

Defending American Companies and Innovators from Overseas Extortion and Unfair Fines and Penalties

Administration Policy:

President Trump issued a [memorandum](#) titled *Defending American Companies and Innovators from Overseas Extortion and Unfair Fines and Penalties*. The memo informs key officials, including the Secretaries of Treasury and Commerce, the U.S. Trade Representative (USTR), and the Senior Counselor to the President for Trade and Manufacturing, that it is the policy of this Administration to implement tariffs and other measures in response to foreign governments imposing discriminatory or disproportionate fines, penalties, taxes, or other burdens. This policy aims to protect American companies from actions that unfairly transfer funds or intellectual property to foreign governments.

The memorandum instructs USTR to determine whether to renew investigations, under [Section 301 of the Trade Act of 1974](#) (Section 301), of digital service taxes (DSTs) of France, Austria, Italy, Spain, Turkey, and the United Kingdom. USTR should also determine whether to investigate the DST of any other country, including Canada, that may discriminate against United States companies or burden or restrict United States commerce.

Background:

- DSTs are gross revenue taxes. Taxes on gross revenues are distortive and create double taxation. DSTs unfairly and disproportionately affect US multinationals.
- DSTs started proliferating over the last 10 years, unfairly targeting the US technology industry.
 - In 2019, USTR began investigating [various foreign nations' DSTs](#) under Section 301.
 - In July of 2020, USTR determined the French DST was actionable and announced it would implement 25% duty on French products. This duty was immediately paused to allow negotiations to move forward.
- In June of 2021, USTR determined that all DSTs under investigation were actionable under Section 301. Duties were paused for 180 days to allow ongoing global tax negotiations under the Organization for Economic Cooperation and Development (OECD).
- On October 8, 2021, over 135 countries, including the United States, [agreed](#) to a two-pillar solution to address the tax challenges arising from the digitalization of the economy. USTR announced on the same day to end all Section 301 actions to allow countries to implement the two-pillar solution.
 - Pillar 1 negotiations have stalled since the October 2021 agreement. This memo serves as a notice that the Trump Administration is seeking to reset and follows a [Trump EO](#) from January 20th pulling the US out of the OECD Global Tax Deal.