

[Billing Code 3290-F1]

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Docket Number USTR-2020-0037

**Initiation of Section 301 Investigation: Vietnam's Acts, Policies, and Practices
Related to Currency Valuation**

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and request for comments.

SUMMARY: The U.S. Trade Representative is initiating an investigation regarding Vietnam's acts, policies, and practices related to the valuation of its currency. The Office of the United States Trade Representative (USTR) seeks comments regarding the investigation.

DATES: To be assured of consideration, you must submit written comments by November 12, 2020.

ADDRESSES: You should submit written comments through the Federal eRulemaking Portal: <http://www.regulations.gov> (Regulations.gov). Follow the instructions for submitting comments in section IV. The docket number is USTR-2020-0037. For issues with on-line submissions, please contact the Section 301 line at 202-395-5725.

FOR FURTHER INFORMATION CONTACT: For procedural questions concerning the submission of written comments, contact the Section 301 line at 202-395-5725. For other questions concerning the investigation, contact Michael Gagain, Assistant General Counsel, 202-881-7107, or Marta Prado, Deputy Assistant U.S. Trade Representative for Southeast Asia and the Pacific, 202-395-6216.

SUPPLEMENTARY INFORMATION:

I. Background

The Government of Vietnam, through the State Bank of Vietnam (SBV), tightly manages the value of its currency – the dong. The SBV’s management of Vietnam’s currency is closely tied to the U.S. dollar. Available analysis indicates that Vietnam’s currency has been undervalued over the past three years. Specifically, analysis indicates that the dong was undervalued on a real effective basis by approximately 7 percent in 2017 and by approximately 8.4 percent in 2018. Furthermore, analysis indicates that the dong’s real effective exchange rate was undervalued in 2019 as well.

Available evidence also indicates that the Government of Vietnam, through the SBV, actively intervened in the exchange market, which contributed to the dong’s undervaluation in 2019. Specifically, the evidence indicates that in 2019, the SBV undertook net purchases of foreign exchange totaling approximately \$22 billion, which had the effect of undervaluing the dong’s exchange rate with the U.S. dollar during that year. Analysis suggests that Vietnam’s action on the exchange rate in 2019 caused the average nominal bilateral exchange rate against the dollar over the year, 23,224 dong per dollar, to be undervalued by approximately 1,090 dong per dollar relative to the level consistent the equilibrium real effective exchange rate.

II. Initiation of Section 301 Investigation

Section 302(b)(1)(A) of the Trade Act of 1974, as amended (Trade Act), authorizes the U.S. Trade Representative to initiate an investigation to determine whether an act, policy, or practice of a foreign country is actionable under section 301 of the Trade Act. Actionable matters under section 301 include acts, policies, and practices of a foreign country that are unreasonable or discriminatory and burden or restrict U.S.

commerce. An act, policy, or practice is unreasonable if, while not necessarily in violation of, or inconsistent with, the international legal rights of the United States, it is otherwise unfair and inequitable.

On October 2, 2020, in light of the evidence regarding actions taken by Vietnam that contribute to the undervaluation of its currency, the U.S. Trade Representative initiated a section 301 investigation regarding Vietnam's acts, policies, and practices related to currency valuation. The investigation will focus on whether Vietnam's interventions - through the SBV - in exchange markets and other related actions that contribute to the undervaluation of Vietnam's currency are unreasonable or discriminatory and burden or restrict U.S. commerce. In conducting its investigation, USTR will consult with the Department of the Treasury as to matters of currency valuation and Vietnam's exchange rate policy.

Pursuant to section 302(b)(1)(B) of the Trade Act, USTR has consulted with appropriate advisory committees. USTR also has consulted with the interagency Section 301 Committee. Pursuant to section 303(a) of the Trade Act, USTR has requested consultations with the Government of Vietnam.

Pursuant to section 304 of the Trade Act, USTR must determine whether the act, policy, or practice under investigation is actionable under section 301. If that determination is affirmative, the U.S. Trade Representative must determine what action to take.

III. Request for Public Comments

You may submit written comments on any issue covered by the investigation. In particular, USTR invites comments regarding:

- Whether Vietnam's currency is undervalued, and the level of the undervaluation.
- Vietnam's acts, policies, or practices that contribute to undervaluation of its currency.
- The extent to which Vietnam's acts, policies, or practices contribute to the undervaluation.
- Whether Vietnam's acts, policies and practices are unreasonable or discriminatory.
- The nature and level of burden or restriction on U.S. commerce caused by the undervaluation of Vietnam's currency.
- The determinations required under section 304 of the Trade Act, including what action, if any, should be taken.

In light of the uncertainties arising from COVID-19 restrictions, USTR is not at this time scheduling a public hearing in this investigation. USTR will provide further information in a subsequent notice if it will hold a hearing in this investigation.

IV. Procedures for Written Submissions

All submissions must be in English and sent electronically via Regulations.gov. To submit comments via Regulations.gov, enter docket number USTR-2020-0037. Find a reference to this notice and click on the link entitled 'comment now!'. For further information on using Regulations.gov, please consult the resources provided on the website by clicking on 'how to use regulations.gov' on the bottom of Regulations.gov home page. USTR will not accept hand-delivered submissions.

Regulations.gov allows users to submit comments by filling in a 'type comment' field or by attaching a document using an 'upload file' field. USTR prefers that you submit comments in an attached document. If you attach a document, it is sufficient to type 'see attached' in the 'type comment' field. USTR strongly prefers submissions in

Adobe Acrobat (.pdf). If you use an application other than Adobe Acrobat or Word (.doc), please indicate the name of the application in the 'type comment' field.

File names should reflect the name of the person or entity submitting the comment. Please do not attach separate cover letters to electronic submissions; rather, include any information that would be in a cover letter in the comment itself. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the comment itself, rather than submitting them as separate files.

For any comments submitted electronically that contain business confidential information (BCI), the file name of the business confidential version should begin with the characters 'BCI.' You must clearly mark any page containing BCI by including 'BUSINESS CONFIDENTIAL' on the top of that page and clearly indicating, via brackets, highlighting, or other means, the specific information that is BCI. If you request business confidential treatment, you must certify in writing that disclosure of the information would endanger trade secrets or profitability, and that you would not customarily release the information to the public. Filers of submissions containing BCI also must submit a public version of their comments. The file name of the public version should begin with the character 'P.' Follow the 'BCI' and 'P' with the name of the person or entity submitting the comments. If these procedures are not sufficient to protect BCI or otherwise protect business interests, please contact the Section 301 line at 202-395-5725 to discuss whether alternative arrangements are possible.

USTR will post submissions in the docket for public inspection, except properly designated BCI. You can view submissions on Regulations.gov by entering docket number USTR-2020-0037 in the search field on the home page.

Joseph Barloon
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Office of the United States Trade Representative.