



## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket Number USTR-2020-0037]

### **Determination on Action and Ongoing Monitoring: Vietnam's Acts, Policies, and Practices Related to Currency Valuation**

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice.

**SUMMARY:** Based on an agreement reached between the Department of the Treasury (Treasury) and the State Bank of Vietnam (SBV) regarding Vietnam's currency practices, the U.S. Trade Representative has determined that no action under the Section 301 investigation is warranted at this time because Vietnam's agreement with Treasury provides a satisfactory resolution of the matter subject to this investigation. The U.S. Trade Representative, in coordination with Treasury, will monitor Vietnam's implementation of its commitments under the agreement and associated measures.

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

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Proceedings in the Investigation**

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), on October 2, 2020. *See* 85 FR 63637 (Oct. 8, 2020) (notice of initiation). On the same date, USTR requested consultations with Vietnam. Consultations were held on December 23, 2020. The Section

301 Committee solicited public comments, and held a public hearing on December 29, 2020. *See* 85 FR 75397 (Nov. 25, 2020).

On January 15, 2021, in consultation with 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 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 actionable under Sections 301(b)(1)(A) and 304(a) of the Trade Act. *See* 86 FR 6732 (Jan. 22, 2021) (actionability notice). The U.S. Trade Representative's determination was accompanied by a comprehensive public report (the Report). The Report is posted on the USTR website at [https://ustr.gov/sites/default/files/enforcement/301Investigations/Vietnam\\_Currency\\_301\\_Actionability\\_Report\\_Jan\\_15\\_21.pdf](https://ustr.gov/sites/default/files/enforcement/301Investigations/Vietnam_Currency_301_Actionability_Report_Jan_15_21.pdf).

In particular, the U.S. Trade Representative determined:

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.

## **II. Determination on Action**

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). Where an agreement or measures provide a satisfactory resolution of the matter subject to investigation, the U.S. Trade Representative may determine under Section 304 that no action is appropriate. Under Section 306 of the Trade Act, in such circumstances the U.S. Trade Representative must monitor the agreement or measures, and may take action at a future time upon a finding that the implementation has not been satisfactory.

In its December 2020 and April 2021 semiannual foreign exchange reports to Congress, Treasury determined that Vietnam satisfied the three criteria in Section 701 of the Trade Facilitation and Trade Enforcement Act of 2015 regarding Vietnam's currency practices, which triggered enhanced bilateral engagement between Treasury and the SBV on this issue.

On July 19, 2021, Treasury and the SBV issued a joint statement announcing that they had reached an agreement. The joint statement provides, *inter alia*, that:

Treasury and the SBV have had constructive discussions in recent months through the enhanced engagement process, and reached agreement to address Treasury's concerns about Vietnam's currency practices as described in Treasury's Report to Congress on the Macroeconomic and Foreign Exchange Policies of Major Trading Partners of the United States.

. . . Vietnam confirms that it is bound under the Articles of Agreement of the IMF to avoid manipulating its exchange rate in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage and will refrain from any competitive devaluation of the Vietnamese dong. The SBV is also making ongoing efforts to further modernize and make more transparent its monetary policy and exchange rate framework. In support of these efforts, the SBV will continue to improve exchange rate flexibility over time, allowing the Vietnamese dong to move in line with the stage of development of the financial

and foreign exchange markets and with economic fundamentals, while maintaining macroeconomic and financial market stability.

The SBV will continue to provide necessary information for Treasury to conduct thorough analysis and reporting on the SBV's activities in the foreign exchange market in Treasury's semiannual Report to Congress on the Macroeconomic and Foreign Exchange Policies of Major Trading Partners of the United States.

*See* Joint Statement from the U.S. Department of the Treasury and the State Bank of Vietnam (July 19, 2021), <https://home.treasury.gov/news/press-releases/jy0280>.

The U.S. Trade Representative has found that that the Treasury-SBV agreement and the measures of Vietnam called for in the agreement provide a satisfactory resolution of the matter subject to investigation. Accordingly, the U.S. Trade Representative has determined under Section 304 of the Trade Act that no action at this time is appropriate in this investigation. The Trade Representative's determination was made in consultation with Treasury, and takes into account the advice of the interagency Section 301 Committee and public comments and Advisory Committee advice received during the investigation.

### **III. Ongoing Monitoring**

Pursuant to Section 306(a) of the Trade Act, the U.S. Trade Representative, in coordination with Treasury, will monitor Vietnam's implementation of its commitments under the agreement and associated measures. Pursuant to Section 306(b) of the Trade Act, if the U.S. Trade Representative in consultation with Treasury subsequently considers that Vietnam is not satisfactorily implementing the agreement or associated measures, then the U.S. Trade Representative will consider further action under Section 301.

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Office of the United States Trade Representative.  
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