

November 12, 2020

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Mr. Joseph Barloon
General Counsel
Office of the United States Trade Representative
600 17th Street NW
Washington, DC 20006

Re: USTR-2020-0037: Comments on the Section 301 Investigation of Vietnam's Acts, Policies, and Practices Related to Currency Valuation

Dear Mr. Barloon:

On behalf of the Decorative Hardwoods Association (“DHA”), we hereby submit the following comments regarding the United States Trade Representative’s (“USTR”) initiation of an investigation regarding Vietnam’s acts, policies, and practices related to currency valuation under Section 301 of the Trade Act of 1974.¹ The USTR requested public comments regarding: (i) whether Vietnam’s currency is undervalued, and the level of the undervaluation; (ii) Vietnam’s acts, policies, or practices that contribute to undervaluation of its currency; (iii) the extent to which Vietnam’s acts, policies and practices are unreasonable or discriminatory; (iv) the nature and level of burden or restriction on U.S. commerce caused by the undervaluation of Vietnam’s currency; and (v) the determination required under section 304 of the Trade Act, including what action, if any, should be taken.² As detailed below, DHA fully supports the USTR’s investigation of Vietnam’s currency practices.

¹ *Initiation of Section 301 Investigation: Vietnam’s Acts, Policies, and Practices Related to Currency Valuation*, 85 Fed. Reg. 63,637 (USTR Oct. 8, 2020) (notice and request for comments) (“Initiation Notice”).

² *Id.*

The USTR’s initiation notice explains that “the Government of Vietnam, through the State Bank of Vietnam (SBV), tightly manages the value of its currency – the dong,” resulting in the dong being “undervalued on a real effective basis by approximately 7 percent in 2017 and by approximately 8.4 percent in 2018.”³ According to a U.S. Treasury Department analysis provided to the U.S. Department of Commerce in the countervailing duty investigation of *Passenger Vehicle and Light Truck Tires from Vietnam*, the Vietnamese dong remained undervalued by between 4.2 and 5.2% in 2019.⁴ The USTR notes that this continued undervaluation resulted from intervention in the exchange market by the Government of Vietnam, including “net purchases of foreign exchange totaling approximately \$22 billion”⁵

DHA believes that these levels of intervention and undervaluation are significant, they are unreasonable and discriminatory, and they severely burden and restrict U.S. commerce. These burdens have fallen heavily on U.S. producers in the wood products industry who have been forced to compete with rapidly increasing volumes of artificially low-priced imports from Vietnam, as the country has used state support to ramp up capacity and production and to develop into a platform for other Asian producers to circumvent U.S. trade remedy orders. DHA, therefore, requests that imports of wood products from Vietnam be covered by any response measures that the USTR implements pursuant to this investigation.

The Vietnamese wood product industry’s rapid expansion in recent years has become an increasingly acute problem for the U.S. wood products industry, in particular, and DHA believes

³ *Id.*

⁴ Letter from Andy Baukol, Principal Deputy Assistant Sec’y, Dep’t Treasury to James Maeder, Deputy Assistant Sec’y for AD/CVD Operations, Dep’t Commerce, re: *Treasury Submission to Commerce re. Currency*, Inv. No. C-552-829 (Aug. 24, 2020) at 2.

⁵ Initiation Notice at 63,638.

that an artificially depressed currency is an important driver of this problem. Currency manipulation has exacerbated the effects of other market-distorting government support measures and has facilitated Vietnam's development into a new export platform for wood products in Asia. It is no secret that the Vietnamese government intervenes extensively in economic outcomes. Vietnamese state owned enterprises ("SOEs") operate in several pillar industries of the Vietnamese economy, including in the wood products industry.⁶ In 2017, there were 2,000 SOEs in Vietnam where the state retained a majority interest, and 781 SOEs where the state retained 100% ownership.⁷ As of 2018, Vietnamese SOEs accounted for only 0.4% of all Vietnamese enterprises, while accounting for 28.8% of Vietnam's GDP.⁸ These SOES account for a large proportion of Vietnam's exports and benefit from numerous subsidies, including currency undervaluation.

As the Vietnamese government has supported production and capacity expansions in its wood products sector, Vietnam's exports of wood to the United States have increased rapidly. For instance, U.S. imports of hardwood plywood from Vietnam have surged in recent years, increasing from \$29,358,000 in imported value in 2016 to \$309,349,000 in imported value in 2019, an increase of approximately 950%.⁹ Notably, a significant volume of these increasing exports is the result of third-country producers using Vietnam as a processing platform to facilitate circumvention of U.S. antidumping and countervailing duty orders. In particular, Vietnam has

⁶ *State-Owned Enterprise Reform in Viet Nam: Progress and Challenges*, Asian Dev. Bank Inst. (Jan. 2020) at 1-2, 8, <https://www.adb.org/sites/default/files/publication/562061/adbi-wp1071.pdf>.

⁷ U.S. Department of State, Bureau of Economic and Business Affairs, *Malaysia Investment Climate Statement 2017* (June 29, 2017).

⁸ *State-Owned Enterprise Reform in Viet Nam: Progress and Challenges*, Asian Dev. Bank Inst. (Jan. 2020) at 1-2, <https://www.adb.org/sites/default/files/publication/562061/adbi-wp1071.pdf>.

⁹ See Letter from Wiley Rein LLP to Sec'y Commerce, re: *Certain Hardwood Plywood Products from the People's Republic of China: Request for Scope Ruling Anti-Circumvention Ruling* (Feb. 25, 2020) ("Request for Scope Ruling Anti-Circumvention Ruling").

regularly helped to undermine U.S. trade case orders against China in a variety of industries, including the wood products industry, by allowing and condoning transshipment and duty evasion. Rampant circumvention of the orders on Chinese hardwood plywood and Chinese wooden cabinets are prime examples.

Following its antidumping and countervailing duty investigations of hardwood plywood from China, the Department of Commerce imposed duties of more than 200% on Chinese hardwood plywood. As official U.S. imports of Chinese hardwood plywood decreased in response to the trade orders, U.S. imports of hardwood plywood from Vietnam skyrocketed, again, increasing approximately 950% in value between 2016 and 2019.¹⁰ Tellingly, during this same period, Chinese exports of hardwood plywood to Vietnam greatly increased. The Vietnamese government itself suspected that the surge in exports of plywood products to the United States from Vietnam was the result of Chinese companies improperly seeking to avoid tariffs.¹¹ According to the Vietnam Timber and Forest Product Association, exports of plywood to the United States in 2018 increased 2.7 times the levels reached in 2017, to \$190 million.¹² The country's exports of plywood to the United States in the first quarter of 2019 increased 95% year-on-year, to \$47 million, according Vietnamese Customs.¹³ In the same period, Chinese imports into Vietnam rose 37% to \$61 million, accounting for 84% of all plywood imports.¹⁴ As a result, in June 2020, the Department of Commerce initiated an anticircumvention inquiry into shipments

¹⁰ *See id.*

¹¹ *See* Dat Nguyen, *Vietnam suspects China hand in plywood export surge*, VNExpress International (Sept. 4, 2019) (“Vietnam Suspects China Hand in Plywood Export Surge”).

¹² *See* Request for Scope Ruling Anti-Circumvention Ruling.

¹³ *See* Vietnam Suspects China Hand in Plywood Export Surge.

¹⁴ *See id.*

of Chinese hardwood plywood that are completed in Vietnam before being shipped to the United States.¹⁵

Chinese transshipment through Vietnam is also occurring with respect to wooden cabinets. As U.S. imports of wood cabinets from China have plummeted following affirmative AD/CVD determinations (and duties of more than 50% on Chinese cabinets), U.S. imports from Vietnam have skyrocketed. For instance, comparing the first eight months of 2019 and with the same time period in 2020, U.S. imports of kitchen cabinets, other cabinets, and wooden furniture increased by more than 2,500%.¹⁶ Such imports also increased significantly between 2018 and 2019 – approximately 783%.¹⁷ At the same time, U.S. imports from China dropped – thus far in 2020, U.S. imports of Chinese cabinets fell nearly 93% compared with the same period in 2019.¹⁸ U.S. imports from China also fell by approximately 43% between 2018 and 2019.¹⁹ While there is some legitimate cabinet production in Vietnam, transshipment and circumvention likely accounts for a large share of what is being entered into the United States as “Vietnamese” cabinets.

For these reasons, we encourage the USTR to conduct a thorough investigation into Vietnam’s policies and practices regarding currency and to ensure that any resulting measures include exports of wood products.

¹⁵ See *Certain Hardwood Plywood Products from the People’s Republic of China*, 85 Fed. Reg. 36,530 (Dep’t Commerce June 17, 2020) (initiation of anti-circumvention inquiries and scope inquiries on the antidumping duty and countervailing duty orders; Vietnam assembly).

¹⁶ See Import Data – Wooden Cabinets.

¹⁷ See *id.*

¹⁸ See *id.*

¹⁹ See *id.*

Respectfully submitted,

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Association*