



## WRITTEN SUBMISSION OF THE NATIONAL FOREIGN TRADE COUNCIL

### **Request for Comments on the 301 Investigation of Vietnam's Acts, Policies, and Practices Related to Intellectual Property Protection and Enforcement July 2 | Docket ID: [USTR-2026-0364](#)**

The National Foreign Trade Council (NFTC) appreciates the opportunity to provide input for the Office of the U.S. Trade Representative's (USTR) Federal Register notice on the *Initiation of Section 301 Investigation and Request for Public Comments: Vietnam's Acts, Policies, and Practices Related to Intellectual Property Protection and Enforcement* ("the FR notice") (Vol. 91 No. 106 FR 33285, June 3, 2026).

#### **About NFTC**

The NFTC, organized in 1914, is an association of U.S. business enterprises engaged in all aspects of international trade and investment. Our membership covers the full spectrum of industrial, commercial, financial, and service activities, accounting for over \$6 trillion in revenue and employing nearly six million people in the United States.

#### **I. Introduction**

Safeguarding American innovation is foundational to the nation's economic competitiveness, and the NFTC strongly supports robust international intellectual property (IP) protections.

NFTC fully endorses USTR's commitment to addressing global intellectual property shortfalls, including online piracy, unlicensed software use, and the manufacture and trade in counterfeit goods. However, NFTC was surprised by USTR's decision to elevate Vietnam to "Priority Foreign Country" (PFC) status. No country has been designated a PFC for the last 13 years. Moreover, USTR took the unusual step of elevating Vietnam **two** levels, from the Watch List in 2025 directly to PFC country status, bypassing the Priority Watch List classification entirely.

This major step is particularly unexpected given the meaningful legislative reforms and diplomatic engagement Vietnam has recently taken to modernize its IP framework and the progress announced in the October 2025 *Joint Statement on a United States-Vietnam Framework for an Agreement on Reciprocal, Fair, and Balanced Trade* (U.S.-Vietnam Joint Framework). Vietnam's legislative reforms to its IP framework were

passed in December 2025. Changes that have only been legally binding and in effect since April 1, 2026, immediately preceding the investigation's release.<sup>1</sup>

NFTC believes that it is premature to take action against Vietnam under Section 301 at this time. Vietnam should be given time to fully enact its measures, and recognition of this positive step is warranted.

Notwithstanding past intransigence, strengthening Vietnam's IP protection regime will be best accomplished through bilateral engagement and institutional collaboration with Vietnam and its agreement to meet specific benchmarks.

## II. Recommendations

As a result, **NFTC does not recommend any tariff actions under this investigation.** Section 301 explicitly authorizes USTR to negotiate binding agreements with foreign governments to eliminate their offending practices. We therefore encourage ongoing engagement that prioritizes:

1. Significant USTR and diplomatic engagement to ensure U.S. expectations for resolving Vietnam's IP inadequacies are understood, combined with knowledge exchanges and capacity building to help Vietnam root out counterfeit products and IP theft. This could be facilitated under existing consultative mechanisms, such as the U.S.-Vietnam Trade and Investment Framework Agreement;
2. Continued negotiations to finalize the IP and trade commitments Vietnam has agreed to in the Joint U.S.-Vietnam Framework, in order to secure an agreement that commits Vietnam to fully implementing its law and addressing U.S. and rightsholders' concerns regarding online piracy, unlicensed software use, the manufacture and trade in counterfeit goods, and other IP issues.

Ultimately, any remedy should lead to improving Vietnam's IP regime and enforcement. USTR should make its objectives and the steps it requires Vietnam to take to address its IP issues clear, including with respect to online piracy, unlicensed software use, and the manufacture and trade in counterfeit goods. If the administration proceeds with tariffs under this investigation, there must be proactive engagement to support Vietnam in addressing the concerns and a pathway for the tariffs to be removed.

## III. Risks for U.S. Interests

1. **If a designation of this severity results in tariffs, it risks overshadowing the constructive progress already underway.** This may complicate, rather than facilitate, the collaborative technical assistance needed to resolve these complex enforcement issues. It also undermines the fact that Vietnam's proactive engagement with U.S. stakeholders contrasts with the behavior of other jurisdictions facing more deeply entrenched, systemic IP challenges.
2. **This investigation is not happening in isolation.** Vietnam's exports are already subject to Section 122 and 232 tariffs, and the administration has

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<sup>1</sup>Vietnam's revised its IP statute through IP law - Law No. 131/2025/ofQH15, titled "Law Amending and Supplementing a Number of Articles of the Law on Intellectual Property", which passed Vietnam's National Assembly on December, 10, 2025, and took effect April 1, 2026

proposed a 12.5 percent tariff rate in the forced labor Section 301 investigation. This risks being further complicated should any future action be taken under the 301 overcapacity or outstanding 232 investigations. If IP-related tariffs on Vietnam were to be stacked alongside other proposed actions, the cumulative cost burden for American businesses, workers, and consumers would be significant.

- 3. The imposition of additional tariffs risks profound harm to American global competitiveness.** U.S. firms have worked tirelessly to diversify trade in the region, turning Vietnam into a critical supply partner for American industry. Vietnam is no longer an alternative sourcing destination; it is an indispensable pillar of the strategic effort to de-risk U.S. supply chains from overreliance on a single market. Disrupting this vital link directly undermines the costly, multi-year investments U.S. companies have been encouraged to make to build more secure and resilient manufacturing networks. Furthermore, the majority of Vietnam's exports to the United States are unlikely to ever be manufactured in America. Therefore, the merits of imposing this burden, if the effect is to further diversify trade to another jurisdiction, will impose significant costs without a clear benefit for America or Americans.

#### **IV. Section 301 Tariff Implementation Considerations**

If USTR nevertheless determines that tariffs are an appropriate response to remedy Vietnam's IP practices, NFTC urges that they be implemented in a manner that minimizes economic disruption for consumers and administrative complexity for U.S. importers. Over the last year, the Administration made several decisions regarding the design and implementation of tariffs to address administrability concerns and unintended consequences for U.S. consumers and manufacturers. We urge USTR to incorporate those elements into the structure of any tariffs imposed in this or other investigations under Section 301.

In particular, NFTC urges USTR to ensure any Section 301 tariffs imposed as a result of this investigation reflect the following to provide continuity between previous tariff regimes and any new Section 301 tariffs:

- Continue to uphold any U.S. commitments made as part of bilateral agreements, including Agreements on Reciprocal Trade;
- Ensure the stacking of Section 301 tariffs is consistent with past practice for tariffs imposed under IEEPA and Section 122 (e.g., excluding products that are covered by a Section 232 investigation); Maintain the exclusions provided in Annexes II and III of the July 31 Executive Order [\*Further Modifying Reciprocal Tariff Rates\*](#) under IEEPA and Annexes I and II of the February 20 Section 122 Proclamation [\*Imposing a Temporary Import Surcharge to Address Fundamental International Payments Problems\*](#) (e.g., for products that are otherwise not available in the United States, including critical inputs and natural resources) and consider whether the scope of excluded strategic and unavailable products needs to be expanded in the specific context of duties on goods from Vietnam;
- Avoid creating an overly complex and costly compliance burden that would result from stacking multiple Section 301 tariffs onto Vietnam's exports; and

- Provide access to duty drawback and adequate transition periods, including exclusions for goods that are on the water in transit to the United States by a certain deadline.

### **Exclusion of Used Goods**

In addition to reflecting past treatment of IEEPA and Section 122 tariffs, the NFTC recommends that USTR exclude the resale of used goods from any Section 301 tariff remedy in this investigation. Unlike newly manufactured products, used (or second-hand) goods are not the primary driver of the trade practices or supply chain concerns that are the subject of these investigations. Used goods do not present the same risk profile as newly produced merchandise and are not materially connected to the acts, policies, and practices under review. Imposing additional duties on these products would have little effect on the conduct that is the focus of the investigation. In most cases, these items were manufactured years earlier and are being resold through secondary markets by individuals and small businesses. As a result, tariffs on used goods would create disproportionate costs for consumers and small businesses while generating little leverage against the foreign trade practices under investigation.

As a practical implementation mechanism, USTR could establish a dedicated Chapter 99 HTS provision to exclude used goods. This approach would create a clear distinction between low-risk products and the higher-risk import flows that the investigations are intended to address. Such a framework could include a tailored definition of used goods and continued CBP enforcement authority to address fraud, evasion, or misclassification.

### **V. Conclusion**

It will take time for Vietnam's legal reforms to be fully implemented and for a demonstrable impact in addressing U.S. IP concerns. In light of Vietnam's recent actions, we encourage the administration to afford Vietnam this time. Concurrently, we recommend sustained pressure in order to ensure Vietnam follows through, including by building upon the commitments in the U.S.-Vietnam Joint Framework in any final agreement with the United States.

We appreciate the opportunity to provide these comments and look forward to continued engagement with USTR during the investigation phase and as you consider potential remedies. If you have questions regarding any of the issues raised in this submission, please contact Tiffany Smith, Vice President of Global Trade Policy, at [tsmith@nftc.org](mailto:tsmith@nftc.org).