



United States Council for International Business (USCIB) Comments on Section 301 Investigation of France’s Digital Services Tax

Docket No. USTR-2019-0009

January 6, 2020

The United States Council for International Business (USCIB) welcomes the opportunity to provide comments on this investigation into France’s Digital Services Tax (“DST”). USCIB promotes open markets, competitiveness and innovation, sustainable development and corporate responsibility, supported by international engagement and regulatory coherence. Its members include top U.S.-based global companies and professional services firms from every sector of our economy, with operations in every region of the world. As the U.S. affiliate of the International Chamber of Commerce, the International Organization of Employers and the Business and Industry Advisory Committee to the OECD, USCIB has a unique global network through which it provides business views to policy makers and regulatory authorities worldwide and works to facilitate international trade and investment.

Determination on the Act, Policy or Practice Under Investigation

USCIB provided [comments](#) in response to the initial USTR notice concerning the French Digital Services Tax (French DST). Those comments supported the conclusion that the French DST is actionable under section 301 because it discriminates against U.S. companies and is unreasonable and burdens or restricts U.S. commerce. We reiterate those arguments here and therefore support the finding of USTR and the Section 301 Committee that the French DST “is unreasonable or discriminatory and burdens or restricts U.S. commerce, and is thus actionable under section 301(b) of the Trade Act”.

USTR should engage with France toward a negotiated outcome

We continue to believe that the ultimate goal of any U.S. action with respect to the French DST should be the removal of the DST and France’s commitment to resolve their concerns through the OECD’s inclusive framework process. USCIB urges that full efforts to achieve a negotiated solution be pursued before consideration is given to any retaliatory measures.

Engage through multilateral channels

To that end we urge the Administration to continue to engage in a dialogue with France to negotiate an acceptable outcome which includes the elimination of the DST including through multilateral negotiations that are taking place at the OECD concerning the taxation of the digitalizing economy. USCIB supports this multilateral process and supports U.S. leadership in this process. USCIB believes that any changes to the international tax system should be achieved through a broad-based consensus on taxing income where value is created. This process should move forward without delay; countries should not resort to unilateral measures while that process is ongoing. The United States should also insist on the retroactive revocation of any unilateral measures as part of an



OECD solution, including the DST. The DST is just one of many unilateral measures that countries have recently adopted to or are considering adopting. Any OECD solution should include an agreement to remove all of these unilateral measures.

Retaliatory Measures

USCIB believes that USTR has reached the correct conclusion that the French DST is actionable under section 301. We encourage USTR to pursue any available negotiation opportunities in achieving the goal of eliminating the DST.

There is no consensus among USCIB members concerning whether retaliation may ultimately be appropriate. Some USCIB members express deep concern about the potential cost of tariffs - both Section 301 tariffs and possible retaliatory European tariffs - to US businesses, consumers and the broader economy. Some USCIB members support retaliation after other alternatives have been tried because unconstrained DSTs are a form of trade restraint that will themselves have a negative impact on the broader economy and job creation.

USCIB appreciates the opportunity to provide these comments and would be pleased to discuss them further.