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Currency Manipulation and Countervailing Duties

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The Trump Administration has proposed new actions to counter what it regards as currency manipulation, with one analyst calling currency conflicts the "next front in the trade war." In May 2019, the Commerce Department issued a notice of proposed rulemaking to provide regulatory authority to potentially impose countervailing duties on imports from countries determined by the U.S. government to be acting to undervalue their currency relative to the U.S. dollar. Public comments on the proposed changes are being accepted through June 27. Various Members of Congress have debated such a policy for years, including in 2013 and 2015, but it is controversial and Congress has refrained from legislating it.

Currency Manipulation

For more than a decade, some policymakers and analysts have expressed concerns that U.S. exports and jobs have been harmed by unfair exchange rate policies of other countries ("currency manipulation"). They argue that other countries have purposefully weakened their currency relative to the dollar as a way to boost exports, at the expense of U.S. firms and workers. A 2017 study estimates that other countries manipulated their currencies to gain an unfair trade advantage in excess of $600 billion per year between 2003 and 2013. The study estimates that currency manipulation by other countries increased the U.S. trade deficit by about $200 billion annually and cost more than 1 million jobs during and after the global financial crisis (2009-2013).

The United States currently combats currency manipulation with unilateral and multilateral tools. Under U.S. law, the Department of the Treasury produces a semiannual report on exchange rate policies in other countries and, in specified instances, must initiate action against countries engaged in currency manipulation. The United States has also pushed against currency manipulation through the G-7 and the G-20, multilateral forums where major economies discuss and coordinate economic policies. The United States is also a member of the International Monetary Fund (IMF), an international organization through

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which countries have committed to refrain from currency manipulation, although there are questions about the IMF's ability to enforce currency commitments.

Trump Administration Policies and Proposals

During the 2016 presidential campaign, Donald Trump raised currency manipulation, particularly by China, as a key issue. Since assuming office, President Trump has continued to express concerns about the exchange rate policies of other countries. The Trump Administration focused its efforts to address unfair currency practices through trade negotiations. Most notably, the proposed United States-Mexico-Canada Agreement (USMCA) includes, for the first time in a trade agreement, provisions on exchange rates, widely viewed as a template for future trade negotiations.

The additional tool currently being proposed by the Commerce Department to counter currency manipulation—allowing U.S. countervailing duty laws to consider currency manipulation as export subsidies—has been discussed for years in Congress. Under current U.S. law, countervailing duties can be applied to imports that have been subsidized by a foreign government. Some argue that currency manipulation is the functional equivalent of a subsidy, and this should also be an "actionable" subsidy under U.S. law (meaning that it is eligible for countervailing duties). Some Members have routinely introduced legislation to amend U.S. countervailing laws to address currency manipulation. Most recently, the Senate passed such an amendment in 2015 (S. 1269), but it was not included in the final legislation (P.L. 114-125) due to a variety of concerns which have been raised again in the current debate (discussed in greater detail below). The Commerce Department's proposal would implement the policy by modifying existing regulations, without the need for legislation.

It is unclear which countries might be targets under the proposed policy. According to the 2017 study, currency manipulation has been largely in remission since 2014. The Department of the Treasury since President Trump took office has not formally found any country to be manipulating its currency in its semiannual report to Congress. Treasury maintains a macroeconomic and foreign exchange policy "monitoring list," which in May 2019 included China, Germany, Italy, Ireland, Japan, Malaysia, Singapore, South Korea, and Vietnam. None meet the criteria for currency manipulation as specified by Congress in law. China's interventions in foreign exchange markets to limit appreciation of its currency largely occurred between 2003 and 2014; recent depreciation of China's currency may be fueling Administration concerns.

Dissenting Views on the Commerce Proposal

The six comments filed to date largely oppose Commerce's proposal to apply countervailing duties on imports from countries that manipulate their currencies. The comments raise a number of concerns

- The comments question reliance on specific models to estimate currency undervaluation is questioned. Economists do not agree on how to estimate precisely and accurately the extent to which a currency has deviated from its equilibrium value. Additionally, there are a number of policies unrelated to trade (including monetary, fiscal, and structural policies) that can cause exchange rates to fluctuate; currencies may be undervalued for reasons unrelated to currency manipulation with the intent to increase exports.
- The comments note that it is not clear that exchange rate undervaluation is considered a subsidy under WTO agreements, and such action could be challenged at the WTO and could lead to retaliatory tariffs.
- The comments object to the proposed delegation of at least some authority over exchange rate issues to the Commerce Department, including the authority to override Treasury evaluations and conclusions on exchange rates. Treasury has long been the lead on currency policies and the comments question whether Commerce has sufficient expertise in these issues. The commenters are concerned about politicizing U.S. foreign exchange policies, which could introduce volatility into international financial markets.

Role of Congress

Congress has considered legislation to enact the proposed rule change for years. Some Members may be content to delegate this policy decision to the Executive branch. Other Members may want to examine the policy change through hearings or actively prevent, encourage, or shape the proposed regulatory changes through legislation.

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