VIETNAM

TRADE SUMMARY

The U.S. goods trade deficit with Vietnam was $38.3 billion in 2017, a 19.8 percent increase ($6.3 billion) over 2016. U.S. goods exports to Vietnam were $8.2 billion, down 19.2 percent ($1.9 billion) from the previous year. Corresponding U.S. imports from Vietnam were $46.5 billion, up 10.4 percent. Vietnam was the United States' 32nd largest goods export market in 2017.

U.S. exports of services to Vietnam were an estimated $2.2 billion in 2016 (latest data available) and U.S. imports were $1.2 billion. Sales of services in Vietnam by majority U.S.-owned affiliates were $624 million in 2015 (latest data available), while sales of services in the United States by majority Vietnam-owned firms were $1 million.

U.S. foreign direct investment (FDI) in Vietnam (stock) was $1.5 billion in 2016 (latest data available), a 17.7 percent increase from 2015.

Trade Agreements

Vietnam currently is party to five free trade agreements (FTAs) with ASEAN (Association of Southeast Asian Nations), Chile, the Eurasian Customs Union, Japan, , and Korea . As a member of ASEAN, Vietnam also is party to ASEAN FTAs with Australia and New Zealand, China, India, Japan, and Korea, , and. Vietnam has finalized an FTA with the European Union, but the agreement has not yet been signed. In addition, Vietnam is a participant in the Regional Comprehensive Economic Partnership negotiations, which include the ten ASEAN countries, Australia, China, India, Japan, Korea, and New Zealand. Vietnam remains a member of TPP, now known as the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), and is negotiating FTAs with other countries, including Israel.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Cars and Vehicles

In October 2017, Vietnam released Decree 116/2017/ND-CP, which further tightens conditions for automotive manufacture, assembly, importation, and service, and for automobile warranties. The decree took effect on January 1, 2018. Under the decree, importers must have a Vehicle Type Approval (VTA) certificate issued by national authorities for each imported vehicle. Importers also must submit lot-by-lot emission and safety certificates issued by the Vietnam Registrar (VR). Vietnam provided only ten weeks of lead-time between the announcement of the decree and its entry into force, providing little time for importers and manufacturers to adapt to and comply with the new requirements. Because the United States uses self-certification instead of vehicle type approvals, U.S.-based manufacturers may no longer be able to export automobiles to Vietnam. In addition, industry stakeholders indicate that lot-by-lot emission and safety tests will be extremely costly and may not be feasible to implement. The United States is concerned by the trade disruptions caused by the Decree and continues to work with Vietnam to find solutions for U.S. exporters.

Beginning in 2018, under Decision 04/2017/QD-TTg, Vietnam will require all vehicles with fewer than seven seats or more than nine seats to have energy labels and to conform to minimum energy efficiency standards.

Pharmaceuticals

Vietnam's new Pharmaceutical Law came into effect in January 2017. The law updated certain aspects of Vietnam's legal framework so it is closer to international practices. Under the older 2005 Law on Pharmacy, a new drug had to undergo clinical trials in Vietnam before being marketed in Vietnam. Under the 2005 law, a drug could be exempt from this requirement only if it had been legally on the market in its country of origin for at least five years. The 2017 law lifts the requirement for trials in Vietnam (except with respect to vaccines) provided that there is sufficient clinical data on the safety and efficiency of the drug, and that the drug is in circulation in at least one other country.

Sanitary and Phytosanitary Barriers

Food Safety: Decree 15

On February 2, 2018, Vietnam adopted Decree 15 on the enforcement of the Food Safety Law (replacing the original Law known as "Decree 38" which was issued in 2012). Decree 15 provides new guidance on registrations, announcements, certificates, labels, advertisements, working conditions, origins of food and food additives, and jurisdiction for food safety issues. Although the Decree simplifies many of the import procedures for food and agricultural products, one area of concern is transfer of authority to propose maximum residue limits (MRLs) for food safety from Vietnam's Ministry of Health (MOH) to the Ministry of Agriculture and Rural Development (MARD), although MOH will continue to officially authorize MRLs. In the past, MARD has taken a more restrictive view concerning MRLs and could apply such an approach under the new jurisdiction. Additionally, the United States does not yet know if the new Decree will resolve outstanding U.S. concerns on the original Food Safety Law (uneven enforcement and lack of transparency). The United States will continue to monitor development of these new regulations.

Offal Products

In September 2013, the MARD announced the lifting of Vietnam's ban on the importation of so-called "white offal," such as stomach and intestines. In February 2014, Vietnam reached an agreement with the United States on the terms and conditions necessary to resume trade in white offal products, pending the registration of individual U.S. beef, pork, and poultry facilities used to produce white offal products for sale in Vietnam. Following a November 2014 audit that MARD conducted of the U.S. food safety inspection system for meat and poultry, MARD continued to assert that white offal was high risk. In December 2014, MARD informed the United States that it would stop approving new U.S. facilities to export certain types of white offal to Vietnam until it received a U.S. report on corrective measures based on Vietnam's recommendations from the audit. Since that time, the United States has provided extensive information to Vietnam demonstrating the safety of U.S. white offal. The United States also has raised white offal with Vietnam at the technical and political levels on several occasions, including during Trade and Investment Framework Agreement (TIFA) meetings in 2017. During Prime Minister Phuc's visit to Washington in May 2017, Vietnam orally agreed to receive applications from more U.S. establishments seeking approval to sell white offal in Vietnam. Vietnam also agreed to work closely with U.S. establishments to resolve any questions on pending white offal applications.

However, Vietnam has yet to act on pending or new white offal applications from U.S. establishments according to the May 2017 understanding, or to rescind officially Vietnam's ban on imports of white offal from anywhere in the United States. Meanwhile, MARD has proposed a follow-up site visit to the United States to review establishments that have registered to sell white offal in Vietnam. USTR and USDA are working with industry to respond to Vietnam and find a way to resolve this issue.

Animal Health: Proposed Livestock Development Law

At the end of 2017, MARD began drafting a Livestock Development Law. The proposed law would regulate livestock breeding and production. The current draft would impose a ban on the import of all offal products, further complicating resolution of the white offal issue. The draft also would reintroduce a previously rescinded ban on U.S. red offal. MARD has informed the United States that it will notify the WTO Committee on Sanitary and Phytosanitary Measures (SPS) when a draft is finalized. The United States continues to monitor the situation closely and to urge Vietnam to refrain from trade-restrictive actions.

MOH Circular 24/Veterinary Drugs

In September 2016, Vietnam notified to the WTO the Ministry of Health's draft amendment to Circular 24 on MRLs for Veterinary Drugs in Foods. The measure would ban certain drugs that previously were permitted in accordance with Codex MRLs. The United States submitted comments to the WTO SPS Committee in October 2016. Following bilateral discussions, Vietnam initially agreed to modify the draft amendment to harmonize with Codex MRLs. However, Vietnam changed course in March 2017 when it introduced a measure that would have banned many of the same veterinary drugs as would have been banned in the September 2016 draft amendment to Circular 24.

In a May 2017 Joint Statement between Vietnam's Prime Minister and President Trump, the two countries announced an understanding on the issue. In discussions, Vietnam agreed that it would not adopt any changes to the existing Codex-consistent MRLs that could adversely affect imports of U.S. animal products. The United States is waiting for confirmation that Vietnam has taken steps to implement the understanding, and, along with other affected trading partners, continues to press the issue of veterinary drugs.

MARD Circular 25

In February 2011, Vietnam implemented Circular 25, which requires U.S. meat, poultry and fishery establishments to submit a questionnaire for review that must be approved by the National Agro-Forestry-Fisheries Quality Assurance Department (NAFIQAD) in order to be eligible to export to Vietnam. The United States agreed to this system with the understanding that questionnaires would be accepted and reviewed by Vietnam on a rolling basis, and that newly eligible companies would be identified as eligible to export on a list posted by Vietnam's competent regulatory authority and updated on a monthly basis. On July 18, 2017, as part of a ministry reorganization, MARD transferred responsibility for approval of establishments from NAFIQAD to the Department of Animal Health (DAH). Although MARD claims this transfer will streamline the Circular 25 review process, the United States is concerned that DAH review procedures complicate the registration of new facilities and, in turn, hamper trade. The United States will continue to seek improvements to the system for reviewing and approving new facilities.

Products of Plant Origin

On January 1, 2015, Vietnam implemented a new Plant Health Law and implementing decrees updating its regulatory regime in the areas of plant health quarantine, pesticide regulation, and import and export of plant origin products. These measures included Circular 30/2014/TT-BNNPTNT, which contains a list of articles for which pest risk assessments (PRAs) must be provided before the article can be imported into Vietnam.

Under this circular, MARD initially gave the United States a six-month deadline to submit hundreds of PRAs on a variety of traditionally-traded commodities. Since the MARD directive was issued, the United States submitted PRA information for a range of commodities, including citrus. MARD disputes the fact that U.S. citrus was traditionally traded and is not issuing import permits for U.S. citrus despite agreeing to do so after receiving the PRA information. The United States continues to press MARD to resolve this issue expeditiously.

In 2015, MARD also issued a decision (No. 2515/2015) that subjects a number of products to plant quarantine inspection upon importation into Vietnam and requires a phytosanitary certificate from the exporting country to accompany any shipment of those products. The list of products subject to these requirements includes many pre-packaged, consumer-oriented, or highly-processed foods of plant origin, such as bulk sweetened dried cranberries, frozen peas, frozen sweet corn, and raisins, for which such certificates are not normally issued nor required. The United States continues to discuss these requirements with Vietnam.

IMPORT POLICIES

Tariffs

Vietnam has bound all of its tariff lines at the WTO, and in 2016 Vietnam's average MFN applied tariff rate was 9.6 percent. In April 2016, Vietnam issued a new Law on Tariffs (No. 107) with a new applied tariff schedule, which took effect on September 1, 2016. Inputs imported for software production, medical equipment production, shipbuilding, and petroleum activities that cannot be produced domestically are eligible for tariff exemptions. Tariff exemptions and refunds are also applied to the following: animal breeds, plant varieties, fertilizers, and plant protection drugs that are not produced domestically; imported machinery, inputs, and spare parts used for money printing; and goods imported or exported for the purpose of environmental protection. Tariffs are applied on goods imported into Vietnam's customs territory from its export processing and free trade zones, as well as on goods imported from Vietnam into those zones.

Aside from import tariffs, Vietnam applies export taxes ranging from 5 percent to 40 percent. According to the Law on Tariffs (No. 107), Vietnam applies export taxes on a wide range of goods including plants and botanical parts (5 percent to 30 percent), ores (20 percent to 40 percent), coal (5 percent to 15 percent), crude oil (10 percent), chemicals (5 percent to 10 percent), skins (5 percent to 10 percent), wood (2 percent to 20 percent), charcoal (5 percent to 10 percent), gems and precious stones (5 percent to 10 percent), silver and gold (2 percent to 5 percent), jewelry (2 percent), and metals and metal products (15 percent to 22 percent). Vietnam also maintains tariff-rate quota regimes for salt, tobacco, eggs, and sugar.

In August 2016, the Ministry of Finance (MOF) issued Decree 128. This decree provides an export tax exemption to environment-friendly goods labeled "Green Vietnam."

Although the majority of U.S. exports to Vietnam face tariffs of 15 percent or less, consumer-oriented food and agricultural products continue to face generally higher rates. In addition, in recent years, Vietnam has increased applied tariff rates on a number of products, although rates for those products remain below Vietnam's WTO-bound levels. Products affected by these tariff adjustments include sweeteners (such as fructose and glucose), shelled walnuts, ketchup and other tomato sauces, inkjet printers, soda ash, and stainless steel bars and rods. Most of the products for which tariffs have increased are also produced by companies in Vietnam.

On July 1, 2016, Vietnam implemented Law 106, which increased the special consumption taxable base for imported alcoholic beverages from the import price to the sales price received by the importer, thereby significantly increasing the tax burden on importers relative to domestic producers.

In November 2017, Vietnam issued Decree 125. This decree increased the number of MFN duty-free tariff lines from 3,133 to 3,282. The decree also doubled tariff rates for used passenger vehicles. In addition,