Statement of the U.S. Chamber of Commerce

ON: "Proposed Action in Section 301 Investigations of the Digital Services Taxes of Austria, India, Italy, Spain, Turkey, and the United Kingdom"

TO: Office of the U.S. Trade Representative

BY: U.S. Chamber of Commerce

DATE: April 30, 2021

1615 H Street NW | Washington, DC | 20062

The Chamber's mission is to advance human progress through an economic, political, and social system based on individual freedom, incentive, initiative, opportunity, and responsibility.

The U.S. Chamber of Commerce (Chamber) appreciates the opportunity to present the following comments to the Office of the U.S. Trade Representative (USTR) on its proposed actions in the Section 301 investigations of the Digital Services Taxes (DSTs) of Austria (Docket Number USTR–2021–0002), India (USTR–2021–0003), Italy (USTR–2021–0004), Spain (USTR–2021–0005), Turkey (USTR–2021–0006), and the United Kingdom (USTR–2021–0007)(the "six countries").

USTR has undertaken Section 301 investigations with respect to these DSTs and has noted that "actionable matters under Section 301 include, inter alia, acts, policies, and practices of a foreign country that are unreasonable or discriminatory and burden or restrict U.S. commerce." The Chamber submitted comments earlier to USTR on these matters, arguing that the DSTs introduced by the six countries met these criteria. USTR has now determined that the DSTs imposed by the six countries are indeed actionable under Section 301 of the Trade Act.

USTR has further identified merchandise imports from the six countries in the amount of approximately $880 million on which it proposes to impose tariffs. USTR in the aforementioned FRNs has solicited input on whether imposing increased duties on the particular products identified would be practicable or effective to obtain the elimination of the DSTs.

To this debate, the Chamber offers the following points to consider:

1) **DSTs pose a substantial risk to the global economic recovery given the outsized importance of digitization and the potential growth in global services trade.**

In the Chamber's view, the negative economic consequences of DSTs are likely to be considerably larger than widely appreciated. This stems in large part from the growth in the very large U.S. professional and business services sector, its importance to American middle class, its potential for trade-driven growth, and similar dynamics among the six countries.

The professional and business services supersector employs 20.8 million Americans; in fact, the sector employs 66% more Americans than manufacturing. Wages in these industries are 20% higher on average than those in manufacturing (average hourly earnings of $35 versus $29, according to BLS data). Professional and business services include such sectors as audiovisual, software and ICT services, architecture, accounting, engineering and project management, advertising, banking, and insurance.

Further, professional and business services are increasingly tradeable thanks to digital technologies. According to a report issued by the U.S. International Trade Commission, 63% of all U.S. services exports now have the potential to be delivered to customers abroad digitally. Partly as a result, global trade in services is expanding 60% more rapidly than trade in goods, according to a report by the McKinsey Global Institute.

While the United States is already the world's largest exporter of services ($875 billion in 2019), the trade potential for services is almost untapped. One in four U.S. manufacturers exports, but just one in every 20 providers of business services does so; and just 3% of U.S. services output is exported, according to research by J. Bradford Jensen of the Peterson Institute for International Economics.

In this context of so much potential, DSTs risk undermining potential growth. DSTs imposed by the six countries target U.S. firms in a specific and discriminatory manner, but the knock-on effects for digital trade generally could sap not just U.S. economic growth but also that of the countries in question. Indeed, the six countries' DSTs target U.S. companies that have invested billions of dollars in their markets and engage in mutually beneficial commercial relationships with citizens and businesses in those countries. Large numbers of firms in the United States and in the six countries, including many small and medium-size businesses, could be affected by the potential slowdown in the growth of digital trade.

Finally, there is a real danger that DSTs will proliferate. For example, the government of Canada recently announced plans to impose a DST modeled on France's approach (as, indeed, many proposed and implemented DSTs are). The economic harm and the violation of trade obligations under the WTO agreements (and, in Canada's case, the USMCA as well) may thus multiply.

2) The United States should press the six countries to drop their DSTs and focus their efforts on the multilateral negotiations taking place under the aegis of the OECD to address global tax issues, including those relating to digitization.

By all accounts, the Biden-Harris administration is leaning into the tax negotiations at the OECD. Recent statements issued by Treasury Secretary Janet Yellen have been greeted with interest by many other parties and welcomed as substantial. The U.S. Chamber of Commerce has expressed serious concerns about some elements of these proposals and will continue to advocate on those issues, but there is no ambiguity about the seriousness of U.S. engagement in these negotiations. The Chamber has supported and continues to support efforts to secure a multilateral solution to these issues.

In this context, it is unacceptable that the six countries are forging ahead with their unilateral, discriminatory DSTs at this time. Expressions of support by these governments for efforts to secure a multilateral deal are belied by their actions. Further, many of these countries attest that they are committed to improving relations with the United States under the new administration. These discriminatory actions—which target American companies almost exclusively—contradict and complicate efforts to strengthen ties and find a path forward in the negotiations at the OECD.

The United States should press the six countries to suspend their DSTs immediately and redouble their efforts—as Washington is doing—to arrive at a multilateral deal on these complex tax issues. Doing so will be a show of good faith that will contribute meaningfully to a constructive atmosphere for the negotiations.

3) USTR should explore the full range of trade actions authorized by the Section 301 statute, some of which may be less disruptive to the U.S. economy than tariffs.

The Chamber reiterates a point included in our comments to USTR last year: "The application of Section 301 tariffs to goods from these countries presents risks for the economy. Unilateral taxes and tariffs put economic growth and job creation at risk." This remains the case as efforts to defeat the pandemic and foster economic growth and sustainable recovery unfold in the United States and abroad. The administration should concentrate its efforts to secure a multilateral deal in the negotiations taking place under the aegis of the OECD.

The Chamber appreciates the opportunity to offer these comments and looks forward to engaging with the administration on these important issues.

Contact:

John Murphy (jmurphy@uschamber.com)
Senior Vice President for International Policy
U.S. Chamber of Commerce
1615 H Street NW
Washington D.C. 20062