

112TH CONGRESS
1ST SESSION

H. R. 639

To amend title VII of the Tariff Act of 1930 to clarify that countervailing duties may be imposed to address subsidies relating to a fundamentally undervalued currency of any foreign country.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 10, 2011

Mr. LEVIN (for himself, Mr. ACKERMAN, Mr. ALTMIRE, Mr. AUSTRIA, Mr. BECERRA, Ms. BERKLEY, Mr. BISHOP of Georgia, Mr. BISHOP of Utah, Mr. BLUMENAUER, Mr. BOSWELL, Mr. BRALEY of Iowa, Mr. BURTON of Indiana, Mr. CARSON of Indiana, Mr. CICILLINE, Mr. CLARKE of Michigan, Mr. COBLE, Mr. COHEN, Mr. CONNOLLY of Virginia, Mr. CONYERS, Mr. COSTELLO, Mr. COURTNEY, Mr. CRAVAACK, Mr. CRITZ, Mr. DAVIS of Illinois, Mr. DEFazio, Ms. DELAURO, Mr. DINGELL, Mr. DONNELLY of Indiana, Mr. DOYLE, Mr. ELLISON, Mr. FILNER, Mr. FRANK of Massachusetts, Mr. GARAMENDI, Mr. GENE GREEN of Texas, Mr. GRIJALVA, Mr. HIGGINS, Mr. HINCHEY, Mr. HOLDEN, Mr. HOLT, Mr. HUNTER, Mr. JOHNSON of Georgia, Mr. JONES, Ms. KAPTUR, Mr. KILDEE, Mr. KISSELL, Mr. KUCINICH, Mr. LARSON of Connecticut, Mr. LATOURETTE, Mr. LEWIS of Georgia, Mr. LIPINSKI, Mr. LOEBSACK, Mr. MANZULLO, Mr. MCHENRY, Ms. MCCOLLUM, Mr. MCCOTTER, Mr. MCDERMOTT, Mr. MCGOVERN, Mr. MCKINLEY, Mr. MICHAUD, Mrs. MILLER of Michigan, Mr. GEORGE MILLER of California, Mr. MURPHY of Connecticut, Mr. MURPHY of Pennsylvania, Mrs. MYRICK, Mr. NEAL, Ms. NORTON, Mr. PALLONE, Mr. PASCRELL, Mr. PETERS, Mr. PETRI, Ms. PINGREE of Maine, Mr. PLATTS, Mr. ROGERS of Kentucky, Mr. ROGERS of Alabama, Mr. ROHRABACHER, Ms. ROYBAL-ALLARD, Mr. RUSH, Mr. RYAN of Ohio, Ms. LINDA T. SÁNCHEZ of California, Mr. SENSENBRENNER, Ms. SCHAKOWSKY, Mr. SHULER, Mr. SHUSTER, Ms. SLAUGHTER, Mr. STUTZMAN, Mr. STARK, Ms. SUTTON, Mr. THOMPSON of California, Mr. TIERNEY, Mr. TONKO, Mr. TOWNS, Mr. TURNER, Mr. VISCLOSKY, Mr. WELCH, Mr. WOLF, and Ms. WOOLSEY) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend title VII of the Tariff Act of 1930 to clarify that countervailing duties may be imposed to address subsidies relating to a fundamentally undervalued currency of any foreign country.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Currency Reform for
5 Fair Trade Act”.

6 **SEC. 2. CLARIFICATION REGARDING DEFINITION OF**
7 **COUNTERAVAILABLE SUBSIDY.**

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

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

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

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

16 “(v) in the case in which the currency
17 of a country in which the subject merchan-
18 dise is produced is exchanged for foreign
19 currency obtained from export trans-
20 actions, and the currency of such country
21 is a fundamentally undervalued currency,

1 as defined in paragraph (37), the dif-
2 ference between the amount of the cur-
3 rency of such country provided and the
4 amount of the currency of such country
5 that would have been provided if the real
6 effective exchange rate of the currency of
7 such country were not undervalued, as de-
8 termined pursuant to paragraph (38).”.

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

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

21 “(37) FUNDAMENTALLY UNDERVALUED CUR-
22 RENCY.—The administering authority shall deter-
23 mine that the currency of a country in which the
24 subject merchandise is produced is a ‘fundamentally
25 undervalued currency’ if—

1 “(A) the government of the country (in-
2 cluding any public entity within the territory of
3 the country) engages in protracted, large-scale
4 intervention in one or more foreign exchange
5 markets during part or all of the 18-month pe-
6 riod that represents the most recent 18 months
7 for which the information required under para-
8 graph (38) is reasonably available, but that
9 does not include any period of time later than
10 the final month in the period of investigation or
11 the period of review, as applicable;

12 “(B) the real effective exchange rate of the
13 currency is undervalued by at least 5 percent,
14 on average and as calculated under paragraph
15 (38), relative to the equilibrium real effective
16 exchange rate for the country’s currency during
17 the 18-month period;

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

21 “(D) during the 18-month period, the for-
22 eign asset reserves held by the government of
23 the country exceed—

1 “(i) the amount necessary to repay all
2 debt obligations of the government falling
3 due within the coming 12 months;

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

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

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

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

18 “(A)(i) rely upon, and where appropriate
19 be the simple average of, the results yielded
20 from application of the approaches described in
21 the guidelines of the International Monetary
22 Fund’s Consultative Group on Exchange Rate
23 Issues; or

24 “(ii) if the guidelines of the International
25 Monetary Fund’s Consultative Group on Ex-

1 change Rate Issues are not available, be based
2 on generally accepted economic and econometric
3 techniques and methodologies to measure the
4 level of undervaluation;

5 “(B) rely upon data that are publicly avail-
6 able, reliable, and compiled and maintained by
7 the International Monetary Fund or, if the
8 International Monetary Fund cannot provide
9 the data, by other international organizations or
10 by national governments; and

11 “(C) use inflation-adjusted, trade-weighted
12 exchange rates.”.

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

14 (a) IN GENERAL.—Not later than 9 months after the
15 date of the enactment of this Act, the Comptroller General
16 of the United States shall submit to Congress a report
17 on the implementation of the amendments made by this
18 Act.

19 (b) MATTERS TO BE INCLUDED.—The report re-
20 quired by subsection (a) shall include a description of the
21 extent to which United States industries that have been
22 materially injured by reason of imports of subject mer-
23 chandise produced in foreign countries with fundamentally
24 undervalued currencies have received relief under title VII

1 of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.), as
2 amended by this Act.

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

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

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