

OFFICE *of the* UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT



Section 301 Investigation

**Report on Vietnam's Acts, Policies, and
Practices Related to
Currency Valuation**

January 15, 2021

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**REPORT ON VIETNAM’S ACTS, POLICIES, AND PRACTICES RELATED TO
CURRENCY VALUATION PREPARED IN THE INVESTIGATION UNDER
SECTION 301 OF THE TRADE ACT OF 1974**

I. EXECUTIVE SUMMARY

On October 2, 2020, the U.S. Trade Representative initiated an investigation under section 302(b)(1)(A) of the Trade Act of 1974, as amended, of Vietnam’s acts, policies, or practices relating to the valuation of its currency. The *Initiation Notice* explained that the available evidence indicated that Vietnam’s currency had been undervalued for the past three years, and that the State Bank of Vietnam’s interventions in foreign exchange (FX) markets in the form of net purchases of FX contributed to undervaluation of its currency during 2019. The *Initiation Notice* described the initial focus of the investigation, which was “whether Vietnam’s interventions—through the [State Bank of Vietnam]—in exchange markets and other related actions that contribute to the undervaluation of Vietnam’s currency are unreasonable or discriminatory and burden or restrict United States commerce.”

The information obtained in this investigation, including the written public comments and witness testimony during the public hearing, indicates that Vietnam manages its exchange rate based on its interest in achieving certain economic goals; that the acts, policies, and practices it has chosen with respect to the exchange rate have contributed to undervaluation of the exchange rate; that Vietnam uses FX market interventions as a key tool to manage the exchange rate in a manner that has contributed to persistent undervaluation; and that this undervalued exchange rate is accompanied by substantial current account and trade imbalances (including with the United States).

It is a widely-accepted norm, as evidenced in international agreements and U.S. law, that acts, policies, and practices related to currency valuation should not be undertaken to gain an unfair competitive advantage in international trade. Such acts, policies, or practices should not artificially enhance a country’s exports and restrict its imports in ways that do not reflect the underlying competitiveness. Similarly, existing U.S. and international norms indicate that exchange rates should reflect underlying economic and financial conditions, and that exchange rate action should not prevent balance of payments adjustment. These principles are based on the premise that, when a government engages excessively in FX market interventions or other actions to lower the value or suppress appreciation of its currency, this artificially distorts market-based competition, promoting domestic production and exports, and suppressing imports, in ways that do not reflect the productivity of economies or competitiveness of traded goods.

The specific facts and circumstances examined in this investigation, when considered in light of these principles, support a finding 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 unreasonable. These facts and circumstances include the persistent undervaluation of its currency over a course of several years; Vietnam’s more recent, rapid, and significant purchases of FX, which have contributed to undervaluation; and the conditions surrounding Vietnam’s FX market interventions including current account and goods trade surpluses (including with the United States). An affirmative finding is also consistent with a report by the Department of the Treasury that Vietnam has recently engaged in currency

manipulation during the twelve-month period of July 2019 through June 2020. Furthermore, as explained in this Report, purported justifications for Vietnam's recent FX market interventions do not undermine the basis for finding actionability.

Vietnam's acts, policies, and practices that contribute to currency undervaluation through excessive foreign exchange market interventions and other related actions burden or restrict U.S. commerce within the meaning of section 301 of the Trade Act. First, currency undervaluation effectively lowers the price of exported products from Vietnam into the United States. This makes Vietnamese imports into the United States less expensive than they would otherwise be, which undermines the competitive position of firms in the United States that are competing with lower-priced Vietnamese imports. Second, currency undervaluation raises the local currency price of U.S. exports to Vietnam. This undermines the competitive position of U.S. firms in the Vietnamese market.

Third, excessive FX market intervention undertaken while a country has a significant current account surplus also undermines U.S. export opportunities. For example, a current account surplus may result from net exports, suggesting that domestic production exceeds domestic consumption. Without FX market intervention, the value of Vietnam's currency would tend to appreciate in the context of a current account surplus, enhancing domestic consumption in a manner more favorable to U.S. exports.

In sum, the findings in this investigation support that 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, are unreasonable and burden or restrict U.S. commerce, and are thus actionable under section 301 of the Trade Act.

II. BACKGROUND

On October 2, 2020, the U.S. Trade Representative initiated an investigation into Vietnam’s acts, policies, and practices related to the valuation of its currency under section 302(b)(1)(A) of the Trade Act of 1974, as amended (Trade Act).¹

This investigation involves a determination of whether the acts, policies, and practices at issue, namely, whether Vietnam’s government intervention in foreign exchange (FX) markets and other related actions that contribute to the undervaluation of Vietnam’s currency, are actionable under section 301 of the Trade Act, and if so, what action to take, if any, under section 301. This Report provides findings relevant to a determination of actionability under section 301.

A. RELEVANT ELEMENTS OF SECTION 301

Section 301 sets out three types of acts, policies, or practices of a foreign country that are actionable: (i) trade agreement violations; (ii) acts, policies, or practices that are unjustifiable (defined as those that are inconsistent with U.S. international legal rights) and burden or restrict U.S. commerce; and (iii) acts, policies, or practices that are unreasonable or discriminatory and burden or restrict U.S. commerce.² The third category of conduct is the one relevant to this investigation.

Section 301 defines “discriminatory” to “include, when appropriate, any act, policy, and practice which denies national or most-favored nation treatment to United States goods, services, or investment.”³ An “unreasonable” act, policy, or practice is one that “while not necessarily in violation of, or inconsistent with, the international legal rights of the United States is otherwise unfair and inequitable.”⁴ The statute further provides that in determining if a foreign country’s practices are unreasonable, reciprocal opportunities in the United States for foreign nationals and firms “shall be taken into account, to the extent appropriate.”⁵

If the Trade Representative determines that the Section 301 investigation “involves a trade agreement,” and a mutually acceptable resolution is not reached within a certain period of time, USTR may request proceedings under the formal dispute settlement procedures under the trade agreement. Otherwise, USTR will conduct the investigation without recourse to formal dispute settlement.

If the Trade Representative determines that the act, policy, or practice falls within any of the three categories of actionable conduct under Section 301, USTR must also determine what action, if any, to take. If the Trade Representative determines that an act, policy or practice is unreasonable or discriminatory, that it burdens or restricts U.S. commerce, and that action by the United States is appropriate:

¹ *Initiation of Section 301 Investigation: Vietnam’s Acts, Policies, and Practices Related to Currency Valuation*, 85 Fed. Reg. 63,637 (U.S. Trade Rep., Oct. 8, 2020) (hereinafter *Initiation Notice*).

² 19 U.S.C. § 2411(a)-(b).

³ 19 U.S.C. § 2411(d)(5).

⁴ 19 U.S.C. § 2411(d)(3)(A).

⁵ 19 U.S.C. § 2411(d)(3)(D).

[T]he Trade Representative shall take all appropriate and feasible action authorized under [Section 301(c)], subject to the specific direction, if any, of the President regarding any such action, and all other appropriate and feasible action within the power of the President that the President may direct the Trade Representative to take under this subsection, to obtain the elimination of that act, policy, or practice.⁶

Actions specifically authorized under Section 301(c) include: (i) suspending, withdrawing or preventing the application of benefits of trade agreement concessions; (ii) imposing duties, fees, or other import restrictions on the goods or services of the foreign country for such time as deemed appropriate; (iii) withdrawing or suspending preferential duty treatment under a preference program; (iv) entering into binding agreements that commit the foreign country to eliminate or phase out the offending conduct or to provide compensatory trade benefits; or (v) restricting or denying the issuance of service sector authorizations, which are federal permits or other authorizations needed to supply services in some sectors in the United States.⁷ In addition to these specifically enumerated actions, USTR may take any actions that are “within the President’s power with respect to trade in goods or services, or with respect to any other area of pertinent relations with the foreign country.”⁸

B. CONSULTATIONS

On the date this investigation was initiated, USTR requested consultations with the Government of Vietnam.⁹ Vietnam’s Minister of Trade and Industry accepted the request for consultations in an October 14, 2020 letter.¹⁰ Consultations were held on December 23, 2020.

C. INPUT FROM THE PUBLIC

USTR provided interested persons with opportunities to present their views and perspectives on the issues involved in this investigation. The *Initiation Notice* invited written comments by November 12, 2020.¹¹ Interested persons filed 66 written submissions in the public docket for this investigation.¹²

In the *Hearing Notice* published on November 25, 2020, USTR announced further opportunities for public input.¹³ In particular, the *Hearing Notice* announced that USTR and the interagency Section 301 Committee would hold a virtual public hearing on December 29,

⁶ 19 U.S.C. § 2411(b).

⁷ In cases in which USTR determines that import restrictions are the appropriate action, preference is given to the imposition of duties over other forms of action. 19 U.S.C. § 2411(c).

⁸ 19 U.S.C. § 2411(b)(2).

⁹ See Annex.

¹⁰ See Letter from Minister of Industry and Trade Tran Tuan Anh to Ambassador Robert E. Lighthizer (Oct. 14, 2020) (on file with USTR).

¹¹ *Initiation Notice*, 85 Fed. Reg. at 63,637-63,638.

¹² The submissions can be viewed on the Federal eRulemaking Portal, <https://www.regulations.gov>.

¹³ *Notice of Public Hearing in Section 301 Investigation of Vietnam’s Acts, Policies, and Practices Related to Currency Valuation*, 85 Fed. Reg. 75,397 (Nov. 25, 2020).

2020.¹⁴ The *Hearing Notice* also announced that interested persons could submit post-hearing comments, addressed to any matter raised in the hearing testimony or prior written submissions, by January 7, 2021. In response to an inquiry from certain interested persons, USTR confirmed that post-hearing comments may address the December 16, 2020, Department of the Treasury (Treasury) report on *Macroeconomic and Foreign Exchange Policies of Major Trading Partners of the United States*.¹⁵ A total of 21 witnesses appeared at the hearing. A transcript of the hearing has been placed on the public docket and on USTR's website.¹⁶ Interested persons filed 18 post-hearing written submissions. The post-hearing submissions are posted on the public docket.

III. RELEVANT FACTS REGARDING VIETNAM'S EXCHANGE RATE REGIME

This section of the Report provides background on the operation of Vietnam's exchange rate regime and the role of Vietnam's central bank in setting exchange rates, Vietnam's recent interventions in FX markets in the form of net purchases of FX reserves, Vietnam's valuation of its currency, and Vietnam's current account and trade balances over the past several years. These topics are discussed in subsections A through D below, respectively.

A. VIETNAM'S EXCHANGE RATE REGIME AND THE ROLE OF THE STATE BANK OF VIETNAM

Vietnam's official currency is the dong (VND). Vietnam's central bank is the State Bank of Vietnam. The State Bank of Vietnam is a ministerial agency of the Government of Vietnam.¹⁷ The International Monetary Fund (IMF) has explained that:

Unlike other countries that have modernized monetary policy, the Vietnamese economy still features characteristics of a centrally planned economy, where the central bank is an integral component of the State (IMF 2017) and therefore follows government guidelines when formulating monetary policy.

...

Central bank operational independence helps bring credibility to monetary policy and is the backbone of inflation-targeting regimes. Relative to other emerging market inflation

¹⁴ *Id.*

¹⁵ The letter is available on the Federal eRulemaking Portal, <https://www.regulations.gov> and on USTR's website, <https://ustr.gov/issue-areas/enforcement/section-301-investigations/section-301-vietnam/vietnams-currency-valuation-virtual-public-hearing-december-29>.

¹⁶ The transcript is available on the Federal eRulemaking Portal, <https://www.regulations.gov> and on USTR's website, <https://ustr.gov/issue-areas/enforcement/section-301-investigations/section-301-vietnam/vietnams-currency-valuation-virtual-public-hearing-december-29>.

¹⁷ *Law on the State Bank of Vietnam*, No. 46/2010/QH12, art. 2(1) (June 16, 2010) (hereinafter *Law on the State Bank of Vietnam (2010)*), <http://congbao.chinhphu.vn/noi-dung-van-ban-so-46-2010-qh12-60>; see also "Major Responsibilities," State Bank of Vietnam, https://www.sbv.gov.vn/webcenter/portal/en/home/sbv/aboutsbv/major?_afLoop=5383626188985297#%40%3F_afLoop%3D5383626188985297%26centerWidth%3D80%2525%26leftWidth%3D20%2525%26rightWidth%3D0%2525%26showFooter%3Dfalse%26showHeader%3Dfalse%26_adf.ctrl-state%3D14fo9gd0jj_162. An unofficial English translation of the *Law on the State Bank of Vietnam (2010)* is available at <https://sites.google.com/a/ecolaw.vn/luat-tieng-anh/1-bo-luat-luat/-law-on-the-state-bank-of-vietnam>.

targeters, the [State Bank of Vietnam] features low central bank independence and accountability as public policy decisions are centralized, and the [State Bank of Vietnam's] mandate is influenced by the government's political goals. The [State Bank of Vietnam] lacks both political independence—given that the [State Bank of Vietnam] Governor is a cabinet member—and operational independence. As the [State Bank of Vietnam] moves to inflation-targeting, the critical reform is to grant operational independence to the [State Bank of Vietnam] (IMF 2017). In Vietnam, the [State Bank of Vietnam's] operational independence is not clearly established, unlike in most central banks in the world, because the [State Bank of Vietnam] Governor legally shares responsibility with the Prime Minister on the use of the monetary policy toolkit.¹⁸

The tasks and powers of the State Bank of Vietnam, as elaborated upon in the *Law on the State Bank of Vietnam (2010)* include, but are not limited to, the following:

- “To conduct operations for the purpose of currency stability; to assure the safety for banking operations and the systems of credit institutions; to assure the safety and effectiveness of the national payment system; and to contribute to accelerating socio-economic development along the socialist orientation.”¹⁹
- “To participate in the elaboration of national socio-economic strategies and plans.”²⁰
- “To perform the state management of foreign exchange, foreign exchange and gold trading activities.”²¹
- “To manage state foreign exchange reserves.”²²

To implement the national monetary policy, the Governor of the State Bank of Vietnam is empowered to “decide on the use of tools for the implementation of the national monetary policy, including re-financing, interest rates, exchange rates, compulsory reserves, open-market operations and other tools and measures as prescribed by the Government.”²³ To that end, the State Bank of Vietnam administers the exchange rate regime in Vietnam and announces exchange rates.²⁴ According to Vietnamese law, “[e]xchange rates of Vietnam dong shall be

¹⁸ *Vietnam: Staff Report for the 2019 Article IV Consultation*, 64-65, International Monetary Fund (June 4, 2019) (hereinafter *2019 IMF Article IV Consultation Staff Report*), <https://www.imf.org/en/Publications/CR/Issues/2019/07/16/Vietnam-2019-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-47124>.

¹⁹ *Law on the State Bank of Vietnam (2010)*, art. 4(1); see also “Major Responsibilities,” State Bank of Vietnam, https://www.sbv.gov.vn/webcenter/portal/en/home/sbv/aboutsbv/major?_afLoop=7566645824170224#%40%3F_afLoop%3D7566645824170224%26centerWidth%3D80%2525%26leftWidth%3D20%2525%26rightWidth%3D0%2525%26showFooter%3Dfalse%26showHeader%3Dfalse%26_adf.ctrl-state%3D15abqrm9is_133.

²⁰ *Law on the State Bank of Vietnam (2010)*, art. 4(2).

²¹ *Id.* at art. 4(17).

²² *Id.* at art. 4(18).

²³ *Id.* at art. 10.

²⁴ *Id.* at art. 13(2) (the State Bank of Vietnam “announce[s] exchange rates and decide[s] on the exchange rate regime and management mechanisms”).

determined on the basis of the foreign currency supply and demand in the state-regulated market.”²⁵

State Bank of Vietnam Decision No. 2730 (2015) provides that the State Bank of Vietnam will announce a central exchange rate between the VND and U.S. dollar (USD), as well as the cross-exchange rate between the VND and certain other currencies.²⁶ The State Bank of Vietnam specifically announces a daily VND/USD central exchange rate²⁷ on its website.²⁸ According to the IMF, this central rate is based on: “(i) the previous day’s weighted average VND/USD exchange rate; (ii) a weighted average of movements in dong exchange rates vis-à-vis seven other important trading partners’ currencies; and (iii) domestic macroeconomic conditions.”²⁹

Credit institutions that are licensed by the State Bank of Vietnam to conduct FX services in Vietnam are precluded from trading the VND for USD outside the +/- 3 percent band around this central exchange rate.³⁰ According to the IMF, this band applies only to VND/USD transactions.³¹ Credit institutions in Vietnam may set their own exchange rates between the VND and other foreign currencies, and authorized dealers can set their own VND/USD exchange rate in transactions with their clients, provided that the chosen rate is set within the established band around the VND/USD central rate set by the State Bank of Vietnam.³²

In practice, the State Bank of Vietnam “tightly manage[s]” the value of the VND.³³ Treasury has recently explained that:

Since January 2016, the official policy of the [State Bank of Vietnam] is to allow the dong to float +/- 3% against a basket of currencies within a previously established trading

²⁵ *Id.* at art. 13(1).

²⁶ *Decision on the Announcement of the Official Exchange Rate between Vietnam Dong and US Dollar and the Cross Rate between Vietnam Dong and Other Foreign Currencies*, State Bank of Vietnam Decision No. 2730/QD-NHNN (Dec. 31, 2015) (hereinafter *State Bank of Vietnam Decision No. 2730 (2015)*) (unofficial English translation on file with USTR).

²⁷ *Id.* at arts. 1, 4(1) (Dec. 31, 2015) (unofficial English translation on file with USTR).

²⁸ See *Exchange Rate*, State Bank of Vietnam, https://www.sbv.gov.vn/TyGia/faces/ExchangeRate.jspx?_afLoop=5332232089128224&_afWindowMode=0&_adf.ctrl-state=zdvedm9u3_4 (last visited Jan. 15, 2021).

²⁹ *2019 IMF Article IV Consultation Staff Report*, 2.

³⁰ *Decision Promulgating the Spot Exchange Rate Between Vietnam Dong and Foreign Currency by Permitted Credit Institutions*, State Bank of Vietnam Decision No. 1636/QD-NHNN, art. 1(1) (Aug. 18, 2015) (unofficial English translation on file with USTR).

³¹ *Annual Report on Exchange Arrangements and Exchange Restrictions: 2019*, 3722, International Monetary Fund (2020), https://www.elibrary-areaer.imf.org/Documents/YearlyReport/AREAER_2019.pdf.

³² *Id.*

³³ *Report to Congress: Macroeconomic and Foreign Exchange Policies of Major Trading Partners of the United States*, 52, U.S. Department of the Treasury, Office of International Affairs (Dec. 2020) (hereinafter *Treasury Report to Congress* (Dec. 2020)), <https://home.treasury.gov/system/files/206/December-2020-FX-Report-FINAL.pdf>; *Report to Congress: Macroeconomic and Foreign Exchange Policies of Major Trading Partners of the United States*, 36, U.S. Department of the Treasury, Office of International Affairs, (Jan. 2020) (hereinafter *Treasury Report to Congress* (Jan. 2020)), <https://home.treasury.gov/system/files/136/20200113-Jan-2020-FX-Report-FINAL.pdf>.

band, with daily updates to the reference rate. Based on cross rates between the dong and the currencies in the basket, however, the [State Bank of Vietnam] still appears to manage the dong far more closely to the U.S. dollar than to any other reference, and the dong reached the edge of the trading band during trading in very few instances.³⁴

According to the IMF, the State Bank of Vietnam:

sets 4 percent of inflation as a domestic nominal anchor, but in addition to the target inflation rate, the [State Bank of Vietnam] daily announces the target FX rate vis-à-vis US dollar as an external nominal anchor. To keep the FX rates within the predetermined band around the target, the [State Bank of Vietnam] actively intervenes to the FX market through their reserve accumulation/decumulation, in addition to adjusting interest rates in the interbank market.³⁵

State Bank of Vietnam Decree No. 70 (2014) takes the position that Vietnam’s exchange rate regime is a “managed floating system that the State Bank of Vietnam defines on the basis of a basket of currencies of countries that establish a cooperation of commerce, loaning, debt repayment and investment with Vietnam, which conforms to macroeconomic objectives in each period.”³⁶

The IMF classifies exchange rate arrangements primarily based on the degree to which the exchange rate is determined by the market rather than by official action. The system distinguishes among four major categories: hard pegs (such as exchange arrangements with no separate legal tender and currency board arrangements); soft pegs (including conventional pegged arrangements, pegged exchange rates within horizontal bands, crawling pegs, stabilized arrangements, and crawl-like arrangements); floating regimes (such as managed floating and free floating); and a residual category, other managed.³⁷

In the case of Vietnam, the IMF classifies Vietnam’s *de jure* exchange rate arrangement as a managed float, but the *de facto* exchange rate arrangement is classified as a type of soft peg, namely, a “stabilized arrangement.”³⁸ The IMF also indicates that the exchange rate functions as a principal nominal anchor within Vietnam’s monetary policy framework.³⁹

In a country with a “stabilized arrangement,” such as Vietnam, the central bank or monetary authority buys or sells FX to maintain the exchange rate at its predetermined level or within a desired range. In the face of appreciation pressures, the monetary authorities would tend to intervene in the currency market through the purchase of FX (selling domestic currency)

³⁴ *Treasury Report to Congress* (Dec. 2020), 52; see also *Treasury Report to Congress* (Jan. 2020), 36.

³⁵ See *2019 IMF Article IV Consultation Staff Report*, 51.

³⁶ *Decree Detailing the Implementation of Several Provisions of the Ordinance and the Amended Ordinance on the Foreign Exchange*, art. 15(2), No. 70/2014/ND-CP (July 17, 2014), <http://congbao.chinhphu.vn/loi-dung-van-ban-so-70-2014-nd-cp-3694> (unofficial English translation on file with USTR).

³⁷ *Annual Report on Exchange Arrangements and Exchange Restrictions*, 1, International Monetary Fund (Aug. 10, 2020), <https://www.imf.org/en/Publications/Annual-Report-on-Exchange-Arrangements-and-Exchange-Restrictions/Issues/2020/08/10/Annual-Report-on-Exchange-Arrangements-and-Exchange-Restrictions-2019-47102>.

³⁸ *Id.* at 65; *2019 IMF Article IV Consultation Staff Report*, 2.

³⁹ *2019 IMF Article IV Consultation Staff Report*, 11.

to keep the domestic currency fixed to the peg or within the given trading band. In the event of depreciation pressures, the monetary authorities would do the opposite, by selling foreign currency.

In addition to affecting currency valuation, purchases of FX by the central bank add to the central bank's stock of FX reserves, while sales of FX reduce the stock of FX reserves. In order to maintain a stabilized exchange rate, a central bank must be able to fully meet market demand at the exchange rate that it sets. Accordingly, under this framework, a central bank must keep sufficient reserves on hand to credibly and effectively implement the exchange rate peg or band. In contrast, in cases of floating exchange rate regimes, because the central bank has not committed to meet market demand at any specific rate that it must defend, the need for central bank reserves are relatively lower.⁴⁰ In the case of Vietnam, in order to maintain the central VND/USD exchange rate, the State Bank of Vietnam actively intervenes in the FX market by accumulating and reducing FX reserves.⁴¹

B. VIETNAM'S INTERVENTIONS IN FX MARKETS DURING 2019 AND 2020

As discussed above in subsection A, Vietnam – through the State Bank of Vietnam – tightly manages the value of the VND, particularly against the USD, and the State Bank of Vietnam intervenes in FX markets through reserves accumulation and decumulation to maintain the exchange rate that it sets. This subsection describes Vietnam's recent FX market interventions. These recent interventions by the State Bank of Vietnam have predominantly taken the form of sustained net purchases of FX reserves.

As an initial matter, Vietnam does not disclose the extent of its FX market interventions.⁴² Therefore, to determine the extent and types of interventions made by the State Bank of Vietnam over 2019 and 2020, publicly available information was examined. This information includes monthly changes in reserves positions compiled by the IMF.⁴³ As for other aspects of this investigation, USTR consulted with international monetary experts at Treasury.⁴⁴

IMF data indicate that Vietnam's foreign currency reserves rose from just under \$49 billion at the end of 2017 to slightly more than \$88 billion by September 2020.⁴⁵ This

⁴⁰ In some cases, including in Vietnam, the authorities also make use of cross-border capital controls to reduce the risks of capital flight. In Vietnam's case, the greatest restrictions on cross-border capital outflows are on individuals, while firms have much wider latitude in the cross-border use of foreign currency. *See Annual Report on Exchange Arrangements and Exchange Restrictions: 2019*, 3726-27, International Monetary Fund (2020), <https://www.elibrary.imf.org/view/IMF012/26225-9781498324571/26225-9781498324571/26225-9781498324571.xml?rskey=AQebpV&result=1>.

⁴¹ *See 2019 IMF Article IV Consultation Staff Report*, 51; *see also* Cambria Company LLC Public Comments, 3 (Nov. 12, 2020) (on file at regulations.gov).

⁴² *Treasury Report to Congress* (Dec. 2020), 53; *see also Treasury Report to Congress* (Jan. 2020), 8, 37.

⁴³ *See International Liquidity Selected Indicators*, International Monetary Fund (hereinafter IMF Data), <https://data.imf.org/regular.aspx?key=61545856> (last visited Jan. 15, 2021) (select country as Vietnam; data pulled from fourth row down ("International Liquidity, Total Reserves excluding Gold, Foreign Exchange, U.S. Dollars")).

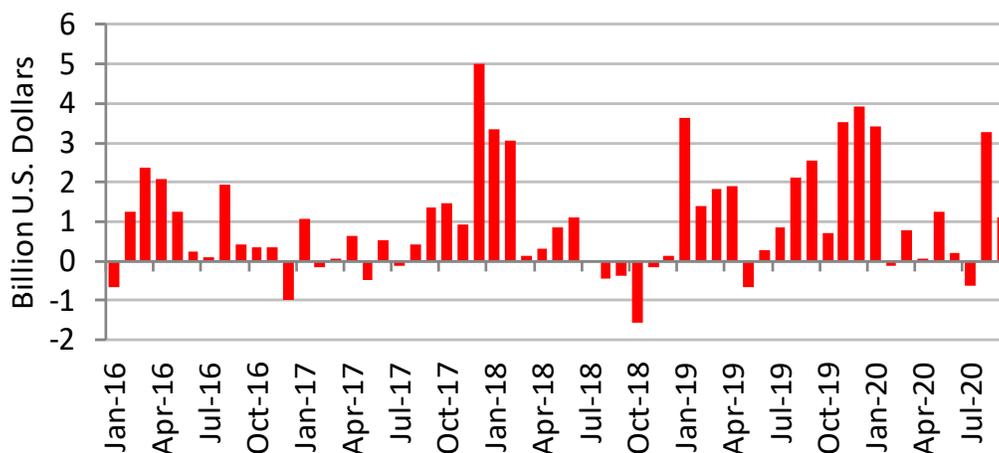
⁴⁴ *See Initiation Notice*, 85 Fed. Reg. at 63,638 ("In conducting its investigation, USTR will consult with the Department of the Treasury as to matters of currency valuation and Vietnam's exchange rate policy").

⁴⁵ *See* IMF Data.

considerable growth in Vietnam’s FX reserves is attributable primarily to the State Bank of Vietnam’s interventions in FX markets. Although Vietnam has in the past intervened “frequently, and in both directions, to maintain a close link to the dollar,”⁴⁶ Vietnam evinced a discernable pattern of significant net FX purchases over the course of 2019 and into 2020.

The graph below illustrates Vietnam’s estimated interventions since 2016 based on valuation- and earnings-adjusted monthly changes in reserves positions reported to the IMF. Estimated purchases of FX in a particular month are shown as a positive number on the y axis; estimated sales of FX are shown as a negative number on the y axis. As demonstrated in the graph below, Vietnam’s estimated interventions in FX markets since the beginning of 2019 have been heavily weighted towards purchases of FX.⁴⁷ Since the beginning of 2019, the majority of Vietnam’s FX purchases came during the second half of 2019, before the beginning of the COVID-19 pandemic.⁴⁸

Vietnam: Estimated FX Intervention



Sources: State Bank of Vietnam, U.S. Treasury estimates

Other sources have commented on the extent of Vietnam’s net FX purchases during 2019. In December 2019, Prime Minister Nguyen Xuan Phuc was reported in the press as stating that Vietnam’s FX reserves had hit almost \$80 billion, with \$20 billion of reserves alone purchased that same year.⁴⁹ This is generally consistent with a recent finding by Treasury, that Vietnam, through the State Bank of Vietnam, undertook net purchases of FX in 2019 totaling approximately \$22 billion.⁵⁰ Data from the IMF indicates that Vietnam held almost \$78 billion

⁴⁶ *Treasury Report to Congress* (Jan. 2020), 8, 37; *Report to Congress: Macroeconomic and Foreign Exchange Policies of Major Trading Partners of the United States*, 8, 36-37, U.S. Department of the Treasury, Office of International Affairs (May 2019) (hereinafter *Treasury Report to Congress* (May 2019)), <https://home.treasury.gov/system/files/206/2019-05-28-May-2019-FX-Report.pdf>.

⁴⁷ See *Treasury Report to Congress* (Dec. 2020), 53.

⁴⁸ *Id.* at 49.

⁴⁹ *Vietnam’s Foreign Exchange Reserves Near Record US\$80b*, *The Business Times* (Dec. 30, 2019), <https://www.businesstimes.com.sg/banking-finance/vietnams-foreign-exchange-reserves-near-record-us80b>.

⁵⁰ Polyethylene Retail Carrier Bag Committee public comments, at Attachment 1 (Nov. 12, 2020) (Letter from Andy Baukol, Principal Deputy Assistant Secretary, International Monetary Policy, Department of the Treasury, to James

in total FX reserves by the end of 2019.⁵¹

As illustrated in the graph above, Vietnam intervened largely in one direction at the outset of 2020 as well, purchasing FX reserves. Net purchases of FX then declined in early-to-mid 2020 as global financial conditions tightened amid the COVID-19 pandemic. Data from the IMF shows that, by April 2020, Vietnam's FX reserves were over \$81 billion.⁵² During April 2020, then-State Bank of Vietnam Governor Le Minh Hung was reported in the press as having claimed that Vietnam's FX reserves were at a "record high of US\$84 billion."⁵³ According to Treasury, the Vietnamese authorities had credibly conveyed to that agency that Vietnam's net FX purchases between July 1, 2019, and June 30, 2020 amounted to \$16.8 billion.⁵⁴

IMF data further shows that Vietnam's FX reserves rose to approximately \$87.8 billion by August 2020,⁵⁵ although some news outlets separately reported that Vietnam's FX reserves amounted to \$92 billion by that month.⁵⁶ IMF data shows Vietnam's FX reserves as just over \$88 billion by September 2020.⁵⁷ Internal U.S. Government estimates indicate that, adjusting for the effects of exchange rate valuations and earnings, that net FX market intervention by the State Bank of Vietnam year-to-date as of September 2020 (latest available) totaled approximately \$9 billion.⁵⁸ In early November 2020, the State Bank of Vietnam was reported in the press as having purchased another \$1.29 billion in foreign currencies from commercial banks.⁵⁹

C. AVAILABLE EVIDENCE INDICATES THAT THE VND HAS BEEN UNDERVALUED FOR SEVERAL YEARS, AND THE STATE BANK OF VIETNAM'S MORE RECENT FX MARKET INTERVENTIONS HAVE CONTRIBUTED TO THAT UNDERVALUATION

Available evidence indicates that Vietnam's currency has been undervalued for several years, and that Vietnam's recent, rapid, and significant FX reserves accumulation contributed to the undervaluation of the VND on a real effective exchange rate (REER) basis and bilaterally against the USD in 2019. The State Bank of Vietnam continued to take FX market interventions that put downward pressure on the value of the VND in 2020 through September.

Maeder, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, Department of Commerce, at cover letter, 1 (Aug. 24, 2020), <https://access.trade.gov/login.aspx> (hereinafter Treasury 2019 Currency Undervaluation Finding)).

⁵¹ See IMF Data.

⁵² See *id.*

⁵³ Ngoc Thuy, *Vietnam's Record High Forex Reserves Help Ensure Economic Stability: SBV Governor*, Hanoi Times (Apr. 11, 2020), <http://hanoitimes.vn/vietnam-record-high-forex-reserves-help-ensure-economic-stability-cbank-governor-311708.html>.

⁵⁴ *Treasury Report to Congress* (Dec. 2020), 49, 53.

⁵⁵ See IMF Data.

⁵⁶ *Vietnam's Forex Reserves at All-Time High of \$92bn: Government*, Tuoitre News (Sept. 8, 2020), <https://tuoitrenews.vn/news/business/20200908/vietnams-forex-reserves-at-alltime-high-of-92bn-govt/56634.html>; see also *Vietnam's Forex Reserve Sets New Record*, Nhan Dan (Sept. 10, 2020), <https://en.nhandan.org.vn/business/item/9063802-vietnam%E2%80%99s-forex-reserve-sets-new-record.html>.

⁵⁷ See IMF Data.

⁵⁸ See *Treasury Report to Congress* (Dec. 2020), 67, n.30.

⁵⁹ Minh Son, *Central Bank Buys \$1.3 Bln in Foreign Currencies*, VN Express International (Nov. 19, 2020), <https://e.vnexpress.net/news/business/economy/central-bank-buys-1-3-bln-in-foreign-currencies-4193866.html>.

Vietnam has tightly managed the VND at an undervalued level against the USD since 2016.⁶⁰ Since 2017, the IMF has consistently assessed that Vietnam’s external position is substantially stronger than warranted by fundamentals and desirable policies and that the VND has been undervalued on a real effective basis.⁶¹ In its 2017 Article IV consultation with Vietnam, the IMF determined that the VND was undervalued by 10.3 percent during 2016.⁶² In its subsequent consultation, the IMF observed that the VND was undervalued by 7.0 percent during 2017.⁶³ In its latest Article IV consultation, which covered 2018, the IMF found that the VND was undervalued by 8.4 percent.⁶⁴ As of the time of this Report, the IMF has not publicly disclosed a more recent assessment of the VND’s valuation.⁶⁵

The IMF’s assessments of currency valuation rely in part on a suite of models (or approaches) that analyze external balances and real exchange rates. Various IMF models indicate VND undervaluation or overvaluation in 2016, 2017, and 2018. For this Report, USTR has relied on the assessments of IMF staff in their Article IV consultation reports for Vietnam. For example, in the consultation covering 2017, IMF staff noted that the equilibrium real exchange rate approach pointed to a “substantial overvaluation” of 31.5 percent for that year.⁶⁶ However, IMF staff judged that “the fit is poor” and instead assessed the VND to be 7.0 percent undervalued in 2017 based on the adjusted results of the current account approach.⁶⁷ Similarly, in the most recent Article IV consultation report, IMF staff noted that the equilibrium real exchange rate approach showed a “substantial overvaluation” of 15.2 percent during 2018.⁶⁸ Again, IMF staff judged that the model’s “fit is poor,” and staff assessed the VND to be 8.4 percent undervalued in 2018 based on the results of the current account approach.⁶⁹

USTR consulted with exchange rate experts at Treasury regarding the valuation of the VND during 2019.⁷⁰ To estimate the valuation of the VND, Treasury utilized its Global Exchange Rate Assessment Framework (GERAF) model. The GERAF model “provides a

⁶⁰ *Treasury Report to Congress* (Dec. 2020), 3.

⁶¹ *Vietnam: Staff Report for the 2017 Article IV Consultation*, 6, 20, 44-45, International Monetary Fund (July 5, 2017) (hereinafter *2017 IMF Article IV Consultation Staff Report*), <https://www.imf.org/en/Publications/CR/Issues/2017/07/05/Vietnam-2017-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-45045>; *Vietnam: Staff Report for the 2018 Article IV Consultation*, 5, 20, 38-39, International Monetary Fund (July 10, 2018) (hereinafter *2018 IMF Article IV Consultation Staff Report*), <https://www.imf.org/en/Publications/CR/Issues/2018/07/10/Vietnam-2018-Article-IV-Consultation-Press-Release-and-Staff-Report-46064>; *2019 IMF Article IV Consultation Staff Report*, 7, 20, 35-36.

⁶² *2017 IMF Article IV Consultation Staff Report*, 44-45.

⁶³ *2018 IMF Article IV Consultation Staff Report*, 39.

⁶⁴ *2019 IMF Article IV Consultation Staff Report*, 36.

⁶⁵ IMF staff completed its 2020 Article IV mission to Vietnam, but the IMF staff report remains under preparation as of the time of this Report. See *IMF Staff Completes 2020 Article IV Mission to Vietnam*, International Monetary Fund (Nov. 17, 2020), <https://www.imf.org/en/News/Articles/2020/11/17/pr20342-vietnam-imf-staff-completes-2020-article-iv-mission#:~:text=Thanks%20to%20Vietnam's%20swift%20actions,the%20highest%20in%20the%20world.>

⁶⁶ *2018 IMF Article IV Consultation Staff Report*, 39.

⁶⁷ *Id.*

⁶⁸ *2019 IMF Article IV Consultation Staff Report*, 36.

⁶⁹ *Id.*

⁷⁰ See *Initiation Notice*, 85 Fed. Reg. at 63,638 (“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”).

rigorous, multilaterally consistent method for assessing external imbalances, exchange rate misalignment, and the role of policy in contributing to both.”⁷¹ In other words, Treasury’s GERAF model can identify and quantify the impact of specific government policies, including government intervention in FX markets, on a given currency’s valuation, and the collective impact of other countries’ policies on that given currency’s valuation.⁷² The GERAF model thus allows for a granular assessment of the extent to which a government’s action on the exchange rate contributed, if at all, to REER undervaluation and nominal, bilateral undervaluation against the USD.⁷³ There are many models for examining currency valuation, and each carries its own features. The GERAF model, however, was developed and applied by Treasury, and the model can quantify the impact of specific government policies on a given currency, such as Vietnam’s FX market interventions that are at issue in this investigation.

Treasury applied the GERAF model to estimate whether and to what extent the VND was undervalued during calendar year 2019, and the extent of any undervaluation that was attributable to Vietnam’s interventions in FX markets that year.⁷⁴ By way of background, “[o]fficial purchases of foreign assets, or net outflows, push down the value of a currency,” while “[o]fficial sales of foreign assets, or net inflows, push up the value of a currency.”⁷⁵ A build-up of official reserves—mainly through intervention in FX markets—can lower the value of the intervening country’s currency, thus boosting its international competitiveness and trade surpluses.⁷⁶

Treasury’s analysis concluded that the VND was undervalued during 2019, based on the gap between Vietnam’s REER and the REER that would achieve an external balance over the medium term and which reflects appropriate policies.⁷⁷ Moreover, Treasury determined that the State Bank of Vietnam’s net FX purchases, which by Treasury’s calculation totaled about \$22 billion in 2019, had the effect of undervaluing Vietnam’s REER by 4.2 percent,⁷⁸ and of undervaluing the VND on a bilateral basis against the USD by 4.7 percent that year.⁷⁹ These figures represent the amount of undervaluation of the VND (both on a real effective basis and against the USD) that is directly attributable to Vietnam’s “net purchases of foreign exchange in 2019 totaling about \$22 billion.”⁸⁰ These figures do not include the impact of any other

⁷¹ *Global Exchange Rate Assessment Framework Methodology*, 1, U.S. Department of Treasury, Office of International Affairs, Global Economics and Debt (Aug. 2020), <https://home.treasury.gov/system/files/206/Global-Exchange-Rate-Assessment-Framework-Methodology.pdf>.

⁷² Treasury 2019 Currency Undervaluation Finding at Treasury Framework for Assessing Currency Undervaluation: Summary.

⁷³ *Id.*

⁷⁴ *See id.* at Cover Letter, 1.

⁷⁵ Joseph E. Gagnon, *Combating Widespread Currency Manipulation*, 2, Policy Brief No. PB12-19, Peterson Institute for International Economics (July 2012), <https://www.piie.com/sites/default/files/publications/pb/pb12-19.pdf>.

⁷⁶ C. Fred Bergsten & Joseph E. Gagnon, *Currency Manipulation, the US Economy, and the Global Economic Order*, 1, Policy Brief No. 12-25, Peterson Institute for International Economics (Dec. 2012), <https://www.piie.com/sites/default/files/publications/pb/pb12-25.pdf>.

⁷⁷ Treasury 2019 Currency Undervaluation Finding at Cover Letter, 1.

⁷⁸ *Id.* (explaining that the uncertainty range around this assessment, based on one standard error, spans the real effective exchange rate undervaluation of 3.5 percent to 4.8 percent).

⁷⁹ *Id.* (explaining that the uncertainty range around this assessment, based on one standard error, spans from bilateral undervaluation of 4.2 percent to 5.2 percent).

⁸⁰ *Id.* at 1-2.

economic, policy, or structural factors that may have contributed to VND valuation in 2019. Moreover, these figures do not factor in the extent to which any portion of FX purchases may not be indicative of an “unreasonable” finding within the context of section 301; instead, these figures reflect the total impact of net FX purchases on the VND’s valuation in 2019.

Treasury estimates the State Bank of Vietnam’s net purchases of FX in 2020 totaled about \$9 billion over the nine months from January to September 2020. These net FX purchases continued to put downward pressure on the VND REER valuation in 2020. However, it is not possible as of the time of this Report to make rigorous, analytically grounded assessments of VND REER valuation in 2020. This is due in part to data availability constraints, as making robust estimates of REER misalignments requires complete data for all economies in the relevant sample (*i.e.*, the approximately 50 economies included in the GERAF model). More importantly, the substantial impact of COVID-19 on exchange rates, economic outcomes, trade patterns, and optimal policies for all economies globally makes assessments of equilibrium exchange rates particularly challenging at the current juncture. However, anecdotal evidence suggests that VND undervaluation may have persisted in 2020. The VND was virtually flat against the USD on a nominal basis over the first ten months of 2020. On a trade weighted basis, the VND appreciated in nominal effective and real effective terms in the first half of 2020, but has weakened in recent months, resulting in year-to-date depreciation of 1.9 percent and 2.2 percent in nominal effective and real effective terms, respectively, over the first ten months of 2020.⁸¹

Taking a longer-term perspective, after appreciating strongly from 2011-2014, Vietnam’s REER was broadly unchanged on net from early 2015 to late 2020. Vietnam’s REER was generally flat in 2015 and 2016, depreciated notably in 2017, and appreciated gradually over 2018 and 2019. In early 2020, Vietnam’s REER appreciated sharply, as the VND closely followed the USD higher amid a significant tightening of global financial conditions, but the REER retraced over the second half of 2020, leaving Vietnam’s REER as of November 2020 broadly in line with its average level over the last five years.⁸² As discussed above, both the IMF and Treasury have consistently assessed the VND to be undervalued during this period, notwithstanding some periods in which Vietnam’s REER has appreciated over the last few years. Moreover, the State Bank of Vietnam’s FX market interventions have directly contributed to VND undervaluation during 2019, as discussed above.

Certain interested persons argue in this investigation that differences in levels of inflation between Vietnam and the United States can explain the VND’s movement.⁸³ Certain other interested persons argue that it is not the VND that is undervalued but rather it is the USD that is overvalued.⁸⁴ These arguments are unavailing. The GERAF model allows Treasury to isolate

⁸¹ *Treasury Report to Congress* (Dec. 2020), 53.

⁸² *Id.* at 52-53.

⁸³ David Dapice public comments, 1 (Nov. 12, 2020) (on file at regulations.gov); *see also* Nathaniel Barker public comments (Oct. 13, 2020) (on file at regulations.gov); Nghia Le public comments, 3 (Nov. 4, 2020) (on file at regulations.gov).

⁸⁴ US Fashion Industry Association public comments, 4 (Nov. 12, 2020) (on file at regulations.gov); *see also External Sector Report: 2020*, 93, International Monetary Fund (Aug. 2020), <https://www.imf.org/en/Publications/ESR/Issues/2020/07/28/2020-external-sector-report> (explaining that the USD’s “2019 average REER to be somewhat overvalued, in the 8 to 14 percent range, with a midpoint of 11 percent”).

the effects of specific model factors and domestic macroeconomic policies, as well as the impact of foreign macroeconomic policies, on a currency's valuation. Under the GERAF model, the impact of Vietnam's interventions on the VND's valuation is independent from any potential amount of other currencies' misalignment, including any purported misalignment of the USD. The same applies to differences in inflation levels and relative productivity levels across countries.

On the other hand, the GERAF model purposefully does not include interest rate differentials. One of the key features of the GERAF model is its ability to account for a country's position in its business cycle when assessing external imbalances. The GERAF model does this by using data on output gaps. However, countries' output gaps tend to be correlated with their interest rates, especially in countries where the central bank sets interest rates in a way that seeks to minimize the output gap. For this reason, the GERAF model incorporates output gaps but does not include interest rate differentials. In its robustness checks for the GERAF model, Treasury staff included interest rate differentials in several alternative model specifications, which did not produce notably different results to the GERAF model baseline.⁸⁵

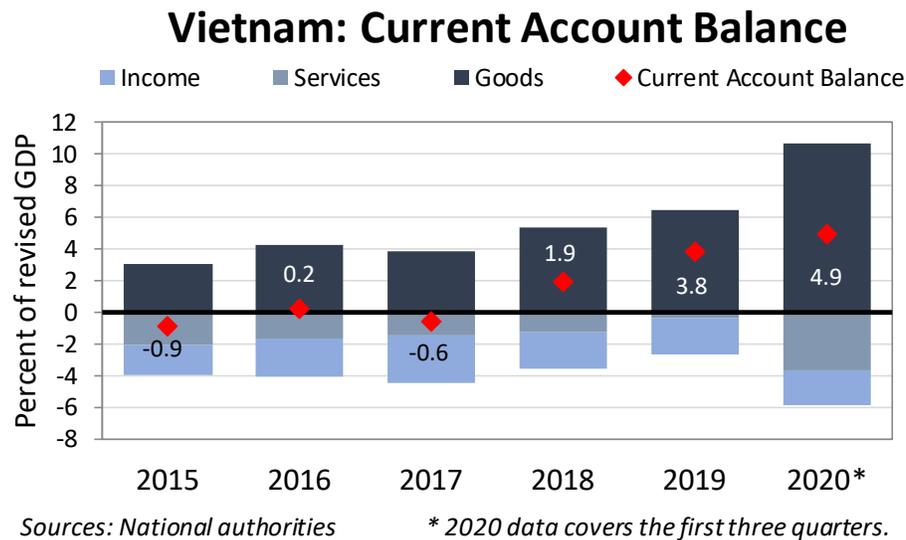
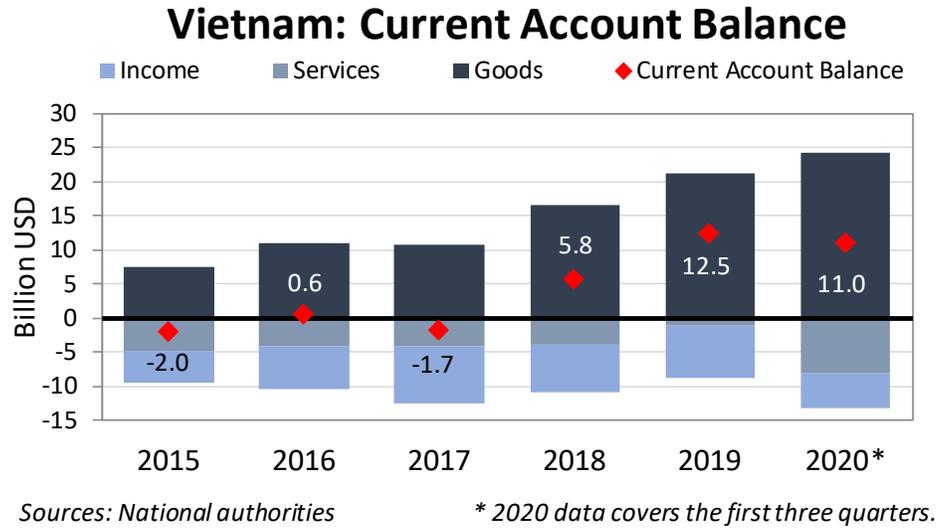
In sum, the information developed in the investigation indicates that the VND has been undervalued since 2016, and that the State Bank of Vietnam's recent, rapid, and significant reserves accumulation contributed to the undervaluation of the VND on a real effective basis and bilaterally against the USD in 2019. The State Bank of Vietnam continued to take FX market interventions that put downward pressure on the value of the currency in 2020 through September.

D. AVAILABLE EVIDENCE INDICATES THAT VIETNAM'S INTERVENTIONS IN FX MARKETS TOOK PLACE IN A CONTEXT OF CURRENT ACCOUNT AND GOODS TRADE SURPLUSES (INCLUDING WITH THE UNITED STATES)

Vietnam's recent and large-scale FX market interventions, and the VND's undervaluation, have taken place in the context of a sustained current account surplus, record goods trade surpluses (including with the United States), and rapid productivity growth in the tradable goods sector. The following two graphs portray Vietnam's current account balance in nominal U.S. dollar terms and as a percentage of gross domestic product (GDP), respectively, over the past several years as published by the State Bank of Vietnam.⁸⁶

⁸⁵ See *Global Exchange Rate Assessment Framework Methodology*, 27, U.S. Department of Treasury, Office of International Affairs, Global Economics and Debt (Aug. 2020), <https://home.treasury.gov/system/files/206/Global-Exchange-Rate-Assessment-Framework-Methodology.pdf> (columns 2-5).

⁸⁶ Vietnam is currently revising its GDP statistics and has thus far done so through 2017. The revised data published to date indicate that revised GDP is around 25 percent higher than the unrevised GDP series. The GDP series used in the current account balance chart calculates GDP for periods after 2017 by taking the unrevised data and increasing it by roughly 25 percent. Additional data about the GDP revisions are available from Vietnam's General Statistics Office at the following two links: (1) <https://www.gso.gov.vn/en/events/2019/12/general-statistics-office-to-work-with-the-international-monetary-fund-imf-on-gross-domestic-product-gdp-revision/>, and (2) <https://www.gso.gov.vn/en/events/2019/12/general-statistics-office-to-officially-announce-the-results-of-the-revision-of-gdp-size-for-the-2010-2017-period/>.



As the graph above illustrates, Vietnam’s current account was in deficit or close to balance from 2015 to 2017, but has swung firmly into surplus since 2018.⁸⁷ The surplus has continued to rise in 2019 and 2020,⁸⁸ while Vietnam was making net purchases of FX reserves that contributed to VND undervaluation.

External developments in recent years have reflected persistent features of the underlying

⁸⁷ “Balance of International Payment,” State Bank of Vietnam (hereinafter State Bank of Vietnam BOP Data), https://www.sbv.gov.vn/webcenter/portal/en/home/sbv/statistic/boip?_afLoop=9318392951698224#%40%3F_afLoop%3D9318392951698224%26centerWidth%3D80%2525%26leftWidth%3D20%2525%26rightWidth%3D0%2525%26showFooter%3Dfalse%26showHeader%3Dfalse%26_adf.ctrl-state%3Dvjtpccr6z_4 (last visited Jan. 15, 2021) (balance of payments statements are searchable by calendar year and quarter).

⁸⁸ *Id.*

components of the current account. Vietnam has consistently run goods trade surpluses, which have generally risen since 2015. Goods trade surpluses have stemmed in particular from a large and growing foreign direct investment sector of export-oriented firms. Vietnam has also run more modest services trade deficits. The income balance has also steadily remained in deficit, reflecting two structural features. First, the primary income balance has been persistently in deficit, reflecting profits in the foreign direct investment sector that are remitted to foreign owners abroad. The secondary income balance, meanwhile, has steadily been in surplus (at a lower level than the primary income deficit), as Vietnam is a significant recipient of remittances.

Balance of payments data from the State Bank of Vietnam (shown in the graph above) indicate that Vietnam's goods trade surplus widened notably in 2019, when Vietnam was making substantial FX purchases. The goods trade surplus reached its highest annual level ever in 2019 (both in nominal terms and as a share of GDP), expanding by almost 30 percent in nominal terms compared to 2018 to reach \$21.2 billion. According to the General Statistics Office of Vietnam, the 2019 surplus was driven by Vietnam's foreign direct investment sector (including crude oil), while the domestic economic sector ran a goods trade deficit.⁸⁹

While the COVID-19 pandemic caused substantial disruption to global trade, the State Bank of Vietnam's balance of payments data show that Vietnam's goods trade surplus widened in each of the first three quarters of 2020 on a year-over-year basis.⁹⁰ This brought Vietnam's goods trade surplus to \$24.2 billion over the first three quarters of 2020, higher in nominal terms than the goods trade surplus for all of 2019.

The COVID-19 pandemic appears to have substantially impacted Vietnam's services trade. From 2015-2019, the services trade deficit had generally narrowed over time, from a \$4.8 billion deficit in 2015 to a \$1.2 billion deficit in 2019. In 2020, the collapse in global tourism stemming from the pandemic hit Vietnam's services exports hard, and the services deficit widened substantially (expanding in each of the first three quarters of 2020 on a year-over-year basis). Over the first three quarters of 2020, the services deficit reached approximately \$8.2 billion, the widest deficit ever in both nominal terms and as a share of GDP.

Vietnam's income balance, meanwhile, has been relatively stable in recent years, including into 2020 despite the COVID-19 pandemic. As noted above, Vietnam has run a substantial primary income deficit "in recent years," "as the [foreign invested enterprise] sector remits profits to foreign owners abroad."⁹¹ From 2015-2019, this primary income deficit has ranged from \$12.1 billion to \$17.0 billion. Data for the first three quarters of 2020 indicates that the primary income deficit remained within this range on an annualized basis through the third quarter of 2020. Vietnam's secondary income balance, meanwhile, has been steadily in surplus in recent years amid strong remittance inflows. The secondary income surplus grew very gradually from \$7.5 billion in 2015 to \$9.2 billion in 2019. Over the first three quarters of 2020, the secondary income surplus totaled \$6.7 billion, almost exactly in line with its level over the

⁸⁹ *Statistical Yearbook of Vietnam: 2019*, 26-27, General Statistics Office of Vietnam (June 30, 2020) (hereinafter *GSO Yearbook 2019*), <https://www.gso.gov.vn/wp-content/uploads/2020/09/Nien-giam-thong-ke-day-du-2019.pdf>.

⁹⁰ As of the time of this Report, balance of payments information from the State Bank of Vietnam is available for the first three quarters of 2020. See State Bank of Vietnam BOP Data.

⁹¹ *Treasury Report to Congress* (Dec. 2020), 51.

first three quarters of 2019. Thus, available evidence suggests a relatively limited impact of the COVID-19 pandemic on the income portion of Vietnam's current account.

Taking account of these developments in each of the components of Vietnam's balance of payments, Vietnam's current account surplus widened somewhat over the first three quarters of 2020 compared to the first three quarters of 2019, as a rising goods trade surplus more than offset the expansion of the services trade deficit, while the income balance remained broadly stable. These developments are somewhat at odds with earlier IMF forecasts that the COVID-19 pandemic might induce a substantial narrowing of Vietnam's current account surplus. For example, the IMF forecasted in October 2020 that Vietnam's current account surplus would narrow to 1.2 percent of GDP in 2020.⁹² However, this forecast was made prior to the release of Vietnam's balance of payments data for the third quarter of 2020, which showed the current account surplus widening notably to approximately \$8.4 billion.⁹³ This pushed Vietnam's current account surplus over the first three quarters of 2020 to almost 5 percent of GDP on an annualized basis. Thus, earlier projections that the COVID-19 pandemic would cause Vietnam's current account surplus to narrow substantially in 2020 appear highly questionable based on the evidence available as of the time of this Report.

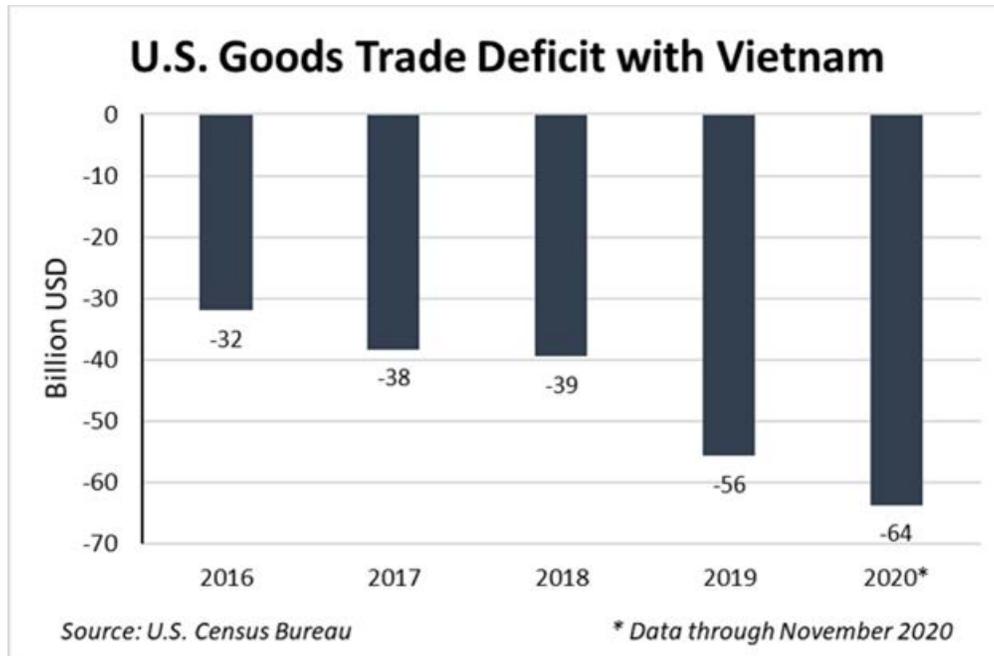
Notably, Vietnam's purchases of FX reserves in 2019 and 2020 were made in the context of these large current account and goods trade surpluses.

In relation to trade with the United States in particular, the General Statistics Office of Vietnam explained that the United States represented Vietnam's largest export market in 2019.⁹⁴ The United States' goods trade deficit with Vietnam has expanded rapidly in recent years. The graph below depicts the United States' bilateral goods trade relationship with Vietnam over the past five years.

⁹² *Current Account Balance, Percent of GDP*, International Monetary Fund, https://www.imf.org/external/datamapper/BCA_NGDPD@WEO/VNM (last visited Jan. 15, 2021).

⁹³ State Bank of Vietnam BOP Data.

⁹⁴ *GSO Yearbook 2019*, 605.



As illustrated above, the United States had a bilateral goods trade deficit with Vietnam of over \$39 billion in 2018,⁹⁵ which rose to over \$55 billion in 2019, according to the U.S. Census Bureau.⁹⁶ The United States’ trade deficit with Vietnam in the first eleven months of 2020 exceeded the deficit with Vietnam for all of 2019; it amounted to over \$63.68 billion USD.⁹⁷

According to Treasury, Vietnam’s growing goods trade surplus with the United States reflects some degree of production and supply chain shifting from China to Vietnam.⁹⁸ There is a correlation between rising imports from Vietnam to the United States and falling imports from China between 2018 and 2020.⁹⁹ Indeed, there may be a myriad of reasons to explain the growth in goods exports from Vietnam to the United States.¹⁰⁰ Nonetheless, it remains the case that

⁹⁵ *Trade in Goods with Vietnam: 2018*, United States Census Bureau, <https://www.census.gov/foreign-trade/balance/c5520.html#2018> (last visited Jan. 15, 2021).

⁹⁶ *Trade in Goods with Vietnam: 2019*, United States Census Bureau, <https://www.census.gov/foreign-trade/balance/c5520.html#2019> (last visited Jan. 15, 2021).

⁹⁷ *Trade in Goods with Vietnam: 2020*, United States Census Bureau, <https://www.census.gov/foreign-trade/balance/c5520.html#2020> (last visited Jan. 15, 2021).

⁹⁸ *Treasury Report to Congress* (Dec. 2020), 51.

⁹⁹ *Compare Trade in Goods with China*, United States Census Bureau, <https://www.census.gov/foreign-trade/balance/c5700.html>, with *Trade in Goods with Vietnam*, United States Census Bureau, <https://www.census.gov/foreign-trade/balance/c5520.html>; see also *Treasury Report to Congress* (Dec. 2020), 51; see also, e.g., Euromarket Designs public comments, 2 (Nov. 12, 2020) (on file at regulations.gov); General Electric public comments, 8-9 (Nov. 12, 2020) (on file at regulations.gov); Hanes Brands public comments, 7-9, 10 (Nov. 6, 2020) (on file at regulations.gov); National Retail Federation public comments, 2-3 (Nov. 12, 2020) (on file at regulations.gov).

¹⁰⁰ See, e.g., Nghia Le public comments, 3-5 (Nov. 4, 2020) (on file at regulations.gov) (referencing “Vietnam’s economic structural shift to manufacturing supported by strong investment from the FDI sector in the past decade; other conditions that boost Vietnam’s position in global supply chain; and the actual demand of the US” as purported reasons for Vietnam’s trade surplus); Hearing Transcript, 43 (“the expansion of the Vietnamese trade surplus with the United States is a direct result of the successful application of President Trump’s policies on China”); American Chamber of Commerce in Vietnam post-hearing comments (Jan. 7, 2021).

exports from Vietnam have been increasing during a time period in which the VND has been undervalued, including bilaterally against the USD in 2019, and during which time Vietnam was rapidly making significant purchases of FX that held down appreciation of its currency.

IV. THE INVESTIGATION SUPPORTS A FINDING THAT VIETNAM’S ACTS, POLICIES, AND PRACTICES RELATED TO CURRENCY VALUATION, INCLUDING THROUGH EXCESSIVE GOVERNMENT INTERVENTION IN FX MARKETS, TAKEN IN THEIR TOTALITY, ARE UNREASONABLE UNDER SECTION 301 OF THE TRADE ACT

Based on the information, public comments, and testimony examined in this investigation, and based on the totality of the circumstances discussed below, the investigation supports a finding that Vietnam’s acts, policies, and practices that have contributed to undervaluation of its currency, including through excessive government intervention in FX markets and other related actions, are unreasonable within the meaning of section 301 of the Trade Act. These circumstances include persistent undervaluation of the VND over a course of several years; Vietnam’s more recent, rapid, and significant purchases of FX; and the conditions surrounding Vietnam’s FX market interventions including current account and goods trade surpluses (including with the United States). Vietnam’s acts, policies, and practices raise serious concerns in light of widely accepted norms, as evidenced in international agreements¹⁰¹ and U.S. law, that exchange rate policy should not be used to gain an unfair competitive advantage in international trade, prevent exchange rates from reflecting underlying economic and financial conditions, or prevent balance of payments adjustment. Finally, such a finding is consistent with Treasury findings that during the period from July 2019 to June 2020 Vietnam engaged in currency manipulation.¹⁰²

A. FACTORS EXAMINED IN EVALUATING WHETHER VIETNAM’S CURRENCY VALUATION POLICIES ARE UNREASONABLE

1. Exchange Rate Policy Should not be Used to Gain an Unfair Competitive Advantage in Trade

Under widely accepted norms reflected in international agreements and U.S. law, exchange rate action should not be undertaken to derive an unfair advantage in international trade.

According to Article IV of the Articles of Agreement of the IMF, members shall “avoid manipulating exchange rates or the international monetary system in order to . . . gain an unfair competitive advantage over other members.”¹⁰³ Vietnam has been an IMF member since 1956.¹⁰⁴ Article IV of the Articles of Agreement of the IMF does not define “manipulating

¹⁰¹ See, e.g., *Articles of Agreement of the International Monetary Fund* art. IV, sec. 1(iii) (amended Jan. 26, 2016) (hereinafter IMF Articles of Agreement), <https://www.imf.org/external/pubs/ft/aa/pdf/aa.pdf>; *Accession of the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu*, at Annex II at art. I(2)(ii), (iii), WTO Doc. WT/L/433 (Nov. 23, 2001) (hereinafter Taiwan WTO Accession Protocol), <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/L/433.pdf&Open=True>.

¹⁰² *Treasury Report to Congress* (Dec. 2020), 3-4.

¹⁰³ IMF Articles of Agreement, art. IV, sec. 1(iii).

¹⁰⁴ See *Vietnam*, International Monetary Fund, <https://www.imf.org/en/Countries/VNM>.

exchange rates.” A July 2012 IMF Executive Board Decision on Bilateral Surveillance provides some further context:

2. A member would only be acting inconsistently with Article IV, Section 1(iii) if the Fund determined both that: (a) the member was manipulating its exchange rate or the international monetary system and (b) such manipulation was being carried out for one of the two purposes specifically identified in Article IV, Section 1(iii).

(a) “Manipulation” of the exchange rate is only carried out through policies that are targeted at—and actually affect—the level of an exchange rate. Moreover, manipulation may cause the exchange rate to move or may prevent such movement.

(b) A member that is manipulating its exchange rate would only be acting inconsistently with Article IV, Section 1(iii) if the Fund were to determine that such manipulation was being undertaken “in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage over other members.” In that regard, a member will only be considered to be manipulating exchange rates in order to gain an unfair competitive advantage over other members if the Fund determines both that: (A) the member is engaged in these policies for the purpose of securing fundamental exchange rate misalignment in the form of an undervalued exchange rate and (B) the purpose of securing such misalignment is to increase net exports.¹⁰⁵

This norm is also expressed in the laws of the United States, including section 3004 of the Omnibus Trade and Competitiveness Act of 1988, which explains that countries should not “manipulate the rate of exchange between their currency and the United States dollar for purposes of . . . gaining unfair competitive advantage in international trade.”¹⁰⁶

Section 701 of the Trade Facilitation and Trade Enforcement Act of 2015 provides three criteria that, if satisfied by a foreign country, require Treasury to engage with that country to urge implementation of appropriate policies to address the causes of its currency undervaluation and trade surpluses.¹⁰⁷ These three criteria are: (1) a significant bilateral trade surplus with the United States, (2) a material current account surplus, and (3) engagement in persistent one-sided intervention in the FX market.¹⁰⁸ Accordingly, under U.S. law, currency policies that result in unfair trade advantages are of major concern to the United States. Indeed, in enacting the Trade Facilitation and Trade Enforcement Act of 2015, Congress, particularly the Senate Finance Committee, was “concerned that foreign countries have been using policies to undervalue their currencies in order to gain unfair trade advantages over the United States or prevent effective

¹⁰⁵ International Monetary Fund, *Public Information Notice: IMF Executive Board Adopts New Decision on Bilateral and Multilateral Surveillance* (July 30, 2012), <https://www.imf.org/en/News/Articles/2015/09/28/04/53/pn1289>.

¹⁰⁶ 22 U.S.C. § 5304(b).

¹⁰⁷ 19 U.S.C. § 4421.

¹⁰⁸ 19 U.S.C. § 4421(a)(2)(A)(ii).

balance of payments adjustments.”¹⁰⁹

These principles are based on the premise that, when a government engages excessively in FX market interventions or other actions that fundamentally misalign its currency at an undervalued level, the government is acting directly to change the relative price of exports and imports. This artificially distorts market-based competition, promoting exports and suppressing imports in ways that do not reflect the true competitiveness of traded goods.¹¹⁰

2. Exchange Rate Policy Should Not Prevent Exchange Rates from Reflecting Underlying Economic and Financial Conditions or Prevent Balance of Payments Adjustment

Existing U.S. and international norms also underscore that exchange rates should reflect underlying economic and financial conditions and that they should not prevent balance of payments adjustment. Section 3004 of the Omnibus Trade and Competitiveness Act of 1988 explains that countries should not “manipulate the rate of exchange between their currency and the United States dollar for purposes of preventing effective balance of payments adjustments . . .”¹¹¹ Section 3004 also states that if Treasury:

[C]onsiders that such manipulation is occurring with respect to countries that (1) have material global current account surpluses; and (2) have significant bilateral trade surpluses with the United States, the Secretary of the Treasury shall take action to initiate negotiations with such foreign countries on an expedited basis, in the International Monetary Fund or bilaterally, for the purpose of ensuring that such countries regularly and promptly adjust the rate of exchange between their currencies and the United States dollar to permit effective balance of payments adjustments¹¹²

Because section 3004 of the Omnibus Trade and Competitiveness Act of 1988 links currency manipulation with current account and trade balances, this reflects that unfair currency practices should not be used to prevent balance of payments adjustments.

This principle is also expressed in Article IV of the IMF Articles of Agreement. According to Article IV, members shall “avoid manipulating exchange rates or the international monetary system in order to prevent effective balance of payments adjustment.”¹¹³

¹⁰⁹ See S. Rep. No. 114-45, at 10 (2015).

¹¹⁰ See Brad W. Setser and Dylan Yalbir, *Tracking Currency Manipulation*, Council on Foreign Relations (Oct. 7, 2020), <https://www.cfr.org/article/tracking-currency-manipulation> (“Currency manipulation is one way countries can shift patterns of trade in their favor. By buying foreign currency in the market, a country can artificially change the price of its imports and its exports. Countries do so to boost their own exports, especially if they otherwise have trouble generating the demand their economies need to grow”); David Beckworth and Joe Gagnon, *Currency Manipulation, Trade Imbalances and Libra*, Mercatus Center (July 15, 2019), <https://www.mercatus.org/bridge/podcasts/07152019/currency-manipulation-trade-imbalances-and-libra> (“. . . the idea is, if you’re buying a lot of foreign currency to keep your currency down, to have a large trade surplus, that’s against the rules”).

¹¹¹ 22 U.S.C. § 5304(b).

¹¹² *Id.*

¹¹³ IMF Articles of Agreement, art. IV, sec. 1(iii).

Furthermore, the principle is reflected in the WTO Agreement. Under the WTO Agreement, all WTO Members must either be members of the IMF (which, as noted above, has disciplines on exchange rate policies), or if not, enter into a “special exchange agreement” with the WTO.¹¹⁴ Taiwan is a major economy that is a Member of the WTO, but not the IMF. To accede to the WTO, Taiwan was required to enter into a special exchange arrangement. This arrangement, as is the case for other WTO accession documents, is an integral part of the WTO Agreement. Accordingly, the Taiwan exchange arrangement reflects internationally agreed norms. Taiwan’s special exchange agreement with the WTO obligates Taiwan to “[p]ermit exchange rates to reflect underlying economic and financial conditions,” and also to “[a]void manipulating exchange rates or the international monetary system in order to prevent effective balance-of-payments adjustment . . .”¹¹⁵

The underlying logic of these principles is that, when a country excessively uses FX market intervention to resist appreciation or lower the value of its currency and maintain a current account surplus, the government artificially suppresses consumption (and imports) and supports production (and exports). In such a situation, the exchange rate, and the conditions of production and consumption, do not reflect underlying economic and financial conditions in that country, such as productivity and competitiveness. This unfairly distorts market-based competition and prevents the country’s balance of payments from adjusting to reflect market realities.

B. THE INFORMATION OBTAINED IN THE INVESTIGATION SUPPORTS A FINDING THAT VIETNAM’S ACTS, POLICIES, AND PRACTICES RELATED TO CURRENCY VALUATION, TAKEN IN THEIR TOTALITY, ARE UNREASONABLE UNDER SECTION 301

For the reasons below, the information obtained in the investigation, when considered in light of the U.S. and international norms discussed in the prior section, supports a finding 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 unreasonable under section 301 of the Trade Act.¹¹⁶

The facts examined in this investigation show that Vietnam manages its exchange rate with an interest in achieving certain economic goals; that the exchange rate acts, policies, and practices it has chosen have contributed to undervaluation of the exchange rate; that Vietnam

¹¹⁴ General Agreement on Tariffs and Trade 1994, art. XV.

¹¹⁵ Taiwan WTO Accession Protocol, at Annex II at art. I(2)(ii), (iii).

¹¹⁶ It has also been argued in this investigation that Vietnam has sought to peg the VND to the value of the USD, given that international trade is often conducted in USD. It is true that the USD is “the most widely used currency for international trade.” See Anshu Siripurapu, *The Dollar: The World’s Currency*, Council on Foreign Relations (Sept. 29, 2020), <https://www.cfr.org/backgroundunder/dollar-worlds-currency#:~:text=The%20Global%20Role%20of%20the%20U.S.%20Dollar,-Share&text=In%20addition%20to%20accounting%20for,their%20currencies%20to%20the%20dollar.> The fact that, as a general matter, Vietnam’s currency closely tracks the USD is not, in and of itself, inherently unreasonable or discriminatory under section 301 of the Trade Act.

uses FX market interventions as a key tool to manage the exchange rate in a manner that has contributed to persistent undervaluation; and that this undervalued exchange rate is accompanied by substantial current account and trade imbalances (including with the United States). Each of these matters, which were addressed more fully in section III of this Report, is summarized below.

First, as discussed above in section III.A, the State Bank of Vietnam specifically announces a daily VND/USD central exchange rate¹¹⁷ on its website,¹¹⁸ sets a tight +/-3 percent band within which licensed credit institutions can trade VND and USD in Vietnam,¹¹⁹ and engages in the accumulation or decumulation of FX reserves to maintain the VND/USD exchange rate within +/-3 percent of the central exchange rate that it sets.¹²⁰ As noted above, one of the roles of the State Bank of Vietnam is to “to participate in the elaboration of national socio-economic strategies and plans.”¹²¹ Thus, the State Bank of Vietnam has the opportunity and incentive to adopt exchange rate policies that further policies of making Vietnam a major exporter of manufactured goods. Furthermore, the investigation has found no basis for concluding that the exchange rate is set solely for the purpose of ensuring the maintenance of adequate FX reserves.

Second, as the IMF and Treasury have found, and as discussed above in section III.C, the VND has been undervalued in recent years. According to Treasury, Vietnam has tightly managed the VND relative to the USD at an undervalued rate “consistently in periods of both appreciation and depreciation pressure.”¹²²

Third, Vietnam has taken concrete steps in FX markets that have contributed to the undervaluation of the VND, which in turn serves to perpetuate macroeconomic imbalances. As discussed above in section III.B, Vietnam evinced a discernable pattern of FX market intervention over 2019 and into 2020 that has predominantly taken the form of rapid and significant net FX purchases. Net purchases of FX reserves have the effect of putting downward pressure on a currency or preventing appreciation, as opposed to sales of FX reserves which have the opposite effect.¹²³ As discussed in section III.C, the State Bank of Vietnam’s net purchases of FX during 2019 contributed to the undervaluation of the VND that year. Moreover, the State Bank of Vietnam continued its trend of making significant net purchases of FX during early- to mid-2020. Thus, these facts and circumstances indicate that Vietnam has engaged in recent, rapid, and significant purchases of FX to maintain the exchange rate at a level managed by the State Bank of Vietnam and which have contributed to undervaluation of the VND.

¹¹⁷ *State Bank of Vietnam Decision No. 2730 (2015)*, arts. 1, 4(1) (Dec. 31, 2015).

¹¹⁸ *See Exchange Rate*, State Bank of Vietnam, https://www.sbv.gov.vn/TyGia/faces/ExchangeRate.jspx?_afLoop=5332232089128224&_afWindowMode=0&_afdf.ctrl-state=zdvedm9u3_4 (last visited Jan. 15, 2021).

¹¹⁹ *Treasury Report to Congress* (Dec. 2020), 52; *see also Treasury Report to Congress* (Jan. 2020), 36.

¹²⁰ *See 2019 IMF Article IV Consultation Staff Report*, 51.

¹²¹ *Law on the State Bank of Vietnam (2010)*, art. 4(2).

¹²² *Treasury Report to Congress* (Dec. 2020), 3.

¹²³ Joseph E. Gagnon, *Combating Widespread Currency Manipulation*, 2, Policy Brief No. PB12-19, Peterson Institute for International Economics (July 2012), <https://www.piie.com/sites/default/files/publications/pb/pb12-19.pdf>.

Fourth, Vietnam’s management of its exchange rate, and the resultant undervaluation of the VND, has been recently accompanied by substantial current account and trade imbalances. As discussed above in section III.D, Vietnam’s large-scale FX market interventions have taken place in the context of a sustained current account surplus, record goods trade surpluses (including with the United States), and rapid productivity growth in the tradable goods sector.

When examined in light of the norms discussed in section IV.A above, these factors support a finding that Vietnam’s acts, policies, and practices regarding the valuation of its currency, including excessive foreign exchange market interventions and other related actions, taken in their totality, are unreasonable under section 301. As explained above, such acts, policies, and practices that artificially enhance a country’s exports, and restrict its consumption and imports, unfairly distort market-based competition and are inconsistent with U.S. and international norms.

Vietnam’s exchange rate policies, in combination, appear to achieve this result. This finding is supported by the views of at least some observers of the U.S.-Vietnam economic relationship, who have stated the view that the valuation of the VND, and the mechanisms used to maintain it, have enhanced Vietnam’s trade competitiveness. In September 2020, a Council on Foreign Relations publication stated that “Vietnam has a peg—but one set at a level that keeps its currency weak and supports its exports.”¹²⁴ That same month, the Director of the Vietnam Institute for Economic and Policy Research was cited in Vietnamese media as stating that the State Bank of Vietnam’s purchase of foreign currencies during 2020 helped prevent the strengthening of the VND, which would hurt exports.¹²⁵

As also explained above, exchange rate policies that prevent exchange rates from reflecting underlying economic and financial conditions, or prevent balance of payments adjustment, are inconsistent with U.S. and international principles. Vietnam’s exchange rate policies, in combination, appear to contribute to this result. As discussed above, Vietnam’s acts, policies, and practices that contribute to the undervaluation of its currency have taken place in the context of current account and goods trade surpluses (including with the United States).

In summary, the totality of the circumstances discussed above supports a finding that Vietnam’s acts, policies, and practices that have contributed to undervaluation of its currency, including through excessive FX market interventions and other related actions, are unfair and inequitable, and, thus, unreasonable under section 301 of the Trade Act.

C. PURPORTED EXPLANATIONS FOR VIETNAM’S RECENT INTERVENTIONS IN FX MARKETS DO NOT UNDERMINE THE BASIS FOR FINDING ACTIONABILITY

A number of purported explanations have been put forward to justify Vietnam’s recent

¹²⁴ Brad W. Setser, Blog Post, *Asian Intervention in the Foreign Market is Back*. Bigly, Council on Foreign Relations (Sept. 16, 2020), <https://www.cfr.org/blog/asian-intervention-foreign-exchange-market-back-bigly>.

¹²⁵ *VN’s Forex Reserve Sets New Record*, Saigon Giai Phong Online (Sept. 9, 2020), <https://sggpnews.org.vn/business/vns-forex-reserve-sets-new-record-88370.html>; see also Brad Setser, Blog Post, *Asian Intervention in the Foreign Exchange Market is Back*. Bigly, Council on Foreign Relations (Sept. 16, 2020), <https://www.cfr.org/blog/asian-intervention-foreign-exchange-market-back-bigly>.

interventions in FX markets. These arguments do not undermine the basis for finding actionability.

First, certain commenters have argued that Vietnam’s purchases of FX are simply intended to build or maintain adequate levels of reserves.¹²⁶ The overall composition of Vietnam’s acts, policies, and practices regarding currency valuation belies this assertion. As discussed above, the State Bank of Vietnam sets the exchange rate, based on its economic policy goals. There is no evidence on the record that the central goal of the chosen exchange rate is to build or maintain FX reserves. To the contrary, the evidence indicates that the FX market interventions are meant to maintain the exchange rate at a level consistent with the reference rate and trading band set by the State Bank of Vietnam. As the IMF has written, reserves may be accumulated “for non-precautionary reasons,” “such as due to exchange rate policy, or for intergenerational savings.”¹²⁷ A build-up of official reserves through intervention in FX markets can contribute to undervaluation of the intervening country’s currency, thus boosting its international competitiveness and trade surpluses.¹²⁸

Furthermore, even if Vietnam’s FX reserves had previously been below certain reserves adequacy metrics for several years, that is no longer the case. For earlier periods, Treasury observed that, between July 2018 and June 2019, Vietnam’s FX purchases “came in a context in which reserves remained below standard adequacy metrics and there was a reasonable rationale for rebuilding reserves.”¹²⁹ In its most recent Article IV consultation report, which covered 2018, the IMF opined that “over the next several years, [Vietnam] should continue gradual reserve accumulation.”¹³⁰ As of the beginning of 2019, Vietnam’s FX reserves were below standard reserves adequacy metrics.¹³¹

Similarly, during the period of currency market stress in 2015, Vietnam’s reserves declined to \$29 billion, equivalent to roughly 60 percent of the IMF’s Assessing Reserves Adequacy metric for countries with fixed exchange rate regimes, and equivalent to 12 percent of GDP.¹³²

However, Vietnam has built reserves from 2015 forward. At the beginning of 2019, under the IMF’s Assessing Reserves Adequacy metric for countries with a fixed exchange rate regime, Vietnam’s reserves stood at 76 percent of adequate levels.¹³³ By contrast, the IMF’s Assessing Reserves Adequacy metric for floating exchange rate regimes would have assessed Vietnam’s reserves to be “fully adequate” entering 2019.¹³⁴ The range of adequacy under this

¹²⁶ See, e.g., Nghia Le public comments, 3 (Nov. 4, 2020) (on file at regulations.gov).

¹²⁷ *Assessing Reserves Adequacy*, 5, International Monetary Fund (Feb. 14, 2011) (hereinafter *Assessing Reserves Adequacy*), <https://www.imf.org/external/np/pp/eng/2011/021411b.pdf>.

¹²⁸ C. Fred Bergsten & Joseph E. Gagnon, *Currency Manipulation, the US Economy, and the Global Economic Order*, 1, Policy Brief No. 12-25, Peterson Institute for International Economics (Dec. 2012), <https://www.piie.com/sites/default/files/publications/pb/pb12-25.pdf>.

¹²⁹ *Treasury Report to Congress* (Jan. 2020), 8, 37.

¹³⁰ *2019 IMF Article IV Consultation Staff Report*, 20.

¹³¹ *Treasury Report to Congress* (Dec. 2020), 53.

¹³² *Id.*

¹³³ *2019 IMF Article IV Consultation Staff Report*, 36; *Treasury Report to Congress* (Dec. 2020), 53.

¹³⁴ *2019 IMF Article IV Consultation Staff Report*, 36; *Treasury Report to Congress* (Dec. 2020), 53.

metric is 100 to 150 percent.¹³⁵ Since the beginning of 2019, Vietnam’s FX reserves have increased rapidly, and stood at \$88.3 billion as of September 2020.¹³⁶ Although the IMF has not yet published an updated estimate as of October 2020, according to Treasury, Vietnam’s reserves likely are at least at roughly adequate levels now relative to the IMF metric for fixed exchange rate regimes, given the substantial purchases since the beginning of 2019, as determined by Treasury.¹³⁷ Again, entering into 2019, Vietnam’s FX reserves would have been assessed as adequate under this metric for floating exchange rate regimes.¹³⁸

Reserves in months of imports was one of the earliest reserve adequacy metrics and is widely cited given it is based on data that tends to be readily available on a higher frequency than other metrics. One widely used benchmark is at least three months of import coverage.¹³⁹ However, this metric becomes less applicable to countries as they increase their level of development and access to global financial markets, as well as when they become more integrated into global production and supply chains rather than importing primarily for domestic consumption. As a result, this metric is less relevant for Vietnam, which is highly integrated into global supply chains, resulting in a large amount of imported inputs intended for subsequent re-export rather than domestic use, and much of which may be financed externally.

Based on the foregoing, Vietnam’s FX reserve levels appear to be in the range of adequate levels. This situation, combined with the scale and speed of Vietnam’s FX purchases during the recent period, and that these interventions took place in the context of current account and goods trade surpluses (including with the United States), furthermore undermines the rationales proffered in this investigation to justify Vietnam’s level of FX reserves accumulation during the period examined.

V. VIETNAM’S ACTS, POLICIES, AND PRACTICES BURDEN OR RESTRICT U.S. COMMERCE

For an act, policy, or practice of a foreign country to be actionable under section 301 of the Trade Act, it must also burden or restrict U.S. commerce.¹⁴⁰ For the reasons below, the investigation supports findings that Vietnam’s acts, policies, and practices that contribute to currency undervaluation, including excessive FX market interventions and other related actions, taken in their totality, burden or restrict U.S. commerce.

First, Vietnam’s currency undervaluation effectively lowers the price of exported products from Vietnam into the United States. Currency undervaluation also suppresses the value of Vietnamese factors of production, lowering production costs. Among these is the value of labor, which reduces the purchasing power and consumption of workers. In turn, the undervaluation undermines the competitive position of firms in the United States that are

¹³⁵ *Assessing Reserves Adequacy*, 31.

¹³⁶ See IMF Data.

¹³⁷ *Treasury Report to Congress* (Dec. 2020), 53.

¹³⁸ *Id.*

¹³⁹ *Assessing Reserve Adequacy—Specific Proposals*, 16, International Monetary Fund (Apr. 2015), <https://www.imf.org/external/np/pp/eng/2014/121914.pdf>.

¹⁴⁰ 19 U.S.C. § 2411(b)(1).

competing with lower-priced Vietnamese imports.¹⁴¹

The notion that there has been an increase in imports from Vietnam despite REER appreciation¹⁴² does not undercut the conclusion that the VND has been undervalued and lowers the price of imports from Vietnam into the United States. Comparisons between the relative size of imports from Vietnam and those from other United States trading partners,¹⁴³ or differences in import prices between Vietnam and other countries to the United States,¹⁴⁴ likewise do not undercut the conclusion that Vietnam's currency has been undervalued and that Vietnam has been making FX market interventions that push down the value of the VND.

Second, Vietnam's currency undervaluation raises the price of United States exports to Vietnam. This undermines the competitive position of U.S. firms in the Vietnamese domestic market. Claims that Vietnam is accounting for an increasing share of U.S. exports since 2016, despite undervaluation of the VND, do not impact this conclusion.¹⁴⁵ Similar to imports, there may be a myriad of reasons to explain fluctuations in exports from one country to another. Again, an increase in the levels of U.S. exports to Vietnam does not mean that the VND is not undervalued or that this undervaluation has no impact on U.S. commerce.

In addition, excessive FX market intervention undertaken while a country has a significant current account surplus undermines U.S. export opportunities. For example, a current account surplus may result from net exports, suggesting that domestic production exceeds domestic consumption. Without FX market intervention, all else being equal, the value of Vietnam's currency would tend to appreciate in the context of a current account surplus, enhancing domestic consumption in a manner more favorable to U.S. exports. In this manner, Vietnam's acts, policies, and practices that contribute to the undervaluation of its currency, including excessive foreign exchange market interventions and other related actions, taken in their totality, also burden or restrict U.S. commerce.

Certain arguments have been made in this investigation regarding the pass-through rate of exchange rate fluctuations into prices.¹⁴⁶ Similar arguments have also been made that, by

¹⁴¹ See U.S. Steel post-hearing comments, 2 (Jan. 7, 2021) (on file at regulations.gov) ("this practice lowers costs for Vietnamese manufacturers during periods of both appreciation and depreciation, thereby encouraging exports of cheap and unfairly traded manufactured goods including hundreds of thousands of metric tons ('MT') of steel each year—to the United States").

¹⁴² US Fashion Industry Association public comments, 3 (Nov. 12, 2020) (on file at regulations.gov).

¹⁴³ See National Retail Federation public comments, 4 (Nov. 12, 2020) (on file at regulations.gov).

¹⁴⁴ See, e.g., Hearing Transcript, 147 ("the average price for handbags from Vietnam is more than double the price from China, and significantly higher than most other major suppliers").

¹⁴⁵ National Retail Federation public comments, 4 (Nov. 12, 2020) (on file at regulations.gov).

¹⁴⁶ *Id.* at 3 ("The impact of Vietnam's currency depreciation, if any and however caused, has not likely impacted consumer prices of goods imported from Vietnam, or goods exported to Vietnam, to the detriment of the U.S. economy for at least three reasons. First, such an impact depends to some extent on the perceived duration of the shift in exchange rates. Research has shown that as short-term fluctuations of the exchange rate occur, companies are more likely to pass through only a small percentage of the currency change into the prices of their goods in order to preserve market share . . . Second, most trade today (more than 90%) is priced in U.S. dollars. The pass-through rate of currency appreciation or depreciation to the price of a good is only about 25% for items priced in U.S. dollars. On the other hand, for items priced in foreign currency, the pass-through rate of an exchange rate change to

holding down the value of its currency, Vietnam is raising the costs of production for its own producers by making their inputs in the form of imported intermediates and capital equipment more expensive, such that any boost to exports would be “wiped out.”¹⁴⁷ Furthermore, arguments have been made that Vietnam is unlikely to benefit from an undervalued currency based on purported impacts of exchange rates on a country’s trade balance.¹⁴⁸ All of these arguments go beyond the scope of this Report. The purpose of this Report is to determine whether the investigation supports findings that Vietnam’s acts, policies, and practices that contribute to its currency undervaluation, taken in their totality, are actionable under section 301 of the Trade Act. The purpose of this Report is not to quantify the extent of the damages that stem from Vietnam’s acts, policies, and practices that contribute to currency undervaluation.

In sum, the impact of Vietnam’s unreasonable acts, policies, and practices that contribute to the undervaluation of its currency, taken in their totality, serve to reduce market opportunities for U.S. firms in both the United States and Vietnamese markets. For these reasons, the investigation supports findings that Vietnam’s unreasonable acts, policies, and practices that contribute to its currency undervaluation, including excessive FX market interventions and other related actions, taken in their totality, burden and restrict U.S. commerce.

VI. CONCLUSION

The evidence collected in this investigation indicates that:

- (1) Vietnam’s acts, policies, and practices that contribute to undervaluation of its currency, including excessive FX market interventions and other related actions, taken in their totality, are unreasonable; and
- (2) Vietnam’s acts, policies, and practices that contribute to undervaluation of its currency, including excessive FX market interventions and other related actions, taken in their totality, burden or restrict U.S. commerce.

It follows that USTR’s investigation supports a finding that Vietnam’s acts, policies, and practices are actionable under section 301 of the Trade Act.¹⁴⁹

the U.S. dollar price jumps to approximately 95%. Third, . . . competition to move sourcing from China to suppliers in Vietnam is fierce. Vietnam has limited labor and capital capacity to produce all the goods that U.S. companies want to move out of China. Therefore, Vietnamese producers have very little incentive to lower their prices to these buyers”) (citations omitted).

¹⁴⁷ Bryan Riley public comments, 2 (Nov. 11, 2020) (on file at regulations.gov); *see also* US Fashion Industry Association public comments, 3 (Nov. 12, 2020) (on file at regulations.gov).

¹⁴⁸ Nghia Le public comments, 5 (Nov. 4, 2020) (on file at regulations.gov) (“Moreover, Vietnam trade is unlikely to benefit from an undervalued currency. According to an IMF research in the external sector report in 2019, the impact of exchange rates on the trade balance is generally weak. Specifically, a 10% depreciation of the local currency (for all currencies), on average, improves the trade balance by only 0.3% of GDP in *the short term* (and the effect is mainly *through a reduction in import demand of the economy*)”) (emphasis in original).

¹⁴⁹ 19 U.S.C. § 2411(b)(1).

**ANNEX: LETTER FROM AMBASSADOR ROBERT E. LIGHTHIZER TO THE
GOVERNMENT OF VIETNAM**



THE UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON

October 2, 2020

H.E. Tran Tuan Anh
Minister of Industry and Trade
Ministry of Industry and Trade
Hanoi, Viet Nam

Dear Minister Anh:

I am writing to inform you that, in accordance with Chapter 1 of Title III of the Trade Act of 1974 (known as Section 301), I have determined to initiate a Section 301 investigation regarding acts, policies, and practices of the Government of Vietnam with respect to currency valuation.

Available evidence indicates that Vietnam's currency has been significantly undervalued over the past three years, and that the Government of Vietnam, through the State Bank of Vietnam, has contributed to the undervaluation by actively intervening in the exchange market. The investigation will focus on whether Vietnam's currency interventions and other related actions are unreasonable or discriminatory and burden or restrict U.S. commerce.

The United States has drawn no conclusions on these matters, and we hope to gain further information in discussions with your Government. Accordingly, and as provided under Section 303 of the Trade Act of 1974, I hereby request consultations with the Government of Vietnam. These issues are of great concern to the Government of the United States. I look forward to working with you or another appropriate official in a cooperative manner to resolve this matter.

Sincerely yours,

Robert E. Lighthizer

CC:
H.E. Le Minh Hung
Governor, State Bank of Vietnam
Hanoi, Viet Nam