

Alert | International Trade



April 2021

USTR Proposes Retaliatory Tariffs on Digital Services Taxes: Austria, India, Italy, Spain, Turkey, and the United Kingdom

On March 26, 2021, the United States Trade Representative (USTR) Katherine Tai **announced** that the United States is considering implementing up to 25% retaliatory tariffs on certain products of Austria, India, Italy, Spain, Turkey, and the United Kingdom for the Digital Services Taxes (DSTs) adopted or under consideration by those countries. If implemented, the retaliatory tariffs would be in addition to the general tariffs on imported products.

Numerous countries have either proposed or implemented a DST, which is a tax on gross revenues of “non-resident” companies from digital advertising services, platform services, content sales, sales of a company’s own goods, data-related services, software-as-a-service, and several other categories of digital services.

After an investigation initiated under the Trump administration, USTR found that the DSTs were subject to action under Section 301 of the Trade Act of 1974 because they discriminated against U.S. digital companies, were inconsistent with principles of international taxation, and burdened U.S. companies. USTR has acted at this time not because any decision has been made to impose additional Section 301 duties on goods from these six countries, but to keep this option available given statutory timeframes.

Tariffs are proposed on the following countries/products:

Austria	<ul style="list-style-type: none"> • Stemware and drinking glasses • Copper • Circuit assemblies • Grand pianos
India	<ul style="list-style-type: none"> • Jewelry • Shrimp • Furniture
Italy	<ul style="list-style-type: none"> • Handbags • Gloves • Suits • Ties • Footwear • Caviar
Spain	<ul style="list-style-type: none"> • Footwear • Handbags • Hats • Glassware • Shrimp
Turkey	<ul style="list-style-type: none"> • Rugs • Carpets • Ceramic tile • Jewelry
United Kingdom	<ul style="list-style-type: none"> • Furniture • Cosmetics • Shampoo • Toys

USTR has also announced the public notice and comment process: Requests to appear at a hearing are due April 21; comments are due April 30; a multi-jurisdiction hearing will be held on May 3; and each country will have a separate hearing as well.

USTR has terminated its investigations into the DSTs of Brazil, the Czech Republic, the EU, and Indonesia, since these countries have not adopted or implemented the DSTs under consideration when

the investigations were initiated. If any of these jurisdictions proceeds to adopt or implement a DST, USTR may initiate new investigations.

According to USTR Tai, “The United States is committed to working with its trading partners to resolve its concerns with digital services taxes.... However, until such a consensus is reached, we will maintain our options under the Section 301 process, including, if necessary, the imposition of tariffs.”

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