

ALERT

UPDATE: USTR Initiates Section 301 Investigations into Vietnamese Policies and Practices Affecting International Trade

October 6, 2020

**This alert was originally published on October 5, 2020, and updated on October 6, 2020.*

On October 2, 2020, the Office of the U.S. Trade Representative (USTR) announced its initiation of separate investigations under Section 301 of the Trade Act of 1974 with respect to Vietnam's trade with the United States. USTR's investigations will address:

- Vietnamese policies and practices that result in the exportation of illegally harvested lumber and wood products to the United States; and
- Vietnamese policies and practices that result in undervaluation of Vietnam's currency.

Section 301 authorizes USTR to investigate acts, policies, and practices of the United States' trading partners to determine if they violate international trade agreements or otherwise unfairly burden or restrict U.S. commerce. Where USTR concludes that the relevant trading partner has violated agreements or committed unfair acts affecting U.S. commerce, the agency may take action to enforce U.S. rights and eliminate the unfair acts, subject to the direction of the President. The actions authorized under Section 301 include the imposition of tariffs or quotas on goods imported from the trading partner, suspension of trade agreement benefits, and entering into agreements with the trading partner to resolve the negative impacts of the investigated actions.

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The investigations into Vietnam's policies regarding lumber exports and currency valuation mark the fourth and fifth Section 301 investigations that USTR has launched since 2017 when it initiated an investigation into unfair Chinese trade practices and policies. As a result of that investigation, USTR imposed four successive rounds of tariffs on goods imported to the United States from China and has negotiated various concessions and commitments from the Chinese Government that have led to partial rollback of some tariffs, as well as suspension of others.

USTR has also imposed tariffs on certain European goods in the context of recent Section 301 investigations into France's taxation of digital services and the European Union's failure to implement World Trade Organization recommendations regarding aircraft subsidies.

The Trade Act of 1974 provides USTR with twelve months in which to conduct its investigations regarding Vietnamese practices and policies, and to make a final determination. The agency has released two draft *Federal Register* notices containing details of each investigation and information on how the public can provide its views through written comments. In both investigations, written comments must be submitted by November 12, 2020. Further, due to the uncertainties presented by COVID-19, USTR has opted not to schedule public hearings in the investigations, at least at this time.

Wiley has unparalleled experience representing clients in Section 301 and other trade, customs, and export control matters. Should you have any questions, please do not hesitate to contact one of the attorneys listed on this alert.

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