



Office of the Vice President
Government and Regulatory Affairs

600 14th Street, NW Suite 300
Washington, DC 20005

December 20, 2019

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

Re: Notice of Determination and Request for Comments Concerning Action Pursuant to Section 301: France’s Digital Services Tax, Docket No. USTR-2019-0009

Dear Ambassador Lighthizer:

International Business Machines Corporation (“IBM”) respectfully submits this written response to the Trade Representative’s request for comments concerning potential action pursuant to USTR’s Section 301 investigation on the Digital Services Tax (DST) of the Government of France. The potential action includes, but is not limited to, ad valorem duties of up to 100 percent on \$2.4 billion of French goods.

IBM continues to have significant reservations about unilateral trade measures. We believe unilateral, retaliatory actions such as the proposed tariffs are unwarranted and could lead to escalating retaliation with significant negative consequences for a broad cross-section of U.S. companies and the U.S. economy. The recent statement by the European Commission that the European Union will react “as one” to any U.S. tariffs on France highlights that the risk of tit-for-tat retaliation is real.

In addition to proposed tariffs, we strongly oppose the unprecedented imposition of tariff-like fees or other restrictions on services. The United States, as the world’s largest services exporter with a services trade surplus of \$270 billion in 2018, has by far the most to lose from retaliatory actions if services become the next target in escalating trade wars.¹

Multilateralism over unilateralism

The Administration’s December 3 letter to the Organisation for Economic Cooperation and Development (OECD) affirmed the U.S. commitment to the OECD process, as did the references in the 301 report to U.S. officials’ continued efforts to “urg[e] French officials not to enact the DST and to work with the United States to develop a multilateral

¹2018 statistic from U.S. Bureau of Economic Analysis, “2018 Trade Gap is \$621.0 Billion,” March 6, 2019, <https://www.bea.gov/news/blog/2019-03-06/2018-trade-gap-6210-billion>.

tax solution that would be fair and appropriate to taxpayers and jurisdictions.”² IBM agrees that an international consensus on this matter is the best way forward and urges the Administration to continue this multilateral course.

IBM urges the United States to continue to lead the OECD tax discussions to protect U.S. business interests and ensure the stability and certainty of international tax rules. France likewise continues to participate in the OECD digital taxation project and has pledged publicly to remove its DST once the OECD reaches a final solution. We believe the U.S. should focus on reaching an expeditious conclusion of these negotiations and suspending France’s DST rather than pursuing unilateral, retaliatory measures under Section 301.

IBM welcomes President Trump’s positive remarks at his December 3 meeting with French President Emmanuel Macron shortly after the release of the Section 301 report. President Trump rightfully said, “We do a lot of trade with France and have a minor dispute...I think we’ll probably be able to work it out.” We welcome this development and recommend the United States continue to resolve the DST issue through multilateral fora, such as the OECD. This is essential to avoid harm to U.S. companies, economic growth and future job creation.

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

² United States Trade Representative, *Section 301 Investigation Report on France’s Digital Services Tax*, December 2, 2019, https://ustr.gov/sites/default/files/Report_On_France%27s_Digital_Services_Tax.pdf, p 7.