

[Billing Code 3290-F1]

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Docket Number USTR-2020-0036

**Initiation of Section 301 Investigation: Vietnam's Acts, Policies, and Practices
Related to the Import and Use of Illegal Timber**

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and request for comments.

SUMMARY: The U.S. Trade Representative is initiating an investigation of Vietnam's acts, policies, and practices related to the import and use of timber that is illegally harvested or traded. 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-2020-0036. For issues with on-line submissions, 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 David Lyons, Assistant General Counsel, 202-395-9446, Marta Prado, Deputy Assistant U.S. Trade Representative for Southeast Asia and the Pacific, 202-395-6216, or Joseph Johnson, Senior Director for Environment and Natural Resources, 202-395-2464.

SUPPLEMENTARY INFORMATION:

I. Background

Vietnam is one of the world's largest exporters of wood products, including to the United States. In 2019, Vietnam exported to the United States more than \$3.7 billion of wooden furniture. To supply the timber inputs needed for its wood products manufacturing sector, Vietnam relies on imports of timber harvested in other countries. Available evidence suggests that a significant portion of that imported timber was illegally harvested or traded (illegal timber). Some of that timber may be from species listed under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

Evidence indicates that much of the timber imported by Vietnam was harvested against the laws of the source country. Reports indicate that a significant amount of the timber exported from Cambodia to Vietnam was harvested on protected lands, such as wildlife sanctuaries, or outside of and therefore in violation of legal timber concessions. Cambodia nevertheless remains a significant source of Vietnam's timber imports. Similarly, timber sourced from other countries, such as Cameroon and the Democratic Republic of the Congo (DRC), may have been harvested against those countries' laws.

In addition, Vietnamese timber imports may be traded illegally. For example, it appears that most timber exported from Cambodia to Vietnam crosses the border in violation of Cambodia's log export ban. In addition, aspects of the importation and processing of this timber also may violate Vietnam's domestic law and be inconsistent with CITES.

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, the U.S. Trade Representative initiated a Section 301 investigation to examine whether Vietnam's acts, policies, and practices related to the import and use of illegal timber are unreasonable or discriminatory and burden or restrict U.S. commerce.

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, the U.S. Trade Representative has requested consultations with the Government of Vietnam.

Pursuant to section 304 of the Trade Act, the U.S. Trade Representative 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.

The investigation initially will focus on the following issues:

- Vietnamese imports of illegal timber may be inconsistent with Vietnam's domestic laws, the laws of exporting countries, or international rules. The import of illegal

timber may indicate that Vietnam is not enforcing its own laws concerning the import and processing of timber, such as laws requiring that wood processors ensure the lawful origins of the timber they use. For species listed under the CITES that are imported from Cambodia or the DRC, there is evidence that Vietnamese authorities are not requiring the permits or certificates that should be needed to enter or re-export from Vietnam.

- Evidence indicates that Vietnam at least tacitly may support the import and use of illegal timber. For example, reports indicate that Vietnamese officials do not record the origin of timber crossing the Cambodia-Vietnam border. This practice would enable Vietnamese exporters to disclaim knowledge of illegal timber inputs when exporting wood products to third countries. Vietnam may have allowed the importation of CITES-listed species based on invalid CITES permits. At the provincial government level, there are reports of Vietnamese officials accepting payments in return for facilitating illegal timber imports.
- Other acts, policies, and practices of Vietnam relating to the import and use of illegal timber.

III. Request for Public Comments

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

- The extent to which illegal timber is imported into Vietnam.
- The extent to which Vietnamese producers, including producers of wooden furniture, use illegal timber.

- The extent to which products of Vietnam made from illegal timber, including wooden furniture, are imported into the United States.
- Vietnam’s acts, policies, or practices relating to the import and use of illegal timber.
- The nature and level of the burden or restriction on U.S. commerce caused by Vietnam’s import and use of illegal timber.
- 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-2020-0036. 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 the 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 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](https://www.regulations.gov) by entering docket number USTR-2020-0036 in the search field on the home page.

Joseph Barloon
General Counsel
Office of the United States Trade Representative.