 national Monetary Fund within 180 days of the
19 date of such request.

20 (4) OPIC FINANCING.—The Overseas Private
21 Investment Corporation shall not approve any new
22 financing (including insurance, reinsurance, or guar-
23 antee) with respect to a project located within the
24 country.

1 (5) MULTILATERAL BANK FINANCING.—The
2 Secretary shall instruct the United States Executive
3 Director at each multilateral bank to oppose the ap-
4 proval of any new financing (including loans, other
5 credits, insurance, reinsurance, or guarantee) to the
6 government of the country or for a project located
7 within the country.

8 (b) WAIVER.—

9 (1) IN GENERAL.—The President may waive
10 any action provided for under subsection (a) if the
11 President determines that—

12 (A) taking such action would cause serious
13 harm to the national security of the United
14 States; or

15 (B) it is in the vital economic interest of
16 the United States to do so and taking such ac-
17 tion would have an adverse impact on the
18 United States economy greater than the bene-
19 fits of such action.

20 (2) NOTIFICATION.—The President shall
21 promptly notify Congress of a determination under
22 paragraph (1) (and the reasons for the determina-
23 tion, if made under paragraph (1)(B)) and shall
24 publish notice of the determination in the Federal
25 Register.

1 (c) REPORTS.—The Secretary shall describe any ac-
2 tion or determination pursuant to subsection (a) or (b)
3 in the first semiannual report required by section 3 after
4 the date of such action or determination.

5 **SEC. 7. PERSISTENT FAILURE TO ADOPT APPROPRIATE**
6 **POLICIES.**

7 (a) PERSISTENT FAILURE TO ADOPT APPROPRIATE
8 POLICIES.—Not later than 360 days after the date on
9 which a currency is designated for priority action pursuant
10 to section 4(a)(3), the Secretary shall determine whether
11 the country that issues such currency has adopted appro-
12 priate policies to eliminate the fundamental misalignment.
13 The Secretary shall promptly notify Congress of such de-
14 termination and shall publish notice of the determination
15 in the Federal Register. If the Secretary determines that
16 the country that issues such currency has failed to adopt
17 appropriate policies to eliminate the fundamental mis-
18 alignment, in addition to the provisions of section 6(a),
19 the following shall apply with respect to the country until
20 a notification described in subsection (b) is published in
21 the Federal Register:

22 (1) ACTION AT THE WTO.—The United States
23 Trade Representative shall request consultations in
24 the World Trade Organization with the country re-

1 garding the consistency of the country's actions with
2 its obligations under the WTO Agreement.

3 (2) REMEDIAL INTERVENTION.—

4 (A) IN GENERAL.—The Secretary shall
5 consult with the Board of Governors of the
6 Federal Reserve System to consider under-
7 taking remedial intervention in international
8 currency markets in response to the funda-
9 mental misalignment of the currency designated
10 for priority action, and coordinating such inter-
11 vention with other monetary authorities and the
12 International Monetary Fund.

13 (B) NOTICE TO COUNTRY.—At the same
14 time the Secretary takes action under subpara-
15 graph (A), the Secretary shall notify the coun-
16 try that issues such currency of the consulta-
17 tions under subparagraph (A).

18 (b) NOTIFICATION.—The Secretary shall promptly
19 notify Congress when a country that issues a currency des-
20 ignated for priority action pursuant to section 4(a)(3)
21 adopts appropriate policies to eliminate the fundamental
22 misalignment, and publish notice of the action of that
23 country in the Federal Register.

24 (c) WAIVER.—

1 (1) IN GENERAL.—The President may waive
2 any action provided for under this section, or extend
3 any waiver provided for pursuant to section 6(b), if
4 the President determines that—

5 (A) taking such action would cause serious
6 harm to the national security of the United
7 States; or

8 (B) it is in the vital economic interest of
9 the United States to do so, and that taking
10 such action would have an adverse impact on
11 the United States economy substantially out of
12 proportion to the benefits of such action.

13 (2) NOTIFICATION.—The President shall
14 promptly notify Congress of a determination under
15 paragraph (1) (and the reasons for the determina-
16 tion, if made under paragraph (1)(B)) and shall
17 publish notice of the determination in the Federal
18 Register.

19 (d) REPORTS.—The Secretary shall describe any ac-
20 tion or determination pursuant to subsection (a), (b), or
21 (c) in the first semiannual report required by section 3
22 after the date of such action or determination.

23 **SEC. 8. CONGRESSIONAL DISAPPROVAL OF WAIVER.**

24 (a) RESOLUTION OF DISAPPROVAL.—

1 (1) INTRODUCTION.—If a resolution of dis-
2 approval is introduced in the House of Representa-
3 tives or the Senate during the 90-day period (not
4 counting any day which is excluded under section
5 154(b)(1) of the Trade Act of 1974 (19 U.S.C.
6 2194(b)(1)), beginning on the date on which the
7 President first notifies the Congress of a determina-
8 tion to waive action with respect to a country pursu-
9 ant to section 7(c)(1)(B), that resolution of dis-
10 approval shall be considered in accordance with this
11 subsection.

12 (2) RESOLUTION OF DISAPPROVAL.—In this
13 subsection, the term “resolution of disapproval”
14 means only a concurrent resolution of the two
15 Houses of the Congress, the sole matter after the re-
16 solving clause of which is as follows: “That the Con-
17 gress does not approve the determination of the
18 President under section 7(c)(1)(B) of the Currency
19 Exchange Rate Oversight Reform Act of 2007 with
20 respect to _____, of which Congress was no-
21 tified on _____.”, with the first blank space
22 being filled with the name of the appropriate country
23 and the second blank space being filled with the ap-
24 propriate date.

1 (3) PROCEDURES FOR CONSIDERING RESOLU-
2 TIONS.—

3 (A) INTRODUCTION AND REFERRAL.—Res-
4 olutions of disapproval—

5 (i) in the House of Representatives—

6 (I) may be introduced by any
7 Member of the House;

8 (II) shall be referred to the Com-
9 mittee on Financial Services and, in
10 addition, to the Committee on Rules;
11 and

12 (III) may not be amended by ei-
13 ther Committee; and

14 (ii) in the Senate—

15 (I) may be introduced by any
16 Member of the Senate;

17 (II) shall be referred to the Com-
18 mittee on Banking, Housing, and
19 Urban Affairs; and

20 (III) may not be amended.

21 (B) COMMITTEE DISCHARGE AND FLOOR
22 CONSIDERATION.—The provisions of sub-
23 sections (c) through (f) of section 152 of the
24 Trade Act of 1974 (other than paragraph (3)
25 of such subsection (f)) (19 U.S.C. 2192(c))

1 through (f)) (relating to committee discharge
2 and floor consideration of certain resolutions in
3 the House and Senate) apply to a concurrent
4 resolution of disapproval under this section to
5 the same extent as such subsections apply to
6 joint resolutions under such section 152.

7 (b) RULES OF HOUSE OF REPRESENTATIVES AND
8 SENATE.—This section is enacted by the Congress—

9 (1) as an exercise of the rulemaking power of
10 the House of Representatives and the Senate, re-
11 spectively, and as such are deemed a part of the
12 rules of each House, respectively, and such proce-
13 dures supersede other rules only to the extent that
14 they are inconsistent with such other rules; and

15 (2) with the full recognition of the constitu-
16 tional right of either House to change the rules (so
17 far as relating to the procedures of that House) at
18 any time, in the same manner, and to the same ex-
19 tent as any other rule of that House.

20 **SEC. 9. INTERNATIONAL FINANCIAL INSTITUTION GOVERN-**
21 **ANCE ARRANGEMENTS.**

22 (a) INITIAL REVIEW.—Notwithstanding any other
23 provision of law, before the United States approves a pro-
24 posed change in the governance arrangement of any inter-
25 national financial institution, as defined in section

1 1701(c)(2) of the International Financial Institutions Act
2 (22 U.S.C. 262r(c)(2)), the Secretary shall determine
3 whether any member of the international financial institu-
4 tion that would benefit from the proposed change, in the
5 form of increased voting shares or representation, has a
6 currency that was designated a currency for priority action
7 pursuant to section 4(a)(3) in the most recent report re-
8 quired by section 3. The determination shall be reported
9 to Congress.

10 (b) **SUBSEQUENT ACTION.**—The United States shall
11 oppose any proposed change in the governance arrange-
12 ment of the international financial institution (as defined
13 in subsection (a)), if the Secretary renders an affirmative
14 determination pursuant to subsection (a).

15 (c) **FURTHER ACTION.**—The United States shall con-
16 tinue to oppose any proposed change in the governance
17 arrangement of the international financial institution, pur-
18 suant to subsection (b), until the Secretary determines
19 and reports to Congress that the proposed change would
20 not benefit any member of the international financial insti-
21 tution, in the form of increased voting shares or represen-
22 tation, that has a currency that is designated a currency
23 for priority action pursuant to section 4(a)(3).

1 **SEC. 10. ADJUSTMENT FOR FUNDAMENTALLY MISALIGNED**
2 **CURRENCY DESIGNATED FOR PRIORITY AC-**
3 **TION.**

4 (a) **IN GENERAL.**—Subsection (c)(2) of section 772
5 of the Tariff Act of 1930 (19 U.S.C. 1677a(c)(2)) is
6 amended—

7 (1) by striking “and” at the end of subpara-
8 graph (A);

9 (2) by striking the period at the end of sub-
10 paragraph (B) and inserting “; and”; and

11 (3) by adding at the end the following:

12 “(C) if required by section 6(a)(1) of the
13 Currency Exchange Rate Oversight Reform Act
14 of 2007, the percentage by which the domestic
15 currency of the producer or exporter is under-
16 valued in relation to the United States dollar.”.

17 (b) **CALCULATION METHODOLOGY.**—Section 771 of
18 the Tariff Act of 1930 (19 U.S.C. 1677) is amended by
19 adding at the end the following:

20 “(37) **PERCENTAGE UNDERVALUATION.**—The
21 administering authority shall determine the percent-
22 age by which the domestic currency of the producer
23 or exporter is undervalued in relation to the United
24 States dollar by comparing the nominal value associ-
25 ated with the medium-term equilibrium exchange
26 rate of the domestic currency of the producer or ex-

1 porter, identified by the Secretary pursuant to sec-
2 tion 3(b)(7) of the Currency Exchange Rate Over-
3 sight Reform Act of 2007, to the official daily ex-
4 change rate identified by the administering authority
5 for purposes of antidumping proceedings.”.

6 **SEC. 11. NONMARKET ECONOMY STATUS.**

7 Paragraph (18)(B) of section 771 of the Tariff Act
8 of 1930 (19 U.S.C. 1677(18)(B)) is amended—

9 (1) by striking “and” at the end of clause (v);

10 and

11 (2) by redesignating clause (vi) as clause (vii)

12 and inserting after clause (v) the following:

13 “(vi) whether the currency of the for-
14 eign country is designated a currency for
15 priority action pursuant to section 4(a)(3)
16 of the Currency Exchange Rate Oversight
17 Reform Act of 2007, and”.

18 **SEC. 12. APPLICATION TO CANADA AND MEXICO.**

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 (19 U.S.C.
22 3438), section 6(a)(1) and the amendments made by sec-
23 tions 10 and 11 shall apply with respect to goods from
24 Canada and Mexico.

1 **SEC. 13. ADVISORY COMMITTEE ON INTERNATIONAL EX-**
2 **CHANGE RATE POLICY.**

3 (a) **ESTABLISHMENT.**—

4 (1) **IN GENERAL.**—There is established an Ad-
5 visory Committee on International Exchange Rate
6 Policy (in this section referred to as the “Com-
7 mittee”) The Committee shall be responsible for—

8 (A) advising the Secretary in the prepara-
9 tion of each report to Congress on international
10 monetary policy and currency exchange rates,
11 provided for in section 3; and

12 (B) advising the Congress and the Presi-
13 dent with respect to—

14 (i) international exchange rates and
15 financial policies; and

16 (ii) the impact of such policies on the
17 economy of the United States.

18 (2) **MEMBERSHIP.**—

19 (A) **IN GENERAL.**—The Committee shall be
20 composed of 9 members as follows, none of
21 whom shall be from the Federal Government:

22 (i) **CONGRESSIONAL APPOINTEES.**—

23 (I) **SENATE APPOINTEES.**—Four
24 persons shall be appointed by the
25 President pro tempore of the Senate,
26 upon the recommendation of the

1 Chairmen and Ranking Members of
2 the Committee on Banking, Housing,
3 and Urban Affairs and the Committee
4 on Finance of the Senate.

5 (II) HOUSE APPOINTEES.—Four
6 persons shall be appointed by the
7 Speaker of the House of Representa-
8 tives upon the recommendation of the
9 Chairmen and Ranking Members of
10 the Committee on Financial Services
11 and the Committee on Ways and
12 Means of the House of Representa-
13 tives.

14 (ii) PRESIDENTIAL APPOINTEE.—One
15 person shall be appointed by the President.

16 (B) QUALIFICATIONS.—Persons shall be
17 selected under subparagraph (A) on the basis of
18 their objectivity and demonstrated expertise in
19 finance, economics, or currency exchange.

20 (3) TERMS.—Members shall be appointed for a
21 term of 4 years or until the Committee terminates.
22 An individual may be reappointed to the Committee
23 for additional terms.

1 (4) VACANCIES.—Any vacancy in the Com-
2 mittee shall not affect its powers, but shall be filled
3 in the same manner as the original appointment.

4 (b) DURATION OF COMMITTEE.—The Committee
5 shall terminate on the date that is 4 years after the date
6 of the enactment of this Act unless renewed by the Presi-
7 dent pursuant to section 14 of the Federal Advisory Com-
8 mittee Act (5 U.S.C. App.) for a subsequent 4-year period.
9 The President may continue to renew the Committee for
10 successive 4-year periods by taking appropriate action
11 prior to the date on which the Committee would otherwise
12 terminate.

13 (c) PUBLIC MEETINGS.—The Committee shall hold
14 at least 1 public meeting each year for the purpose of ac-
15 cepting public comments. The Committee shall also meet
16 as needed at the call of the Secretary or at the call of
17 two-thirds of the members of the Committee.

18 (d) CHAIRPERSON.—The Committee shall elect from
19 among its members a chairperson for a term of 4 years
20 or until the Committee terminates. A chairperson of the
21 Committee may be reelected chairperson but is ineligible
22 to serve consecutive terms as chairperson.

23 (e) STAFF.—The Secretary shall make available to
24 the Committee such staff, information, personnel, admin-

1 istrative services, and assistance as the Committee may
2 reasonably require to carry out its activities.

3 (f) APPLICATION OF FEDERAL ADVISORY COM-
4 MITTEE ACT.—

5 (1) IN GENERAL.—The provisions of the Fed-
6 eral Advisory Committee Act (5 U.S.C. App.) shall
7 apply to the Committee.

8 (2) EXCEPTION.—Except for the annual public
9 meeting required under subsection (c), meetings of
10 the Committee shall be exempt from the require-
11 ments of subsections (a) and (b) of sections 10 and
12 11 of the Federal Advisory Committee Act (relating
13 to open meetings, public notice, public participation,
14 and public availability of documents), whenever and
15 to the extent it is determined by the President or the
16 Secretary that such meetings will be concerned with
17 matters the disclosure of which would seriously com-
18 promise the development by the United States Gov-
19 ernment of monetary and financial policy.

20 **SEC. 14. REPEAL OF THE EXCHANGE RATES AND INTER-**
21 **NATIONAL ECONOMIC POLICY COORDINA-**
22 **TION ACT OF 1988.**

23 The Exchange Rates and International Economic
24 Policy Coordination Act of 1988 (22 U.S.C. 5301–5306)
25 is repealed.

AMENDMENT NO. _____ Calendar No. _____

Purpose: To provide a complete substitute.

IN THE SENATE OF THE UNITED STATES—110th Cong., 1st Sess.

S. 1607

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

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by _____

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Currency Exchange
5 Rate Oversight Reform Act of 2007”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) **ADMINISTERING AUTHORITY.**—The term
9 “administering authority” means the authority re-

1 ferred to in section 771(1) of the Tariff Act of 1930
2 (19 U.S.C. 1677(1)).

3 (2) AGREEMENT ON GOVERNMENT PROCURE-
4 MENT.—The term “Agreement on Government Pro-
5 curement” means the agreement referred to in sec-
6 tion 101(d)(17) of the Uruguay Round Agreements
7 Act (19 U.S.C. 3511(d)(17)).

8 (3) COUNTRY.—The term “country” means a
9 foreign country, dependent territory, or possession of
10 a foreign country, and may include an association of
11 2 or more foreign countries, dependent territories, or
12 possessions of countries into a customs union out-
13 side the United States.

14 (4) EXPORTING COUNTRY.—The term “export-
15 ing country” means the country in which the subject
16 merchandise is produced or manufactured.

17 (5) FUNDAMENTAL MISALIGNMENT.—The term
18 “fundamental misalignment” means a significant
19 and sustained undervaluation of the prevailing real
20 effective exchange rate, adjusted for cyclical and
21 transitory factors, from its medium-term equilibrium
22 level.

23 (6) FUNDAMENTALLY MISALIGNED CUR-
24 RENCY.—The term “fundamentally misaligned cur-

1 rency” means a foreign currency that is in funda-
2 mental misalignment.

3 (7) REAL EFFECTIVE EXCHANGE RATE.—The
4 term “real effective exchange rate” means a weight-
5 ed average of bilateral exchange rates, expressed in
6 price-adjusted terms.

7 (8) SECRETARY.—The term “Secretary” means
8 the Secretary of the Treasury.

9 (9) STERILIZATION.—The term “sterilization”
10 means domestic monetary operations taken to neu-
11 tralize the monetary impact of increases in reserves
12 associated with intervention in the currency ex-
13 change market.

14 (10) SUBJECT MERCHANDISE.—The term “sub-
15 ject merchandise” means the merchandise subject to
16 an antidumping investigation, review, suspension
17 agreement, or order referred to in section 771(25) of
18 the Tariff Act of 1930 (19 U.S.C. 1677(25)).

19 (11) WTO AGREEMENT.—The term “WTO
20 Agreement” means the agreement referred to in sec-
21 tion 2(9) of the Uruguay Round Agreements Act (19
22 U.S.C. 3501(9)).

23 **SEC. 3. REPORT ON INTERNATIONAL MONETARY POLICY**
24 **AND CURRENCY EXCHANGE RATES.**

25 (a) REPORTS REQUIRED.—

1 (1) IN GENERAL.—Not later than March 15
2 and September 15 of each calendar year, the Sec-
3 retary, after consulting with the Chairman of the
4 Board of Governors of the Federal Reserve System
5 and the Advisory Committee on International Ex-
6 change Rate Policy, shall submit to Congress, a
7 written report on international monetary policy and
8 currency exchange rates.

9 (2) CONSULTATIONS.—On or before March 30
10 and September 30 of each year, the Secretary shall
11 appear, if requested, before the Committee on Bank-
12 ing, Housing, and Urban Affairs and the Committee
13 on Finance of the Senate and the Committee on Fi-
14 nancial Services and the Committee on Ways and
15 Means of the House of Representatives to provide
16 testimony on the reports submitted pursuant to
17 paragraph (1).

18 (b) CONTENT OF REPORTS.—Each report submitted
19 under subsection (a) shall contain—

20 (1) an analysis of currency market develop-
21 ments and the relationship between the United
22 States dollar and the currencies of major economies
23 and trading partners of the United States;

24 (2) a review of the economic and monetary poli-
25 cies of major economies and trading partners of the

1 United States, and an evaluation of how such poli-
2 cies impact currency exchange rates;

3 (3) a description of any currency intervention
4 by the United States or other major economies or
5 trading partners of the United States, or other ac-
6 tions undertaken to adjust the actual exchange rate
7 relative to the United States dollar;

8 (4) an evaluation of the domestic and global
9 factors that underlie the conditions in the currency
10 markets, including—

11 (A) monetary and financial conditions;

12 (B) accumulation of foreign assets;

13 (C) macroeconomic trends;

14 (D) trends in current and financial ac-
15 count balances;

16 (E) the size, composition, and growth of
17 international capital flows;

18 (F) the impact of the external sector on
19 economic growth;

20 (G) the size and growth of external indebt-
21 edness;

22 (H) trends in the net level of international
23 investment; and

24 (I) capital controls, trade, and exchange
25 restrictions;

1 (5) a list of currencies designated as fundamen-
2 tally misaligned currencies pursuant to section
3 4(a)(2), and a description of any economic models or
4 methodologies used to establish the list;

5 (6) a list of currencies designated for priority
6 action pursuant to section 4(a)(3);

7 (7) an identification of the nominal value asso-
8 ciated with the medium-term equilibrium exchange
9 rate, relative to the United States dollar, for each
10 currency listed under paragraph (6);

11 (8) a description of any consultations conducted
12 or other steps taken pursuant to section 5, 6, or 7,
13 including any actions taken to eliminate the funda-
14 mental misalignment; and

15 (9) a description of any determination made
16 pursuant to section 9(a).

17 (c) CONSULTATIONS.—The Secretary shall consult
18 with the Chairman of the Board of Governors of the Fed-
19 eral Reserve System and the Advisory Committee on
20 International Exchange Rate Policy with respect to the
21 preparation of each report required under subsection (a).
22 Any comments provided by the Chairman of the Board
23 of Governors of the Federal Reserve System or the Advi-
24 sory Committee on International Exchange Rate Policy
25 shall be submitted to the Secretary not later than the date

1 that is 15 days before the date each report is due under
2 subsection (a). The Secretary shall submit the report to
3 Congress after taking into account all such comments re-
4 ceived.

5 **SEC. 4. IDENTIFICATION OF FUNDAMENTALLY MISALIGNED**
6 **CURRENCIES.**

7 (a) IDENTIFICATION.—

8 (1) IN GENERAL.—The Secretary shall analyze
9 on a semiannual basis the prevailing real effective
10 exchange rates of foreign currencies.

11 (2) DESIGNATION OF FUNDAMENTALLY MIS-
12 ALIGNED CURRENCIES.—With respect to the cur-
13 rencies of countries that have significant bilateral
14 trade flows with the United States, and currencies
15 that are otherwise significant to the operation, sta-
16 bility, or orderly development of regional or global
17 capital markets, the Secretary shall determine
18 whether any such currency is in fundamental mis-
19 alignment and shall designate such currency as a
20 fundamentally misaligned currency.

21 (3) DESIGNATION OF CURRENCIES FOR PRI-
22 ORITY ACTION.—The Secretary shall designate a
23 currency identified under paragraph (2) for priority
24 action if the country that issues such currency is—

1 (A) engaging in protracted large-scale
2 intervention in one direction in the currency ex-
3 change market, particularly if accompanied by
4 partial or full sterilization;

5 (B) engaging in excessive and prolonged
6 official or quasi-official accumulation of foreign
7 assets, for balance of payments purposes;

8 (C) introducing or substantially modifying
9 for balance of payments purposes a restriction
10 on, or incentive for, the inflow or outflow of
11 capital, that is inconsistent with the goal of
12 achieving full currency convertibility; or

13 (D) pursuing any other policy or action
14 that, in the view of the Secretary, warrants des-
15 ignation for priority action.

16 (b) REPORTS.—The Secretary shall include a list of
17 any foreign currency designated under paragraph (2) or
18 (3) of subsection (a) in each report required by section
19 3.

20 **SEC. 5. NEGOTIATIONS AND CONSULTATIONS.**

21 (a) IN GENERAL.—Upon designation of a currency
22 pursuant to section 4(a)(2), the Secretary shall seek to
23 consult bilaterally with the country that issues such cur-
24 rency in order to facilitate the adoption of appropriate
25 policies to address the fundamental misalignment.

1 (b) CONSULTATIONS INVOLVING CURRENCIES DES-
2 IGNATED FOR PRIORITY ACTION.—With respect to each
3 currency designated for priority action pursuant to section
4 4(a)(3), the Secretary shall, in addition to seeking to con-
5 sult with a country pursuant to subsection (a)—

6 (1) seek the advice of the International Mone-
7 tary Fund with respect to the Secretary's findings in
8 the report submitted to Congress pursuant to section
9 3(a); and

10 (2) encourage other governments, whether bilat-
11 erally or in appropriate multinational fora, to join
12 the United States in seeking the adoption of appro-
13 priate policies by the country described in subsection
14 (a) to eliminate the fundamental misalignment.

15 **SEC. 6. FAILURE TO ADOPT APPROPRIATE POLICIES.**

16 (a) IN GENERAL.—Not later than 90 days after the
17 date on which a currency is designated for priority action
18 pursuant to section 4(a)(3), the Secretary shall determine
19 whether the country that issues such currency has adopted
20 appropriate policies, and taken identifiable action, to
21 eliminate the fundamental misalignment. The Secretary
22 shall promptly notify Congress of such determination and
23 publish notice of the determination in the Federal Reg-
24 ister. If the Secretary determines that the country that
25 issues such currency has failed to adopt appropriate poli-

1 cies, or take identifiable action, to eliminate the funda-
2 mental misalignment, the following shall apply with re-
3 spect to the country until a notification described in sec-
4 tion 7(b) is published in the Federal Register:

5 (1) ADJUSTMENT UNDER ANTIDUMPING LAW.—

6 For purposes of an antidumping investigation or re-
7 view under title VII of the Tariff Act of 1930 (19
8 U.S.C. 1673 et seq.) the following shall apply:

9 (A) IN GENERAL.—The administering au-
10 thority shall ensure a fair comparison between
11 the export price and the normal value by ad-
12 justing the price used to establish export price
13 or constructed export price to reflect the funda-
14 mental misalignment of the currency of the ex-
15 porting country.

16 (B) SALES SUBJECT TO ADJUSTMENT.—
17 The adjustment described in subparagraph (A)
18 shall apply with respect to subject merchandise
19 sold on or after the date that is 30 days after
20 the date the currency of the exporting country
21 is designated for priority action pursuant to
22 section 4(a)(3).

23 (2) FEDERAL PROCUREMENT.—

24 (A) IN GENERAL.—The President shall
25 prohibit the procurement by the Federal Gov-

1 ernment of products or services from the coun-
2 try.

3 (B) EXCEPTION.—The prohibition pro-
4 vided for in subparagraph (A) shall not apply
5 with respect to a country that is a party to the
6 Agreement on Government Procurement.

7 (3) REQUEST FOR IMF ACTION.—The United
8 States shall inform the Managing Director of the
9 International Monetary Fund of the failure of the
10 country to adopt appropriate policies to eliminate
11 the fundamental misalignment, and the actions the
12 country is engaging in that are identified in section
13 4(a)(3), and shall request that the Managing Direc-
14 tor of the International Monetary Fund—

15 (A) consult with such country regarding
16 the observance of the country's obligations
17 under article IV of the International Monetary
18 Fund Articles of Agreement, including through
19 special consultations, if necessary; and

20 (B) formally report the results of such con-
21 sultations to the Executive Board of the Inter-
22 national Monetary Fund within 180 days of the
23 date of such request.

24 (4) OPIC FINANCING.—The Overseas Private
25 Investment Corporation shall not approve any new

1 financing (including insurance, reinsurance, or guar-
2 antee) with respect to a project located within the
3 country.

4 (5) **MULTILATERAL BANK FINANCING.**—The
5 Secretary shall instruct the United States Executive
6 Director at each multilateral bank to oppose the ap-
7 proval of any new financing (including loans, other
8 credits, insurance, reinsurance, or guarantee) to the
9 government of the country or for a project located
10 within the country.

11 (b) **WAIVER.**—

12 (1) **IN GENERAL.**—The President may waive
13 any action provided for under subsection (a) if the
14 President determines that—

15 (A) taking such action would cause serious
16 harm to the national security of the United
17 States; or

18 (B) it is in the vital economic interest of
19 the United States to do so and taking such ac-
20 tion would have an adverse impact on the
21 United States economy greater than the bene-
22 fits of such action.

23 (2) **NOTIFICATION.**—The President shall
24 promptly notify Congress of a determination under
25 paragraph (1) (and the reasons for the determina-

1 tion, if made under paragraph (1)(B)) and shall
2 publish notice of the determination (and the reasons
3 for the determination, if made under paragraph
4 (1)(B)) in the Federal Register.

5 (c) REPORTS.—The Secretary shall describe any ac-
6 tion or determination pursuant to subsection (a) or (b)
7 in the first semiannual report required by section 3 after
8 the date of such action or determination.

9 **SEC. 7. PERSISTENT FAILURE TO ADOPT APPROPRIATE**
10 **POLICIES.**

11 (a) PERSISTENT FAILURE TO ADOPT APPROPRIATE
12 POLICIES.—Not later than 360 days after the date on
13 which a currency is designated for priority action pursuant
14 to section 4(a)(3), the Secretary shall determine whether
15 the country that issues such currency has adopted appro-
16 priate policies, and taken identifiable action, to eliminate
17 the fundamental misalignment. The Secretary shall
18 promptly notify Congress of such determination and shall
19 publish notice of the determination in the Federal Reg-
20 ister. If the Secretary determines that the country that
21 issues such currency has failed to adopt appropriate poli-
22 cies, or take identifiable action, to eliminate the funda-
23 mental misalignment, in addition to the provisions of sec-
24 tion 6(a), the following shall apply with respect to the

1 country until a notification described in subsection (b) is
2 published in the Federal Register:

3 (1) ACTION AT THE WTO.—The United States
4 Trade Representative shall request consultations in
5 the World Trade Organization with the country re-
6 garding the consistency of the country's actions with
7 its obligations under the WTO Agreement.

8 (2) REMEDIAL INTERVENTION.—

9 (A) IN GENERAL.—The Secretary shall
10 consult with the Board of Governors of the
11 Federal Reserve System to consider under-
12 taking remedial intervention in international
13 currency markets in response to the funda-
14 mental misalignment of the currency designated
15 for priority action, and coordinating such inter-
16 vention with other monetary authorities and the
17 International Monetary Fund. In doing so, the
18 Secretary shall consider the impact of such
19 intervention on domestic economic growth and
20 stability, including the impact on interest rates.

21 (B) NOTICE TO COUNTRY.—At the same
22 time the Secretary takes action under subpara-
23 graph (A), the Secretary shall notify the coun-
24 try that issues such currency of the consulta-
25 tions under subparagraph (A).

1 (b) NOTIFICATION.—The Secretary shall promptly
2 notify Congress when a country that issues a currency des-
3 igned for priority action pursuant to section 4(a)(3)
4 adopts appropriate policies to eliminate the fundamental
5 misalignment, and publish notice of the action of that
6 country in the Federal Register.

7 (c) WAIVER.—

8 (1) IN GENERAL.—The President may waive
9 any action provided for under this section, or extend
10 any waiver provided for under section 6(b), if the
11 President determines that—

12 (A) taking such action would cause serious
13 harm to the national security of the United
14 States; or

15 (B) it is in the vital economic interest of
16 the United States to do so, and that taking
17 such action would have an adverse impact on
18 the United States economy substantially out of
19 proportion to the benefits of such action.

20 (2) NOTIFICATION.—The President shall
21 promptly notify Congress of a determination under
22 paragraph (1) (and the reasons for the determina-
23 tion, if made under paragraph (1)(B)) and shall
24 publish notice of the determination (and the reasons

1 for the determination, if made under paragraph
2 (1)(B)) in the Federal Register.

3 (d) DISAPPROVAL OF WAIVER.—If the President
4 waives an action pursuant to subsection (c)(1)(B), or ex-
5 tends a waiver provided for under section 6(b)(1)(B), the
6 waiver shall cease to have effect upon the enactment of
7 a joint resolution described in section 8(a)(2).

8 (e) REPORTS.—The Secretary shall describe any ac-
9 tion or determination pursuant to subsection (a), (b), or
10 (c) in the first semiannual report required by section 3
11 after the date of such action or determination.

12 **SEC. 8. CONGRESSIONAL DISAPPROVAL OF WAIVER.**

13 (a) RESOLUTION OF DISAPPROVAL.—

14 (1) INTRODUCTION.—If a resolution of dis-
15 approval is introduced in the House of Representa-
16 tives or the Senate during the 90-day period (not
17 counting any day which is excluded under section
18 154(b)(1) of the Trade Act of 1974 (19 U.S.C.
19 2194(b)(1)), beginning on the date on which the
20 President first notifies the Congress of a determina-
21 tion to waive action with respect to a country pursu-
22 ant to section 7(c)(1)(B), that resolution of dis-
23 approval shall be considered in accordance with this
24 subsection.

1 (2) RESOLUTION OF DISAPPROVAL.—In this
2 subsection, the term “resolution of disapproval”
3 means only a joint resolution of the two Houses of
4 the Congress, the sole matter after the resolving
5 clause of which is as follows: “That the Congress
6 does not approve the determination of the President
7 under section 7(c)(1)(B) of the Currency Exchange
8 Rate Oversight Reform Act of 2007 with respect to
9 _____, of which Congress was notified on
10 _____.”, with the first blank space being filled
11 with the name of the appropriate country and the
12 second blank space being filled with the appropriate
13 date.

14 (3) PROCEDURES FOR CONSIDERING RESOLU-
15 TIONS.—

16 (A) INTRODUCTION AND REFERRAL.—Res-
17 olutions of disapproval—

18 (i) in the House of Representatives—

19 (I) may be introduced by any
20 Member of the House;

21 (II) shall be referred to the Com-
22 mittee on Financial Services and, in
23 addition, to the Committee on Rules;
24 and

18

1 (III) may not be amended by ei-
2 ther Committee; and

3 (ii) in the Senate—

4 (I) may be introduced by any
5 Member of the Senate;

6 (II) shall be referred to the Com-
7 mittee on Banking, Housing, and
8 Urban Affairs; and

9 (III) may not be amended.

10 (B) COMMITTEE DISCHARGE AND FLOOR
11 CONSIDERATION.—The provisions of sub-
12 sections (c) through (f) of section 152 of the
13 Trade Act of 1974 (other than paragraph (3)
14 of such subsection (f)) (19 U.S.C. 2192(c)
15 through (f)) (relating to committee discharge
16 and floor consideration of certain resolutions in
17 the House and Senate) apply to a joint resolu-
18 tion of disapproval under this section to the
19 same extent as such subsections apply to joint
20 resolutions under such section 152.

21 (b) RULES OF HOUSE OF REPRESENTATIVES AND
22 SENATE.—This section is enacted by the Congress—

23 (1) as an exercise of the rulemaking power of
24 the House of Representatives and the Senate, re-
25 spectively, and as such are deemed a part of the

1 rules of each House, respectively, and such proce-
2 dures supersede other rules only to the extent that
3 they are inconsistent with such other rules; and

4 (2) with the full recognition of the constitu-
5 tional right of either House to change the rules (so
6 far as relating to the procedures of that House) at
7 any time, in the same manner, and to the same ex-
8 tent as any other rule of that House.

9 **SEC. 9. INTERNATIONAL FINANCIAL INSTITUTION GOVERN-**
10 **ANCE ARRANGEMENTS.**

11 (a) **INITIAL REVIEW.**—Notwithstanding any other
12 provision of law, before the United States approves a pro-
13 posed change in the governance arrangement of any inter-
14 national financial institution, as defined in section
15 1701(c)(2) of the International Financial Institutions Act
16 (22 U.S.C. 262r(c)(2)), the Secretary shall determine
17 whether any member of the international financial institu-
18 tion that would benefit from the proposed change, in the
19 form of increased voting shares or representation, has a
20 currency that was designated a currency for priority action
21 pursuant to section 4(a)(3) in the most recent report re-
22 quired by section 3. The determination shall be reported
23 to Congress.

24 (b) **SUBSEQUENT ACTION.**—The United States shall
25 oppose any proposed change in the governance arrange-

1 ment of the international financial institution (as defined
2 in subsection (a)), if the Secretary renders an affirmative
3 determination pursuant to subsection (a).

4 (c) FURTHER ACTION.—The United States shall con-
5 tinue to oppose any proposed change in the governance
6 arrangement of the international financial institution, pur-
7 suant to subsection (b), until the Secretary determines
8 and reports to Congress that the proposed change would
9 not benefit any member of the international financial insti-
10 tution, in the form of increased voting shares or represen-
11 tation, that has a currency that is designated a currency
12 for priority action pursuant to section 4(a)(3).

13 **SEC. 10. ADJUSTMENT FOR FUNDAMENTALLY MISALIGNED**
14 **CURRENCY DESIGNATED FOR PRIORITY AC-**
15 **TION.**

16 (a) IN GENERAL.—Subsection (c)(2) of section 772
17 of the Tariff Act of 1930 (19 U.S.C. 1677a(c)(2)) is
18 amended—

19 (1) by striking “and” at the end of subpara-
20 graph (A);

21 (2) by striking the period at the end of sub-
22 paragraph (B) and inserting “; and”; and

23 (3) by adding at the end the following:

24 “(C) if required by section 6(a)(1) of the
25 Currency Exchange Rate Oversight Reform Act

1 of 2007, the percentage by which the domestic
2 currency of the producer or exporter is under-
3 valued in relation to the United States dollar.”.

4 (b) **CALCULATION METHODOLOGY.**—Section 771 of
5 the Tariff Act of 1930 (19 U.S.C. 1677) is amended by
6 adding at the end the following:

7 “(37) **PERCENTAGE UNDERVALUATION.**—The
8 administering authority shall determine the percent-
9 age by which the domestic currency of the producer
10 or exporter is undervalued in relation to the United
11 States dollar by comparing the nominal value associ-
12 ated with the medium-term equilibrium exchange
13 rate of the domestic currency of the producer or ex-
14 porter, identified by the Secretary pursuant to sec-
15 tion 3(b)(7) of the Currency Exchange Rate Over-
16 sight Reform Act of 2007, to the official daily ex-
17 change rate identified by the administering authority
18 for purposes of antidumping proceedings.”.

19 **SEC. 11. NONMARKET ECONOMY STATUS.**

20 Paragraph (18)(B) of section 771 of the Tariff Act
21 of 1930 (19 U.S.C. 1677(18)(B)) is amended—

22 (1) by striking “and” at the end of clause (v);
23 and

24 (2) by redesignating clause (vi) as clause (vii)
25 and inserting after clause (v) the following:

1 “(vi) whether the currency of the for-
2 foreign country is designated a currency for
3 priority action pursuant to section 4(a)(3)
4 of the Currency Exchange Rate Oversight
5 Reform Act of 2007, and”.

6 **SEC. 12. APPLICATION TO CANADA AND MEXICO.**

7 Pursuant to article 1902 of the North American Free
8 Trade Agreement and section 408 of the North American
9 Free Trade Agreement Implementation Act (19 U.S.C.
10 3438), section 6(a)(1) and the amendments made by sec-
11 tions 10 and 11 shall apply with respect to goods from
12 Canada and Mexico.

13 **SEC. 13. ADVISORY COMMITTEE ON INTERNATIONAL EX-**
14 **CHANGE RATE POLICY.**

15 (a) ESTABLISHMENT.—

16 (1) IN GENERAL.—There is established an Ad-
17 visory Committee on International Exchange Rate
18 Policy (in this section referred to as the “Com-
19 mittee”) The Committee shall be responsible for—

20 (A) advising the Secretary in the prepara-
21 tion of each report to Congress on international
22 monetary policy and currency exchange rates,
23 provided for in section 3; and

24 (B) advising the Congress and the Presi-
25 dent with respect to—

1 (i) international exchange rates and
2 financial policies; and

3 (ii) the impact of such policies on the
4 economy of the United States.

5 (2) MEMBERSHIP.—

6 (A) IN GENERAL.—The Committee shall be
7 composed of 9 members as follows, none of
8 whom shall be from the Federal Government:

9 (i) CONGRESSIONAL APPOINTEES.—

10 (I) SENATE APPOINTEES.—Four
11 persons shall be appointed by the
12 President pro tempore of the Senate,
13 upon the recommendation of the
14 Chairmen and Ranking Members of
15 the Committee on Banking, Housing,
16 and Urban Affairs and the Committee
17 on Finance of the Senate.

18 (II) HOUSE APPOINTEES.—Four
19 persons shall be appointed by the
20 Speaker of the House of Representa-
21 tives upon the recommendation of the
22 Chairmen and Ranking Members of
23 the Committee on Financial Services
24 and the Committee on Ways and

24

1 Means of the House of Representa-
2 tives.

3 (ii) **PRESIDENTIAL APPOINTEE.**—One
4 person shall be appointed by the President.

5 (B) **QUALIFICATIONS.**—Persons shall be
6 selected under subparagraph (A) on the basis of
7 their objectivity and demonstrated expertise in
8 finance, economics, or currency exchange.

9 (3) **TERMS.**—Members shall be appointed for a
10 term of 4 years or until the Committee terminates.
11 An individual may be reappointed to the Committee
12 for additional terms.

13 (4) **VACANCIES.**—Any vacancy in the Com-
14 mittee shall not affect its powers, but shall be filled
15 in the same manner as the original appointment.

16 (b) **DURATION OF COMMITTEE.**—Notwithstanding
17 section 14(c) of the Federal Advisory Committee Act (5
18 U.S.C. App.), the Committee shall terminate on the date
19 that is 4 years after the date of the enactment of this
20 Act unless renewed by the President pursuant to section
21 14 of the Federal Advisory Committee Act (5 U.S.C.
22 App.) for a subsequent 4-year period. The President may
23 continue to renew the Committee for successive 4-year pe-
24 riods by taking appropriate action prior to the date on
25 which the Committee would otherwise terminate.

1 (c) PUBLIC MEETINGS.—The Committee shall hold
2 at least 2 public meetings each year for the purpose of
3 accepting public comments, including comments from
4 small business owners. The Committee shall also meet as
5 needed at the call of the Secretary or at the call of two-
6 thirds of the members of the Committee.

7 (d) CHAIRPERSON.—The Committee shall elect from
8 among its members a chairperson for a term of 4 years
9 or until the Committee terminates. A chairperson of the
10 Committee may be reelected chairperson but is ineligible
11 to serve consecutive terms as chairperson.

12 (e) STAFF.—The Secretary shall make available to
13 the Committee such staff, information, personnel, admin-
14 istrative services, and assistance as the Committee may
15 reasonably require to carry out its activities.

16 (f) APPLICATION OF FEDERAL ADVISORY COM-
17 MITTEE ACT.—

18 (1) IN GENERAL.—The provisions of the Fed-
19 eral Advisory Committee Act (5 U.S.C. App.) shall
20 apply to the Committee.

21 (2) EXCEPTION.—Except for the annual public
22 meeting required under subsection (c), meetings of
23 the Committee shall be exempt from the require-
24 ments of subsections (a) and (b) of sections 10 and
25 11 of the Federal Advisory Committee Act (relating

1 to open meetings, public notice, public participation,
2 and public availability of documents), whenever and
3 to the extent it is determined by the President or the
4 Secretary that such meetings will be concerned with
5 matters the disclosure of which would seriously com-
6 promise the development by the United States Gov-
7 ernment of monetary and financial policy.

8 **SEC. 14. REPEAL OF THE EXCHANGE RATES AND INTER-**
9 **NATIONAL ECONOMIC POLICY COORDINA-**
10 **TION ACT OF 1988.**

11 The Exchange Rates and International Economic
12 Policy Coordination Act of 1988 (22 U.S.C. 5301–5306)
13 is repealed.

**Statement of Senator Chuck Grassley
Committee Markup of the Currency Exchange Rate
Oversight Reform Act of 2007**

July 26, 2007

Thank you, Mr. Chairman.

*Put in Record
Chuck Grassley*

Last September, I agreed to work with Senators Baucus, Schumer, and Graham, to develop a new, WTO-consistent approach for addressing undervalued foreign currencies.

The bill we are marking up today is the result of that agreement.

I want to thank my colleagues and their staffs for all of their hard work.

Our bill is a solid, bipartisan compromise on this important issue.

The bill establishes a new framework that will allow the Treasury Department to identify foreign currencies that are in fundamental misalignment.

And if the fundamental misalignment is the result of government actions, Treasury must designate the currency for priority action.

This new standard – fundamental misalignment – is the same standard that the International Monetary Fund adopted last month for its own use in monitoring currencies.

We've conformed our bill to the IMF's new standard so that Treasury's findings and actions will be credible internationally.

This also ensures that our bill complements the IMF's oversight activities.

○ Our existing currency laws are outdated. They require Treasury to make various findings, but no real consequences result from those findings.

This bill fixes the problem by imposing meaningful consequences if a country fails to take action to remedy a misaligned currency.

○ Treasury can use these tools to encourage quicker action by the trading partner in question.

And there's no way to know who that trading partner might be in the years ahead.

China's currency is the biggest problem today. But this legislation will establish a framework for tackling the biggest problems both today and tomorrow.

○ In other words, the bill is country-neutral.

We need to create an effective oversight regime that's suited to the globalized economy of the 21st century.

This bill accomplishes that. It strikes the right balance.

⊖ I believe it merits strong bipartisan support in this Committee. This is the first step.

I look forward to continue working with my colleagues to see the issue of currency exchange rates addressed in legislation enacted into law this Congress.

Thank you, Mr. Chairman.

THE HONORABLE GORDON H. SMITH
Senate Finance Committee Business Meeting
July 26, 2007

- Mr. Chairman, I think that we all share the view that China needs to do more to address its current trade deficit with the U.S., intellectual property issues and currency valuation.
- I think that we have a harder time finding consensus on how we work with China to deal with these issues.
- I share my colleagues' frustration with the painfully slow pace at which China is undertaking many of these reforms, a pace which I think reflects a lack of will on the part of the Chinese.
- Still, I have serious reservations about this bill. I fundamentally believe that the best long-term approach to get China to make reforms is to engage in steady and regular dialogue and negotiation like what we are doing in the ongoing Strategic Economic Dialogue negotiations.

- While there has been progress in these talks, both the Chinese and the U.S. administration need to understand that patience is running out – which is why Congress has a wide range of legislation it is considering.
- But I think that we need to be careful not to let our frustration level, and our shared desire for reform, get in the way of making real and long-term progress. In other words, let's not pass legislation that jeopardizes these talks and ends up making the economic relationship worse.
- Oregon is a trade dependent state, and China is one of our biggest trading partners. It is now the second largest export market for Oregon products. So I am concerned about any action that could jeopardize Oregon companies, our exports to China, and the jobs that are associated with this trade.
- I also have concerns about the anti-dumping provisions included in this bill. But comparing this legislation to other, more draconian bills, this legislation is the most reasonable, so I am inclined to support it in mark-up, but as I said earlier, I do so with reservations.

STATEMENT
FINANCE COMMITTEE MARK-UP
CURRENCY EXCHANGE RATE OVERSIGHT ACT OF 2007
July 26, 2007
U.S. Senator Olympia J. Snowe

Thank you, Mr. Chairman.

I appreciate both the need for consensus on this critical issue and the work that my committee colleagues Chairman Baucus, Ranking Member Grassley and Senator Schumer have done in crafting the bill before us. It is my hope that this mark-up will yield a strong bill which reflects the true consensus of this committee, this Congress and this country.

When the United States— including its Congress and this committee— decided to extend the benefits of World Trade Organization membership to China, it did so in consideration of a promise by China to reform or eliminate those practices which gave its enterprises unearned advantages not enjoyed by businesses in free market countries.

However, five years after its accession to the WTO— its specially negotiated transition period having now expired— China has yet to fulfill its promise to America and the world. Even the United States Trade Representative admitted in its most recent annual report that “government intervention, evident in many areas of China’s economy, is a reflection of China’s historic yet unfinished transition from a centrally planned economy to a free-market economy governed by the rule of law.”

Nowhere is such continuing intervention more evident than in China’s ongoing manipulation of the Renminbi. More than two years following its removal of the hard peg to the U.S. dollar, China has allowed its currency to appreciate a mere 6 percent— less than half the amount of even the most conservative estimates of the degree to which it is undervalued. And there is

little hope for corrective action in the foreseeable future, with the Chinese Ministry of Commerce's setting a goal of a 4 to 5 percent appreciation in 2007.

But the Government of China is not solely to blame. From the mills of Maine to the hearths of the Heartland, the silence of our government on China's currency manipulation has become the silence of our factories. Despite growing awareness of the deleterious effects of the artificially undervalued Renminbi, the Treasury Department has consistently declined to designate China as a "currency manipulator", most recently failing to do so in June of this year.

The troubling consequence of our government's unwillingness to challenge such unfair competition is the decline of America's production base and the dramatic reduction in the number of manufacturing jobs in recent years. Since 2000, America has lost approximately 3 million, or 17 percent, of its manufacturing jobs. My home state of Maine has lost over 21,000 jobs in that period, representing over 26 percent of our manufacturing workforce! According to the American Alliance for Manufacturing, nearly 9,000 of those jobs losses were due to trade competition from China.

That is why I was pleased to work with my friends and fellow committee members, Senators Bunning and Stabenow, to introduce legislation which would end the devastating silence of our government in the face of Chinese currency manipulation. The Fair Currency Act of 2007, with its myriad supporters in all fields of industry, is the collective voice of American business proclaiming that such inaction ends now. Our legislation not only provides the government with the mandate to challenge China's trade-distorting currency practices, but also provides the tools for U.S. industry to ensure that the job is seen through.

The alternative legislation this committee is considering today, however, falls short of the tough yet necessary enforcement measures set forth in the bill I authored with Senators Bunning and Stabenow. Specifically, our bill would treat currency manipulation as an illegal foreign government subsidy, which would

allow U.S. companies to challenge currency manipulation under existing countervailing duty law, resulting in corrective duties corresponding to the amount of the subsidy. In contrast, the bill before us today would only apply those extra duties on the products of specific foreign companies challenged under U.S. anti-dumping law. In other words, our bill would penalize all Chinese exports—because they all benefit from the subsidy of an undervalued currency—while the bill we will be marking up now would only penalize those products which are already being dumped, independent of the price benefit conferred by currency manipulation.

I believe that it is essential that the bill the Congress ultimately sends to the President treat currency manipulation as the illegal subsidy it clearly is. My twenty-five year experience with the Canadian Softwood Lumber controversy has shown me the strategic and practical necessity of imposing countervailing duties on unfairly subsidized products. If the U.S. hadn't been holding \$5 billion of Canadian lumber companies' cash in our coffers as a result of corrective duties, Ottawa would have had no incentive to negotiate with us toward a resolution. Wouldn't it be similarly advantageous to deal with China from a similar position of strength?

I therefore hope that we can meld the two approaches proposed by members of this committee, and arrive at a consensus bill that incorporates the best elements both. Accordingly, I want to thank the Chairman and Ranking Member for incorporating in the modified bill we will vote on today my proposal to give Congress the power to override a Presidential decision not to take enforcement action against a currency manipulator under the bill—a necessary amendment given the administration's dismal record on challenging China's trade-distorting currency practices. I look forward to the opportunity to further strengthen this bill as it proceeds to consideration by the full Senate.

**STATEMENT IN SUPPORT OF BUNNING-SNOWE AMENDMENT ON
ADDITION OF ANTI-SUBSIDY PROVISION**

Thank you, Mr. Chairman. I was pleased to work with my friends and fellow committee members, Senators Bunning and Stabenow, to introduce legislation-- the Fair Currency Act of 2007-- which would end the devastating silence of our government in the face of Chinese currency manipulation. It is my hope that the currency bill ultimately passed by the Senate will incorporate the additional countervailing duty enforcement provisions from our bill, moving us forward with a joint bill that represents the true consensus of this committee, this Congress and the country.

The bill proposed by Senators Bunning and Stabenow would not only provide the government with the mandate to challenge China's trade-distorting currency practices, but also provides the tools for U.S. industry to ensure that the job is seen through. First among these tools is a provision that would treat currency manipulation as an illegal foreign government subsidy, which would allow U.S. companies to challenge currency manipulation under existing countervailing duty law, resulting in corrective duties corresponding to the amount of the subsidy.

The bill before us today does not go far enough in terms of enforcement. It would only apply corrective duties on the products of specific foreign companies challenged under U.S. anti-dumping law. The addition of a countervailing duty component would remedy that shortcoming, penalizing all Chinese exports—because they all benefit from the subsidy of an undervalued currency—not just those which are already being dumped, independent of the price benefit conferred by currency manipulation.

Maine has lost nearly 9,000 jobs to the flood of illegally subsidized Chinese exports across many sectors, not just those produced by the one or two Chinese firms that have been found guilty of dumping wood and paper products,

competing with mills in my home state. A broader solution is therefore needed. That is why I believe it is essential that the final bill treat currency manipulation as the illegal subsidy it clearly is.

Additionally, My twenty-five year experience with the Canadian Softwood Lumber controversy has shown me the strategic and practical necessity of imposing countervailing duties on unfairly subsidized products. If the U.S. hadn't been holding \$5 billion of Canadian lumber companies' cash in our coffers as a result of corrective duties, Ottawa would have had no incentive to negotiate with us toward a resolution. Wouldn't it be similarly advantageous to deal with China from a similar position of strength?

Senator Debbie Stabenow
Talking Points for Currency Mark-Up
July 26, 2007

As you know, my home state of Michigan is going through very tough times. Since 2000, Michigan has lost one-quarter of its manufacturing workforce, or more than 250,000 jobs. In the same seven year period our unemployment rate has grown from 3.7% to an alarming 7.2%. The highest in the nation.

Additionally, we have lost over 3 million manufacturing jobs nation-wide since 2001 and the real median wage has actually decreased.

Eight of the world's largest auto parts companies that are headquartered in Michigan have already laid off large numbers of Michigan workers, and six of these companies have entered bankruptcy.

I know that trade issues alone do not solve the manufacturing problem in this country. There are other issues that need to be addressed, such as getting the costs of health care off the back of businesses and investing in innovative practices through retooling and other means.

But it is an irrefutable fact that trade violations are having a huge negative impact on manufacturing.

Other countries are cheating, and our companies and workers are suffering.

In real world terms it is simple: The same good, made with the same materials, will cost up to 40% less when made in China solely because of currency misalignment.

Take, for instance, an auto part made in Michigan. Then take the exact same auto part made in China. Solely because of currency manipulation the American auto part will cost \$100 while the Chinese auto part will cost only \$60.

We aren't talking cheaper materials or cheaper products —this price difference is based only on the fact that other countries are cheating by intervening in currency markets.

The global market is tough enough without forcing our companies to fight an uphill battle.

Any businessperson will tell you that a 40% price disadvantage is extremely difficult to overcome.

The choice many business people confront is to either layoff workers or move production to offending countries to neutralize the price disadvantage.

Either way, our domestic economy loses and American workers lose their jobs. We must provide another way.

As someone who has been working on bringing currency legislation to the forefront for sometime, I am pleased that this bill finally identifies that there is a currency problem that must be dealt with.

I applaud Chairman Baucus, Ranking Member Grassley, and Senator Schumer for taking a lead role in bringing this forward.

As everyone on this committee knows from the late night and early morning conversations, I am passionate about this issue and will continue to do what I can to make sure we have a level the playing field for American companies and workers.

I believe we must continue to ratchet up the pressure on countries that use these types of tactics to gain an unfair advantage. In my opinion, we need to use every tool we have, including countervailing duties, to address unfair trading practices.

Currency manipulation can take many forms. What matters, though, is the outcome.

This bill sends a signal to all of our trading partners that currency manipulation will not be tolerated.

It puts China, Japan, and any other nation engaged in currency manipulation on notice that the United States is not going to sit idly by and let them cheat.

This bill marks a historic first step because it finally puts currency manipulation on the table. It finally shows that this Congress is not going to stand by and watch as our businesses are forced into bankruptcy because of unfair trade practices.

I want to thank the Chairman and his staff for a good bill and for including a number of my amendments.

This bill does several important things:

- it removes “intent” as a necessary factor for determining currency manipulation.
- it applies anti-dumping calculations to misaligned currencies, providing a valuable remedy to devastated industries.
- it guarantees that small businesses and manufacturing will have a voice in the trade debate.
- it requires the Administration to take a closer look at how currency manipulation impacts manufacturing.
- and, it shortens the time our businesses have to wait for remedies.

America is built on the principles of hard work and fairness. In a free market economy a company's success is rooted in their ability to work harder and smarter than the competition. But that system only works when everyone plays by the rules.

I truly believe we are on the right path to leveling the playing field on trade.

And, it doesn't stop here.

We now need to enforce these laws and strengthen them whenever possible.

Companies and workers in Michigan and throughout America are counting on us to hold these countries accountable. Today, we make an important step in that direction.