are inconsistent with those provisions, commitments, and obligations.

(B) To monitor and ensure the full implementation by foreign countries of the provisions of and commitments and obligations under free trade agreements to which the United States is a party for purposes of systematically assessing, identifying, investigating, or initiating steps to address inconsistencies with those provisions, commitments, and obligations.

(C) To thoroughly investigate and respond to petitions under section 2412 of this title requesting that action be taken under section 2411 of this title.

(D) To support capacity-building efforts undertaken by the United States pursuant to any free trade agreement to which the United States is a party and to prioritize and give special attention to the timely, consistent, and robust implementation of the commitments and obligations of a party to that free trade agreement, including commitments and obligations related to trade in goods, trade in services, trade in agriculture, foreign investment, intellectual property, digital trade in goods and services and cross-border data flows, regulatory practices, state-owned and state-controlled enterprises, localization barriers to trade, labor and the environment, currency, foreign currency manipulation, anticorruption, trade remedy laws, textiles, and commercial partnerships.

(E) To support capacity-building efforts undertaken by the United States pursuant to any such free trade agreement and to include performance indicators against which the progress and obstacles for the implementation of commitments and obligations can be identified and assessed within a meaningful time frame.

**(2) Limitation**

Amounts made available in the Trust Fund may not be used to offset costs of conducting negotiations for any free trade agreement to be entered into on or after February 24, 2016, but may be used to support implementation and capacity building prior to entry into force of a free trade agreement.

**(e) Report**

Not later than 18 months after the entry into force of any free trade agreement entered into after February 24, 2016, the United States Trade Representative, in consultation with the Federal agencies represented on the TPC, shall submit to Congress a report on the actions taken under subsection (d) in connection with that agreement.

**(f) Comptroller General study**

**(1) In general**

The Comptroller General of the United States shall conduct a study that includes the following:

(A) A comprehensive analysis of the trade enforcement expenditures of each Federal agency with responsibilities relating to trade that specifies, with respect to each such Federal agency—

(i) the amounts appropriated for trade enforcement; and

(ii) the number of full-time employees carrying out activities relating to trade enforcement.

(B) Recommendations on the additional employees and resources that each such Federal agency may need to effectively enforce the free trade agreements to which the United States is a party.

**(2) Report**

Not later than one year after February 24, 2016, the Comptroller General shall submit to Congress a report on the results of the study conducted under paragraph (1).

**(g) Definitions**

In this section:

**(1) Trade Policy Committee; TPC**

The terms ‘‘Trade Policy Committee’’ and ‘‘TPC’’ mean the interagency organization established under section 1872 of this title.

**(2) WTO**

The term ‘‘WTO’’ means the World Trade Organization.

**(3) WTO agreement**

The term ‘‘WTO Agreement’’ has the meaning given that term in section 3501(9) of this title.

**(4) WTO agreements**

The term ‘‘WTO Agreements’’ means the WTO Agreement and agreements annexed to that Agreement.

(Pub. L. 114–125, title VI, § 611, Feb. 24, 2016, 130 Stat. 192.)

## SUBCHAPTER VI—ENGAGEMENT ON CURRENCY EXCHANGE RATE AND ECONOMIC POLICIES

### § 4421. Enhancement of engagement on currency exchange rate and economic policies with certain major trading partners of the United States

**(a) Major trading partner report**

**(1) In general**

Not later than 180 days after February 24, 2016, and not less frequently than once every 180 days thereafter, the Secretary shall submit to the appropriate committees of Congress a report on the macroeconomic and currency exchange rate policies of each country that is a major trading partner of the United States.

**(2) Elements**

**(A) In general**

Each report submitted under paragraph (1) shall contain—

(i) for each country that is a major trading partner of the United States—

(I) that country’s bilateral trade balance with the United States;

(II) that country’s current account balance as a percentage of its gross domestic product;

(III) the change in that country’s current account balance as a percentage of its gross domestic product during the 3-year period preceding the submission of the report;

(IV) that country's foreign exchange reserves as a percentage of its short-term debt; and

(V) that country's foreign exchange reserves as a percentage of its gross domestic product; and

(ii) an enhanced analysis of macroeconomic and exchange rate policies for each country that is a major trading partner of the United States that has—

(I) a significant bilateral trade surplus with the United States;

(II) a material current account surplus; and

(III) engaged in persistent one-sided intervention in the foreign exchange market.

**(B) Enhanced analysis**

Each enhanced analysis under subparagraph (A)(ii) shall include, for each country with respect to which an analysis is made under that subparagraph—

(i) a description of developments in the currency markets of that country, including, to the greatest extent feasible, developments with respect to currency interventions;

(ii) a description of trends in the real effective exchange rate of the currency of that country and in the degree of undervaluation of that currency;

(iii) an analysis of changes in the capital controls and trade restrictions of that country; and

(iv) patterns in the reserve accumulation of that country.

**(3) Assessment factors**

Not later than 90 days after February 24, 2016, the Secretary shall publicly describe the factors used to assess under paragraph (2)(A)(ii) whether a country has a significant bilateral trade surplus with the United States, has a material current account surplus, and has engaged in persistent one-sided intervention in the foreign exchange market.

**(b) Engagement on exchange rate and economic policies**

**(1) In general**

The President, through the Secretary, shall commence enhanced bilateral engagement with each country for which an enhanced analysis of macroeconomic and currency exchange rate policies is included in the report submitted under subsection (a), in order to, as appropriate—

(A) urge implementation of policies to address the causes of the undervaluation of its currency, its significant bilateral trade surplus with the United States, and its material current account surplus, including undervaluation and surpluses relating to exchange rate management;

(B) express the concern of the United States with respect to the adverse trade and economic effects of that undervaluation and those surpluses;

(C) advise that country of the ability of the President to take action under subsection (c); and/or

(D) develop a plan with specific actions to address that undervaluation and those surpluses.

**(2) Waiver**

**(A) In general**

The Secretary may waive the requirement under paragraph (1) to commence enhanced bilateral engagement with a country if the Secretary determines that commencing enhanced bilateral engagement with the country—

(i) would have an adverse impact on the United States economy greater than the benefits of such action; or

(ii) would cause serious harm to the national security of the United States.

**(B) Certification and report**

The Secretary shall promptly certify to Congress a determination under subparagraph (A) and promptly submit to Congress a report that describes in detail the reasons for the Secretary's determination under subparagraph (A).

**(c) Remedial action**

**(1) In general**

If, on or after the date that is one year after the commencement of enhanced bilateral engagement by the President, through the Secretary, with respect to a country under subsection (b)(1), the Secretary determines that the country has failed to adopt appropriate policies to correct the undervaluation and surpluses described in subsection (b)(1)(A) with respect to that country, the President shall take one or more of the following actions:

(A) Prohibit the Overseas Private Investment Corporation from approving any new financing (including any insurance, reinsurance, or guarantee) with respect to a project located in that country on and after such date.

(B) Except as provided in paragraph (3), and pursuant to paragraph (4), prohibit the Federal Government from procuring, or entering into any contract for the procurement of, goods or services from that country on and after such date.

(C) Instruct the United States Executive Director of the International Monetary Fund to call for additional rigorous surveillance of the macroeconomic and exchange rate policies of that country and, as appropriate, formal consultations on findings of currency manipulation.

(D) Instruct the United States Trade Representative to take into account, in consultation with the Secretary, in assessing whether to enter into a bilateral or regional trade agreement with that country or to initiate or participate in negotiations with respect to a bilateral or regional trade agreement with that country, the extent to which that country has failed to adopt appropriate policies to correct the undervaluation and surpluses described in subsection (b)(1)(A).

**(2) Waiver**

**(A) In general**

The President may waive the requirement under paragraph (1) to take remedial action if the President determines that taking remedial action under paragraph (1) would—

(i) have an adverse impact on the United States economy greater than the benefits of taking remedial action; or

(ii) would cause serious harm to the national security of the United States.

**(B) Certification and report**

The President shall promptly certify to Congress a determination under subparagraph (A) and promptly submit to Congress a report that describes in detail the reasons for the President's determination under subparagraph (A).

**(3) Exception**

The President may not apply a prohibition under paragraph (1)(B) in a manner that is inconsistent with United States obligations under international agreements.

**(4) Consultations**

**(A) Office of Management and Budget**

Before applying a prohibition under paragraph (1)(B), the President shall consult with the Director of the Office of Management and Budget to determine whether such prohibition would subject the taxpayers of the United States to unreasonable cost.

**(B) Congress**

The President shall consult with the appropriate committees of Congress with respect to any action the President takes under paragraph (1)(B), including whether the President has consulted as required under subparagraph (A).

**(d) Definitions**

In this section:

**(1) Appropriate committees of Congress**

The term ''appropriate committees of Congress'' means—

(A) the Committee on Banking, Housing, and Urban Affairs and the Committee on Finance of the Senate; and

(B) the Committee on Financial Services and the Committee on Ways and Means of the House of Representatives.

**(2) 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.

**(3) Real effective exchange rate**

The term ''real effective exchange rate'' means a weighted average of bilateral exchange rates, expressed in price-adjusted terms.

**(4) Secretary**

The term ''Secretary'' means the Secretary of the Treasury.

(Pub. L. 114–125, title VII, § 701, Feb. 24, 2016, 130 Stat. 195.)

EX. ORD. NO. 13733. DELEGATION OF CERTAIN AUTHORITIES AND ASSIGNMENT OF CERTAIN FUNCTIONS UNDER THE TRADE FACILITATION AND TRADE ENFORCEMENT ACT OF 2015

Ex. Ord. No. 13733, July 22, 2016, 81 F.R. 49515, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Trade Facilitation and Trade Enforcement Act of 2015 (the ''Act'') (Public Law 114–125) and section 301 of title 3, United States Code, I hereby order as follows:

SECTION 1. *Authorities and Functions under the Act*. (a) The functions of the President under section 2313A(b) of the Export Enhancement Act of 1988, as added by section 504 of the Act, are assigned to the Secretary of Commerce. In carrying out its functions, the State and Federal Export Promotion Coordination Working Group established by the Secretary of Commerce under this section shall also coordinate with local and municipal governments representing regionally diverse areas.

(b) The functions of the President under section 909(d) of the Act are assigned to the Secretary of State, in consultation with other relevant Federal agencies.

(c) The functions of the President under section 915(d) of the Act are assigned to the Administrator of the United States Agency for International Development, in consultation with the Secretary of State and the United States Trade Representative (U.S. Trade Representative).

(d) The functions of the President under section 915(e) of the Act are assigned to the U.S. Trade Representative, in consultation with the Secretary of State.

SEC. 2. *Engagement on Currency Exchange Rate and Economic Policies*. (a) Prior to undertaking an enhanced analysis of a country pursuant to section 701(a)(2)(A)(ii) of the Act, the Secretary of the Treasury shall seek the views of the U.S. Trade Representative on changes in trade restrictions in that country.

(b) In exercising the functions under section 701(b)(2)(A) of the Act, the Secretary of the Treasury shall consult with the Secretary of State in making any determination that commencing enhanced bilateral engagement with a country would cause serious harm to the national security of the United States.

(c) If the Secretary of the Treasury determines, pursuant to section 701(c)(1) of the Act, that a country has failed to adopt appropriate policies to correct the undervaluation and surpluses described in section 701(b)(1)(A) of the Act with respect to that country, the Assistant to the President for Economic Policy, in consultation with the Secretary of the Treasury, the U.S. Trade Representative, the Secretary of State, and the Secretary of Commerce, shall make a recommendation to the President regarding which of the actions set forth in sections 701(c)(1)(A) through (D) of the Act the President should take, or whether the President should waive, pursuant to section 701(c)(2) of the Act, the requirement to take remedial action.

SEC. 3. *General Provisions*. (a) In exercising authority delegated by or performing functions assigned in this order, the Secretaries of State, the Treasury, and Commerce and the U.S. Trade Representative and their delegees:

(i) shall ensure that all actions taken by them are consistent with the President's constitutional authority to (A) conduct the foreign affairs of the United States, including the commencement, conduct, and termination of negotiations with foreign countries and international organizations; (B) withhold information the disclosure of which could impair the foreign relations, the national security, the deliberative processes of the Executive, or the performance of the Executive's constitutional duties; (C) recommend for congressional consideration such measures as the President may judge necessary or expedient; and (D) supervise the executive branch; and

(ii) may redelegate authority delegated by this order and may further assign functions assigned by this order to officers of any other department or agency within the executive branch to the extent permitted by law, including section 301 of title 3, United States Code, and such redelegation or further assignment shall be published in the Federal Register.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

## § 4422. 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'').

#### (2) Duties

The Committee shall be responsible for advising the Secretary of the Treasury with respect to the impact of international exchange rates and financial policies on the economy of the United States.

### (b) Membership

#### (1) In general

The Committee shall be composed of 9 members as follows, none of whom shall be employees of the Federal Government:

(A) Three members 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.

(B) Three members 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.

(C) Three members shall be appointed by the President.

#### (2) Qualifications

Members shall be selected under paragraph (1) on the basis of their objectivity and demonstrated expertise in finance, economics, or currency exchange.

#### (3) Terms

##### (A) In general

Members shall be appointed for a term of 2 years or until the Committee terminates.

##### (B) Reappointment

A member 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.

### (c) Duration of Committee

#### (1) In general

The Committee shall terminate on the date that is 2 years after February 24, 2016, unless renewed by the President for a subsequent 2-year period.

#### (2) Continued renewal

The President may continue to renew the Committee for successive 2-year periods by taking appropriate action to renew the Committee prior to the date on which the Committee would otherwise terminate.

### (d) Meetings

The Committee shall hold not fewer than 2 meetings each calendar year.

### (e) Chairperson

#### (1) In general

The Committee shall elect from among its members a chairperson for a term of 2 years or until the Committee terminates.

#### (2) Reelection; subsequent terms

A chairperson of the Committee may be reelected chairperson but is ineligible to serve consecutive terms as chairperson.

### (f) Staff

The Secretary of the Treasury shall make available to the Committee such staff, information, personnel, administrative services, and assistance as the Committee may reasonably require to carry out the activities of the Committee.

### (g) Application of the Federal Advisory Committee Act

#### (1) In general

Except as provided in paragraph (2), the provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Committee.

#### (2) Exception

Meetings of the Committee shall be exempt from the requirements of subsections (a) and (b) of section 10 and section 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 of the Treasury that such meetings will be concerned with matters the disclosure of which—

(A) would seriously compromise the development by the Government of the United States of monetary or financial policy; or

(B) is likely to—

(i) lead to significant financial speculation in currencies, securities, or commodities; or

(ii) significantly endanger the stability of any financial institution.

### (h) Authorization of appropriations

There are authorized to be appropriated to the Secretary of the Treasury for each fiscal year in which the Committee is in effect $1,000,000 to carry out this section.

(Pub. L. 114–125, title VII, § 702, Feb. 24, 2016, 130 Stat. 198.)