COMMITTEE ON FINANCE
NEWS RELEASE
Max Baucus, Chairman
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MEMORANDUM

To: Reporters and Editors
From: Carol Guthrie for Finance Committee Chairman Max Baucus (D-Mont.)
Re: markup of currency legislation – Thursday, July 26

Finance Committee Chairman Max Baucus announced today that the Committee will meet on Thursday, July 26, 2007, at 3:00 p.m. to consider a Chairman's Mark of S. 1607, the "Currency Exchange Rate Oversight Reform Act of 2007." The markup will take place in the Senate Finance Committee hearing room (Dirksen 215). The text of the Chairman's Mark is attached to this e-mail. Below please find a section-by-section summary of the Chairman's Mark as well.

The markup will not be webcast. Please contact Erin Shields at 202-224-4515 with any questions regarding coverage.

Please note: the Committee will also consider favorably reporting pending nominees who have responded to all written questions and been cleared by both sides.

The Currency Exchange Rate Oversight Reform Act of 2007: Section-by-Section Analysis

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 of the Treasury (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 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, 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.

Section 4(b) 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 180 days after a currency is designated for priority action, whether the relevant country has adopted appropriate policies 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 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 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) is the waiver provision. It 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 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) 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 allows a Member of either House of Congress to introduce a disapproval resolution with respect to any decision by the President to waive an action with respect to a country with a currency designated for priority action.

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 must consider 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"). 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 one public meeting 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).