



# FAIR CURRENCY COALITION

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## COMPARISON OF CURRENCY REFORM FOR FAIR TRADE ACT OF 2009 AND PREVIOUSLY INTRODUCED LEGISLATION

The Currency Reform for Fair Trade Act of 2009 (CRFTA) draws on, refines and streamlines earlier proposals made in the 109<sup>th</sup> and 110<sup>th</sup> Congresses: H.R. 1498 Chinese Currency Act of 2005; H.R. 782/S. 796 Fair Currency Act of 2007; H.R. 2942 Currency Reform for Fair Trade Act of 2007; S. 1607 Currency Exchange Rate Reform Act of 2007; and S. 1677 Currency Reform and Financial Markets Access Act of 2007. It aims to establish an effective trade law remedy to neutralize currency undervaluation.

At the same time, the current bill differs significantly from the previous bills:

- CRFTA would allow injured American industries to seek *either* countervailing (CVD) or antidumping duties in a manner consistent with U.S. obligations under the WTO. H.R. 1498, H.R. 782, and S. 796 authorized the use of the CVD law only. S. 1607 authorized use of the antidumping law only, subject to multiple conditions and restrictions. Only H.R. 2942 also authorized the use of either remedy.
- CRFTA defines the actionable offense as “fundamental and actionable misalignment.” Consistent with IMF policy guidelines, this standard does not require any finding with regard to the intent of the foreign government as arguably might have been required under H.R. 1498 and S. 1607.
- CRFTA’s standard differs from all previous legislation in addressing both undervalued and overvalued currency misalignment and prescribes adjustments to countervailing and antidumping duty calculations accordingly.
- CRFTA specifies the factors to be considered and reliance on publicly available data in determining whether a currency is misaligned over an 18-month period and, unlike most previous bills, requires the use of IMF methodologies and guidelines for computing the magnitude of misalignment.
- Unlike H.R. 782, H.R. 2942 and S. 796, CRFTA does not expressly provide for application of the CVD law to imports from non-market-economy countries. The Department of Commerce changed its policy with regard to this issue in 2007 and has undertaken 15 CVD investigations involving allegedly subsidized goods from non-market-economy countries, including China and Vietnam.
- Unlike H.R. 2942, S. 1607 and S. 1677, CRFTA does not seek to change the provisions of the Omnibus Trade and Competitiveness Act of 1988, under which the Treasury is required to make periodic determinations with regard to foreign governments’ exchange rate practices and report to the Congress. These matters are beyond the purview of a trade law remedy bill.