



Promoting Innovation Worldwide

Information Technology Industry Council (ITI) Testimony
“Comments Concerning Proposed Actions in Section 301 Investigations of Digital Services Taxes –
Multijurisdictional issues” Docket No. USTR-2021-0008
Submitted by Megan Funkhouser, Director of Policy
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Thank you for the opportunity to testify today with regard to the Office of the U.S. Trade Representative’s (USTR) Section 301 investigations into digital services taxes (DSTs) adopted by Austria, India, Italy, Spain, Turkey, and the United Kingdom. My name is Megan Funkhouser and I am Director of Policy at the Information Technology Industry Council (ITI), where I lead on international tax policy issues.

ITI is the premier global advocate for technology, representing the world’s most innovative companies. Founded in 1916, ITI is an international trade association with a team of professionals on four continents. We promote public policies and industry standards that advance competition and innovation worldwide. Our diverse membership and expert staff provide policymakers the broadest perspective and thought leadership from technology, hardware, software, services, and related industries.

ITI supports a global tax environment that provides much-needed certainty for companies to innovate, expand, and deliver essential goods and services to individuals and businesses around the world.

In our January 2020 testimony before the Section 301 Committee, we noted that while the immediate focus of that hearing centered on the appropriate U.S. policy response to France’s DST, it had as much or more to do with preventing the widespread application of unilateral taxes that undermine a functioning international tax system and compromise the predictability it has afforded to all companies to conduct business globally. This very much remains the case in today’s hearing, which considers the appropriate U.S. policy response to the measures adopted by Austria, India, Italy, Spain, Turkey, and the United Kingdom.

Indeed, over the course of the last 16 months, individual governments have continued to propose, enact, and collect increasingly expansive DSTs that attempt to ring-fence the digital economy, target U.S.-headquartered firms, and are inconsistent with prevailing international tax and trade principles.

Developments in the first few months of 2021 alone bear witness to this reality. In March, India retroactively expanded its Equalisation Levy, which exclusively taxes non-resident companies both large and small when one or more aspect of a transaction takes place online. Canada has launched a public consultation to assist its development of a DST, and Vietnam has released a set of proposals that would create “deemed” permanent establishment criteria unique to non-resident companies engaged in e-commerce activities. The European Commission is advancing work to release a proposal for a digital levy in June, which it plans to apply above and beyond whatever consensus-based solution emerges from ongoing multilateral negotiations.

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All the while, more measures have taken effect, including in Kenya and Spain, and more governments have started actively collecting their DSTs, including France and Turkey.

We therefore remain supportive of USTR's efforts to analyze the impact of the measures adopted by Austria, India, Italy, Spain, Turkey, and the United Kingdom, and concur with the conclusions of its respective Section 301 reports on these measures. These investigations have played an important role in stemming further fragmentation of the international tax landscape and underscore the serious and growing threat of unilateral DSTs, which undermine longstanding international tax norms by charging a tax on gross revenue, targeting non-resident companies, and operating outside of tax treaties, among other concerns.

Beyond the detrimental impacts identified in the Section 301 reports released in January of this year, the continuing proliferation of DSTs detracts from the ability of governments participating in multilateral negotiations to realize a sustainable approach to the tax challenges arising from the digitalization of the global economy.

The 139 governments participating in the Organisation for Economic Co-operation and Development (OECD)/G20 Inclusive Framework negotiations – including the United States and all of the governments that have adopted the measures under consideration today – have identified mid-2021 as a self-imposed deadline for reaching political agreement on a multilateral, consensus-based solution. Despite the scope of the project, its politically sensitive nature, and the extraordinary challenges posed by the COVID-19 pandemic, negotiators have nonetheless demonstrated significant progress toward that goal.

Tax policy problems require tax policy solutions. It is with this in mind that we again encourage governments to withdraw their unilateral measures and to continue their work to address the harmful fragmentation caused by the proliferation of DSTs and reach consensus on a sustainable, multilateral approach.

Thank you again for the opportunity to testify today and for USTR's efforts to investigate these measures, and I look forward to answering any questions you have.