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CURRENCY EXCHANGE RATE OVERSIGHT REFORM ACT OF 2007

DECEMBER 14, 2007.—Ordered to be printed

Mr. BAUCUS, from the Committee on Finance, submitted the following

REPORT

[To accompany S. 1607]

[Including cost estimate of the Congressional Budget Office]

The Committee on Finance, to which was referred the bill (S. 1607) to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

I. BACKGROUND AND GENERAL REASONS FOR THE BILL

The Finance Committee's consideration of the Currency Exchange Rate Oversight Reform Act of 2007 takes place in the context of significant developments in the global economy over the past two decades. These developments include increased global integration and the growing economic significance of rapidly expanding developing economies, the importance of international trade to U.S. and global economic growth, the development of large current account imbalances, the massive accumulation of central bank reserves by certain U.S. trading partners, and recent reforms by the International Monetary Fund (IMF) of its currency oversight regime.

A. THE OMNIBUS TRADE AND COMPETITIVENESS ACT OF 1988

In 1988, Congress passed the Omnibus Trade and Competitiveness Act (the "1988 Act"). One of the purposes of the 1988 Act was to address the possibility that countries could "manipulate the rate of exchange between their currencies and the U.S. dollar for pur-

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poses of preventing effective balance of payments adjustments or gaining unfair competitive advantage in international trade." Congress also wanted to "increase the accountability of the Secretary of the Treasury for economic policies that affect the nation's level of foreign borrowing and its trade balance."

Congress addressed these concerns in part through section 3004 of the 1988 Act, which requires the Secretary of the Treasury, in consultation with the International Monetary Fund, to analyze on an annual basis the exchange rate policies of foreign countries, and determine whether countries manipulate the rate of exchange between their currency and the U.S. dollar for purposes of preventing effective balance of payments adjustments or gaining unfair competitive advantage in international trade. If the Secretary finds such manipulation with respect to countries that have material global current account surpluses, and significant bilateral trade surpluses with the United States, the Secretary must take action to initiate negotiations with the countries. The Act requires Treasury to report the Secretary's findings and actions to Congress twice annually.

In the twenty years since Congress created the reporting requirement, the Secretary of the Treasury has cited Taiwan (1988, 1989, 1992), Korea (1988, 1989), and the People's Republic of China (1992, 1993, 1994) for manipulating their exchange rates, and the Secretary has initiated negotiations in each case as required. The Secretary has not, however, cited any country since 1994. In more recent reports, the Secretary has found that certain countries' currencies were undervalued, but the Secretary has been unable to conclude that the 1988 Act's legal standard for a finding of "manipulation" was satisfied. In most cases, the Secretary has been unable to determine that the exchange rate policy in question was carried out for the purpose of preventing effective balance of payments adjustment or gaining unfair competitive advantage in international trade.

B. CHANGES TO THE GLOBAL ECONOMY SINCE 1988

The global economy of today differs considerably from the prevailing economic landscape in 1988. The growing economic significance of newly industrialized and large developing economies has introduced new stakeholders into the international economic system, many of which are already integrated into the global economy. Other economies play a less significant role than they did in the past, while still others, like the Soviet Union, have ceased to exist altogether.

Today's economies, old and new, are increasingly reliant on international trade and investment for economic growth and development. Worldwide, international trade flows and foreign investment have surged, fostering international interdependence for economic growth, investment, industrial development, and job creation. Global economic integration is credited with rapid economic transformation of developing countries, the improvement of living standards, and the alleviation of poverty. In the United States today international trade has significantly improved household welfare on average. International trade is a growing portion of the American economy, with exports alone contributing 11 percent of gross economic output in 2006.

C. THE PERSISTENCE OF GLOBAL IMBALANCES

The same interconnected economic relationships that promote economic benefits also threaten systemic global disruptions if imbalances are mismanaged or left unaddressed. In recent years, the global economy has in fact been characterized by significant and growing imbalances that, in the Committee's view, are neither desirable nor sustainable. The United States economy in particular continues to accumulate massive, growing, and unprecedented annual current account deficits. The U.S. current account deficit has nearly doubled since 2000, growing to $811 billion or nearly 7 percent of GDP in 2006. The U.S. deficit is balanced globally by massive and growing current account surpluses in other economies, and is in fact equal to nearly three-quarters of the world's surpluses. The growth and persistence of current account surpluses is most striking in export-oriented Asian economies and oil-exporting countries.

The Committee is concerned that these global economic imbalances are unsustainable and potentially harmful to deficit economies, surplus economies, and the global economic system as a whole. Current account deficit countries like the United States face risks associated with the growing burden of financing their current account deficits, the growing cost of financing past deficits, and the consequences of higher interest rates. Current account surplus countries face risks including excess liquidity and inflation, valuation losses on large foreign currency holdings, as well as asset price bubbles and domestic economic imbalances. The systemic risks of international economic imbalances are also considerable. A sharp depreciation of currencies in deficit countries—especially the U.S. dollar—could result in large capital losses world-wide, higher global interest rates and global borrowing costs, and significant dislocations and job losses across all sectors. More generally, minimizing global imbalances is critical to the smooth functioning of the world's trading system. The likelihood of orderly adjustment decreases the larger the imbalances grow and the longer they persist.

D. THE CAUSES OF GLOBAL IMBALANCES

The causes of persistent and growing global economic imbalances are numerous and vary by country. Rising global energy prices drive current account deficits in some energy importing countries, including the United States, and trigger large current account surpluses in energy exporting countries like Saudi Arabia. Increased export competitiveness of emerging economies has eroded the export market share of established exporters. According to experts, some countries, including the People's Republic of China, can attribute a portion of their growing current account surpluses to their role as an "export platform" for other economies, importing high-value inputs for final assembly and export. Uneven global economic growth can also contribute to unbalanced consumption of exports.

Savings also plays a role in imbalances. When national savings and receipts from a country's sales of exports and other current payments are insufficient to cover the cost of imports, the country must borrow the difference abroad on international capital markets. Over the past decade, high precautionary savings rates, a dearth of domestic investment opportunities, and weak domestic consumption have led to high levels of national savings in some developing countries. Some economists believe that these factors have created a savings “glut.” Paired with today’s greater ease of international capital flows and financial intermediation, this savings glut permitted the transfer of funds from high-savings, low consumption economies, to high consumption, low savings economies. Some analysts believe that this transfer has exacerbated imbalances, especially those influenced by trade flows.

E. THE ROLE OF EXCHANGE RATE REGIMES

The Committee believes that exchange rate regimes also play an important role in causing and perpetuating global economic imbalances. Over the past decade, many export-driven economies have maintained fixed or heavily managed exchange rate regimes. It is apparent to the Committee that some of these countries have managed their regimes to promote a sound economic environment and minimize volatility. It appears, however, that others have manipulated their exchange rates to gain a competitive advantage for their exports and to accumulate current account surpluses.

Evidence of exchange rate manipulation can take various forms. For example, when a country’s currency value does not fluctuate relative to underlying economic and financial conditions, it can be said to be in fundamental misalignment with its equilibrium rate. As discussed further below, the International Monetary Fund views fundamental misalignment as a key indicator of manipulation. Certain explicit policy actions by governments can also provide telling evidence of manipulation. These actions include the maintenance and intensification of capital controls for balance of payments purposes; prolonged intervention in currency markets in one direction; and the official accumulation of foreign assets such as central bank reserves.

F. INTERNATIONAL MONETARY FUND REFORMS

Recent reforms undertaken by the International Monetary Fund underscore the importance of exchange rates and the pursuit of prudent and acceptable exchange rate policies.

Upon joining the IMF, member countries must adhere to obligations and principles contained in the IMF Articles of Agreement. These Articles are designed to ensure the smooth and mutually beneficial functioning of the international financial system. Article IV of the Articles of Agreement establishes member countries’ obligations regarding exchange rate regime arrangements. Under that Article, member countries commit to undertake policies that foster orderly economic growth and price stability, promote a stable monetary system, and avoid manipulating exchange rates or the international monetary system in order to gain unfair competitive advance or prevent effective adjustment of balance of payments. Article IV also tasks the IMF with surveillance of member policies to ensure that members fulfill these obligations.

The IMF expanded upon the obligations of member countries and procedures for IMF surveillance under Article IV in a 1977 Decision by the IMF Executive Board. The 1977 Decision specified actions that should alert the IMF to a member country’s shortcomings in living up to its Article IV obligations. These actions included protracted, large-scale intervention in one direction in the exchange market, unsustainable levels of official or quasi-official lending, the introduction or intensification of capital controls for balance of payments purposes, and behavior of the exchange rate that appeared to be unrelated to underlying economic and financial conditions.

In July 2007, the IMF Executive Board adopted a new Decision that replaced the 1977 Decision. The IMF views the 2007 Decision as a keystone of its efforts to upgrade and update its bilateral surveillance regime. The heart of the 2007 Decision is the principle of external stability, which focuses the task of IMF surveillance and member country obligations on the international effects of domestic monetary and financial policies. By adding this new principle, the IMF made clear that members of the IMF should avoid exchange rate policies that result in external instability, regardless of their purpose.

Like the 1997 Decision, the 2007 Decision describes various government actions that may provide evidence of manipulation, such as protracted large-scale intervention in one direction in the exchange market and the introduction and intensification of capital controls. In addition to these government actions, however, the 2007 Decision also highlights economic outcomes that may indicate manipulation. These outcomes include fundamental exchange rate misalignment, large and protracted current account surpluses or deficits, and large external vulnerabilities, including liquidity risks, arising from private capital flows.

G. ADMINISTRATION RESPONSE

The Administration has stated that global economic imbalances, namely large current account deficits and surpluses, are a key issue on the international agenda, and that reducing these imbalances is a shared responsibility. The Administration has also stated that the central element to resolving these imbalances is rebalancing global demand. By increasing demand and decreasing savings in current account surplus countries, demand for U.S. goods and services will grow.

In its biannual reports under the 1988 Act, the Administration has noted the undervaluation of currencies, their fluctuation in value, and the presence of policies, including extensive capital controls, intervention in currency markets in one direction, and persistent and growing current account surpluses. Over time, the report's analysis has focused less on specific exchange rate movements and more on underlying macroeconomic developments.

Under the 1988 Act, if the Secretary of the Treasury finds that manipulation of exchange rates is occurring with respect to countries that have material global current account surpluses and have significant bilateral trade surpluses with the United States, the Secretary shall take action to initiate negotiations with such foreign countries. The Secretary has cited Korea, Taiwan, and China for manipulation in the past and engaged in required consultations. However, no country has been cited since 1994, as successive Administrations have found that no country meets the technical requirements for designation.

In recent years, the exchange rate regime of the People's Republic of China, and the value of its currency, the renminbi (RMB) or yuan, has been a matter of extensive concern in the United States.

The Administration has sought to address these concerns by raising the issue with Chinese authorities, including Group of 7 discussions with China, Group of 20 discussions, and IMF Board deliberations. The administration has also established a biannual cabinet-level Strategic Economic Dialogue (SED) with China, where China's currency regime has featured prominently.

H. CONGRESSIONAL ACTION

Congressional action on global economic imbalances has been focused on China given its tightly managed exchange rate regime, rapidly growing bilateral and global current account surplus, and massive accumulation of foreign asset reserves. Many Members contend that the pace of China's currency reforms and the level of the yuan's appreciation against the dollar have been too slow, and they have expressed frustration that the Secretary of the Treasury has failed to cite China as a currency manipulator in its biannual exchange rate reports. Many Members of Congress have introduced legislation to encourage the Chinese government to speed reforms or to enable U.S. producers to use U.S. trade law to address the impact of China's undervalued currency.

In the 109th Congress, Members introduced a number of bills to address the value of China's currency. S. 295, a bill introduced by Senators Schumer and Graham, would have imposed 27.5 percent tariffs on Chinese goods if China had failed to revalue its currency by the end of a 180-day negotiation period. Other bills introduced in the 109th Congress would have made "exchange rate manipulation" actionable under both U.S. countervailing duty law and product-specific safeguard mechanisms (H.R.1498—Hunter); made it easier for the Department of the Treasury to designate China and other countries as currency manipulators (S. 984—Snowe); or instituted proceedings under relevant U.S. and international trade laws (S. 377—Lieberman). Senators Grassley and Baucus introduced S. 2467, which did not address China specifically but would have triggered a series of penalties in cases where negotiations failed to resolve the fundamental misalignment of a currency relative to the U.S. dollar.

In the 110th Congress, H.R. 321 (English) would increase tariffs on imported Chinese goods if Treasury determined that China manipulated its currency and would require the United States to file a World Trade Organization (WTO) dispute settlement case against China over its currency policy. H.R. 1002 (Spratt) would impose 27.5 percent in additional tariffs on Chinese goods unless the President certifies that China is no longer manipulating its currency.

S. 364, introduced by Senator Rockefeller, would apply the U.S. countervailing duty law to products imported from non-market economies such as China, and would make currency manipulation actionable under the law. H.R. 782 (Ryan) and S. 796 (Bunning) would also make exchange rate "misalignment" actionable under the U.S. countervailing duty law and would include currency misalignment as a factor in determining safeguard measures on imports of Chinese products that cause market disruption.

H.R. 2942 (Ryan) would apply the countervailing duty law to non-market economy countries, make an undervalued currency a factor in determining antidumping duties, require Treasury to identify fundamentally misaligned currencies, and list those currencies meeting the criteria for priority action. If consultations fail to resolve the currency issues, the United States Trade Representative would be required to take action in the WTO.

S. 1677, introduced by Senator Dodd, would require Treasury to identify countries that manipulate their currencies regardless of their intent and submit an action plan for ending the manipulation to Congress. It would also give Treasury the authority to file a case in the WTO.

In addition to the proposed legislation, Members of Congress have filed four Section 301 petitions with USTR on the detrimental trade effects of China's exchange rate regime. The Administration rejected all four petitions, arguing that Section 301 action was not an appropriate or productive way to achieve the goal of moving China to a more flexible currency regime.

Finally, the Senate Finance Committee has held hearings on the U.S. economic relationship with China, including a March 2007 hearing entitled "Risks and Reform: The Role of Currency in the U.S.-China Relationship." Four economists testified at the hearing, thoroughly discussing the importance and urgency of exchange rate reform and its potential impact on the Chinese and U.S. economies.

II. Summary of the Bill

The Currency Exchange Rate Oversight Act of 2007 has fourteen sections.

The legislation would repeal the currency provisions of the 1988 Act and replace them with a new framework that would require Treasury to develop a biannual report identifying two categories of currencies: (1) a general category of "fundamentally misaligned currencies" based on observed objective criteria and (2) a select category of "fundamentally misaligned currencies for priority action" that would address misalignments caused by clear policy actions of the relevant governments.

The legislation would require Treasury to engage in immediate consultations with all countries cited in the report. In addition, for "priority" currencies, Treasury would seek advice from the International Monetary Fund and assistance from key trading partners in eliminating the misalignment.

For "priority" currencies, important consequences would take effect should consultations fail to result in the adoption of appropriate policies to eliminate the misalignment. Immediately upon designation, the U.S. government representative to the IMF would oppose IMF governance changes that would benefit a country whose currency is designated for priority action. The Department of Commerce would further take the fact of priority designation into account in determining whether to grant a country "market economy" status for purposes of the U.S. antidumping law.

If a country with a priority currency has failed to adopt appropriate policies, and taken identifiable action, to eliminate the fundamental misalignment after 90 days, five additional consequences would take effect. First, the Department of Commerce would reflect the currency undervaluation in dumping calculations for products produced or manufactured in the designated country. Second, the Federal government would no longer procure goods and services from the designated country unless the country was a member of the WTO Government Procurement Agreement. Third, the Administration would be required to request the IMF to engage the country in special consultations over its misaligned currency. Fourth, the Overseas Private Investment Corporation (OPIC) would be forbidden from engaging in financing or insurance for projects in the country. Fifth, the Administration would oppose new multilateral bank financing for projects in the designated country.

The legislation would allow the President to waive any of the actions if taking the action would cause serious harm to national security, or if it was in the vital economic interest of the United States to do so, and taking the action would have an adverse impact greater than the benefits of the action.

If the country has failed to adopt appropriate policies, and taken identifiable action, to eliminate the fundamental misalignment, after 360 days, the legislation would provide for two additional consequences. First, it would require the U.S. Trade Representative to request dispute settlement consultations in the World Trade Organization with the government responsible for the currency. Second, the legislation would require Treasury to consult with the Federal Reserve Board and other central banks to consider intervention in currency markets to remedy the impact of the currency manipulation. In order to waive either of these actions on economic grounds, or to extend a previously granted waiver, the President would need to find that taking the action would have an adverse impact substantially out of proportion to the benefits of the action. Furthermore, any Member of Congress could thereafter introduce a disapproval resolution concerning the President's waiver.

Finally, the legislation would create a new, nine-member body with which Treasury must consult during the development of its report. The President would select one of the nine members, and the other eight would be selected by the Chairmen and Ranking Members of the Senate Finance and Banking Committees, and the House Ways and Means and Financial Services Committees.

III. General Description of the Bill

Section 1. Short title

Section 1 entitles the bill the "Currency Exchange Rate Oversight Act of 2007."

Section 2. Definitions

Section 2 defines key terms used throughout the bill.

Section 3. Report on international monetary policy and currency exchange rates

Section 3 establishes a requirement for the Secretary to prepare semiannual reports on international monetary policy and currency exchange rates and to submit the reports to Congress.

Section 3(a) provides that the Secretary shall submit the reports by March 15 and September 15 of each year. Section 3(a) also requires the Secretary to appear, if requested, before the Senate Committees on Banking and Finance and the House Committees on Financial Services and Ways and Means to provide testimony on the reports.

Section 3(b) sets out the required content of the reports, including, inter alia, an analysis of currency market developments and the relationship between the United States dollar and major foreign currencies; an evaluation of the domestic and global factors that underlie conditions in the currency markets; a list of currencies designated as fundamentally misaligned currencies pursuant to section 4(a)(2) of the bill; a list of currencies designated for priority action pursuant to section 4(a)(3) of the bill; and an identification of the nominal value associated with the medium-term equilibrium exchange rate, relative to the United States dollar, for each currency designated for priority action.

Section 3(c) requires the Secretary to consult with the Chairman of the Board of Governors of the Federal Reserve and the Advisory Committee on International Exchange Rate Policy, established by section 13 of the bill, with respect to the preparation of the reports.

Section 4. Identification of fundamentally misaligned currencies

Section 4 requires the Secretary to analyze, on a semiannual basis, the prevailing real effective exchange rates of foreign currencies, and to identify currencies that are in fundamental misalignment. It also requires the Secretary to designate a subset of the currencies for priority action if the foreign government is taking certain enumerated actions.

Section 4(a) establishes the requirement for the Secretary to conduct the analysis. The Secretary must identify foreign currencies that are in fundamental misalignment and designate each such currency as a fundamentally misaligned currency. The Secretary must designate a fundamentally misaligned currency for priority action if the foreign government responsible for the currency is engaging in protracted large-scale intervention in one direction in the currency exchange market, particularly if accompanied by partial or full sterilization; engaging in excessive and prolonged official or quasi-official accumulation of foreign assets, for balance of payments purposes; introducing or substantially modifying currency controls, for balance of payment purposes, inconsistent with the goal of achieving full currency convertibility; or pursuing any other policy or action that, in the Secretary's view, warrants designation for priority action.

The Committee has used the concept of "fundamental misalignment" in order to be consistent with the new approach that the IMF adopted in its 2007 Decision. The government policies that would lead to a "priority" designation are similarly modeled on the IMF's own indicators. It is the expectation of the Committee that any findings by the Secretary would, as a consequence, be complementary to the IMF's surveillance efforts.

The bill does not establish any particular methodology for the Secretary to use in determining whether a currency is in fundamental misalignment. The Committee expects that the Secretary would use a variety of accepted economic approaches to determine the level of misalignment, such as the purchasing power parity approach, the macroeconomic balance approach, the real exchange rate approach, and the trade-weighted exchange rate approach.

Section 4(b) of the bill requires the Secretary to include a list of any currency designated under section 4(a) in each report required by section 3.

Section 5. Negotiations and consultations

Section 5 provides for consultations with respect to fundamentally misaligned currencies.

Section 5(a) requires the Secretary to seek bilateral consultations with any country whose currency is designated under section 4(a) in order to facilitate the adoption of appropriate policies to address the fundamental misalignment.

Section 5(b) requires the Secretary, with respect to any currency designated for priority action, to seek the advice of the International Monetary Fund with respect to the Secretary's findings in the report submitted pursuant to section 3; and to encourage other governments to join the United States in seeking the adoption of appropriate policies by the relevant country to eliminate the fundamental misalignment.

Section 6. Failure to adopt appropriate policies

Section 6 requires the Secretary to determine, not later than 90 days after a currency is designated for priority action, whether the relevant country has adopted appropriate policies, and taken identifiable action, to eliminate the fundamental misalignment. Section 6 establishes several actions that will apply if the Secretary's determination is negative, and it sets out the standard for Presidential waivers of the required actions.

Section 6(a) sets out the required actions. Section 6(a)(1) requires the Department of Commerce to take the level of fundamental misalignment into account in antidumping investigations and reviews of merchandise imported from the country. Section 6(a)(2) prohibits Federal procurement of products or services from the country, unless the country is a member of the WTO Agreement on Government Procurement. Section 6(a)(3) requires the Secretary to request that the Managing Director of the IMF consult with the country regarding the observance of its obligations under article IV of the IMF Articles of Agreement. Section 6(a)(4) prohibits Overseas Private Investment Corporation financing or insurance with respect to a project located within the country. Section 6(a)(5) requires the Secretary to instruct the United States Executive Director at each multilateral bank to oppose the approval of any new financing to the government of the country or for a project located within the country.

Section 6(b) allows the President to waive any action provided for under subsection (a) if the President determines that taking the action would cause serious harm to the national security of the United States; or that the waiver is in the vital economic interest of the United States, and the adverse impact of taking the action is greater than the benefits.

Section 6(c) requires the Secretary to describe any action or determination under section 6(a) or (b) in the report required by section 3 of the bill.

Section 7. Persistent failure to adopt appropriate policies

Section 7 requires the Secretary to determine, not later than 360 days after a currency is designated for priority action, whether the relevant country has adopted appropriate policies, and taken identifiable action, to eliminate the fundamental misalignment. Section 7 establishes additional actions that will apply if the Secretary's determination is negative, and it sets out the standard for Presidential waivers of the required actions.

Section 7(a) sets out the required actions. Section 7(a)(1) requires the United States Trade Representative to request consultations at the World Trade Organization regarding the consistency of the country's actions with its obligations under the WTO Agreement. Section 7(a)(2) requires the Secretary to consult with the Board of Governors of the Federal Reserve System to consider undertaking remedial intervention in international currency markets in response to the fundamental misalignment of the currency designated for priority action.

Section 7(b) requires the Secretary to notify Congress when the country adopts appropriate policies to eliminate the fundamental misalignment, and to publish notice of the action in the Federal Register.

Section 7(c) allows the President to waive any action provided for under subsection (a) if the President determines that taking the action would cause serious harm to the national security of the United States; or that the waiver is in the vital economic interest of the United States, and that taking the action would have an adverse impact on the United States economy substantially out of proportion to the benefits of the action.

Section 7(d) allows a Member of either House of Congress to introduce a joint resolution of disapproval with respect to any decision by the President to waive an action required by section 7(a) or to extend a waiver of an action required by section 6(a).

Section 7(e) requires the Secretary to describe any action or determination under section 6(a), (b), or (c) in the report required by section 3 of the bill.

Section 8. Congressional disapproval of waiver

Section 8 sets out the procedures for any Resolution of Disapproval introduced pursuant to section 7(d).

Section 9. International financial institution governance arrangements

Section 9 requires the Secretary, before approving any proposed change in the governance arrangement of an international financial institution, to determine whether the change would provide a benefit (in the form of increased voting shares or representation) to a country with a currency designated for priority action. If the answer is affirmative, the United States must oppose the proposed change.

Section 10. Adjustment for fundamentally misaligned currency designated for priority action

Section 10 amends section 772(c)(2) of the Tariff Act of 1930 to implement section 6(a)(1) of the bill, which requires the Department of Commerce to take the fundamental misalignment of a priority currency into account in antidumping investigations and reviews of merchandise imported from the country. Section 10 also amends section 771 of the Tariff Act of 1930 by adding a new paragraph 37, which sets out the calculation methodology that the Commerce Department must apply when making the adjustment pursuant to section 6(a)(1).

Section 11. Nonmarket economy status

Section 11 amends section 771(18)(B) of the Tariff Act of 1930 to add the fact that a currency has been designated for priority action to the list of factors that the Commerce Department considers when deciding whether to grant a country market economy status under the antidumping law.

Section 12. Application to Canada and Mexico

Section 12 clarifies that section 6(a)(1) and the amendments made by sections 10 and 11 apply with respect to goods from Canada and Mexico. The bill makes the clarification pursuant to article 1902 of the North American Free Trade Agreement.

Section 13. Advisory Committee on International Exchange Rate Policy

Section 13 establishes an Advisory Committee on International Exchange Rate Policy. The Advisory Committee shall be responsible for advising the Secretary in the preparation of the semiannual reports pursuant to section 3 and advising the Congress and the President with respect to international exchange rates and financial policies and the impact of such policies on the U.S. economy. The Advisory Committee shall be composed of 9 members, none of whom shall be from the Federal Government. The President pro tempore of the Senate shall recommend four members, upon the recommendation of the Chairmen and Ranking Members of the Committees on Finance and Banking, Housing and Urban Affairs; the Speaker of the House of Representatives shall recommend four members, upon the recommendation of the Chairmen and Ranking Members of the Committees on Ways and Means and Financial Services; and the President shall appoint one member. All members shall be selected on the basis of their objectivity and demonstrated expertise in finance, economics, or currency exchange.

Section 13 provides that the Committee shall hold at least two public meetings each year for the purpose of accepting public comments. The Committee shall also meet as needed at the call of the Secretary or at the call of two-thirds of the members of the Committee.

Section 14. Repeal of the Exchange Rates and International Economic Policy Coordination Act of 1988

Section 14 repeals the Exchange Rates and International Policy Coordination Act of 1988 (22 U.S.C. 5301–5306).

IV. Votes

In compliance with paragraph 7(b) of rule XXVI of the Standing Rules of the Senate, the following statement is made concerning roll call votes in the Committee's consideration of S. 1607.

MOTION TO REPORT THE BILL

The bill (S. 1607) was ordered favorably reported, as amended by the Chairman's amendment in the nature of a substitute by a roll call vote of 20 ayes and 1 nay on July 26, 2007. The vote, with a quorum present, was as follows:

Ayes—Baucus, Rockefeller (proxy), Conrad (proxy), Bingaman (proxy), Kerry, Lincoln, Wyden, Schumer, Stabenow, Salazar (proxy), Grassley, Hatch (proxy), Lott, Snowe, Kyl, Smith, Bunning, Crapo, Roberts, Ensign (proxy).

Nays—Cantwell.

V. BUDGET EFFECTS OF THE BILL

S. 1607—Currency Exchange Rate Oversight Reform Act of 2007

Summary: S. 1607 would change the way the Department of the Treasury performs oversight of foreign currencies. It would require the department to identify any currency that is significantly undervalued relative to its equilibrium rate of exchange with the U.S. dollar, designate that currency as fundamentally misaligned (on each March 15 and September 15), and penalize—under antidumping law and through changes in international monetary policy—the countries involved should they fail to eliminate the misalignment within 90 days. If a country fails to act on the misalignment within 360 days, the bill would require that the U.S. Trade Representative seek recourse through the World Trade Organization. The President would be able to waive such requirements, but the Congress would be able to disapprove of such waiver. This legislation would only apply to currencies of countries that have significant trade with the United States or are of significance to the health of global capital markets.

The Congressional Budget Office estimates that enacting S. 1607 would increase revenues by $3 million in 2008, $27 million over the 2008–2012 period, and $29 million over the 2008–2017 period. Assuming appropriation of the necessary amounts, CBO estimates that implementing S. 1607 would cost $4 million in 2008, $20 million over the 2008–2012 period, and $40 million over the 2008–2017 period. CBO estimates that the bill would not affect direct spending.

CBO has determined that S. 1607 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no direct cost on state, local, or tribal governments.

CBO has also determined that S. 1607 would impose private-sector mandates, as defined in UMRA, on certain importers. CBO expects that the cost to those importers to comply with the mandates would fall below the annual threshold for private-sector mandates established by UMRA ($131 million in 2007, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary impact of the bill over the 2008–2017 period is shown in the following table.

	By fiscal year, in millions or dollars—											
	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2008–2012	2008–2017
	CHANGES IN REVENUES											
Estimated Revenues	3	9	7	5	4	2	*	*	*	*	27	29
	CHANGES IN SPENDING SUBJECT TO APPROPRIATION											
Estimated Authorization level	4	4	4	4	4	4	4	4	4	4	20	40

	By fiscal year, in millions or dollars—											
	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2008–2012	2008–2017
Estimated outlays	4	4	4	4	4	4	4	4	4	4	20	40

Notes: Numbers may not add to totals due to rounding.
* = gain of less than $500,000.

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted by October 1, 2007.

Revenues

S. 1607 would require the Treasury to designate as "fundamentally misaligned" any currency if its prevailing real effective exchange rate is undervalued from its medium-term equilibrium level. If, after 90 days, the country involved has not eliminated the misalignment, the export price used for calculating antidumping duties would be increased to reflect its currency's misalignment, (Antidumping duties are levied when a country sells a product in the United States for less than the product's sale price in its home market or at a price lower than the cost of production.)

For this estimate, CBO identified currencies that would likely qualify as misaligned under the bill and estimated the effects of the bill accordingly. CBO does not expect the designation of currency misalignment would be common. Based on those assumptions, CBO estimates that this provision would increase revenues by $3 million in 2008, by $27 million over the 2008–2012 period, and by $29 million over the 2008–2017 period. CBO expects that the effects of the legislation would decline over time because such currency misalignments would gradually wane in the absence of legislation.

Spending subject to appropriation

S. 1607 would impose additional reporting requirements on the Department of the Treasury regarding international monetary policy and exchange rates. Those requirements would include identifying misaligned currencies and recommending specific actions to be taken in response to the currency undervaluation with the World Trade Organization and the International Monetary Fund. In addition, the legislation would establish an Advisory Committee on International Exchange Rate Policy, which would advise the Treasury on international policy and exchange rates. Based on the costs of similar reporting requirements and advisory committees, CBO estimates that implementing these provisions would cost $4 million annually, assuming appropriation of the necessary amounts.

Estimated impact on state, local, and tribal governments: CBO has determined that S. 1607 contains no intergovernmental mandates as defined in UMRA and would impose no direct cost on state, local, or tribal governments.

Estimated impact on the private sector: S. 1607 would impose private-sector mandates, as defined in UMRA, on certain importers. The bill would require the Administration to take a series of actions against a country whose currency has been determined to be misaligned and has failed to adopt appropriate policies or has not taken identifiable action. Such actions would include increasing the price used to establish antidumping duties on products imported from that country. Those duties would most likely be paid by importers of such products. CBO expects that the cost to importers to comply with the mandate would fall below the annual threshold for private-sector mandates established by UMRA ($131 million in 2007, adjusted annually for inflation).

Estimate prepared by: Federal revenues: Emily Schlect; Federal spending: Matthew Pickford; Impact on state, local, and tribal governments: Elizabeth Cove; Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: G. Thomas Woodward, Assistant Director for Tax Analysis; Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

VI. Regulatory Impact and Other Matters

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee states that the resolution will not significantly regulate any individuals or businesses, will not affect the personal privacy of individuals, and will result in no significant additional paperwork.

The following information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. No. 104–04). The Committee has reviewed the provisions of S. 1607 as approved by the Committee on July 26, 2007. In accordance with the requirement of Pub. L. No. 104–04, the Committee has determined that the bill contains no intergovernmental mandates, as defined in the UMRA, and would not affect the budgets of state, local, or tribal governments.

VII. Changes in Existing Law

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TARIFF ACT OF 1930

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TITLE VII—COUNTERVAILING AND ANTIDUMPING DUTIES

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Subtitle D—General Provisions

SEC. 771. DEFINITIONS; SPECIAL RULES.

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(18) Nonmarket economy country.—

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(B) Factors to be considered.—In making determinations under subparagraph (A) the administering authority shall take into account—

* * * * * * *

(v) the extent of government control over the allocation of resources and over the price and output decisions of enterprises, ⟦and⟧

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

⟦(vi)⟧ *(vii)* such other factors as the administering authority considers appropriate.

* * * * * * *

(37) PERCENTAGE UNDERVALUATION—The administering authority shall determine the percentage by which the domestic currency of the producer or exporter is undervalued in relation to the United States dollar by comparing the nominal value associated with the medium-term equilibrium exchange rate of the domestic currency of the producer or exporter, identified by the Secretary pursuant to section 3(b)(7) of the Currency Exchange Rate Oversight Reform Act of 2007, to the official daily exchange rate identified by the administering authority for purposes of antidumping proceedings.

SEC. 772. EXPORT PRICE AND CONSTRUCTED EXPORT PRICE.

* * * * * * *

(c) ADJUSTMENTS FOR EXPORT PRICE AND CONSTRUCTED EXPORT PRICE.—The price used to establish export price and constructed export price shall be—

(1) increased by—

* * * * * * *

(2) reduced by—

(A) except as provided in paragraph (1)(C), the amount, if any, included in such price, attributable to any additional costs, charges, or expenses, and United States import duties, which are incident to bringing the subject merchandise from the original place of shipment in the exporting country to the place of delivery in the United States, ⟦and⟧

(B) the amount, if included in such price, of any export tax, duty, or other charge imposed by the exporting country on the exportation of the subject merchandise to the United States, other than an export tax, duty, or other charge described in section 771(6)(C)⟦.⟧*; and*

(C) if required by section 6(a)(1) of the Currency Exchange Rate Oversight Reform Act of 2007, the percentage by which the domestic currency of the producer or exporter is undervalued in relation to the United States dollar.

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UNITED STATES CODE

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TITLE 22—FOREIGN RELATIONS AND INTERCOURSE

CHAPTER 62—INTERNATIONAL FINANCIAL POLICY

Subchapter I—Exchange Rates and International Economic Policy Coordination

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[SEC. 5301. SHORT TITLE.

[This subchapter may be cited as the “Exchange Rates and International Economic Policy Coordination Act of 1988”.]

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