To Ensure a Level Playing Field, US Automakers Support the Inclusion of Strong, Enforceable Currency Provisions in the Trans-Pacific Partnership

Introduction. The Trans-Pacific Partnership (TPP) countries account for nearly 40 percent of global GDP and about one-third of all world trade.[1] TPP members have repeatedly expressed strong support for the conclusion of a 21st century, high-ambition agreement that will spur increased trade, economic growth and job creation. Given the interconnection between trade and finance, to achieve an ambitious result, the trade pact must ensure that currency manipulation by a TPP member does not frustrate the market access commitments set forth in the final agreement.

"The International Monetary Fund (IMF) works to foster international monetary cooperation, secure financial stability, facilitate international trade, promote high employment and sustainable economic growth, and reduce poverty around the world."[2] From its inception, the IMF recognized the extent of the interconnection with and integration of trade and finance. That is why Article IV (iii) of the IMF prohibits the manipulation of exchange rates to gain an unfair competitive advantage.[3] Unfortunately, the lack of enforceability of IMF rules has limited their impact, especially with regard to currency manipulation and its negative spillover effects.

The American Automotive Policy Council, on behalf of its members, FCA US, Ford and General Motors, calls for the inclusion of strong, enforceable currency provisions in the Trans-Pacific Partnership (TPP) Agreement. The AAPC proposal is based on previously agreed upon IMF commitments by all TPP member countries.

AAPC Proposal to Prohibit Currency Manipulation. The manipulation of exchange rates by a TPP member to gain an unfair competitive advantage over other TPP members shall be prohibited.[4] This prohibition shall apply to a TPP member's exchange arrangements with all currencies, and not just the currencies of the parties that have joined the agreement. IMF principles to be considered when evaluating whether a TPP member has violated this rule include:[5]

- Protracted large-scale intervention in one direction in the exchange market;
- Excessive and prolonged official or quasi-official accumulation of foreign assets; and
- Large and prolonged current account deficits or surpluses.

In determining whether a TPP member has violated these principles, the following three-part test shall be applied:[6]

- Did the TPP member have a current account surplus over the six-month period in question?
- Did it add to its foreign exchange reserves over that same six-month period?[7]
- Are its foreign exchange reserves more than sufficient[8] (i.e., greater than three months normal imports)?[9]

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[1] Joint Statement of TPP Ministers, April 20, 2013. http://www.ustr.gov/about-us/press-office/press-releases/2013/april/joint-statement-tpp-ministers

[2] Factsheet, The IMF at a Glance, March 29, 2013. http://www.imf.org/external/np/exr/facts/glance.htm.

[3] *See* Article IV(iii) of the IMF Articles of Agreement, which states that each IMF member "shall avoid manipulating exchange rates or the international monetary system in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage over other members."

[4] *Id.*

[5] IMF Bilateral and Multilateral Executive Board Decision, para. 21 (July 18, 2012)

[6] AAPC proposes the following text for inclusion in the TPP: "A Party's net accumulation of foreign exchange reserves over a six month period of time shall be considered to be manipulation of exchange rates, for the purpose of gaining an unfair competitive advantage, if the Party's foreign exchange reserves, including the net accumulation, are in excess of three months normal imports, and if the Party has a multilateral current account surplus throughout the six month period."

[7] Increases in foreign exchange reserves that occur solely as a consequence of exchange rate movements, or as a consequence of earnings on sovereign assets denominated in a foreign currency, shall not be considered in determining the existence of a net accumulation.

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<u>Transparency</u>. TPP members shall share information including their foreign exchange holdings and their interventions to acquire foreign assets on a quarterly basis, in compliance with the transparency obligations set forth in Article VIII(5)(a) of the IMF Articles of Agreement, the IMF Special Data Dissemination Standard and IMF Currency Composition of Official Foreign Exchange Reserves (COFER) requirements.

<u>Dispute Settlement</u>. Like other binding commitments in the TPP agreement, the prohibition on the manipulation of exchange rates by a TPP member to gain an unfair competitive advantage over other TPP members and the transparency obligations set forth above shall be enforceable through the TPP dispute settlement process. Dispute settlement of these currency issues shall be expedited and panels convened to resolve such disputes shall be composed of individuals with established expertise in the field, such as individuals who previously have served as senior officials of central banks, sovereign treasuries, or the IMF.

<u>Remedy</u>. If a TPP member is found to have breached its currency commitments under the agreement, other TPP members shall be entitled to suspend the tariff benefits of the agreement with respect to the violating TPP member at a minimum for one year, and until the TPP member demonstrates that it has remedied the breach. In the event that a tariff on a good has not been eliminated, the period of time before the tariff is eliminated would be extended.

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[8] An exception will also be made for "rainy day" funds accumulated by countries whose export earnings are heavily reliant on non-renewable commodity exports (i.e., where non-renewable natural resources exceed 50% of total exports). More generally, the national security exception in the TPP agreement shall apply.

[9] "Normal imports" shall ordinarily be determined by examining actual imports during the twelve months immediately preceding the six month time period at issue.