



RETAIL INDUSTRY LEADERS ASSOCIATION

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The Honorable Robert Lighthizer
United States Trade Representative
Office of the United States Trade Representative
600 17th Street Northwest
Washington, DC 20508

**Re: Initiation of Section 301 Investigation: Vietnam's Acts, Policies, and Practices
Related to the Import and Use of Illegal Timber (Docket No. USTR-2020-0036)**

Dear Ambassador Lighthizer,

The Retail Industry Leaders Association (RILA) appreciates the opportunity to comment on the Initiation of Section 301 Investigation: Vietnam's Acts, Policies, and Practices Related to the Import and Use of Illegal Timber (Docket No. USTR-2020-0036) issued by the U.S. Trade Representative (USTR) on October 8, 2020 [hereinafter referred to as the "Investigation"].

RILA is the trade association of the world's largest, most innovative, and recognizable retail companies and brands. We convene decision-makers, advocate for the industry, and promote operational excellence and innovation. Our aim is to elevate a dynamic industry by transforming the environment in which retailers operate. RILA members include more than 200 retailers, product manufacturers, and service suppliers, which together account for more than \$1.5 trillion in annual sales, millions of American jobs, and more than 100,000 stores, manufacturing facilities, and distribution centers domestically and abroad. RILA's membership includes some of the largest importers in the United States.

RILA, and our members, appreciate the USTR's goal of ensuring our trading partners abide by global trade rules. RILA advocates strongly for a rules-based globalized economy where markets are open, trade rules and obligations are met, and governance is fair and transparent. This includes ensuring U.S. trading partners uphold their commitments under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and enforce their own laws concerning the import and processing of timber. However, if this Investigation is pursued and USTR finds Vietnam's acts, policies, or practices with respect to timber are actionable under the statute, we strongly urge USTR

to seek recourse through bilateral negotiations rather than apply tariffs – the imposition of which will harm American businesses and consumers.

USTR should seek recourse for any actionable conduct through bilateral negotiations – not tariffs. Section 301 provides USTR with several options to remedy a foreign trade practice: (1) withdraw or suspend trade agreement concessions; (2) impose duties or other import restrictions; or (3) enter into a binding agreement with the foreign government to either eliminate the practice in question (or the burden to U.S. commerce) or compensate the United States with satisfactory trade benefits. In determining how best to remedy any potential unfair trading practice by Vietnam with respect to timber, we urge USTR to avoid imposing tariffs which places additional economic burdens on American businesses.

Instead, we urge USTR to seek recourse for any actionable conduct through bilateral negotiations with Vietnam. Such negotiations could lead to the establishment of a protocol to update the 2007 Trade and Investment Framework Agreement (TIFA) between the United States and Vietnam. The protocol could establish a basis for regular ongoing dialogue with Vietnam to promote sustainable forestry and legal timber trade, combat illegal logging, and provide for enhanced customs enforcement cooperation. The U.S. has pursued similar models with other trading partners, such as through the Memorandum of Understanding on Combatting Illegal Logging and Associated Trade with China, and more recently the Protocol to update the 2011 Agreement on Trade and Economic Cooperation (ATEC) with Brazil – which includes notable commitments to cooperate electronic phytosanitary certificate and e-CITES processes and certificate exchanges.

We believe this approach could create meaningful results. Vietnam has already demonstrated a willingness to tackle unfair timber practices as a means to enhance its bilateral trading relationships. For example, Vietnam recently issued a Decree implementing its Vietnam Timber Legality Assurance System regulations for importing and exporting timber following a risk-based approach. The Decree implements Vietnam's commitments under its Voluntary Partnership Agreement on Forest law enforcement, Governance and Trade (VPA-FLEGT) with the EU. The Administration should work closely with Vietnam to ensure the Decree and VNTLAS system are implemented quickly and effectively. In addition, the Administration should establish a protocol to the 2007 TIFA that strengthens Vietnam's forestry governance, rather than resort to tariffs. Such an agreement could serve as a U.S. counterpart to the VPA as well as a foundation for broader bilateral commitments between the U.S. and Vietnam over time.

Tariffs Harm American Workers, Businesses and Consumers. The retail industry has been battered by the pandemic and ensuing recession. Yet, our members are working tirelessly to ensure they are keeping employees on the payroll, pivoting business



operations to meet rapidly changing consumer needs, and providing a safe environment for their associates and consumers. But the unprecedented loss of revenue tied to government-mandated closures and decreased consumer spending has created a difficult economic environment for many American businesses.

The pandemic coupled with the financial burden of another trade war with an important U.S. trading partner could be the death knell for many American businesses and jobs. Over the past two years, tariffs imposed under section 301 actions have been costly for American businesses. In fact, American businesses have paid over \$68 billion¹ in additional tariffs thus far -- negatively impacting their ability to grow and invest here in the U.S., create more American jobs, and provide affordable goods to American customers. In fact, a study by the Federal Reserve Board found that manufacturing employment in the United States was reduced by 1.4 percent as a result of the trade war.² Additional tariffs would only do further harm to an already fragile economy.

Further, as the current pandemic has illustrated, American lives depend on the U.S. securing reliable supply chains for critical goods. Staples in the daily lives of Americans such as kitchenware, furniture, apparel, and office supplies are all imported from Vietnam. An increase in the costs of these and other goods will cause supply chain uncertainty as retailers are forced to either bear the increased costs or seek new trading partners to avoid the high tariffs. Supply chain uncertainty prevents retailers from being able to plan for the future, create jobs, and provide their customers with the widest possible selection of affordable and quality products.

Trustworthy suppliers are critical to maintaining a dependable supply chain that not only meets our members' business needs, but also their high standards for safe and sustainable products. Our members have long-lasting and successful relationships with Vietnamese manufacturers that would be undermined if tariffs are implemented at the conclusion of the Investigation.

Vietnam is a Critical U.S. Ally and Trading Partner. In addition to being a reliable trading partner for American goods and services, Vietnam is an indispensable American ally and strategic partner in Southeast Asia. The U.S. and Vietnam have shared interests and goals, especially with regards to maritime threats in the South China Sea. Deepening the bilateral relationship is a critical component of the Administration's Indo-Pacific Strategy. We were encouraged by the strides made in the U.S.-Vietnamese relationship during President Trump's first term when he made two official visits to the nation in 2017 and 2019. And just last month, the Administration, in partnership with the Government of

¹ CBP Trade Statistics, available at <https://www.cbp.gov/newsroom/stats/trade>.

² Aaron Flaaen and Justin Pierce, *Federal Reserve Board: Disentangling the Effects of the 2018-2019 on a Globally Connected U.S. Manufacturing Sector* (December 2019).

Vietnam and the private sector, sponsored the third annual Indo-Pacific Business Forum in Hanoi, Vietnam. As announced by the State Department, "[t]he Forum advances a vision for the Indo-Pacific as a free and open region composed of nations that are independent, strong, and prosperous. . . The Forum will showcase high-impact private sector investment and government efforts to support market competition, job growth, and high-standard development for greater prosperity in the Indo-Pacific." The Forum is part of the Administration's broader Indo-Pacific strategy to help secure the national and economic security of the United States. It is in the spirit of that strategy that USTR should seek a negotiated outcome to any illegal or unfair timber practices identified through this Investigation.

Further, the recent report by the Congressional U.S.-China Working Group recommends negotiating trade agreements to "counter China's influence by strengthening economic and geostrategic ties, establishing ambitious rules and standards based on U.S. law, and creating export opportunities for U.S. producers." The report also recommends that the U.S. continues "using statutory trade tools to strengthen economic and geostrategic ties with developing countries in Africa, Asia, and Latin America."

We share the Administration and Congress' goals to strengthen ties with Vietnam and set ambitious trade rules that benefit both our countries. Given the Administration's impressive diplomatic gains made with Vietnam, we urge USTR to engage in an open dialogue with Vietnam to develop and promote mutually agreeable solutions that will benefit, not harm, American businesses, and consumers.

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In conclusion, if USTR concludes through the course of this Investigation that Vietnam engaged in unfair trading practices concerning the import or processing of timber, we strongly urge it to carefully consider the negative impact of imposing tariffs against an important American trading partner and ally in a crucial region for U.S. supply chains and national security interests. Additionally, given the ongoing pandemic and ailing economy, we ask USTR to weigh the potential loss of American jobs and decreased affordability of everyday products that would result if tariffs are implemented on imports from Vietnam.

Thank you for the opportunity to provide insight on behalf of our membership.

Sincerely,



Blake Harden
Vice President, International Trade
Retail Industry Leaders Association

