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 Currency Valuation (Docket No. USTR-2020-0037)

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 Currency Valuation (Docket No. USTR-2020-0037) 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 do not engage in macroeconomic policies that burden or harm U.S. commerce. However, we do not believe section 301 of the Trade Act of 1974 is the most appropriate tool for determining whether Vietnam has undervalued its currency to the detriment of U.S. commerce and if so, identifying the appropriate remedy. Instead, the Administration should utilize authorities provided to the Department of Treasury to analyze and address currency manipulation. However, if this

Investigation is pursued and a determination is made that Vietnam engaged in currency manipulation that harmed American businesses, we strongly urge USTR to seek recourse through bilateral negotiations rather than deploy tariffs – the imposition of which will harm American businesses and consumers.

I. The Department of Treasury has more specific authority to analyze and address currency undervaluation.

Through the *Omnibus Trade and Competitiveness Act of 1988* ("the Act") (Pub. L. 100-418), Congress specifically tasked the Secretary of the Treasury with investigating and making determinations with respect to currency undervaluation. Section 3004 of the Act states that the Treasury Secretary, in conducting its analysis, shall "consider whether countries manipulate the rate of exchange between their currency and the United States dollar for purposes of preventing effective balance of payments adjustments or gaining unfair competitive advantage in international trade." Further, Congress contemplated the remedy where the Treasury Secretary finds that currency 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." In such instances, Congress directed the Treasury Secretary "to initiate negotiations with such foreign countries on an expedited basis . . . 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 adjustments and to eliminate the unfair advantage." Congress even provided a recourse where "negotiations would have a serious detrimental impact on vital national economic and security interests" – to notify the appropriate congressional committees.

Through the *Trade Facilitation and Trade Enforcement Act of 2015* (Pub. L. 114-125) ("TFTEA"), Congress again codified its expectation that the Treasury Department lead any Executive Branch investigation into currency undervaluation by U.S. trading partners. Specifically, section 701 of TFTEA requires the Treasury Secretary to submit a biannual report to Congress "on the macroeconomic and currency exchange rate policies of each country that is a major trading partner of the United States." It further directs the Treasury Secretary to "commence enhanced bilateral engagement with each country for which an enhanced analysis of macroeconomic and currency exchange rate policies is included in the report" to urge implementation of policies that address the currency undervaluation. If those negotiations are not successful, Congress outlined several remedial actions that the Treasury must take to address the issue. This includes instructing USTR "to take into account, in consultation with the Secretary, in assessing whether to enter into a bilateral or regional trade agreement with that country or to initiate or participate in negotiations with respect to a bilateral or regional trade agreement with that country, the extent to which that country has failed to adopt appropriate policies to correct the undervaluation and surpluses described in subsection (b)(1)(A)."

Congress has indicated clear intent that the United States address currency undervaluation practices by U.S. trading partners, particularly where they are harmful to the U.S. economy or create an unlevel playing field for American businesses. In doing so, Congress gave explicit authority to the Treasury Secretary to address these issues and identified bilateral negotiations as the appropriate recourse in such instances. Accordingly, we urge the Administration to use these more specific tools to investigate Vietnam's currency practices. If USTR does continue this Investigation, however, we urge it to coordinate closely with the Treasury Department throughout the Investigation – including deferring to the Treasury Department on the methodology to ensure consistency within the Administration.

II. If this Investigation is pursued, we urge USTR to seek recourse for any currency undervaluation found through bilateral negotiations – not tariffs.

If USTR pursues this Investigation into Vietnam's currency practices and determines that Vietnam has engaged in currency undervaluation, we urge USTR to seek recourse through bilateral negotiations with Vietnam. 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 currency undervaluation by Vietnam, we urge USTR to avoid placing additional economic burdens on American businesses.

a. 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 billion[1] in

[1] CBP Trade Statistics, *available at* https://www.cbp.gov/newsroom/stats/trade.

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. 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. Staples in the daily lives of Americans such as kitchenware, furniture, apparel, and office supplies are all imported from Vietnam.

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. Predictable and cost-efficient supply chains are vital to the overall growth of the U.S. economy and allow our members to ensure that Americans have access to the goods and services they rely on at the best possible price. An increase in the costs of 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.

In addition, the Administration has consistently encouraged American companies to diversify supply chains away from China. Many have done so, deepening their relationships with other reliable trading partners such as Vietnam. Imposing tariffs on Vietnamese products risks frustrating the Administration's overall objectives to shift sourcing and production away from China.

b. 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 Vietnam and the private sector, sponsored the third

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[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).

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 currency manipulation 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.

III. Conclusion

In conclusion, we urge the Administration to use more specific authority provided to the Treasury Department to analyze and remedy any currency manipulation by Vietnam. However, if this Investigation is pursued and USTR concludes that Vietnam manipulated its currency to the detriment of U.S. commerce, we strongly urge it to carefully consider the negative impact of implementing enforcement actions 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

Blake Harden
Vice President, International Trade
Retail Industry Leaders Association