

the following nomination, which the clerk will report.

The assistant legislative clerk read the nomination of Jane Margaret Triche-Milazzo, of Louisiana, to be United States District Judge for the Eastern District of Louisiana.

The PRESIDING OFFICER. Under the previous order, there is 2 minutes equally divided prior to a vote on the nomination.

Mr. ISAKSON. I ask that all time be yielded back.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. I yield back our time.

The PRESIDING OFFICER. Without objection, it is so ordered. All time is yielded back.

Mr. BINGAMAN. I ask for the yeas and nays on the nomination.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Jane Margaret Triche-Milazzo, of Louisiana, to be United States District Judge for the Eastern District of Louisiana?

The yeas and nays are ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Hampshire (Mrs. SHAHEEN) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Oklahoma (Mr. COBURN).

The PRESIDING OFFICER (Mr. BENNET). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 158 Ex.]  
YEAS—98

Akaka	Gillibrand	Mikulski
Alexander	Graham	Moran
Ayotte	Grassley	Murkowski
Barrasso	Hagan	Murray
Baucus	Harkin	Nelson (NE)
Begich	Hatch	Nelson (FL)
Bennet	Heller	Paul
Bingaman	Hoeven	Portman
Blumenthal	Hutchison	Pryor
Blunt	Inhofe	Reid
Boozman	Inouye	Risch
Boxer	Isakson	Roberts
Brown (MA)	Johanns	Rockefeller
Brown (OH)	Johnson (SD)	Rubio
Burr	Johnson (WI)	Sanders
Cantwell	Kerry	Schumer
Cardin	Kirk	Sessions
Carper	Klobuchar	Shelby
Casey	Kohl	Snowe
Chambliss	Kyl	Stabenow
Coats	Landrieu	Tester
Cochran	Lautenberg	Thune
Collins	Leahy	Toomey
Conrad	Lee	Udall (CO)
Coons	Levin	Udall (NM)
Corker	Lieberman	Vitter
Cornyn	Lugar	Warner
Crapo	Manchin	Webb
DeMint	McCain	Whitehouse
Durbin	McCaskill	Wicker
Enzi	McConnell	Wyden
Feinstein	Menendez	
Franken	Merkley	

NOT VOTING—2

Coburn Shaheen

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table, and the President shall be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

CURRENCY EXCHANGE RATE OVERSIGHT REFORM ACT OF 2011

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 1619, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1619) to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes.

Pending:

Reid amendment No. 694, to change the enactment date.

AMENDMENT NO. 694 WITHDRAWN

Mr. REID. Mr. President, I ask unanimous consent that the pending amendment be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will read the bill for the third time.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Under the previous order, the bill having been read the third time, the question is, Shall the bill pass?

Mr. DURBIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Hampshire (Mrs. SHAHEEN) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Oklahoma (Mr. COBURN).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 63, nays 35, as follows:

[Rollcall Vote No. 159 Leg.]  
YEAS—63

Akaka	Collins	Johnson (SD)
Baucus	Conrad	Kerry
Begich	Coons	Klobuchar
Bennet	Crapo	Kohl
Bingaman	Durbin	Landrieu
Blumenthal	Feinstein	Lautenberg
Boxer	Franken	Leahy
Brown (MA)	Gillibrand	Levin
Brown (OH)	Graham	Manchin
Burr	Grassley	Menendez
Cardin	Hagan	Merkley
Carper	Harkin	Mikulski
Casey	Hoeven	Nelson (NE)
Chambliss	Isakson	Nelson (FL)
Cochran	Johanns	Portman

Pryor	Schumer	Udall (CO)
Reid	Sessions	Udall (NM)
Risch	Shelby	Warner
Rockefeller	Snowe	Webb
Sanders	Stabenow	Whitehouse
	Tester	Wyden

NAYS—35

Alexander	Heller	McConnell
Ayotte	Hutchison	Moran
Barrasso	Inhofe	Murkowski
Blunt	Inouye	Murray
Boozman	Johnson (WI)	Paul
Cantwell	Kirk	Roberts
Coats	Kyl	Rubio
Corker	Lee	Thune
Cornyn	Lieberman	Toomey
DeMint	Lugar	Vitter
Enzi	McCain	Wicker
Hatch	McCaskill	

NOT VOTING—2

Coburn Shaheen

The bill (S. 1619) was passed, as follows:

S. 1619

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "Currency Exchange Rate Oversight Reform Act of 2011".

SEC. 2. DEFINITIONS.

In this Act:

(1) ADMINISTERING AUTHORITY.—The term "administering authority" means the authority referred to in section 771(1) of the Tariff Act of 1930 (19 U.S.C. 1677(1)).

(2) AGREEMENT ON GOVERNMENT PROCUREMENT.—The term "Agreement on Government Procurement" means the agreement referred to in section 101(d)(17) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(17)).

(3) COUNTRY.—The term "country" means a foreign country, dependent territory, or possession of a foreign country, and may include an association of 2 or more foreign countries, dependent territories, or possessions of countries into a customs union outside the United States.

(4) EXPORTING COUNTRY.—The term "exporting country" means the country in which the subject merchandise is produced or manufactured.

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

(6) FUNDAMENTALLY MISALIGNED CURRENCY.—The term "fundamentally misaligned currency" means a foreign currency that is in fundamental misalignment.

(7) REAL EFFECTIVE EXCHANGE RATE.—The term "real effective exchange rate" means a weighted average of bilateral exchange rates, expressed in price-adjusted terms.

(8) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

(9) STERILIZATION.—The term "sterilization" means domestic monetary operations taken to neutralize the monetary impact of increases in reserves associated with intervention in the currency exchange market.

(10) SUBJECT MERCHANDISE.—The term "subject merchandise" means the merchandise subject to an antidumping investigation, review, suspension agreement, or order referred to in section 771(25) of the Tariff Act of 1930 (19 U.S.C. 1677(25)).

(11) WTO AGREEMENT.—The term "WTO Agreement" means the agreement referred to in section 2(9) of the Uruguay Round Agreements Act (19 U.S.C. 3501(9)).

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

(a) **REPORTS REQUIRED.**—

(1) **IN GENERAL.**—Not later than March 15 and September 15 of each calendar year, the Secretary, after consulting with the Chairman of the Board of Governors of the Federal Reserve System and the Advisory Committee on International Exchange Rate Policy, shall submit to Congress and make public, a written report on international monetary policy and currency exchange rates.

(2) **CONSULTATIONS.**—On or before March 30 and September 30 of each calendar year, the Secretary shall appear, if requested, before the Committee on Banking, Housing, and Urban Affairs and the Committee on Finance of the Senate and the Committee on Financial Services and the Committee on Ways and Means of the House of Representatives to provide testimony on the reports submitted pursuant to paragraph (1).

(b) **CONTENT OF REPORTS.**—Each report submitted under subsection (a) shall contain the following:

(1) An analysis of currency market developments and the relationship between the United States dollar and the currencies of major economies and trading partners of the United States.

(2) A review of the economic and monetary policies of major economies and trading partners of the United States, and an evaluation of how such policies impact currency exchange rates.

(3) A description of any currency intervention by the United States or other major economies or trading partners of the United States, or other actions undertaken to adjust the actual exchange rate relative to the United States dollar.

(4) An evaluation of the domestic and global factors that underlie the conditions in the currency markets, including—

(A) monetary and financial conditions;

(B) accumulation of foreign assets;

(C) macroeconomic trends;

(D) trends in current and financial account balances;

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

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

(G) the size and growth of external indebtedness;

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

(I) capital controls, trade, and exchange restrictions.

(5) A list of currencies designated as fundamentally misaligned currencies pursuant to section 4(a)(2), and a description of any economic models or methodologies used to establish the list.

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

(7) An identification of the nominal value associated with the medium-term equilibrium exchange rate, relative to the United States dollar, for each currency listed under paragraph (6).

(8) A description of any consultations conducted or other steps taken pursuant to section 5, 6, or 7, including any actions taken to eliminate the fundamental misalignment.

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

(c) **CONSULTATIONS.**—The Secretary shall consult with the Chairman of the Board of Governors of the Federal Reserve System and the Advisory Committee on International Exchange Rate Policy with respect to the preparation of each report required under subsection (a). Any comments provided by the Chairman of the Board of Governors of the Federal Reserve System or the Advisory Committee on International Ex-

change Rate Policy shall be submitted to the Secretary not later than the date that is 15 days before the date each report is due under subsection (a). The Secretary shall submit the report to Congress after taking into account all comments received from the Chairman and the Advisory Committee.

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

(a) **IDENTIFICATION.**—

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

(2) **DESIGNATION OF FUNDAMENTALLY MISALIGNED CURRENCIES.**—With respect to the currencies of countries that have significant bilateral trade flows with the United States, and currencies that are otherwise significant to the operation, stability, or orderly development of regional or global capital markets, the Secretary shall determine whether any such currency is in fundamental misalignment and shall designate such currency as a fundamentally misaligned currency.

(3) **DESIGNATION OF CURRENCIES FOR PRIORITY ACTION.**—The Secretary shall designate a currency identified under paragraph (2) for priority action if the country that issues such currency is—

(A) engaging in protracted large-scale intervention in the currency exchange market, particularly if accompanied by partial or full sterilization;

(B) engaging in excessive and prolonged official or quasi-official accumulation of foreign exchange reserves and other foreign assets, for balance of payments purposes;

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

(D) pursuing any other policy or action that, in the view of the Secretary, warrants designation for priority action.

(b) **REPORTS.**—The Secretary shall include a list of any foreign currency designated under paragraph (2) or (3) of subsection (a) and the data and reasoning underlying such designations in each report required by section 3.

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

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

(b) **CONSULTATIONS INVOLVING CURRENCIES DESIGNATED FOR PRIORITY ACTION.**—With respect to each currency designated for priority action pursuant to section 4(a)(3), the Secretary shall, in addition to seeking to consult with a country pursuant to subsection (a)—

(1) seek the advice of the International Monetary Fund with respect to the Secretary's findings in the report submitted to Congress pursuant to section 3(a); and

(2) encourage other governments, whether bilaterally or in appropriate multinational fora, to join the United States in seeking the adoption of appropriate policies by the country described in subsection (a) to eliminate the fundamental misalignment.

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

(a) **IN GENERAL.**—Not later than 90 days after the date on which a currency is designated for priority action pursuant to section 4(a)(3), the Secretary shall determine whether the country that issues such currency has adopted appropriate policies, and taken identifiable action, to eliminate the

fundamental misalignment. The Secretary shall promptly notify Congress of such determination and publish notice of the determination in the Federal Register. If the Secretary determines that the country that issues such currency has failed to adopt appropriate policies, or take identifiable action, to eliminate the fundamental misalignment, the following shall apply with respect to the country until a notification described in section 7(b) is published in the Federal Register:

(1) **ADJUSTMENT UNDER ANTIDUMPING LAW.**—For purposes of an antidumping investigation under subtitle B of title VII of the Tariff Act of 1930 (19 U.S.C. 1673 et seq.), or a review under subtitle C of such Act (19 U.S.C. 1675 et seq.), the following shall apply:

(A) **IN GENERAL.**—The administering authority shall ensure a fair comparison between the export price and the normal value by adjusting the price used to establish export price or constructed export price to reflect the fundamental misalignment of the currency of the exporting country.

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

(2) **FEDERAL PROCUREMENT.**—

(A) **IN GENERAL.**—The President shall prohibit the procurement by the Federal Government of products or services from the country.

(B) **EXCEPTION.**—The prohibition provided for in subparagraph (A) shall not apply with respect to a country that is a party to the Agreement on Government Procurement.

(3) **REQUEST FOR IMF ACTION.**—The United States shall inform the Managing Director of the International Monetary Fund of the failure of the country to adopt appropriate policies, or to take identifiable action, to eliminate the fundamental misalignment, and the actions the country is engaging in that are identified in section 4(a)(3), and shall request that the Managing Director of the International Monetary Fund—

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

(B) formally report the results of such consultations to the Executive Board of the International Monetary Fund within 180 days of the date of such request.

(4) **OPIC FINANCING.**—The Overseas Private Investment Corporation shall not approve any new financing (including insurance, reinsurance, or guarantee) with respect to a project located within the country.

(5) **MULTILATERAL BANK FINANCING.**—

(A) **IN GENERAL.**—The Secretary shall instruct the United States Executive Director at each multilateral bank to oppose the approval of any new financing (including loans, other credits, insurance, reinsurance, or guarantee) to the government of the country or for a project located within the country.

(B) **MULTILATERAL BANK.**—The term "multilateral bank" includes each of the international financial institutions described in section 1701(c)(2) of the International Financial Institutions Act (22 U.S.C. 262r).

(b) **WAIVER.**—

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

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

(B) it is in the vital economic interest of the United States to do so and taking such

action would have an adverse impact on the United States economy greater than the benefits of such action.

(2) NOTIFICATION.—The President shall promptly notify Congress of a determination under paragraph (1) (and the reasons for the determination, if made under paragraph (1)(B)) and shall publish notice of the determination (and the reasons for the determination, if made under paragraph (1)(B)) in the Federal Register.

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

#### SEC. 7. PERSISTENT FAILURE TO ADOPT APPROPRIATE POLICIES.

(a) PERSISTENT FAILURE TO ADOPT APPROPRIATE POLICIES.—Not later than 360 days after the date on which a currency is designated for priority action pursuant to section 4(a)(3), the Secretary shall determine whether the country that issues such currency has adopted appropriate policies, and taken identifiable action, to eliminate the fundamental misalignment. The Secretary shall promptly notify Congress of such determination and shall publish notice of the determination in the Federal Register. If the Secretary determines that the country that issues such currency has failed to adopt appropriate policies, or take identifiable action, to eliminate the fundamental misalignment, in addition to the actions described in section 6(a), the following shall apply with respect to the country until a notification described in subsection (b) is published in the Federal Register:

(1) ACTION AT THE WTO.—The United States Trade Representative shall request consultations in the World Trade Organization with the country regarding the consistency of the country's actions with its obligations under the WTO Agreement.

#### (2) REMEDIAL INTERVENTION.—

(A) IN GENERAL.—The Secretary shall 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, and coordinating such intervention with other monetary authorities and the International Monetary Fund. In doing so, the Secretary shall consider the impact of such intervention on domestic economic growth and stability, including the impact on interest rates.

(B) NOTICE TO COUNTRY.—At the same time the Secretary takes action under subparagraph (A), the Secretary shall notify the country that issues such currency of the consultations under subparagraph (A).

(b) NOTIFICATION.—The Secretary shall promptly notify Congress when a country that issues a currency designated for priority action pursuant to section 4(a)(3) adopts appropriate policies, or takes identifiable action, to eliminate the fundamental misalignment, and publish notice of the action of that country in the Federal Register.

#### (c) WAIVER.—

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

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

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

(2) NOTIFICATION.—The President shall promptly notify Congress of a determination under paragraph (1) (and the reasons for the

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

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

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

#### SEC. 8. CONGRESSIONAL DISAPPROVAL OF WAIVER.

##### (a) RESOLUTION OF DISAPPROVAL.—

(1) INTRODUCTION.—If a resolution of disapproval is introduced in the House of Representatives or the Senate during the 90-day period (not counting any day which is excluded under section 154(b)(1) of the Trade Act of 1974 (19 U.S.C. 2194(b)(1))), beginning on the date on which the President first notifies Congress of a determination to waive action with respect to a country pursuant to section 7(c)(1)(B), that resolution of disapproval shall be considered in accordance with this subsection.

(2) RESOLUTION OF DISAPPROVAL.—In this subsection, the term “resolution of disapproval” means only a joint resolution of the two Houses of the Congress, the sole matter after the resolving clause of which is as follows: “That Congress does not approve the determination of the President under \_\_\_\_\_ of the Currency Exchange Rate Oversight Reform Act of 2011 with respect to \_\_\_\_\_, of which Congress was notified on \_\_\_\_\_”, with the first blank space being filled section 7(c)(1)(B) or section 6(b)(1)(B), whichever is applicable, the second blank space being filled with the name of the appropriate country, and the third blank space being filled with the appropriate date.

##### (3) PROCEDURES FOR CONSIDERING RESOLUTIONS.—

(A) INTRODUCTION AND REFERRAL.—Resolutions of disapproval—

(i) in the House of Representatives—

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

(II) shall be referred to the Committee on Financial Services and, in addition, to the Committee on Rules; and

(III) may not be amended by either Committee; and

(ii) in the Senate—

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

(II) shall be referred to the Committee on Banking, Housing, and Urban Affairs; and

(III) may not be amended.

(B) COMMITTEE DISCHARGE AND FLOOR CONSIDERATION.—The provisions of subsections (c) through (f) of section 152 of the Trade Act of 1974 (other than paragraph (3) of such subsection (f)) (19 U.S.C. 2192 (c) through (f)) (relating to committee discharge and floor consideration of certain resolutions in the House and Senate) apply to a resolution of disapproval under this section to the same extent as such subsections apply to joint resolutions under such section 152.

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

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such is deemed a part of the rules of each House, respectively, and the rules provided for in this section supersede other rules only to the extent that

they are inconsistent with such other rules; and

(2) with the full recognition of the constitutional right of either House to change the rules provided for in this section (so far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

#### SEC. 9. INTERNATIONAL FINANCIAL INSTITUTION GOVERNANCE ARRANGEMENTS.

(a) INITIAL REVIEW.—Notwithstanding any other provision of law, before the United States approves a proposed change in the governance arrangement of any international financial institution, as defined in section 1701(c)(2) of the International Financial Institutions Act (22 U.S.C. 2622(c)(2)), the Secretary shall determine whether any member of the international financial institution that would benefit from the proposed change, in the form of increased voting shares or representation, has a currency that was designated a currency for priority action pursuant to section 4(a)(3) in the most recent report required by section 3. The determination shall be reported to Congress.

(b) SUBSEQUENT ACTION.—The United States shall oppose any proposed change in the governance arrangement of the international financial institution (described in subsection (a)), if the Secretary renders an affirmative determination pursuant to subsection (a).

(c) FURTHER ACTION.—The United States shall continue to oppose any proposed change in the governance arrangement of the international financial institution, pursuant to subsection (b), until the Secretary determines and reports to Congress that the proposed change would not benefit any member of the international financial institution, in the form of increased voting shares or representation, that has a currency that is designated a currency for priority action pursuant to section 4(a)(3).

#### SEC. 10. ADJUSTMENT FOR FUNDAMENTALLY MISALIGNED CURRENCY DESIGNATED FOR PRIORITY ACTION.

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

(1) by striking “and” at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting “, and”; and

(3) by adding at the end the following:

“(C) if required by section 6(a)(1) of the Currency Exchange Rate Oversight Reform Act of 2011, the percentage by which the domestic currency of the producer or exporter is undervalued in relation to the United States dollar as determined under section 771(37).”

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

“(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 2011, to the official daily exchange rate identified by the administering authority.”

#### SEC. 11. CURRENCY UNDERVALUATION UNDER COUNTERVAILING DUTY LAW.

(a) INVESTIGATION OR REVIEW.—Subsection (c) of section 702 of the Tariff Act of 1930 (19 U.S.C. 1671a(c)) is amended by adding at the end the following:

“(6) CURRENCY UNDERVALUATION.—For purposes of a countervailing duty investigation

under this subtitle where the determinations under clauses (i) and (ii) of paragraph (1)(A) are affirmative, or a review under subtitle C of this title, the following shall apply:

“(A) IN GENERAL.—The administering authority shall initiate an investigation to determine whether currency undervaluation by the government of a country or any public entity within the territory of a country is providing, directly or indirectly, a countervailable subsidy as described in section 771(5), if—

“(i) a petition filed by an interested party (described in subparagraph (C), (D), (E), (F), or (G) of section 771(9)) alleges the elements necessary for the imposition of the duty imposed by section 701(a); and

“(ii) the petition is accompanied by information reasonably available to the petitioner supporting those allegations.

“(B) DESIGNATION OF FUNDAMENTALLY MISALIGNED CURRENCY FOR PRIORITY ACTION.—Upon designation of a currency as a fundamentally misaligned currency for priority action pursuant to section 4(a)(3) of the Currency Exchange Rate Oversight Reform Act of 2011, the administering authority shall initiate an investigation to determine whether the country that issues such currency is providing, directly or indirectly, a countervailable subsidy as defined in section 771(5), if—

“(i) a petition filed by an interested party (described in subparagraph (C), (D), (E), (F), or (G) of section 771(9)) alleges the elements necessary for the imposition of the duty imposed by section 701(a); and

“(ii) the petition is accompanied by information reasonably available to the petitioner supporting those allegations.”

(b) BENEFIT CALCULATION METHODOLOGY.—Section 771 of the Tariff Act of 1930 (19 U.S.C. 1677), as amended by section 10(b), is further amended by adding at the end the following:

“(38) CURRENCY UNDERVALUATION BENEFIT.—For purposes of a countervailing duty investigation under subtitle A of this title, or a review under subtitle C of this title, the following shall apply:

“(A) IN GENERAL.—If the administering authority determines to investigate whether currency undervaluation is a countervailable subsidy as defined in section 771(5), the administering authority shall determine whether there is a benefit to the recipient and measure such benefit by comparing the simple average of the real exchange rates derived from application of the macroeconomic-balance approach and the equilibrium-real-exchange-rate approach to the official daily exchange rate identified by the administering authority. The administering authority shall rely upon data that are publicly available, reliable, and compiled and maintained by the International Monetary Fund or the World Bank, or other international organizations or national governments if International Monetary Fund or World Bank data is not available.

“(B) DESIGNATION OF FUNDAMENTALLY MISALIGNED CURRENCY FOR PRIORITY ACTION.—In the case of designation of a currency as a fundamentally misaligned currency for priority action pursuant to section 4(a)(3) of the Currency Exchange Rate Oversight Reform Act of 2011, the administering authority shall determine whether there is a benefit to the recipient and measure such benefit by comparing the nominal value associated with the medium-term equilibrium exchange rate of the currency of the exporting country, identified by the Secretary pursuant to section 3(b)(7) of such Act, to the official daily exchange rate identified by the administering authority.

“(C) DEFINITIONS.—

“(i) MACROECONOMIC-BALANCE APPROACH.—The term ‘macroeconomic-balance approach’

means a methodology under which the level of undervaluation of the real effective exchange rate of the exporting country’s currency is defined as the change in the real effective exchange rate needed to achieve equilibrium in the exporting country’s balance of payments, as such methodology is described in the guidelines of the International Monetary Fund’s Consultative Group on Exchange Rate Issues, if available.

“(ii) EQUILIBRIUM-REAL-EXCHANGE-RATE APPROACH.—The term ‘equilibrium-real-exchange-rate approach’ means a methodology under which the level of undervaluation of the real effective exchange rate of the exporting country’s currency is defined as the difference between the observed real effective exchange rate and the real effective exchange rate, as such methodology is described in the guidelines of the International Monetary Fund’s Consultative Group on Exchange Rate Issues, if available.

“(iii) REAL EXCHANGE RATES.—The term ‘real exchange rates’ means the bilateral exchange rates derived from converting the trade-weighted multilateral exchange rates yielded by the macroeconomic-balance approach and the equilibrium-real-exchange-rate approach into real bilateral terms.”

(c) EXPORT SUBSIDY.—Section 771(5A)(B) of the Tariff Act of 1930 (19 U.S.C. 1677(5A)(B)) is amended by adding at the end the following new sentence: “The fact that a subsidy may also be provided in circumstances that do not involve export shall not, for that reason alone, mean that the subsidy cannot be considered contingent upon export performance.”

(d) EFFECTIVE DATE.—The amendments made by this section apply to countervailing duty investigations initiated under subtitle A of title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.) and reviews initiated under subtitle C of title VII of such Act (19 U.S.C. 1675 et seq.) before, on, or after the date of the enactment of this Act.

#### SEC. 12. NONMARKET ECONOMY STATUS.

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

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

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

“(vi) whether the currency of the foreign country is designated, or has been designated at any time over the 5 years prior to review of nonmarket economy status, a currency for priority action pursuant to section 4(a)(3) of the Currency Exchange Rate Oversight Reform Act of 2011, and”.

#### SEC. 13. APPLICATION TO CANADA AND MEXICO.

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

#### SEC. 14. ADVISORY COMMITTEE ON INTERNATIONAL EXCHANGE RATE POLICY.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established an Advisory Committee on International Exchange Rate Policy (in this section referred to as the “Committee”). The Committee shall be responsible for—

(A) advising the Secretary in the preparation of each report to Congress on international monetary policy and currency exchange rates, provided for in section 3; and

(B) advising Congress and the President with respect to—

(i) international exchange rates and financial policies; and

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

(2) MEMBERSHIP.—

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

(i) CONGRESSIONAL APPOINTEES.—

(I) SENATE APPOINTEES.—Four persons shall be appointed by the President pro tempore of the Senate, upon the recommendation of the chairmen and ranking members of the Committee on Banking, Housing, and Urban Affairs and the Committee on Finance of the Senate.

(II) HOUSE APPOINTEES.—Four persons shall be appointed by the Speaker of the House of Representatives upon the recommendation of the chairmen and ranking members of the Committee on Financial Services and the Committee on Ways and Means of the House of Representatives.

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

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

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

(4) VACANCIES.—Any vacancy in the Committee shall not affect its powers, but shall be filled in the same manner as the original appointment.

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

(c) PUBLIC MEETINGS.—The Committee shall hold at least 2 public meetings each year for the purpose of accepting public comments, including comments from small business owners. 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.

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

(e) STAFF.—The Secretary shall make available to the Committee such staff, information, personnel, administrative services, and assistance as the Committee may reasonably require to carry out its activities.

(f) APPLICATION OF FEDERAL ADVISORY COMMITTEE ACT.—

(1) IN GENERAL.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Committee.

(2) EXCEPTION.—Except for the 2 annual public meetings required under subsection (c), meetings of the Committee shall be exempt from the requirements of subsections (a) and (b) of sections 10 and 11 of the Federal Advisory Committee Act (relating to open meetings, public notice, public participation, and public availability of documents), whenever and to the extent it is determined by the President or the Secretary that such meetings will be concerned with matters the disclosure of which would seriously compromise the development by the United States Government of monetary and financial policy.

**SEC. 15. REPEAL OF THE EXCHANGE RATES AND ECONOMIC POLICY COORDINATION ACT OF 1988.**

The Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5301 et seq.) is repealed.

Mr. UDALL of Colorado. Mr. President, I rise to discuss the recent vote on the Currency Exchange Rate Oversight Reform Act of 2011 that just passed in the Senate. The issue of currency misalignment and manipulation has brought to the surface a myriad of concerns that face our country's workers and businesses.

Coloradans are concerned that American businesses and producers are unable to compete fairly in the global marketplace when foreign countries keep the value of their currency artificially low. Those who have both supported and opposed this legislation agree that the artificial undervaluation of foreign currency has had a negative impact on the competitiveness of U.S. exports and that it needs to be remedied. In the case of China, numerous economists have estimated that its currency is undervalued by anywhere from 12 to 50 percent. The International Monetary Fund and the U.S. Treasury are also among those who have determined that the undervaluation of Chinese currency is real.

The implications of this artificial undervaluation include a detrimental effect on the competitiveness of U.S. products abroad, making Chinese products artificially cheaper than U.S. products. The National Association of Manufacturers has affirmed "that the excessive valuation of the dollar [relative to foreign currencies] simply prices U.S. exports out of the market." They highlight that their members "have made it clear that the number-one factor affecting their exports is the value of the dollar."

We can agree that artificial undervaluation of currency is a serious problem that harms our economy, our worldwide competitiveness, and our American workers. And it needs to be addressed. Yet the principle challenge here has been how we should ultimately go about making sure our economic partners, such as China, are honoring shared commitments to compete on a level playing field.

I understand the concerns of both sides in this debate and I know that many American businesses that have a presence in China and across our globe are concerned about the potential for retaliatory action from China. These companies, many of which also face ongoing issues of inadequate protection of intellectual property, discriminatory indigenous innovation and other industrial policies that limit access to Chinese markets, are understandably worried that China would further restrict their markets to fair competition.

I have also heard the frustration of domestic producers and U.S. workers who, together, produce a whole host of products in the U.S. and have felt the direct effect of being unable to com-

pete fairly due to the discounting effect that China's currency undervaluation has on Chinese imports.

All of these concerns are valid, and despite some of my Senate colleagues' disagreement on whether to support the legislation that came before us, the common denominator in this debate has been a desire for fairness. And I believe that we will move closer to achieving fairness in the market place with a clearer commitment to a market-based exchange rate from our trade and economic partners.

As sovereign nations, we all have the economic well being of our respective countries at heart, but that does not justify the use of unfair trade practices, and we cannot turn a blind eye when this happens. Nor should we allow the specter of a "trade war" to distract us from the fact that China is not abiding by the international rules that were put in place to help prevent trade wars in the first place. China agreed to abide by these rules of the international community—including rules about intellectual property rights and unfair restrictions to market access, as well as rules against intentional currency misalignment—and we should not accept their adherence to certain rules but not others. They all apply.

After taking a closer look at the issue of China's currency undervaluation, taking into consideration the concerns that I have heard on this issue from a range of Coloradans, and reviewing the legislative proposal that was before us, I believed that the U.S. Senate needed to send a signal to China, and others who may be intentionally undervaluing their currencies. The message is that Americans value playing by the rules and that we expect our trade partners to live up to our shared commitment to compete fairly in the global marketplace.

I ultimately came to the conclusion that this bipartisan legislation, known as the Currency Exchange Rate Oversight Reform Act of 2011, was an appropriate way to send a signal that we are serious about working bilaterally and/or multilaterally, in a manner consistent with World Trade Organization agreements, to develop a responsible plan so that currencies identified as fundamentally misaligned can be valued appropriately based on relevant market factors. In the event that the misaligned currency goes unresolved, the legislation also authorizes the administration to take action to protect American businesses and workers from the discounting effect that the undervaluation of the currency can have on imports from the respective country. I believe that the mechanisms built into this legislation can promote a collaborative effort to address any undervaluation of a foreign currency, while also sending the message that we cannot allow American businesses to be undercut.

My choice to support this legislation aligns best with the common sense and

pragmatic thinking of Coloradans. Unfortunately, China continues to characterize efforts on the part of the United States to ensure a level playing field for international trade as "protectionist." Supporting fair competition, fair access to markets and fulfillment of the commitments of our shared expectations among economic and trade partners is far from protectionist. As former President Ronald Reagan once stated, "To make the international trading system work, all must abide by the rules." I urge China to act in good faith and to remain committed to reaching economic stability through cooperative action that encourages fair competition. The legislation I just supported is one component to reaching that goal, and I believe it supports the American businesses and workers who are propelling our nation to continue to be the leader in the global economic race.

Mr. WARNER. Mr. President, I rise today to discuss S. 1619, known as the China Currency bill. I voted for that bill today because China has not made the progress that the U.S. and other countries have sought on currency issues. These currency issues can lead to economic distortions that cost the American economy jobs and increase economic risks for the global economy. Ideally, we would address these problems through negotiations with China and some other countries, but that course that has not yet yielded significant results. I hope we will make better progress on these currency issues in the future, and then perhaps legislation such as this won't be necessary. This bill is not perfect; ideally it would more clearly distinguish countries with unhelpful currency policies, from those which have taken a more measured course in managing their economies and currency. I would rather not resort to sanctions or countervailing duties, but the lack of progress on currency issues has made it appropriate to consider the steps set forth in this bill. While the final version of this legislation is not precisely as I would have written it, it is appropriate for the Congress to be heard on this issue, so tonight I voted for this bill. I hope that in the near future, we can resolve all of our currency issues with China and other nations.

**AMERICAN JOBS ACT OF 2011—  
MOTION TO PROCEED—Resumed**

The PRESIDING OFFICER. Under the previous order, there is now 5 minutes for debate equally divided between the two leaders or their designees prior to a vote on the motion to invoke cloture on the motion to proceed to S. 1660.

Mr. REID. Mr. President, we would yield back our time and use leader time for a colloquy between the two of us.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. Mr. President, we have done a lot of sparring back and