

[Billing Code 3290-F0]

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Docket Number USTR-2020-0037

Notice of Determination Pursuant to Section 301: Vietnam's Acts, Policies, and Practices Related to Currency Valuation

AGENCY: Office of the United States Trade Representative (USTR).

ACTION: Notice.

SUMMARY: The U.S. Trade Representative has determined that Vietnam's acts, policies, and practices related to currency valuation, including excessive foreign exchange market interventions and other related actions, taken in their totality, are unreasonable and burden or restrict U.S. commerce, and thus actionable under Section 301.

FOR FURTHER INFORMATION CONTACT: For questions concerning the investigation, contact Michael T. Gagain, Assistant General Counsel, 202-395-9529, or Marta M. Prado, Deputy Assistant U.S. Trade Representative for Southeast Asia and the Pacific, 202-395-6216.

SUPPLEMENTARY INFORMATION:

I. Proceedings in the Investigation

On October 2, 2020, the U.S. Trade Representative initiated an investigation of Vietnam's acts, policies, and practices related to the valuation of its currency pursuant to section 302(b)(1)(A) of the Trade Act of 1974, as amended (the Trade Act). *See* 85 FR 63637 (Oct. 8, 2020) (notice of initiation). In the notice of initiation, USTR explained that the Government of Vietnam, through the State Bank of Vietnam, tightly manages the

value of its currency, and that the State Bank of Vietnam's management of Vietnam's currency is closely tied to the U.S. dollar. USTR also explained that available analysis indicated that Vietnam's currency had been undervalued over the past three years, and that available evidence indicated that Vietnam, through the State Bank of Vietnam, actively intervened in the exchange market, which contributed to the dong's undervaluation in 2019.

The notice of initiation solicited written comments regarding various issues in the investigation. Interested persons filed 66 written submissions in response to the notice of initiation.

In a notice published on November 25, 2020, USTR announced further opportunities for public input. *See* 85 FR 75397 (Nov. 25, 2020) (hearing notice). In the hearing notice, USTR announced that the interagency Section 301 Committee would hold a virtual public hearing on December 29, 2020, and that interested persons could submit post-hearing comments, addressed to any matter raised in the hearing testimony or prior written submissions, by January 7, 2021. In response to an inquiry from certain interested persons, USTR confirmed that post-hearing comments may address the December 16, 2020, Department of the Treasury report on *Macroeconomic and Foreign Exchange Policies of Major Trading Partners of the United States*. During the public hearing, 21 witnesses provided testimony and responded to questions. USTR received 18 written submissions following the hearing.

The written submissions are publicly available on the docket in this investigation. A transcript of the public hearing is available on the public docket and is posted on USTR's website.

Under section 303 of the Trade Act, the U.S. Trade Representative requested consultations with the Government of Vietnam regarding the issues involved in the investigation. Consultations were held on December 23, 2020.

II. Determination on the Acts, Policies, and Practices Under Investigation

Based on information obtained during the investigation, and in consultation with the Department of the Treasury and other agencies represented on the Section 301 Committee, USTR has prepared and published a comprehensive report on Vietnam's acts, policies, and practices related to the undervaluation of its currency (the Report). The Report, which is posted on the USTR website at <https://ustr.gov/issue-areas/enforcement/section-301-investigations/section-301-vietnam>, includes a full discussion on whether the acts, policies, and practices under investigation are actionable under section 301(b) of the Trade Act. The Report supports a finding that Vietnam's acts, policies, and practices related to currency valuation, including excessive foreign exchange market interventions and other related actions, taken in their totality, are unreasonable and burden or restrict U.S. commerce.

In consultation with the Department of the Treasury, based on the information obtained during the investigation, and taking account of public comments and the advice of the Section 301 Committee and advisory committees, the U.S. Trade Representative has made the following determination under sections 301(b) and 304(a) of the Trade Act (19 U.S.C. 2411(b) and 2414(a)): as described in the Report, Vietnam's acts, policies, and practices related to currency valuation, including excessive foreign exchange market interventions and other related actions, taken in their totality, are unreasonable and

burden or restrict U.S. commerce, and thus actionable under Section 301(b) of the Trade Act. In particular:

1. Vietnam's acts, policies, and practices with respect to currency valuation, including excessive foreign exchange market interventions and other related actions, taken in their totality and as discussed in further detail in the Report, are unreasonable in light of U.S. and international norms that exchange rate policy should not be undertaken to gain an unfair competitive advantage in international trade, should not artificially enhance a country's exports and restrict its imports in ways that do not reflect the underlying competitiveness, should not prevent exchange rates from reflecting underlying economic and financial conditions, and should not prevent balance of payments adjustment;
2. Vietnam's acts, policies, and practices that contribute to undervaluation of its currency through excessive foreign exchange market interventions and other related actions burden or restrict U.S. commerce; and, accordingly,
3. The acts, policies, and practices under investigation are actionable under Section 301(b) of the Trade Act.

III. Further Proceedings

Sections 301(b) and 304(a)(1)(B) of the Trade Act provide that if the U.S. Trade Representative determines that an act, policy, or practice of a foreign country is unreasonable or discriminatory and burdens or restricts U.S. commerce, the U.S. Trade Representative shall determine what action, if any, to take under Section 301(b). These matters will be addressed in subsequent proceedings under Section 301.

Kevin Garvey
Chief of Staff

Office of the United States Trade Representative.