DPCC Staff Contact: Judith Wallner (4-4637) October 3, 2011

Currency Exchange Rate Oversight Reform Act – S. 1619
LEGISLATIVE BULLETIN

LEGISLATIVE BACKGROUND

The ***Currency Exchange Rate Oversight Reform Act of 2011*** will reform and enhance oversight of currency exchange rates. This strong, bipartisan bill combines the best elements of a Schumer-Graham bill that was passed by the Senate Finance Committee in 2007 and separate legislation introduced this year by Senators Brown and Snowe that passed the House of Representatives 348-79 in 2010, with support from a majority of the Republican caucus. The merged bill uses U.S. trade law to counter the economic harm to U.S. manufacturers caused by currency manipulation. The new combined bill also provides consequences for countries that fail to adopt appropriate policies to eliminate currency misalignment and includes tools to address the impact of currency misalignment on U.S. industries.

Introducing S. 1619 in September, Sen. Sherrod Brown explained, "For several years, Senator Snowe and I have worked on legislation -- trade legislation specifically, more recently on a rifle-shot approach that gets right at the issue of currency manipulation's effect on jobs. Our bill would treat currency manipulation as an unfair subsidy and an illegal trade practice, allowing countervailing duties to be imposed on those products flooding our markets when there is currency manipulation… Our measure is now combined with additional measures to reform the structural deficiencies in our government's approach to combating currency... It would improve oversight of currency exchange rates. It would ensure the Treasury Department identifies countries who undervalue their currencies. It would establish new criteria to identify countries misaligning currency and trigger tougher consequences for those who engage in such unfair trade."

Co-sponsor Sen. Lindsey Graham has argued, "China's economy is simply too large for it to be artificially propped up by a blatantly manipulated Yuan. China's actions are deliberate and are designed to give China a competitive advantage in the marketplace. I believe free and fair trade is beneficial, but I also know that Chinese currency manipulation and intellectual property theft is doing harm to our economy."

KEY FACTS

China's Currency Manipulation is Devastating to American Workers and Manufacturers; Revaluing Currency Could Create More Than Two Million U.S. Jobs

- **Revaluing Currency Could Create 2.25 Million Jobs.** If only China revalued by 28.5%, the growth in U.S. GDP would support 1,631,000 U.S. jobs. If other Asian countries also revalued, then 2,250,000 jobs would be created. [EPI, 6/17/11]

- **Revaluing Currency Could Boost U.S. Economy By Nearly $300 Billion In Less Than Two Years.** A 28.5% revaluation of the yuan/dollar exchange rate by China alone would increase U.S. GDP by $207 billion dollars. If other countries in Asia such as Hong Kong, Singapore, Taiwan, and Malaysia also revalued too, U.S. GDP would increase by $285.7 billion, or 1.9% (including the China effect). These benefits would be achieved in 18 to 24 months. [EPI, 6/17/11]

- **The U.S. Has Lost Nearly 2.8 Million Jobs Due China Trade Since 2001.** According to the Economic Policy Institute, the U.S.-China trade deficit has eliminated or displaced nearly 2.8 million U.S. jobs since 2001, including 1.9 million manufacturing jobs. The trade deficit with China grew from $84 billion in 2001, when China entered the WTO, to $278 billion in 2010. It eliminated or displaced 2,790,100 jobs, or about 2% of total U.S. employment over that period. [EPI, 9/20/11]

  - **CLICK HERE FOR JOBS LOST TO CHINA TRADE BY STATE AND CONGRESSIONAL DISTRICT.** The biggest net losses, in terms of the total number of jobs displaced, occurred in California, Texas, New York, Illinois, Florida, North Carolina, Pennsylvania, Ohio, Massachusetts and Georgia. In ten states, the jobs lost or displaced exceeded 2.2% of total employment. These states are New Hampshire, California, Massachusetts, Oregon, North Carolina, Minnesota, Idaho, Vermont, Colorado and Rhode Island.

- **Economists: Any Benefits of China Trade Have Been "Wiped Out" By Increased U.S. Government Costs, Including Unemployment Benefits and Food Stamps.** In a newly released study, a team of three economists "rated every U.S. county for its manufacturers' exposure to competition from China, and found that regions most exposed to China tended not only to lose more manufacturing jobs, but also to see overall employment decline. Areas with higher exposure also had larger increases in workers receiving unemployment insurance, food stamps and disability payments. The authors calculate that the cost to the economy from the increased government payments amounts to one- to two-thirds of the gains from trade with China. In other words, a big portion of the ways trade with China has helped the U.S.—such as by providing inexpensive Chinese goods to consumers—has been wiped out. And that estimate doesn't include any economic losses experienced by people who lost their jobs. " [Wall Street Journal, 9/27/11]

  - **Communities With More Exposure to Chinese Import Growth Saw More Local Manufacturing Jobs Lost.** The study found that, "Between 2000 and 2007, a community at the 75th percentile—one with a greater exposure to Chinese import growth than 75% of all communities—saw a manufacturing employment decline of roughly one-third more than communities at the 25th percentile." [Wall Street Journal, 9/27/11]

- **Zandi: Currency Manipulation Creates a "Significant Competitive Disadvantage for All Manufacturers."** Mark Zandi of Moody's Analytics explained, "Nothing is more important from a macroeconomic perspective for manufacturing, then to get these currencies better aligned.

They are not aligned and that's a significant competitive disadvantage for all manufacturers, increasingly other businesses as well." [JEC Hearing, 6/22/11]

- **Manufacturers: Revaluing China Currency "Would Be A Deficit-Reducing, Job-Creating, No-Cost Stimulus That Is Desperately Needed."** "A year has passed since China made a phony pledge to let the yuan appreciate," said Scott Paul, executive director of the Alliance for American Manufacturing, in June 2011. "If the Administration will not get tough and demand that China play by the rules, Congress will have no option but to pass tough bipartisan legislation to counter the artificial and unfair advantage that China enjoys on trade. Doing so would be a deficit-reducing, job-creating, no-cost stimulus that is desperately needed." [AAM, 6/17/11]

- **U.S. Steel Industry: "No Doubt" China's Currency Manipulation Hurts U.S. Manufacturers.** Thomas J. Gibson, President and CEO of the American Iron and Steel Institute, wrote in 2010, "Beijing uses mercantilist and market-distorting industrial practices, like undervaluing its currency, to give its producers an unfair export advantage over global competitors… Between 2000 and 2009, China's steel production jumped from 15 percent to 47 percent of the world's production… There is no doubt that China's protectionist policies, like currency manipulation, are promoting Chinese jobs and investment at the expense of U.S. manufacturers." [Politico, 9/15/10]

- **AFL-CIO: Addressing China Currency Manipulation "The Single Most Important Job-Supporting Trade Measure That The Congress And The Administration Can Take."** Tea Lee of the AFL-CIO testified, "The single most important job-supporting trade measure that the Congress and the Administration can take is to address the Chinese government`s manipulation of its currency. We support the bipartisan Currency Exchange Rate Oversight Reform Act of 2011… This bill will ensure that the United States government has the legal tools it needs to counter illegal and job-destroying currency misalignment. Leveling the playing field by enforcing our trade laws is a quick bipartisan remedy that will create jobs at no cost to taxpayers. We support efforts to promote and support both domestic manufacturing and exports, along the lines of the bill that Congressman Berman has put forward." [House Foreign Affairs Committee, 9/23/11]

- **National Association of Manufacturers "Has Long Expressed Strong Concern That China's Currency Manipulation Is A Serious Problem."** In 2009, John Engler, then President of the National Association of Manufacturers and former Republican Governor of Michigan, said, "The NAM has long expressed strong concern that China's currency manipulation is a serious problem. We have urged China to allow the yuan to appreciate and to move toward a market-determined currency and have called for the U.S. Treasury to cite China's for currency manipulation… Even though the Treasury Department has declined to cite China's currency, we urge that a renewed effort be made with China and the IMF to address the yuan's undervaluation and find a cooperative solution that will work in today's environment." [NAM, 4/15/09]

- **Krugman: China Currency Policy "Damages the Rest of the World."** Paul Krugman wrote in 2010, "China's policy of keeping its currency, the renminbi, undervalued has become a significant drag on global economic recovery. Something must be done… it's a policy that seriously damages the rest of the world. Most of the world's large economies are stuck in a liquidity trap — deeply depressed, but unable to generate a recovery by cutting interest rates because the relevant rates are already near zero. China, by engineering an unwarranted trade surplus, is in effect imposing an anti-stimulus on these economies, which they can't offset." [New York Times, 3/14/10]

- **Krugman: Taking Action on China Currency Can Help Alleviate National Jobs Crisis.** Paul Krugman wrote, "The dire state of the world economy reflects destructive actions on the part of many players. Still, the fact that so many have behaved badly shouldn't stop us from holding individual bad actors to account. And that's what Senate leaders will be doing this week, as they take up legislation that would threaten sanctions against China and other currency manipulators… Ben Bernanke, the chairman of the Federal Reserve, said it clearly last week: unemployment is a 'national crisis,' with so many workers now among the long-term unemployed that the economy is at risk of suffering long-run as well as short-run damage. And we can't afford to neglect any important means of alleviating that national crisis. Holding China accountable won't solve our economic problems on its own, but it can contribute to a solution — and it's an action that's long overdue." [New York Times, 10/3/11]

- **U.S. Chamber of Commerce Official Acknowledged Tough Economic Times in U.S. Make It Harder to Argue Against Tough Action on China.** "The US business community can no longer resist political pressure for Washington to take a tougher stand against China on trade issues, according to a senior figure from the US Chamber of Commerce. Myron Brilliant, senior vice-president for international affairs, who has previously helped to protect Beijing from hawkish trade policies, told the Financial Times: 'I don't think the Chinese government can count on the American business community to be able to push back and block action [on Capitol Hill]…' Mr Brilliant said corporate America's attitude had changed in response to a range of "industrial policies" pursued by Beijing, including the undervaluation of the renminbi, which made it harder for US companies to do business and compete with China. He also cited the tough economic times in the US – particularly the near 10 per cent jobless rate – as making it more difficult to argue against tough action on China." [Huffington Post, 3/22/10]

Background on China's Currency Manipulation

- **Until 2010, China Tied Its Currency to the Dollar, "Keeping Its Value Artificially Low."** From 2008-2010, China pegged its currency to the U.S. dollar, "keeping its value artificially low and making it tougher for U.S. companies to compete." [CNNMoney.com, 6/21/10]

- **China Undervalued Currency In Response to Global Economic Crisis in 2008.** From July 2005 to July 2008, China's central bank allowed the RMB to appreciate against the dollar by about 21%. However, once the effects of the global economic crisis became apparent, China halted appreciation of the RMB in an effort to help Chinese industries dependent on trade. From July 2008 to about mid-June 2010, China kept the exchange rate of the RMB relatively constant at 6.83 yuan (the base unit of the RMB) to the dollar. On June 19, 2010, China's central bank stated that it would resume appreciation of the RMB exchange. Since then, China has allowed the RMB/dollar exchange rate to rise by 6.0% (through August 4, 2011). Many U.S. officials have criticized this pace as being too slow, especially given China's strong economic growth over the past few years, including its trade sector, and its rising level of foreign exchange reserves, which hit $3.2 trillion as of June 2011. [CRS, 8/3/11]

- **China Trade Deficit Soared From $10 Billion in 1990 to $273 Billion in 2010.** Critics argue "that the undervalued currency has been a major factor behind the burgeoning U.S. trade deficit with China, which surged from $10 billion in 1990 to $273 billion in 2010." [CRS, 8/3/11]

- **IMF: The Renminbi "Remains Substantially Below The Level Consistent With Medium-Term Fundamentals."** In July 2011, the IMF reported, "Staff continues to believe that the renminbi remains substantially below the level consistent with medium-term fundamentals… Despite progress in appreciating against the U.S. dollar, the real effective exchange rate has depreciated over the past year." [IMF Country Report No. 11/192, July 2011]

- **Greenspan: What China is Doing "Is the Definition of Currency Manipulation."** Former Federal Reserve Chairman Alan Greenspan said of China in June, "What they are doing is the definition of currency manipulation." [Bloomberg, 6/17/11]

- **Former Treasury Official: Value of Renminbi is 20%-30% Less Than What It Should Be.** Former Assistant Treasury Secretary C. Fred Bergsten wrote, "The artificially low value of the renminbi — it is 20 to 30 percent less than what it should be — amounts to a subsidy on Chinese exports and a tariff on imports from the United States and other countries… If we want to avoid bankruptcy and raise growth, we have got to attack the trade deficit." [New York Times, 9/28/11]

- **The Treasury Department Has Not Formally Labeled China a "Currency Manipulator" Since 1994.** One reason the Treasury Department has not cited China as a currency manipulator in recent years is due to unclear language, a problem this bill addresses. CRS explained, "Many members of Congress have expressed frustration that Treasury has not cited China as a currency manipulator in recent years… A 2005 Treasury Department report stated that such a determination under the guiding statute was 'inherently difficult' because of the interplay of macroeconomic and microeconomic forces throughout the world… A 2005 Government Accountability Office (GAO) report on the Treasury Department's currency reports stated that in order for Treasury to reach a positive determination of currency manipulation, a country would have to have a material global current account surplus and a significant bilateral trade surplus with the United States, and would have to be manipulating its currency with the 'intent' of gaining a trade advantage. Some observers contend that Treasury will not cite China as a currency manipulator because it can not prove that China's currency policy is 'intended' to give it an unfair trade advantage." [CRS, 8/3/11]

KEY PROVISIONS OF S. 1619

THE CURRENCY EXCHANGE RATE OVERSIGHT REFORM ACT OF 2011

Specifies Consequences for Countries that Fail to Eliminate Currency Misalignment and Provides Tools to Address Impact of Currency Misalignment on U.S. Industries

The ***Brown-Schumer-Graham-Snowe-Stabenow-Sessions-Casey-Burr Currency Exchange Rate Oversight Act of 2011*** will reform and enhance oversight of currency exchange rates. This strong, bipartisan bill combines the best elements of a Schumer-Graham bill that was passed by the Senate Finance Committee in 2007 and separate legislation introduced this year by Senators Brown and Snowe that is identical to legislation that passed the House of Representatives in 2010. The merged bill uses U.S. trade law to counter the economic harm to U.S. manufacturers caused by currency manipulation. The new combined bill also provides consequences for countries that fail to adopt appropriate policies to eliminate currency misalignment and includes tools to address the impact of currency misalignment on U.S. industries.

Improves Oversight of Currency Exchange Rates. Under current law, Treasury is required to identify countries that manipulate their currency for purposes of gaining an unfair competitive trade advantage. In recent years, Treasury has found that certain countries' currencies were undervalued. However, based on its interpretation of the law's legal standard for a finding of "manipulation," Treasury has refused to cite such countries as currency manipulators. The bill repeals the currency provisions in current law and replaces them with a new framework, based on objective criteria, which will require Treasury to identify misaligned currencies and require action by the administration if countries fail to correct the misalignment.

Clarifies Countervailing Duty Law Can Address Currency Undervaluation. Under existing trade laws, if the Commerce Department and the International Trade Commission find that subsidized imports are causing economic harm to American manufacturers and workers, the administration must impose duties on those imports to offset ("countervail") the benefit conferred on foreign producers and exporters by the government subsidies. Commerce already has authority under U.S. law to investigate whether currency undervaluation by a government provides a countervailable subsidy, although it has failed to do so despite repeated requests to investigate from a wide range of U.S. industries. The bill specifies the applicable investigation initiation standard, which will require Commerce to investigate whether currency undervaluation by a government provides a countervailable subsidy if a U.S. industry requests investigation and provides proper documentation.

Includes WTO-Consistent, Key Provision from Brown-Snowe Currency Reform for Fair Trade Act (S.328) and House-passed Currency Legislation. In previous countervailing duty investigations, Commerce has refused to find an export subsidy if the subsidy is not limited exclusively to circumstances of export (*i.e.*, when non-exporters also may benefit). The bill precludes Commerce from imposing this bright-line rule, and clarifies that Commerce may not refuse to investigate a subsidy allegation based on the single fact that a subsidy is available in circumstances in addition to export. This clarification is supported by dispute settlement rulings of the World Trade Organization's Appellate Body (*e.g.*, in the case involving taxation of foreign sales corporations) and is the key element of the Brown-Snowe currency bill and the currency bill that passed the House (H.R.2378) in September 2010 with overwhelming bipartisan support.

Establishes New Objective Criteria to Identify Misaligned Currencies. The legislation requires Treasury to develop a biannual report to Congress that identifies two categories of currencies: (1) a general category of "fundamentally misaligned currencies" based on observed objective criteria and (2) a select category of "fundamentally misaligned currencies for priority action" that reflects misaligned currencies caused by clear policy actions by the relevant government.

Requires New Consultations. The legislation requires Treasury to engage in immediate consultations with all countries cited in the report. For "priority" currencies, Treasury would seek advice from the International Monetary Fund (IMF) as well as key trading partners.

Triggers Tough Consequences. For "priority" currencies, important consequences are triggered unless a country adopts policies to eliminate the misalignment.

Immediately upon designation of a "priority" currency, the administration must:

- Oppose any IMF governance changes that benefit a country whose currency is designated for priority action.
- Consider designation of a country's currency as a "priority" currency when determining whether to grant the country "market economy" status for purpose of U.S. antidumping law.

After 90 days of failure to adopt appropriate policies, the administration must:

- Reflect currency undervaluation in dumping calculations for products produced or manufactured in the designated country.
- Forbid federal procurement of goods and services from the designated country unless that country is a member of the WTO Government Procurement Agreement ("GPA").
- Request the IMF to engage the designated country in special consultations over its misaligned currency.
- Forbid new Overseas Private Investment Corporation (OPIC) financing or insurance for projects in the designated country.
- Oppose new multilateral bank financing for projects in the designated country.

After 360 days of failure to adopt appropriate policies, the administration must:

- Require the U.S. Trade Representative to request dispute settlement consultations in the World Trade Organization with the government responsible for the currency.
- Require the Department of Treasury to consult with the Federal Reserve Board and other central banks to consider remedial intervention in currency markets.

Limits Presidential Waiver. The President could initially waive the consequences that take effect after the first 90 days if such action would harm national security or the vital economic interest of the United States. However, the President must explain to the Congress in writing how the adverse impact of taking an action would be *greater* than the potential benefits of such action. Any subsequent economic waiver would require the President to explain how the adverse impact of taking an action would be substantially *out of proportion* to the benefits of such action. Furthermore, any Member of Congress may thereafter introduce a joint resolution of disapproval concerning the President's waiver. Should the disapproval resolution be approved, the President may veto it, and the Congress would have the opportunity to override the veto.

Establishes New Consultative Body. The bill would create a new body with which Treasury must consult during the development of its report. Of the nine members, one would be selected by the President and the remainder by the Chairmen and Ranking Members of the Senate Banking and Finance Committees, as well and the Financial Services and House Ways and Means Committees. The members must have demonstrated expertise in finance, economics, or currency exchange.

The bill is supported by –

- The **Fair Currency Coalition (FCC)**, a group of U.S. manufacturing, service, agricultural, and labor organizations, including over 300 companies and organizations.

- The **Committee to Support U.S. Trade Laws (CSUSTL)**, an organization of almost 100 companies, trade associations, labor unions – including farmers unions, workers, and individuals, spanning all sectors, including manufacturing, technology, agriculture, mining and energy, and services.

- The **American Wire Producers Association (AWPA)**, whose members include wire producers, manufacturers and distributors of wire rod, and suppliers of machinery, dies and equipment to the wire industry.

- The **AFL-CIO**, a voluntary federation of 55 unions, representing 12.2 million members.

- The **American Iron and Steel Institute (AISI)**, whose member companies produce approximately 80 percent of the steel made in the United States.

- The **International Union, United Automobile, Aerospace & Agricultural Implement Workers of America (UAW)**, one of the nation's most diverse unions, representing workers in manufacturing, health care, higher education, gaming, public service and other sectors.

- The **Tooling, Manufacturing & Technologies Association (TMTA)**, whose members include businesses in the metalworking, manufacturing and technologies industries.

- The **United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (USW)**, the largest industrial union in North America, with 850,000 active members working in a broad range of industries, including steel, tires, glass, paper, shipbuilding, oil refining, and mining.

- The **International Association of Machinists and Aerospace Workers (IAM)**, representing 720,000 members across North America.

- The **Alliance for American Manufacturing (AAM)**, a labor-management partnership between USW and American manufacturers.

- The **Coalition for a Prosperous America**, representing agriculture production, manufacturing and worker interests.

- The **United Food and Commercial Workers International Union (UFCW)**, representing more than 1.3 million workers in retail, meatpacking, food processing, poultry and manufacturing industries.