



Office of the Vice President  
Government and Regulatory Affairs

600 14<sup>th</sup> Street, NW Suite 300  
Washington, DC 20005

July 9, 2020

The Honorable Robert Lighthizer  
United States Trade Representative  
600 17th Street, N.W.  
Washington, DC 20006

**SUBJECT: Request for Comments on the Initiation of Section 301 investigations with respect to Digital Services Taxes (DSTs) adopted or under consideration by Austria, Brazil, the Czech Republic, the European Union, India, Indonesia, Italy, Spain, Turkey, and the United Kingdom.**

Dear Ambassador Lighthizer:

The IBM Corporation respectfully submits this written response to USTR's [request for comments](#) regarding the initiation of Section 301 investigations with respect to ten governments' adoption or consideration of Digital Services Taxes (DSTs).

IBM continues to support the process in the Organization for Economic Cooperation and Development (OECD) to identify an international consensus on reforming tax rules for the digital global economy. We strongly encourage the United States to continue engaging through the OECD.

While a number of other technology companies have supported an investigation under Section 301, IBM has significant reservations about this approach. In particular, we believe that the use of unilateral, retaliatory measures would carry serious risk for the broader U.S. economy.

Specifically, if the United States were to move forward with unilateral tariffs or other punitive trade or tax measures under Section 301, other governments will likely apply counter-retaliatory measures, negatively impacting multiple U.S. sectors. This dispute is principally about the insufficient payment – or non-payment – of taxes by a limited number of large internet-based platform companies in the United States. Yet the imposition of tariffs by the United States, and the attendant retaliation against American commercial interests that would undoubtedly occur, would affect a very broad swath of the U.S. economy. The approach the Administration has adopted would, in effect, impose significant costs on very many U.S. companies to protect the interests of only a very few. We therefore believe the use of Section 301 in this case is unwise and unwarranted. Should USTR nevertheless conclude in this investigation that action is warranted, we recommend the pursuit of remedies *only* through established institutions such as the OECD or the World Trade Organization.

It is notable that countries considering DSTs are, in fact, engaged at the OECD. It is disturbing, therefore, that the Treasury Department recently announced that the United States would suspend participation in OECD discussions to resolve this very dispute. Unilateral retaliatory actions, such as tariffs or withdrawal from OECD negotiations, are premature and could lead to escalating tit-for-tat retaliation with negative consequences for the U.S. and global economies.

IBM urges the Administration to reengage in the OECD tax discussions to protect U.S. business interests and ensure the stability and certainty of international tax rules. At this time of economic uncertainty and dislocation, engagement and dialogue with the goal of a broad consensus are especially necessary.

Thank you for your consideration.

Respectfully,

A handwritten signature in black ink, appearing to read "Chris Padilla", written in a cursive style.

Christopher Padilla  
Vice President, Government and Regulatory Affairs  
IBM Corporation