UNITED STATES OF AMERICA
UNITED STATES TRADE REPRESENTATIVE

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SECTION 301
FRANCE'S DIGITAL SERVICES TAX

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PUBLIC HEARING

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TUESDAY
JANUARY 7, 2020

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The Public Hearing convened in the Main Commission Hearing Room of the U.S. International Trade Commission headquarters, 500 E Street, Southwest, Washington, D.C., at 9:30 a.m., Megan Grimball, Chair, presiding.

PRESENT
MEGAN GRIMBALL, USTR, Chair
ALEXANDER AMDUR, Customs and Border Protection
SARAH BONNER, Small Business Administration
WON CHANG, Department of Treasury
ANDREW FLAVIN, Department of Commerce
JESSICA HUANG, Department of Commerce
REBECCA NOLAN, Department of State
MICHAEL ROGERS, USTR Europe
ANDREW STEVENS, Department of Agriculture
ROBERT TANNER, USTR
ROGER WENTZEL, USTR Agriculture
JOE WERESZYNSKI, Department of Agriculture

WILLIAM BISHOP, International Trade Commission
TYRELL BURCH, International Trade Commission

ALSO PRESENT

PANEL 1

SAM RIZZO, Information Technology Industry Council

RACHAEL STELLY, Computer & Communications Industry Association

GARY SPRAGUE, Baker & McKenzie

MARIANNE ROWDEN, American Association of Exporters and Importers

PANEL 2

FAYE GOODING, Le Creuset of America

JOANNA ROSENBERG, Zwilling J.A. Henckels & Staub

GEORGE KAKATY, Bernardaud NA, Inc.

NATE HERMAN, American Apparel & Footwear Association

PANEL 3

JEFF ZACHARIA, National Association of Wine Retailers

RICHARD BLAU, Sokolin LLC

WILLIAM TOMASZEWSKI, Wine.com

BENJAMIN ANEFF, Tribeca Wine Merchants

DAVID WALDENBERG, BNP Distributing Company

DAVID BOWLER, Bowler Wine

ANTOINE MARSOT, INTERVALexport

GEOFFROY DUCROUX, Avant Garde

PANEL 4

PETER WEYGANDT, Weygandt-Metzler Importing, Ltd.

MICHELLE DeFEO, Laurent-Perrier US Inc.

ANNETTE PETERS, Domains and Appellations & Bourget Imports

JAMES FEDERICO, VINTUS

BARKLEY STUART, Southern-Glazer's Wine & Spirits

JENNY LEFCOURT, Jenny & Francois Selections

MARY TAYLOR, Mary Taylor Wine

PHILIP KAFARAKIS, Specialty Food Association

C O N T E N T S

Panel 4

P-R-O-C-E-E-D-I-N-G-S

9:28 a.m.

MS. GRIMBALL: Good morning and welcome. The Office of the United States Trade Representative, in conjunction with the Interagency Section 301 Committee, is holding this public hearing in connection with the 301 Investigation of France's Digital Services Tax initiated on July 10, 2019.

On December 6, 2019, the Trade Representative published a notice in the Federal Register that announced the determination that France's Digital Services Tax is unreasonable or discriminatory and burdens or restricts U.S. commerce, and is therefore actionable under Section 301 of the Trade Act of 1974.

Detailed information concerning this investigation is set out in Federal Register notices published on July 16, 2019 at 84 FR 34042 and December 6, 2019 at 84 FR 66956. A report detailing the findings in the investigation is available on the USTR website.

The purpose of today's hearing is to receive public testimony on the proposed action to be taken in the investigation following the Trade Representative's determination of actionability. The Section 301 committee will carefully consider the testimony and written comments, including post-hearing comments. The Section 301 Committee will then make a recommendation to the Trade Representative regarding the action to be taken in this investigation.

Before we proceed with testimony, I will provide some procedural and administrative instructions. I will then ask the agency representatives participating in the hearing today to introduce themselves.

This hearing is scheduled for one day. We have seven panels of witnesses today, with 36 individuals scheduled to testify. The provisional schedule has been posted on the USTR website. We will have a five minute break in between each panel.

Each organization at the hearing is limited to five minutes of oral testimony. After the testimony from each panel of witnesses, the Section 301 Committee will have an opportunity to ask questions. Committee representatives will direct their questions to one or more specific witnesses.

Post-hearing comments, including any written responses to questions from the Section 301 Committee, are due Tuesday, January 14, 2020. The rules and procedures for written submissions are set out in the December 6th Federal Register Notice.

In responding to questions, witnesses should recall that they have an opportunity to provide a more detailed or more extensive response in their post-hearing submissions.

No cameras, video, or audio recording will be allowed during the hearing. A written transcript of this hearing will be posted on the USTR website and on the Federal Register docket as soon as possible after the conclusion of today's hearing.

We are pleased to have international

trade, tax, and economic experts from a range of U.S. government agencies present today. If you could please introduce yourselves. Won?

MR. CHANG: Good morning. My name is Won Chang, Department of Treasury.

MS. NOLAN: Hi, good morning. I'm Rebecca Nolan from the State Department.

MR. AMDUR: Good morning. Alexander Amdur from Customs and Border Protection.

MR. TANNER: Hi, I'm Robert Tanner. I'm with the Office of the United States Trade Representative.

MR. FLAVIN: Good morning. I'm Andrew Flavin, U.S. Department of Commerce International Trade Administration.

MR. STEVENS: Andrew Stevens, U.S. Department of Agriculture.

MS. BONNER: Sarah Bonner of the U.S. Small Business Administration.

MS. GRIMBALL: And my name is Megan Grimball, Chair of the Section 301 Committee from USTR's Office of General Counsel.

MR. BISHOP: Madam Chairman, our first witness on this panel is Sam Rizzo with the Information Technology and Industry Council.

Mr. Rizzo, you have five minutes.

MR. RIZZO: Good morning. Thank you for the opportunity to testify today with regard to proposed actions resulting from the conclusion of USTR's Section 301 investigation of France's Digital Services Tax, or DST.

As was stated, my name is Sam Rizzo, and I'm Director of Policy at the Information Technology Industry Council, or ITI, where I lead on trade policy matters.

ITI represents the world's leading information and communications technology companies. We're the global voice of the tech sector and the premier advocate and thought leader around the world for the ICT industry.

Our members rely on clear and predictable international tax rules to innovate and grow their operations. A primary objective for ITI is to ensure a functioning and dependable international tax system.

We encourage countries to continue their work towards meaningful solutions and offer our comments today in that spirit.

As we have asserted previously, the enactment of France's unilateral Digital Services Tax represents a troubling precedent, unnecessarily departs from progress towards stable, long lasting international income tax policies, and disproportionately impacts U.S. headquartered companies.

We are supportive of USTR's efforts to analyze the impact of the French measure. However, our ultimate goal is one in which all parties reach a multilateral solution on appropriate international tax reforms.

Since our last appearance before the Section 301 Committee in August 2019, we have seen an accelerating trend toward the unilateral adoption of DSTs, which for these purposes, refer to gross revenue-based taxes on a narrowly defined set of digital services.

Spain, the Czech Republic, Poland, the UK, Canada, and Turkey have proposed or enacted DSTs with Turkey's DST poised to take effect in early 2020. And even worse, Italy's and Austria's DST measures went into effect on January 1, 2020.

It's therefore important to recall that today's hearing, which centers on the appropriate U.S. policy response to France's DST is about more than the French Digital Services Tax. It is about preventing the wide-scale application of targeted, unilateral taxes which stand to undermine a functioning international tax system and compromise the predictability it has afforded to companies to conduct business globally.

Indeed, the significance of this issue goes well beyond tax policy. What is ultimately at stake is whether economies are prepared to do the hard work of developing coherent, collective solutions to complex cross border policy challenges, of which there are many in today's global policy environment.

Against this backdrop the Section 301

investigation report published by USTR on December 2 represents a thorough analysis that defines in detail the problematic nature of France's unilateral measure.

We appreciate USTR's efforts to investigate France's DST. And we concur with the report's conclusions that the tax targets U.S. digital companies. We also share a view of the report that France's DST contravenes longstanding international taxation principals and generates broader concerns around global fragmentation in the tax base.

At a broader level, USTR's report shows the incompatibility of unilateral DSTs with rules-based multilateral approaches to international tax and trade policy.

Throughout ITI's engagement on these issues, policy makers have largely conceded that DSTs are flawed solutions to address international tax challenges. These challenges are inherently global and demand a multilateral solution.

Unilateral trade remedies are

similarly not a substitute for successful and lasting tax policy resolution. The true remedy to the pressing challenges created by France's and other unilateral actions is to recommit to reaching a multilateral consensus on the rules governing international income taxation.

Fortunately, the United States, France, and more than 130 other nations are currently working to reach such consensus at the Organization for Economic Cooperation and Development or OECD. It is important to recognize how interrelated DST activities are to the OECD digital taxation negotiations, and vice versa.

While the threat of a trade response may have focused the minds of those participating in the OECD negotiations and moved that process along, we're not out of the woods. And, as I previously noted, we expect to see a proliferation of unilateral policies in the coming year.

We're in a critical period at the OECD, and the outcomes of the current negotiations are likely to define key global trading relationships for years to come. We acknowledge the scale and scope of the task at hand. However, achieving consensus among the diverse group of nations represented in the negotiations will be no easy task.

With that said, we believe there is a landing zone that can meet the broad objective of addressing the stressors digitalization has placed on longstanding international tax rules.

Both the U.S. and France have expressed understanding of the current stakes and have been productively engaged in these talks as a way to avoid further escalation of tensions.

We appreciate this engagement and encourage all sides to reach a lasting solution. ITI remains committed to doing all we can to enable a successful outcome.

Tax policy problems require tax policy solutions. The multilateral case against France's DST as laid out in USTR's Section 301 report is clear. The simplest way to avoid further escalation would be for France and other countries considering unilateral actions to withdraw individual measures, and for all parties to continue engaging though the OECD process.

Let me reiterate that the significance of this issue goes well beyond the French DST or tax policy in general. It's about preventing the wide-scale application of targeted, unilateral taxes that would undermine a functioning international tax system and compromise predictability for businesses globally.

MS. GRIMBALL: Mr. Rizzo, please conclude.

MR. RIZZO: We're grateful for USTR's extensive efforts in identifying and critically assessing these trends. And I look forward to answering any follow-up questions you may have.

MR. BISHOP: Thank you, Mr. Rizzo. Our next witness is Rachael Stelly with the Computer & Communications Industry Association.

Ms. Stelly, you have five minutes.

MS. STELLY: Good morning. My name is Rachael Stelly, and I serve as a policy counsel for the Computer & Communications Industry Association.

CCI is a trade association of internet and technology firms, many of whom export goods and services around the world. CCI strongly supports USTR's scrutiny of the French Digital Services Tax and welcomes the Section 301 report's detailed analysis and conclusion that the French tax, quote, intended to and, by its structure and operation, does discriminate against U.S. digital companies, end quote.

These remarks will convey two main points: one, the significant cost to U.S. internet services associated with the French DST, and, two, the need for a strong response by the United States in order to change France's course of action, as well as deter other countries who are pursuing similar discriminatory taxation measures.

The first point CCI would like to convey is that U.S. digital exporters face a significant economic burden associated with compliance since the French digital tax became effective last year.

France started collecting taxes under the DST last October. CCI has commented previously on the projected harms due to compliance within the framework of the DST, in addition to the payments due to the French government under the new tax.

Concerns remain on the burdens associated with making the complex calculations on a unprecedented system to determine taxable revenues.

Industry reports that French officials have not provided sufficient guidance on compliance and reporting requirements under the new framework following the DST's publication into national law.

The French government further compounded this uncertainty by finalizing its already limited guidelines only after first payments were due under the new tax.

Costs to U.S. firms will increase drastically if countries follow France's lead and move forward with their own digital services taxes. The cost burdens associated with compliance will be exacerbated if firms will then face dozens of these complex taxation rules that depart from traditional norms of taxation, raising costs of serving customers outside the United States.

The second point CCI would like to convey is that France's action warrants a substantial proportionate response from the United States. CCI continues to support efforts to negotiate with French officials to remove the tax and instead reach a global solution to taxation of the digital economy at the OECD.

However, in light of the number of digital taxes over the past year, and the need for a timely response, CCI also encourages USTR to use remedial tools at its disposal to deter France and send a strong message to other countries who are finalizing or have proposed a similar national digital tax.

As noted in its original written comments in this investigation, CCI takes seriously the impact that tariffs can have. Tariffs should only be used in limited circumstances in a targeted manner, and where there's a clear strategy in place designed to change the behavior of a trading partner.

USTR's proposed action in this particular investigation appears to meet this standard. The French DST is, in design and effect, a tariff on U.S. technology imports.

This should be countered with a commensurate measure to ensure that our trading partners maintain market access, and refrain from targeting new taxes on foreign producers. This action is critical.

As noted, a number of countries are considering their own digital services taxes and are looking at the U.S. response in the French case to determine whether to move forward with their own tax before a solution is reached at the international level.

Absent a strong response to the French DST, there is a risk that industry will be confronted with multiple national digital taxes by the time OECD reaches a consensus on a global solution.

CCI believes that if changes are warranted to the international taxation framework in light of the changing digital economy, they should be done pursuant to a multilateral process like the one currently ongoing at the OECD.

An OECD solution, not discriminatory, national digital taxes that insight trade conflicts, remains the bet path forward.

In conclusion, CCI welcomes USTR's Section 301 report and applauds USTR for their leadership on this issue. Thank you for this opportunity for CCI to convey its views regarding this investigation, and I welcome any questions.

MR. BISHOP: Thank you, Ms. Stelly. Our next witness is Gary Sprague with Baker & McKenzie.

Mr. Sprague, you have five minutes.

MR. SPRAGUE: Thank you. Good morning. My name is Gary Sprague speaking on behalf of those digital service providers listed in our request to appear, all of which with in-scope revenues have now paid the first installment of

France's DST.

We appreciate the opportunity to respond to the request for additional comments on the impact of the French DST on the U.S. economy.

We agree with USTR's conclusion that the French DST discriminates against U.S. companies, is inconsistent with prevailing principals of international tax policy, and is unusually burdensome for affected U.S. companies.

We believe that by enacting this tax, France introduced a financial barrier that operates much like a tariff. We support the U.S. government's strong opposition to discriminatory unilateral taxes such as the French DST and similar measures now being advanced in a growing number of countries around the world.

We urge the U.S. and France to negotiate a resolution that removes this discriminatory tax while working towards a timely, multilateral net income tax base consensus at the OECD.

While we defer to USTR's judgment on tactics, we commend your leadership in encouraging countries to resolve these tax policy issues through the OECD process.

We expect that the harmful impacts on the U.S. economy will increase notably over time. The aggregate cost will increase year over year in line with the expected growth of the targeted sectors, plus additional amounts as emerging companies exceed the relevant thresholds and become DST tax payers.

Based on formal or informal projections by the relevant governments, expected DST collections from these -- from these taxes in France, the UK, Italy, Turkey, the Czech Republic, Austria, and Spain, would be over three billion annually for all tax payers. The amount will be greater if more countries such as Canada, pass their own taxes.

DST paid by U.S. tax payers will reduce U.S. tax collections from those tax payers. Thus, the harmful impact includes a direct tax loss for the United States.

Designing a compliance system for the

French DST has resulted in substantial costs in system design for each affected company. Companies also will incur ongoing compliance costs as long as these unique taxes remain in effect.

Due to the lack of uniformity between the different DSTs now proposed in other countries, there will be few economies of scale, and system design costs will be reincurred for each measure.

The burden on the U.S. economy will increase as additional countries enact a DST. Accordingly, we commend Ambassador Lighthizer's statement that USTR is exploring whether to open Section 301 investigations into the digital service taxes of certain other countries.

Jurisdictions which have enacted or are close to enacting a DST or similar tax include the UK, Italy, Turkey, the Czech Republic, Austria, and Spain.

The Italian DST and the Austrian digital advertising tax were effective January 1 of this year. The Turkish DST is expected to come in force in early 2020.

The UK DST is expected to come into force in April 2020. Others are in advanced stages of consideration. These other DSTs generally share the same features of the French DST as are relevant to a Section 301 investigation.

Namely, they are designed to target U.S. companies through discriminatory thresholds and scope, constitute unreasonable tax policy as extraterritorial taxes levied on revenue rather than income.

The proliferation of DSTs beyond France increases the burden on U.S. companies, creates further tax losses for the U.S. Treasury, and further prejudices the progress of work at the OECD. We urge USTR to continue closely monitoring developments and engaging with those other countries considering DST legislation.

In conclusion, we ask that USTR and other agencies of the U.S. government continue to take steps to encourage France and other jurisdictions following in France's footsteps to redouble efforts aimed at agreeing to a consensus solution at the OECD, including a commitment to immediately withdraw unilateral measures and ensure that other countries do not proceed with unilateral measures while the OECD discussions continue.

International fora such as the G7 and G20, as well as separate country trade negotiations provide venues for reinforcing the importance of a consensus solution through the OECD and the withdrawal of unilateral measures.

We suggest that all further communications from the OECD include a statement that all participating countries agree to withdraw any DST or other unilateral action as a precondition to accepting the benefits of the new system.

We appreciate the opportunity to testify and would be pleased to respond to any questions.

MR. BISHOP: Thank you, Mr. Sprague. Our final witness on this panel is Maryann Rowden with the American Association of Exporters and Importers.

Ms. Rowden, you have five minutes.

MS. ROWDEN: AAEI appreciates the opportunity to appear before this committee to offer our views on this Section 301 determination on France's DST.

AAEI has been a national voice for the international trade community in the United States since 1921. AAEI represents the entire spectrum of international trade community, including manufacturers, importers, exporters, wholesalers, retailers, and service providers to the industry.

AAEI promotes fair and open trade policy. We are recognized as the technical experts regarding the day to day facilitation of trade, including compliance with Section 301 actions.

While AAEI members are concerned with yet another Section 301 tariff action raising duty rates on imported goods, we are much more alarmed about the Administration's broad use of Section 301 actions. AAEI members are adversely affected by the Administration's use of Section 301 tariffs. The widespread use of tariffs creates customer investment problems for companies who source inputs worldwide and manufacture finished goods in the United States for domestic market or export to foreign markets.

Customers are increasingly unwilling to risk investment in commodities with an unpredictable cost structure, and customers are seeking to procure product outside the U.S.

In order to mitigate the risk of lost customers, most U.S. companies are absorbing the Section 301 costs, creating pressure on U.S. companies' profit margins because of the multiple compliance costs with Section 301 tariffs.

When AAEI is deeply concerned about France's DST, we do not believe that this issue is such a longstanding trade irritant to warrant Section 301 tariffs levied on a bilateral basis.

The committee should be aware that the use of Section 301 tariffs affects more than the goods upon which additional duties are imposed. Section 301 tariffs force companies to assess their supply chains at a strategic level.

Development of supply chains for specific markets takes years of research, including supplier identification, labor challenges, logistics capacity, security and flexibility, source country trade facilitation, and assessing the volatility of political risks.

Long lead times are required to analyze these factors for companies to have a predictable, efficient, and resilient supply chain.

It is important for the committee to understand that there are cascading multiplier affects every time Section 301 tariffs are imposed.

Every company that imports goods faces an enormous administrative burden in keeping track of all the Section 301 actions such as analyzing whether its inputs or products are affected, calculating the cost impact of such additional tariffs, assessing the increased surety bond to cover increased customs duties, coordinating with logistics providers and customs brokers to determine when imports will be entered and which duty rates apply, additional preparation and expenses related to customs clearance, and additional administrative costs relating to trade compliance related to such items. These costs are consequential for most companies and discourage them from making long-term plans and capital investment.

Finally, under our constitutional system, Congress sets duty rates, not the President. Congress enacted Section 301 remedies to provide the President with a powerful tool to resolve specific longstanding trade issues. Section 301 should not be used to unilaterally raise import duties without Congressional action or serve as a substitute for international negotiations and dispute resolution.

AAEI appreciates the opportunity to appear at this hearing, and I'm happy to answer any questions.

MR. BISHOP: Thank you, Ms. Rowden. Madam Chairman, that concludes direct testimony from this panel.

MR. TANNER: Thank you. We have

questions for the panel, and I'll begin. This question is for Mr. Rizzo, Ms. Stelly, and Mr. Sprague.

So each of you have provided testimony today or at the August 19th hearing on the actionability of the French DST, that the DST negatively affects the companies you represent.

Now that the DST has begun to be collected, I would ask if you have any further specifics in terms of the effects on U.S. companies?

I would also ask if you could speak further to describing the way that the companies have been affected, and whether you can quantify any of these effects either, you know, in the aggregate in general, or anecdotal for specific companies, is also welcome.

And last just again, sort of to ask a broad open end question, just to provide that if this is something that needs to be provided, confidential information could be provided in the post-hearing submissions.

So, but that question is for all three

of those panelists if you could answer.

MR. SPRAGUE: Should I go first? Okay. Happy to go first. Thank you for the questions. Very important questions.

I see that the most important effect on the companies that are within scope of the DST is the competitive disadvantage that that creates. Because of the way the thresholds operate, you could have a large U.S. company with more than 750 million euros of global revenue, but a relatively small amount of digital sales into a market subject to the DST.

While a large local market player which may in fact dominate a particular sector in the market, say France, is not an international player, therefore is not within scope.

So now the large American multinational is subject to a 3 percent on gross tax, while their local competitor is not, which creates a pretty significant competitive advantage for the French company.

In terms of the financial costs, I guess that would be confidential information. I'd be perfectly happy to follow up with companies and see what information we can provide you after the hearing.

MS. STELLY: I would just add that as we explained in our previous written comments, the administrative burden associated with the new tax, the tax as it was drafted, it's a novel approach to calculating taxable revenue.

And so companies are still determining how that's going to fit within their system. And the guidance that French officials had promised to provide after the tax was published into national law, industry reports that hasn't been adequately sufficient.

And I'm happy to follow up in post-hearing comments in more detail.

MR. RIZZO: And I would just briefly add, in addition to offering follow-up information with respect to quantifiable information, we certainly agree, as I mentioned in my testimony, with the conclusions of the report, both with respect to discrimination, but several of the conclusions deal with the burden that's posed by contravention of longstanding international tax norms.

And some of that deals with administrability. And some of it deals with what is actually owed in terms of tax revenue. And so that's something that we can follow up on.

But I think I would underscore a general point that beyond just the financial burden and the administrative burden that is borne by the companies that are within the scope of the DST, a broader concern is, again, this fragmentation of the global tax landscape, which is much more difficult to quantify in terms of its direct impact on not just the companies within scope, but their clients and customers as well.

MR. TANNER: Thanks very much for that. One follow-up question, Mr. Sprague. And certainly others are welcome to comment as well.

Just wanted to ask briefly if you have any further comments on the point that you made regarding the impact of the DST on the shifting of tax revenues?

Particularly you mentioned the impact on the U.S. tax, I guess you said tax base. But I don't want to put words in your mouth.

But if you could speak a little bit further to that and sort of, to the extent you can, sort of what your sense of that is. Thank you.

MR. SPRAGUE: Well, absolutely. The effect of the DST is to shift -- for U.S. multinationals, is to shift a portion of the U.S. tax base, that's what we describe as the income that should be taxable by the United States, from the United States to foreign countries.

The reason the DST was enacted, and it's illuminating to read the legislative history in the French Parliament, was very clear. These are revenues that are not subject to tax under our existing tax treaties with France or any other country. And so the intent of the DST is to take some portion of affected taxpayers' revenues out of -- for United States taxpayers, out of the U.S.

tax base and impose French tax on it in a way that could not be achieved under the tax treaty.

Now all expenses paid by U.S. companies will become deductible for U.S. tax purposes, so the financial effect of this is a transfer of tax dollars from the United States Treasury to the French Treasury or any other treasury that has imposed a DST.

MR. TANNER: One last follow-up on that. And so just to contrast that with the discussions that are going on at the OECD, is it your sense or whether you can speak to that the multilateral approach that's being discussed addresses some of these shifting issues in a way that the unilateral measures by definition cannot?

MR. SPRAGUE: Absolutely. As was noted in my testimony, we certainly support the OECD process. The reason the OECD process solves this particular problem is because the OECD process is clear that corporate income tax should be imposed only on net income, not gross. And all DSTs, the French one, the Italian one, all of the ones that have been proposed or enacted, are imposed on gross income.

And the second is that second feature of the OECD work is that assuming there is a consensus result, it will result in an agreement between countries, that if some portion of a tax base gets allocated to countries of the market, then the country of residence, using again tax terminology, agrees to surrender that tax base.

So the result is no double taxation. With the DST, the DST imposing jurisdictions are taking a tax base with no agreement on the other side to surrender it. So the effect is inevitably double taxation.

So the OECD's process is focused on the traditional international tax principals that tax should be imposed on net income, not gross, and that there should be an agreement between countries as to how to allocate the tax base as opposed to one country just grabbing it without agreement by the other country to surrender.

MR. CHANG: Hi, my name is Won Chang,

Department of Treasury. I have a question for Ms. Stelly and Mr. Sprague.

Both of you mentioned that other countries are finalizing discriminatory taxes. Can you provide further details on which countries you are referring to and how their tax discriminate against U.S.-based companies? In particular, do you have any details concerning the companies, U.S.-based and otherwise, expected to be covered by these other DSTs?

MS. STELLY: Just to list a few that have either finalized or have proposed national taxes in 2020, these include Austria, Belgium, Canada, Czech Republic, the EU, Greece, Hungary, India, Italy, Poland, Russia, Spain, Turkey, and the United Kingdom.

A number of these vary in how the digital tax would be structured. A number of them, especially in the EU, are modeled after the EU's proposal from 2018, which the French also used as a model for their own French DST.

The ones that affect -- that are in

effect in 2020, the Austria and the Italy ones also seem to be modeled after the French DST with a few variations.

And I'm happy to provide in post-hearing comments the more detailed breakdown of each proposal.

MR. SPRAGUE: Yeah. If I can supplement that as, as relevant to a 301 Investigation, I think it's fair to say that all of the other DSTs that have been proposed, and in my testimony I mentioned the ones that are closest to being in effect or are already in effect, being UK, Italy, Turkey, Czech Republic, Austria, and Spain, all of those share the same features of a tax on gross, not net, and definitional rules about revenue thresholds and scope that show that they are designed to focus on the high profile U.S. digital service providers.

There are some differences. The Turkish one actually has a broader scope. The UK one doesn't define revenue streams, but defines business model, making it very difficult to comply.

And the Austrian one has a special feature that some part of the revenue will be not really rebated, but transferred to Austrian media companies for them to build up their digital capacities. So it's a direct subsidy to the competitors of the companies that would be paying the tax.

As has been noted, while all of these taxes have the same general parameters of trying to focus the tax on a small group of targeted companies, there are enough individual differences that makes compliance with each of the individual taxes pretty burdensome.

And we'd also be happy to follow up with a more detailed description of each of these taxes.

MR. CHANG: As a follow-up, as you mentioned, the inconsistency in scope and other details of the various country DST measures will likely result in multiple taxation of targeted revenues.

You also mentioned that this lack of consistency means there will be unique compliance costs for every DST measure. Can you provide further details on the effect of multiple inconsistent DSTs on U.S. companies, including incremental compliance costs?

If needed, you can provide any business confidential information in post-hearing submissions as well.

MR. SPRAGUE: Sure. Sure, be happy to. I'll give one example now about a problem giving rise to double taxation.

One of the targeted sectors for this tax is peer-to-peer platforms where the platform is used for one individual to acquire a good or service for the other individual. So it's generally the way these taxes work that the full amount of revenue will be taxable in the country if either the provider or the purchaser is a resident in that country.

So if you have a platform that is connecting a purchaser in, say, France, and a supplier in the UK, both France and the UK have that transaction within the scope of their DST.

And because these DSTs are intended to be outside the scope of the normal international tax framework, there's no way to harmonize that. There's no way to achieve double taxation relief.

The UK has said well they intend to negotiate with all of their other fellow DST tax imposing jurisdictions to relieve double taxation. But I think the chances of that happening in practice are pretty slim.

And we can provide more information on that in subsequent comments.

MR. CHANG: Thank you.

MR. FLAVIN: Thank you all for your testimony. My question is for Ms. Rowden.

In your testimony you referenced potential administrative burdens on importers from the Section 301 tariffs. Given the proposed action is limited to France, could sourcing from other countries mitigate any potential increased costs or burdens?

And as a follow-up question, are there any particular industries or sectors that would be particularly negatively impacted by the perceived administrative difficulties?

MS. ROWDEN: Thank you for the question. I guess the way we couched our testimony is the practical aspect of companies that import and export. So even though this action is just against France, we're dealing with China and a whole bunch of other countries and different products.

And so companies, trade compliance professionals are now being noticed by CEOs of corporations. And they have to do an analysis, because CEOs have to assess the tariff impact in their quarterly earnings calls with investors and Wall Street.

So it is a constant battle that trade compliance professionals have to gauge the tariff impact, not just for, you know, France, but all their products regardless of the type of tariff action that's being taken.

As to your second question about substitution, this again is something that we understand that the Administration is looking for companies to change their supply chains. It is very difficult.

So what you run into in European countries, and France in particular, they have a large number of products that are on the list that may have geographic indicators.

You know, if you're importing champagne, it's not champagne, it's sparkling wine if you're importing it from another country. Or Dijon mustard, or whatever the case may be.

So it really depends on the type of products and inputs that companies are looking. And the more specific and the more well-known that product is made in that particular country as a different geography, a specific brand, or from a region, the harder it is to replace that product. And that's just reality.

MR. FLAVIN: Thank you.

MR. BISHOP: We release this panel with our many thanks, and we invite the members of our next panel to please come forward and be seated.

MS. GRIMBALL: We will take a five

minute break or so. And we'll reconvene with the next panel at 10:15 if everyone is here.

(Whereupon, the above-entitled matter went off the record at 10:07 a.m. and resumed at 10:15 a.m.)

MR. BISHOP: Madam Chairman, our first witness on this Panel is Faye Gooding with Le Creuset of America. Ms. Gooding, you have five minutes.

MS. GOODING: Thank you. My name is Faye Gooding, and I appear today before the Committee on behalf of Le Creuset of America, headquartered in my home state of South Carolina.

As the former chief executive officer of Le Creuset, I position I held for ten years prior to my stepping down in 2019, I'm proud to have played a key role in developing and expanding the company into a thriving American company employing nearly 300 South Carolinians and over 600 more employees across America.

And while not being a French owned company for the past 30 years, the premium Le

Creuset enamel cast-iron cookware has become a beloved global brand, which is now ingrained in the fabric of American households from coast-to-cast.

Since 1974, Le Creuset of America, Le Creuset, has chosen South Carolina as its home and base of operations for the entire United States. And recently became the headquarters for all North and South America.

Over those nearly 45 years, which is half the lifetime of the brand, Le Creuset, with its skilled and dedicated South Carolinian workforce, has distributed its products across the country and operates 88 of its own retail locations in 39 states.

Please know that Le Creuset and I believe in and support the mission of the Office of United States Trade Representative. We respect the important responsibility of the USTR.

To open markets throughout the world U.S. goods and to act when the policies of other nations discriminate against the products of our own American companies. We appreciate and thank you for the important work performed by the men and women of the USTR.

While we support the USTR's important work, the reason for my appearance today is that the very existing of Le Creuset in South Carolina, and throughout the United States, is threatened by the proposed proposal announced in early December to enact duties of 100 percent on French goods coming into the United States, including the type of enamel cast-iron cookware Le Creuset manufacturers in France.

We understand the purpose of the action of the USTR is in response to France's Digital Services Tax, which the USTR had determined is unreasonable or discriminatory and burdens or restricts U.S. companies.

The reality is a 100 percent tariff on Le Creuset products misses the mark in France and is an existential threat to the companies very existence in South Carolina. It would be impossible for Le Creuset to compete with cheaper versions of enameled cast-iron cookware in the face of such a tariff as the one proposed.

And because no American company manufactures this enameled cast-iron cookware, our competition comes from inferior and much cheaper types of enamel cast-iron cookware imported from many different countries outside of the United States.

A few facts for your consideration. As I stated earlier, Le Creuset, even though a very French sounded name, has not been French owned since the 29th of January 1988.

Despite its French origin, Le Creuset largest workforces resides in the United States with nearly 300 full part-time and temporary jobs in South Carolina and with over 900 individuals employed across America, in warehouses, offices and retail outlets.

To our knowledge, there is no French owned major enameled cast-iron cookware company in France, whose products would be subject to the proposed 100 percent tariff. Therefore the burden of the Section 301 tariff aimed at enameled cast-iron products would fall on Le Creuset of America, its employees, its small business partners and retail shop owners and operators in South Carolina and across America.

To give you a brief sense of the scale of that burden, besides the nearly 300 employees in South Carolina and the other employees across the U.S., please consider the following potential impacts from a tariff of 100 percent on Le Creuset products.

And admit an immediate freeze on hiring for all open positions, severe economic hardship on approximately 115 local business partners, postponing or canceling of the $3.2 million expenditure of local capital improvement projects at our Charleston Headquarters and Hampton County Distribution Center.

Retail outlets in the South Carolina communities of Yemassee, Bluffton and North Charleston would likely be soon closed. And postponing or canceling major equipment purchases as well as vocational services contracts and the elimination of local charitable giving.

As the president of Southern Carolina Regional Developmental Alliance, Mr. Danny Black stated in his letter of December 18th to Governor McMaster, we understand in the overall scheme of world events, these impacts don't mean a lot on a national level, but penalizing this operation in Hampton County, one of the 14 counties identified by the state for special consideration, hurts our areas tremendously. I completely agree.

We ask that the Office of the U.S. Trade Representative remove enameled cast-iron cookware, HTS Subheading 7323.92.00 from its proposed list of included items. Thank you very much for your time and your consideration.

MR. BISHOP: Thank you, Ms. Gooding. Our next witness is Joanna Rosenberg with Zwilling J.A. Henckels & Staub. Ms. Rosenberg, you have five minutes.

MS. ROSENBERG: Good morning. My name is Joanna Rosenberg and I am the CMO of Staub.

Thank you for the opportunity to share the impact of a tariff on French enameled cast-iron cookware.

Staub is part of the family owned German Company, Zwilling J.A. Henckels. We've been helping families and friends share meals since 1731.

The proposed tariff covers all of Staub's enameled cast-iron cookware, including Dutch ovens, grill pans and fry pans. Imposing increase tariffs by as much as 100 percent on Staub cookware would not be effective to bring about the elimination of France's digital tariff. Digital tax, excuse me.

It would actually disproportionally harm Americans, consumers, workers, retailers and restaurants.

There are four factors we'd like to point out. One, American workers will suffer greater harm than French workers.

In our community in Pleasantville, New York, we are the largest employer. Additionally, like my colleague Faye said, Staub, like Le Creuset, employees more people in the United States than we do in France.

Number two, American retailers and consumers will suffer. Consumers will likely see significant increases to retails on products that they love, putting them out of reach. And American retailers, traditional retailers like Williams-Sonoma, Bed Bath & Beyond, Macy's, will see retails increase and sales significantly decrease.

Three, the tariff will not bring about production in the U.S. While some may suggest that we manufacturer products in the United States, the reality is, there is currently no manufacturing of enameled cast-iron cookware in the U.S.

If the products were to be sourced outside of France, the most likely location would be China. In fact, the largest manufacturer of cast-iron cookware in the United States, when they do enamel product, they enamel it in Asia.

The last is the impact to the French will be minimal. The company has been since 1731, and continues to be family owned in Germany, there is not a significant corporate location in France, it all exists either not far from Frankfurt in Germany or the second biggest location is in the U.S.

A tariff on French origin cast-iron products will not be a practical or effective means of rebutting the DST by the French Government.

In summary, American workers and consumers will suffer more from this tariff then the French would. Please exclude the category of enameled cast-iron cookware from the tariff increases.

Thank you very much for your consideration. We really appreciate the opportunity to be able to express the impact of this sort of tariff on our business.

MR. BISHOP: Thank you, Ms. Rosenberg. Our next witness is George Kakaty with Bernardaud NA, Incorporated. Mr. Kakaty, you have five minutes.

MR. KAKATY: Good morning. And thank

you for the opportunity to appear today. My name is George Kakaty and I'm the president and CEO of Bernardaud North America, which is a small American company, headquarters is in New York City, with a distribution facility in New Jersey.

We have been in business for 40 years importing and selling fine porcelain manufactured by a small family owned company, Bernardaud SA, which was founded in the year 1863 and has its production facilities in Limoges, France.

I have been employed by Bernardaud North America for 32 of those 40 years. I am here on behalf of my small U.S. company and our employees. And the approximately 600 small businesses across the country we partner with who uniquely depend on our products.

Our porcelain is produced in an artisan workshop. It is a very special product with no substitute.

The U.S. imported only $17 million of porcelain dinnerware and relate products from France in the Year 2018. But this unique product has a cherished history in America and is a critical customer draw for American's fine China shops.

In addition to the fine China shops, we also partner with top-tier American fine restaurants and hotels. I am here because I need you to understand that tariffs on this porcelain would decimate many longstanding American small businesses, including mine.

And we see no upside for the United States from the devastation a tariff would create for our companies. There is no U.S. domestic company that can replicate these artisanal pieces coming from France.

The value of these imports are so small. It would have no mackerel effect on the French government. The small French artisans that produce these products are not of major significance to the French economy and do not have political resources that would amplify their voices.

So imposing tariffs on these products would not create any leverage. But there would be irreparable harm to the American small businesses that have literally built their business for decades selling this porcelain. A significant tariff on fine porcelain would simply make it unsaleable.

As described in our confidential comments, the imposition of these tariffs would devastate our company. We have been headquartered in New York City since 1980. Our 20 person workforce covers sales, marketing and distribution.

And we have ten longstanding workers devoted to us in our local warehouse. Our staff is based in the States of New York, New Jersey, Florida, Illinois and California.

Late last year plans were actively underway to expand our sales force by 60 percent. As we anticipated continued growth and we were looking to penetrate other regions of the country. These threatened tariffs have stopped us cold and we have suspended our search efforts.

Should these tariffs go into effect,

after careful assessment we have concluded that our company would be totally crushed. And we would not be alone.

The hundreds of small shops across America that provide bridal registries and have served families for decades, utilized our distinctive and desired products as the linchpin of the retailing business.

Their fine product choices displays in knowledge how they distinguish themselves in their fairest competition with online and other merchants.

Porcelain from Limoges is a unique and exquisite product. It is a key to attracting customers to their shops. But they could not pass along the course of these tariffs.

The price would be prohibitive. So they would be forced to eliminate French porcelain from their stores.

Dozens of them have told me that this would mean job layoffs, and even potentially force them to shut down.

This tariff threat blew up at one of their busiest and most stressful times of the year. So I am sure many of them don't even know what could hit them.

But I know some have managed to send in comments despite all this. I urge you to read them as representative of hundreds more businesses like theirs.

Some predict the tipping point where this leads to these beautiful historical products being replaced forever by inexpensive knock-offs from China. Please consider all this damage and the devastating impact it will have on small American businesses, and to the American consumer, and remove our products off the tariff list.

Thank you for your consideration and I welcome any of your questions.

MR. BISHOP: Thank you, Mr. Kakaty. Our final witness on this panel is Nate Herman with the American Apparel and Footwear Association. Mr. Herman, you have five minutes.

MR. HERMAN: And now for something

completely different. What do handbags and digital services have to do with each, nothing. And that's why I'm here.

My name is Nate Herman. I am in addition to being a struggling comedian, I am also the senior vice president for policy at the American Apparel and Footwear Association.

The American Apparel and Footwear Association is a national association of the apparel, footwear and accessories industry. And that's nearly four million American workers.

Please note that the Travel Goods Association, the National Association of Travel Goods Industry, also fully supports this testimony.

Our industry agrees with the U.S. Governments objective eliminating France's Digital Services Tax. The first panel, the first three witnesses, made a very compelling case on why the digital services tax is bad.

So why I am here? Because we just don't agree with the U.S. Government's proposal to accomplish that goal. Imposing taxes on handbags.

As Ms. Rowden in the first panel noted, it creates uncertainty and it hits industries have nothing to do with the issue at hand.

This is the second time in just the last few months that I am here testifying on a subject that makes little sense to our members. The last time was when our industry was targeted with retaliatory tariffs in the EU Airbus dispute.

This time around, the U.S. Government is targeting U.S. imports of handbags from France over dispute on digital services.

Before I go any further, I want to set the record straight. Other countries do not pay the tariffs proposed today.

Tariffs, instead, are tax on Americans. A huge hidden tax paid both by American consumers in the form of higher prices and by American workers, in the form of fewer jobs and lower wages.

So how does the U.S. Government's proposal affect us? Our members and the millions of American workers we employ, source and sell handbags made in France to American consumers.

Why do we import and sell handbags from France, first, over 99 percent of all handbags sold in the United States today are imported. Handbags are no longer made in the United States and haven't been for decades.

Second, made in France has a certain cachet with our customers, American consumers. As a result, American companies imported over 1.4 million handbags from France in 2018. More than double 2017 imports.

And our American workers design, develop, market and sell those handbags to American consumers. If a punitive tariff is imposed by the U.S. Government, our members will be forced to source fewer handbags. Which will obviously lead to lower sales, which hurts our workers. American workers.

Or, our members will be forced to charge higher prices. Which again, will lead to lower sales. Which, again, hurts our workers. American workers.

This is quite literally a tax that hits

Americans in the pocketbook. Regrettable, the impact on our industry won't stop there.

France will likely retaliate against the products we manufacturer here in the United States. American made clothes and shoes and sell in France.

How do we know this, Europe has already retaliated against imports US-made jeans and other US-made clothing and threatened retaliation against US-made shoes over the steel and aluminum dispute. Again, another dispute that should have nothing to do with our industry.

And our industry is also targeted by Europe over the U.S. retaliatory tariffs in the Airbus dispute. These are products made in America, by American workers.

So, in conclusion, the selection of handbags for retaliation baffles us as handbags have nothing to do with digital services. Because of this lack of connection, as my colleagues have noted on this panel, they will also do nothing to change the behavior of France in this dispute.

Yet retaliation against these products, if implemented, will have a significant impact on our industry and our American workers. Therefore we urge the Government to not impose retaliatory tariffs on our industry. We shouldn't be here.

Thank you for your time and consideration, I'd be happy to take any questions.

MR. BISHOP: Thank you, Mr. Herman. Madam Chairman, that concludes direct testimony from this panel.

MS. NOLAN: Thank you all for your testimony. My question is for Ms. Gooding.

Do you have an estimate of how much of your business is based on imports from France versus products sourced from other countries?

MS. GOODING: Enameled cast-iron is what Le Creuset say is known for. We're privately held and therefore I would prefer to give you specific information in writing. I'm sure the company would be glad to do that.

But again, the enameled cast-iron is

the product for which Le Creuset is best known and on which its grown its reputation.

And if I could add. I'm from South Carolina, as I stated earlier. And I saw the current owner of Le Creuset, who is South-African and has dual citizenship in the U.K. come to the Lowcountry of South Carolina and he viewed the area. And there was nothing there. No major employer.

And he chose, over 30 years ago, to take a huge risk because it was near to his heart. He's a farmer at heart.

And he saw an area that was in need. And he actually pioneered. There was no major business in that area. He took a huge risk.

He's continued to commit to South Carolina, to America and to a rural area that needs these jobs. It's the largest part of Le Creuset, located in America, in South Carolina. He pioneered.

And since then the business has expanded to the point that even the facility is six times the size that it was when Paul Van Zuydam bought the company.

And in addition to that, he certainly has invested further in the Lowcountry in Charleston. With an office there that speaks well for the state and for the Lowcountry.

This is, as you can see, near and dear to my heart, because I know the impact of the potential loss of Le Creuset of America to the area. It would be devastating.

And the proposed tariff is not such that the company could be sustained in the United States. The consumer base would be lost. It cannot afford the cost of the products.

And the consumer base is really broad. While Le Creuset is a premium quality product, it is not a luxury brand, it's a premium quality product.

And the consumer base, proven by our data, is very broad. It crosses a huge rep of income levels, of age, of ethnicities. And therefore, the tariff proposed would truly make this company not sustainable in the United States.

I've been associated with the company since 1977. Very much like the colleague to my right.

And I've seen the commitment to this nation and to the State of South Carolina and to the area. And it truly would be a huge blow to lose what has been built over 30 years by the current owner.

The company is not French owned. Has not been French owned since 1988. And again, the largest workforce doubled, practically double, is in the United States, not in France. Thank you.

MR. ROGERS: Before we move on to other questions, I have a follow-up question for Ms. Gooding. I should introduce myself first for the benefit of everyone.

I am Michael Rogers and I'm a director for Europe at USTR.

Ms. Gooding, I have a couple of follow-up questions. I was going to ask you to expand upon the ownership of who exactly owns Le Creuset, but you mentioned that in your follow-up comment to my colleague.

But that's, just to be clear, it's owned by a South-African and it's completely privately owned, if I'm understanding that correctly?

MS. GOODING: It is privately owned, yes, by Paul Van Zuydam, who is South African. And as I said, has dual citizenship in the U.K.

MR. ROGERS: Okay. And then if you could just expand, you noted that the Le Creuset workforce in South Carolina is one of the largest for the company, but could you expand upon the activities that are taking place in South Carolina?

MS. GOODING: Surely.

MR. ROGERS: Thank you.

MS. GOODING: In South Carolina there are actually three retail stores. And Mr. Van Zuydam recognized, when he acquired the company, that he first needed to build brand awareness and therefore he began opening retail stores.

He believes in going direct to the consumer. And he took the brand direct to the consumer in order to grow the brand. Which has sense created the jobs in South Carolina and the nation.

In addition to three retail stores, one near Hilton Head and Bluffton, one in North Charleston and one in the very rural area of Hampton County in the Yemassee area.

In addition to that, there is a distribution center of over 300,000 square feet where over 200 people are working to receive and distribute product and support the growth in the United States through consumer services. Warehousing, finance.

And in Charleston we have a team of approximately 45 people who are in that office. And they represent also support for retail for finance, for marketing. Especially marketing in that office.

And in South Carolina, in the Hampton County area, there's also a 12,000 square foot office block that supports finance, consumer service, customer service, some marketing functions there as well. Those are primarily in the Charleston area.

There is IT support for the nation located in both of those facilities. Both in Charleston and in the rural offices that are located with the distribution center.

MS. GRIMBALL: Ms. Gooding, I have one final question. You stated that if these tariffs were to be placed on the products, Le Creuset would not be able to compete with cheaper version of enameled cast-iron cookware.

Could you give us information on where your competitors products are produced? Is it china, other places?

MS. GOODING: Yes.

MS. GRIMBALL: Particularly products of similar premium quality, as you described it. Where are those other products produced?

MS. GOODING: I want to make sure that I'm understanding your question. Your question is related to premium enameled cast-iron products. There aren't any.

There is no, to my knowledge, a premium

enamel cast-iron produced in France accept Le Creuset and my colleagues here.

And the inexpensive cheap copycats are coming from other countries. There is no cast-iron enameled, no enameled cast-iron product produced in the United States.

The cheap copycats, as Joanna has said previously, are coming actually from non-European countries. And those are the countries, and those are the manufacturers that can and will benefit by this proposed tax.

The harm is to the U.S. And the benefit is to non-U.S. countries, unfortunately.

MS. GRIMBALL: Ms. Rosenberg, I think you mentioned China. Were there other countries, other than China, where --

MS. ROSENBERG: To my knowledge, at this point, almost all of the enameled cast-iron, so there is a premium level of cast-iron, which if you want details on what makes it premium, I'm sure Faye or I would be happy to share it. And it's all coming from Le Creuset or Staub. That's it.

MS. GOODING: Right.

MS. ROSENBERG: And then there is a very, you know, say a Dutch oven that holds enough for dinner for six is going to cost about $300 at retail.

The lower quality, which for people who are aware and use the product a lot will have the experience. Those things can be anywhere from a $69 retail to a $150 retail. And every resource that I know for those products comes out of China.

MS. GRIMBALL: Thank you.

MR. STEVENS: I have a question for Ms. Rosenberg, but first I want to thank Ms. Gooding for her testimony and for panelist generally, the U.S. Department of Agriculture was interested in hearing about impacts on rural economies in particular.

I know a lot of distribution and manufacturing can occur in rural areas, so any additional information, for example, how do your wages compare to the average household income in

Hampton County?

You can put that in your post-hearing brief. And we're interested generally in those types of things.

MS. GOODING: Yes. Today I can tell you that Le Creuset is a revered employer in that area. We certainly pay market and beyond.

The company also offers a set of benefits that is really important to its workforce. It has one of the best, as an example, medical plans that you'll find.

It's actually in the 95th percentile in the nation. And that's extraordinarily important because this is an area that's not only socioeconomically, it's seriously deficient.

But health care is so needed in that area and the area, and the company has a huge focus on wellness. That's a project actually that I've been working on with the company, post my retirement, last April.

We have focused on wellness. And the company has supported, as part of its charitable giving, organizations that are related to wellness and to health care and actually facilitate at bringing those organizations together.

MR. STEVENS: I think we're going to be short on time, but I appreciate that.

MS. GOODING: Thank you.

MR. STEVENS: For Ms. Rosenberg, you referenced there is no current manufacturing of enameled cast-iron cookware in the United States. Can you explain the reasons for the lack of that?

Is it certain procedures or processes that are difficult to do here?

MS. ROSENBERG: Yes, I think that's a good question. It takes enormous amount of skill to effectively enamel cast-iron products.

If it is not done correctly, it will have, there are a few fundamental, common flaws that it will have. One is chipping on the exterior of the enamel, another is what's called crazing or where you see kind of little cracks in the base of the enamel on a pot.

And then the third thing that can happen is, there can be, if the enamel is not done properly, there is a very big difference in the properties of the cast-iron and the enamel. And if there is too much stress between those two things, they can crack. And that's the biggest danger of all. And that's what everybody is always quite afraid of.

And actually, there have been several recalls on product in the U.S. that was made in China because it had that specific problem to it. There is one that's very well known that happened at Macy's with Martha Stewart.

But I takes an enormous amount of expertise to get there. And then the secondary thing, which both Le Creuset and Staub take get pride in I would say is, the colors.

Being able to really achieve excellence in color is something that, you know, we have people in our factory who have been working there for generations. There are many people who pass down these skills.

You know, it's mostly fathers to sons or now more daughters, but there are generations of people who have been doing this and it's such a specific skill.

MR. STEVENS: Thank you. And your testimony discusses what you see as potential impacts to retail pricing from any additional tariff. Could any potential costs be borne by your European based parent company or the France based operations?

MS. ROSENBERG: That's a good question. I would say, I don't see it being borne by the French based operations.

We could just have less profitability if we, it would be probably borne first by our U.S. organization and then we would have a less profitable 2020. Which at some point would force us to reduce our workforce, reduce compensation.

At some point we would have to make that right, we can't just keep going with decreasing profitability. So, I think it will be spread around in some point, but we would, if we're talking about a hundred percent increase in product, there is no way we could do that without passing on a really meaningful price increase to consumers and retailers.

MR. STEVENS: Thank you.

MS. GRIMBALL: Before we turn to the next question. Ms. Rosenberg, I think you mentioned in your testimony that some of the companies that you sell, that your company sells its products to the United States are some of the large stores, such as Macy's I think you mentioned.

MS. ROSENBERG: Yes.

MS. GRIMBALL: Could you give us any sort of insight on whether some of those large retail corporations would pass these tariffs off on to U.S. consumers or what is their appetite to absorb potentially any costs?

Have you all had these discussions with your customers?

MS. ROSENBERG: So, before working with Staub I was a buyer at Williams-Sonoma, so I have experience on both sides.

All of the big retailers we work with have very specific margin requirements. Meaning, let's say everything I buy for $5 I sell for $10. And each person is assessed based on whether they hit that target.

And so, if I have to go to them and say, the thing that cost $5 yesterday cost $10 today, they have to make it $20, it's how their organization is structured.

All of the major retailers are like that, they're margin has to be maintained. It's the cornerstone of how their financial operation is run.

So, I can't think of a single experience where that price increase wouldn't be passed on. Can you think of any?

MS. GOODING: No.

MS. ROSENBERG: No. Right.

MS. GOODING: Absolutely not.

MS. ROSENBERG: Yes.

MS. GRIMBALL: Thank you.

MS. BONNER: This question is for Mr. Kakaty. Mr. Kakaty, thank you for your comments.

I have two questions. And the first

is, are there other sources of this special porcelain products that you refer to beyond France, that would be substitutes?

MR. KAKATY: No, there really is no substitute. Oh, I'm sorry. There really is no substitute.

The most porcelain is widely recognized as the finest porcelain in the world. It is unique and it's distinct from all others. And what makes it unique is that --

MR. BISHOP: Could you get a little closer to your microphone please?

MR. KAKATY: Sure. Did you hear me so far or?

Okay. What makes it unique is, number one, the minerals in the local soil, in Limoges, that are used to produce the clay paste. And that clay paste, that hard paste, once it's produced and once the finished product is ready, that's what creates the resilience and ultimately the translucence in the product. Which is second to none.

The second reason, equally important, is it an artisanal product. It is created by skilled craftsman who have been trained for decades and have been in the craft for generations.

Our industry is over 200 years old. That is especially important because most of the decorating process is done by hand. So we don't believe it can be replicated. So those are the two primary reasons.

MS. BONNER: And how price-sensitive are these products generally?

MR. KAKATY: Very price-sensitive. We are already on the premium, we're a premium price product and on the upper-end of the spectrum. So, there is very, very little.

We already have price resistance. And interestingly enough, and I can share this with you, and it's interesting as I sat down, Ms. Rosenberg had mentioned, your product is incredible, I can say.

MS. ROSENBERG: It is a beautiful product.

MR. KAKATY: As I travel the country, and I do it regularly, and I go to a restaurant, I go to a hotel, and I talk to the general manager, I talk to the chief, invariably the first comment they make, whether they're a customer of ours or not, is they say, nobody does it better than you.

The second thing they say is, I hope I can afford you. The ones that are not our customers, I hope I can afford you.

So we have this perception out there that our quality is unsurpassed. But the other perception is that we're really on the upper-end of the spectrum.

So, any increase whatsoever in the price to our retailers or to our end consumer, end users on the hotel and restaurant side, there will be a strong resistance.

MS. BONNER: Thank you.

MR. KAKATY: Okay.

MS. GRIMBALL: Hopefully just one follow-up question. Are the majority of your end users hotel and restaurants or is there a fair amount of --

MR. KAKATY: I'm sorry, I didn't hear the first part.

MS. GRIMBALL: Are the majority of the end users of your products hotels and restaurants rather than individual --

MR. KAKATY: No. It's about a 50/50 split.

MR. AMDUR: And, Mr. Herman, we have some final questions for you. So you testified that over 99 percent of all handbags sold in the United States are imported and that 1.4 million handbags are from France last year. What share of imported handbags come from France?

MR. HERMAN: So it's, France is about the tenth largest supplier of handbags, U.S. market. It's about three-tenths of one percent. But it's at the high-end of the market and dominates the higher end part of the market.

MR. AMDUR: Okay. And why would other sources not be suitable subjects to import from France?

MR. HERMAN: Again, people, when they're looking for spending premium dollars on a handbag, are looking for the Made in France cachet. You have, Made in China or Made in Dominican Republic, it doesn't have the same cachet. And that's what they're looking for.

And so, you're charging the premium price point, you need the cachet that goes with it.

MR. AMDUR: I mean, so there has been a lot of discussion about the effect of the proposed tariffs. In looking at that for handbags, like, what is like the average profit margin between the import price for the high-end French handbags and the retail sale?

MR. HERMAN: It's usually, again, a three times markup usually from the import price to the final retail price. And so, you mark that up.

In our experience with other travel goods that have been subject to punitive import tariffs, such as with the punitive China tariffs that are currently in place on handbags from China, we've seen about 60 to 70 percent of the tariffs go through to the final retail price.

MR. AMDUR: Okay, thank you.

MR. BISHOP: We release this panel with our many thanks, and we invite the members of Panel 3 to come forward and be seated.

(Whereupon, the above-entitled matter went off the record at 10:56 a.m. and resumed at 11:01 a.m.)

MR. BISHOP: Will the room please come to order.

Madam Chairman, our first witness on this panel is Jeff Zacharia with National Association of Wine Retailers.

Mr. Zacharia, you have 5 minutes.

MR. ZACHARIA: Good morning and thank you.

I'm Jeff Zacharia. I'm a director of the National Association of Wine Retailers. As you can see today, there's four panels representing the wine industry here today. And I don't think here today, but I recently read that there's also U.S. wine producers who are opposing these tariffs.

Our association, the NAWR, represents interests of wine sellers nationwide, whether they serve the wine-buying public through small brick and mortar establishments, large retail chains, internet-based businesses, grocery stores, auction houses, or clubs. But most of our members are small, family-owned wine retailers.

I'm also the President of Zachys Wine & Liquor Store and Zachys Wine Auctions. My company was founded by my grandfather, Zachy Zacharia, in 1944 in New York.

There are approximately 47,000 wine retailers in the U.S., with almost 200,000 employees in their businesses. I am here as a director of NAWR to testify that we oppose the tariffs on imports of wine from France and other places in Europe.

As you are aware, as part of the WTO dispute involving subsidies onto Airbus, the United States has already imposed 25 percent tariffs since

October of last year on wines from several European countries. As part of the same Airbus dispute, USTR is considering expanding those tariffs to encompass virtually all wines from Europe, and increasing the tariffs from 25 to 100 percent.

These tariffs from the WTO Airbus dispute are already having a negative impact on wine retailers across the country. I have already laid off four employees. Imposing more tariffs on wines from France because of the France digital service tax will completely devastate our members. I'm sure that if these extra tariffs go into effect I will lay off more employees.

Tariffs on wine imports have a disproportionate impact on the wine retailers for a number of reasons.

First, the sale of wine is highly regulated, with markups occurring at each of the three mandatory tiers of wine distribution in the U.S.: importers, wholesalers, and retailers. As a result a 100 percent tariff on wine imports from France can result in a staggering 150 percent increase in retail wine prices.

Second, wine margins are extremely small. One industry report in 2019 recently found that our industry's profits were as low as 2.7 percent. This means that wine retailers are not able to absorb the duties imposed on wine imports. It means we will simply stop importing wine subject to the tariffs and make fewer sales overall.

Third, our members simply cannot sell more wines from California, or wines imported from other countries instead of the imported wines from France and other European countries. That's because for many wine consumers there is no substitute for those wines.

Even for consumers who may consider substituting wines from France with other sources, those other sources cannot replace the wines imported from France. It takes many years to plant new vineyards and allow those vineyards to produce mature fruit that can be harvested to make wine. It will, thus, take at least a decade for more U.S. domestic wine industry that would have the capacity to replace the wines imported from France.

The bottom line is that the proposed tariff on wines will result in a devastating revenue loss for our members. Many of the NAWR anticipate that they'll have to lay off up to 25 percent of their workforce due to declines in sales revenue from tariffs on sparkling wines from France and the other tariffs in place, leading to loss of thousands of jobs.

The Distilled Spirits Council of America has estimated that wine tariffs of 100 percent could result in job losses up to 78,000 employees.

I'd also like to emphasize that imposing tariffs on French wines will hurt U.S. wine retailers much more than it will hurt French wine industry. With the U.S. market closed to them, French producers will further increase their exports of wines to other countries such as China, or now even Brazil. In fact, China has already increased its consumption of European wines by over 88 percent in the last 5 years.

NAWR understands the concerns underlining USTR's investigation of France's digital service tax. However, retaliation against France should target French digital service companies and other French service industries instead of wine imports. Tariffs on wines are making small businesses across the United States collateral damage for a war involving large multinational corporations.

Instead of imposing tariffs on wine, we propose that USTR impose fees on French service providers here in the United States, such as the French financial service providers.

In conclusion, on behalf of NAWR and the thousands of wine retailers in the U.S., I respectfully request that the USTR not impose any tariffs on imports of French wines.

Thank you for the opportunity to testify. And I'll be happy to take any questions.

MR. BISHOP: Thank you, Mr. Zacharia.

Our next witness is Richard Blau with Sokolin LLC.

Mr. Blau, you have 5 minutes.

MR. BLAU: Thank you. Good morning, members of the committee. My name is Richard Blau. I am a shareholder in the law firm of GrayRobinson, P.A., and chair my firm's alcohol beverage and food law department. GrayRobinson serves as national regulatory counsel for Sokolin LLC, a licensed retailer of fine wines based in New York.

Our client's company was founded in 1934 when original owner David Sokolin received one of the first liquor licenses issued by the New York State after Prohibition was repealed. Today, Sokolin is run by Dave Sokolin, grandson of David, and is an internationally renowned luxury retailer specializing in fine wines from long-established wine producing regions, including France, as well as in larger cultural areas.

At a time when current circumstances compel us to acknowledge and appreciate the importance of good relations with our European allies, careful reconsideration of the proposed tariffs in this situation is especially warranted.

Sokolin LLC is one of a million small and medium size businesses across the United States that comprise America's hospitality industry. Maintaining the existing 25 percent retaliatory tariffs on certain EU wines referenced by Mr. Zacharia, and other alcohol beverages, to say nothing of imposing a new 100 percent tariff on French sparkling wines injures American interests without producing any material benefit to United States trade policy concerns over the large civil aircraft dispute or the French Digital Services Tax dispute.

Let me explain with these specific reasons:

Concern Number 1: alcohol beverages are neither fungible nor relevant in the pending trade disputes. Unlike most of the products on the retaliatory tariff list, EU wines generally, and French sparkling wines in particular, are not fungible. As Ms. Rowden testified earlier this morning to you, many of these products are appellation designated; they can be made only where they are actually created. And in this case we're talking about French sparkling wines.

Moreover, American consumers' purchases, as well as international trade law, clearly establish that domestic and imported wines are not interchangeable. There is no sound policy reasons to deny American consumers and the American businesses that service them access to these unique and highly-valued imported products, products that are not otherwise available with a domestic counterpart or from other countries within the EU or otherwise.

American consumers shouldn't be penalized. Tariffs on these products are essentially taxes on American import -- and are very important to the hospitality industry. Imposing retaliatory tariffs will lead to reduced supply and, ultimately, result in both less consumer choice and higher prices.

Americans should not have to either forego entirely or pay higher prices for their preferred beverages. Consumers hold personal preferences that are subjective and deserve to be respected by trade negotiators.

Third: alcohol beverage industry in America will suffer unfairly and disproportionately. These proposed tariffs are especially hard hitting on America's wine industry and its imported segment.

Imported wine sales in the U.S. currently are led by France. Many of these wines come to the United States through the efforts of small American importers. The negative impact on the existing 25 percent Airbus tariffs, to say nothing of the proposed 100 percent DST tariffs, will continue to be felt well beyond their removal.

Once a market is lost, it is very difficult and costly to regain. This is particularly true for small importers who have built a niche U.S. market. As many public comments already submitted to the USTR bear witness, American importers of French sparkling wines fear they will never retain lost market share, and may be forced to lay off American workers and close their U.S. businesses.

Prior comments about the competitiveness of China reflect that as a major market that would step in to capture these French-based sparkling wines.

And on the subject of competitiveness, there were comments earlier made with regard to non-competitive or competitive disadvantages. With regard to the wine industry, the real consideration is not competitive disadvantage, it's survival. If these products are not available, because they are unique and not fungible, there is no longer access to the market for them. And for many industry members that will cause serious concerns to their future viability.

In the case of Sokolin LLC, 90 percent of the business is imported wines mostly from the EU, and many involving French sparkling wines, champagne, cremant, et cetera. Removing those poses a significant risk of continued existence for companies like Sokolin LLC.

We appreciate the opportunity to offer

these comments and input. Details are contained in the written comments that have been submitted by Sokolin. And I am available to answer any questions you may have.

MR. BISHOP: Thank you, Mr. Blau.

Our next witness is Thomas -- pardon me, William Tomaszewski with wine.com.

Mr. Tomaszewski, you have 5 minutes.

MR. TOMASZEWSKI: Hi. My name is Bill Tomaszewski and I am the general counsel for wine.com.

I would like to start with a helpful thought exercise. I want you to imagine a bottle, could be any shape, any color, but imagine a bottle and imagine the bottle with a label. Now, the importance of wine or champagne lies in the label. This is because it helps communicate the story of the wine. Labels include the varietal, the region, and the year of the wine.

I want you to imagine another product where the label is so important. You probably can't think of one.

The label is an instrumental part of the wine because it showcases the uniqueness of each wine. The fact that each one is different depending on where it is made, how it is made, the grapes it comes from, and when it is made, and who makes it, who's the winemaker, who's growing it, consumers want to know where their wine is coming from and who is making it. The taste, the aroma, and the texture is entirely different on a French bordeaux and a California cabernet. They're different.

These products are by no means interchangeable and they cannot be used as a replacement for one another. Just think, this is why the label is so important.

Wine.com is the number one online wine retailer. We pride ourselves on having the largest selection of wines from around the world that you can buy online from the comfort of your home. In fact, our business model largely relies on hard-to-find wines from other countries. Some of these countries are France, Italy, Spain, Portugal, Hungary, Germany, Austria, and Greece.

France, as you know, is listed in the proposed taxes that could be as high as 100 percent. If these taxes were passed, it would greatly impact our business, as champagne from France is highly sought after in the United States market. If these taxes were passed, we would have to reduce the products we're able to sell. By no longing being able to supply our customers' proven desire for French wines, our revenue would be devastated. Frankly, wine.com would not be wine.com, it would be winesome.com.

We started as a small business. We are proud to have grown into a household name that takes great pride in our employees and the work that we do. We have warehouses in over six states. We have over 100 full-time employees. During the holiday season we employ over 400 to 500 seasonal employees. We are a proud American company that gives fair pay and good benefits to great people. We pride ourselves in doing community service, specifically helping the rapidly-increasing San

Francisco homeless population and the California wildfire victims.

If wine.com is no longer able to sell French or European wine, we would no longer be able to employ these wonderful people and do the work that we do. Our company would no longer be profitable.

Once again, we are the largest online retailer of wine, and the effects that this tax would have on our company are beyond measure. Our colleagues, who are smaller businesses who you are going to hear from, would feel the effects on a much greater scale. As you have heard and will continue to hear, they will no longer be operational.

I understand the desire for tariffs in this case. However, if these tariffs were passed, thousands of Americans will lose their jobs and hundreds of companies will go out of business. I request that no taxes be imposed on French champagne or wine. I ask you to think about the story behind each label, really think about that story, how each bottle is so different and you can't replace them.

Thank you again, and I will answer any questions you have.

MR. BURCH: Thank you, Mr. Tomaszewski.

Our next panel witness will be Benjamin Aneff with Tribeca Wine Merchants.

Mr. Aneff, you have 5 minutes.

MR. ANEFF: Members of the committee, I'd like to thank you for this opportunity to speak with you today. My name is Ben Aneff, and I am the managing partner of Tribeca Wine Merchants, a retail store in New York City. We are fortunate to have been named one of America's best wine shops by Food and Wine magazine, and an editor's favorite by Wine Spectator.

Tribeca Wine Merchants opened in downtown Manhattan three months before the September 11 attacks on the World Trade Center, which we could essentially see from our windows. We survived the aftermath of these attacks and the 2007 financial crisis, as well as Hurricane Sandy. But we represent a prime example of a U.S. business whose existence could come into jeopardy as a consequence of the proposed tariff to imported wines from France and the European Union.

I'm here to more fully communicate the damage these tariffs would do to U.S. businesses, as well as the likely ineffectiveness these tariffs would have in achieving the desired results. Among the three major markets these tariffs would affect it is the U.S., not Europe, that would see the most damage, and China who would see the benefits.

It is, without hyperbole, that I tell you that the proposed tariffs would be the greatest threat to the wine industry since Prohibition in 1919. The domino effect of unintended consequences from the proposed tariffs would be catastrophic for tens of thousands of American businesses. Large tariffs on champagne and other wines would make the prices essentially unworkable for U.S. businesses, causing American companies huge revenue losses.

Importantly, it is also not at all possible for additional U.S. wine sales to make up for these losses.

We respect the U.S. Trade Representative's goals regarding the French Digital Services Tax but, critically, putting tariffs on wines targets the majority of the damage from these tariffs not on French companies by on American companies. Wine is highly regulated in all 50 states. Unlike many other goods and services sold in the U.S., practically all of the wine sold retail is sold by American distributors and American retailers.

If you buy a bottle of champagne from a retail store in America, you did not buy it from a French retail store, you bought it from a U.S. retailer, probably a small business, who bought it also from a U.S. distributor.

In the supply chain for U.S. wine retail, which is regulated, of the three businesses that sell a bottle of French wine, from producer to final customer, two-thirds are American, not

French. And these products make up a key part of our revenue. This makes tariffs on wine very inefficient. It deals as much or more of the damage to American companies.

Wine is also a small margin industry, with an average gross profit for retail of only 2.7 percent. And many businesses, both in wholesale and retail, are bound by laws and essentially prevent them from selling other products. This makes U.S. wine and spirit businesses especially exposed to damages from tariffs. Unlike most businesses, we have no way to spread losses to other revenue streams.

Moreover, due to the way Prohibition was repealed, the U.S. wine industry is made up largely of small, family-owned businesses. There are more than 47,000 wine retailers, and more than 6,500 importers and distributors, with little ability to absorb the massive revenue losses the proposed tariffs would cause. Many hundreds of the finest examples of importers and distributors would likely be destroyed within months of the enactment of the proposed tariffs.

I know many of them very well personally, and I can tell you these American businesses are absolutely panicked, and for very good reason. Current estimates suggest up to $10 billion in lost revenue and 78,000 job losses to the U.S. wine industry.

Further, the tariffs risk destruction of the key trade partnerships which have been critical for U.S. leadership in this industry. Our most important and valuable allocations would move to our eager competitors in China, which has been pushing for more access, toppling the U.S. from our position as the current leading global trader of wine.

Lastly, I would encourage the committee to examine the unintended damages to domestic U.S. wine producers. As several California producers have pointed out in their letters to the USTR, the tariffs would do severe damage to critical distribution outlets relied on by some 80 percent of U.S. wine producers. American wines' own exportability would also be damaged severely. The tariffs would see the Europeans strengthen their already strong market position in China, a key market which could see its demand grow by twelvefold over the coming years.

This could create a perfect storm, totally walling off the most important growth market in the world from U.S. domestic wine producers.

We agree that France should immediately halt their unilateral Digital Services Tax. To encourage them to alter these actions, tariffs on French digital services and technology companies would be effective, fair, and would ensure the damage caused by the tariffs was targeted at French businesses.

The proposed tariffs on wine inflict a majority of the damage on U.S. businesses. They would be an ineffective way to pressure France to change its behavior, while causing terrible, long-term damage to an important part of the U.S. economy that is anchored by small U.S. businesses.

Thank you for your time and consideration. And I would be happy to answer any questions.

(Applause.)

CHAIR GRIMBALL: Thank you. Before moving on to the next witness I do need to make an announcement.

The Office of Personnel Management has directed that all federal buildings and federal employees leave by 1:00 p.m. due to the weather. So, we are going to try to condense the hearing today to give as many people the opportunity to provide testimony as possible, recognizing that many of you have traveled very far.

Mr. David Bowler from Panel 6, if you are here could you please come to the panel now and take your seat.

I understand that Antoine Marsot from Interval Export is already here from Panel 7. Could you please?

Is there anyone else here from Panel 6 or 7?

What's your name, ma'am?

MS. TAYLOR: Mary Taylor.

CHAIR GRIMBALL: Just come, please come forward.

Actually, we'll get to Panel 5. So, just anyone from 6 or 7 who's already here.

So, we will not do lunch. We will move directly through and go up until the 1:00 p.m. hour. If you are from one of the later panels and we're unable to get to you or this alternate schedule doesn't work, I would ask that you go and check in at our front desk to see about alternative scheduling. We may be able to get a room for tomorrow if your schedules allow.

We're going to do our best to move forward today.

So, thank you. I do apologize. This is something certainly out of our control, but let's continue with Mr. Waldenberg, and we'll move as quickly as possible.

Thank you.

MR. BURCH: Our next panel witness will

be David Waldenberg on behalf of BNP Distribution Company.

Mr. Waldenberg, you have 5 minutes.

MR. WALDENBERG: Thank you. I have been employed in the importation and distribution of French wine since 1979. First I was employed by a large multinational wine and spirits manufacturer and importer. For the past 30 years I've been the owner for a family-owned importation and distribution company.

Over my career I have done business with hundreds of U.S. and European family farmers, and thousands of U.S. retailers, restaurants, and distributors. My company has remitted several million dollars of state and federal alcohol excise taxes, income taxes, and payroll taxes.

For the past 10 years I've served as President of the New York Alliance of Fine Wine Wholesalers, a trade association of 14 New York-based family-owned importers and distributors conducting business in every state in the country, and selling wines from the U.S. and all over the world. I firmly believe that this experience allows a unique perspective to explain our opposition to this tariff.

The Federation of Exporters of Wines and Spirits of France reported that French sparkling wine imports to the U.S. over the past 12 months totaled $772 million and 4.1 million cases, which were sold through the regulated distribution network to restaurants and retail stores. Many of the imports are distributed by independently family-owned distributors in each state of the nation. These distributors rely on French sparkling wine as part of their multidimensional portfolio to allow them to compete in each of their individual states.

As most states only allow one distributor to carry a brand, individual distributors must source their own sparkling wines from their own unique supplier. This creates competition among distributors, which then allows the consumer a wide variety of choices and very competitive prices.

The implementation of a 100 percent tariff on French sparkling wines will result in at least a 150 percent increase in the shelf and wine list prices, factoring in the margins of each participant in the government-mandated 3-tier system. These increases would decrease consumption, eliminate demand, and generate no incremental funds.

Our alliance estimates losses to our economy of duty and lost taxes of $43 million; state excise taxes lost, $3 million; third party logistical service provider losses of $51 million; other support vendors, $123 million; lost jobs, $101 million; federal and state income tax losses, $39 million.

These total estimated losses of $360 million exclude the impact of downstream losses to our service vendors and employees. We should not ignore the potential impact on restaurants and retail shops. By effectively eliminating a category of their sales, they would likely have similar losses, potentially bringing these overall total losses to $720 million.

These impacts cannot be evaluated in a vacuum. USTR is currently reviewing the large civil aircraft dispute for additional tariffs on European wines of up to 100 percent. By applying the same percentages which our alliance has created, we estimate losses with these additional tariffs of revenues of approximately $6.1 billion; purchases of $4 billion; lost jobs, 12,000; payroll taxes, $83 million; benefits lost, $94 million; vendor purchases, $1.3 billion; excise tax losses, $376 million.

If that's not enough, if you go downstream and include restaurant and store revenues, an additional $10.6 billion and $943 million in sales taxes, this staggering overall total loss from both implementation of the tariffs will be $25.2 billion and destroy the entire European wine business and have ramifications on the entire U.S. population.

The common misconception is that other regions' sparkling wines will replace the French sparkling wines. Consumers now have their own tastes and preferences and freely choose to drink French sparkling wine. Implementation of this tariff will eliminate this free choice.

It also is a misconception that U.S.-produced sparkling wines can fill the void. But it takes at least five years for a vineyard to be planted and vines mature enough to provide the correct fruit. This, of course, assumes that farmers have the resources and desire to invest.

The inclusion of the French sparkling wines in this tariff and all EU wines in the large civil aircraft dispute will only impact U.S. small, family-owned businesses. France will not be affected at all, as the world market would happily absorb the current U.S. purchases, most significantly by China.

These steep tariffs will at least double -- excuse me -- these steeps tariffs will at least double the wholesale price of French sparkling wines and all EU wines, making them unsaleable by American distributors and importers.

This would effectively make tariffs punitive for American citizens, not the French.

CHAIR GRIMBALL: Mr. Waldenberg, please conclude.

MR. WALDENBERG: Okay. Like many small business owners, we face risks every day to maintaining our livelihood. We do this out of pride and our entrepreneurial spirit. We do not ask for government subsidies, and pay all our taxes without hesitation. We have the confidence to face these risks every day, and appreciate our successes and are proud to share our successes with our employees.

This is why we implore our elected and appointed officials to represent our interests fairly and evenly. The implementation of additional tariffs is clearly not in our best interests, and solutions should be found with related parties, not by punishing Americans.

Thank you for your kind attention to this matter.

MR. BURCH: Thank you, Mr. Waldenberg.

Our next panel witness will be David Bowler on behalf of Bowler Wine.

Mr. Bowler, you have 5 minutes.

MR. BOWLER: Thank you. Thank you, and thank you for the opportunity to speak. It's Bowler, just to be annoying about it.

I know we're here today to discuss the DST investigation and the proposed tariffs on French goods, which includes the possibility of a 100 percent tariff on French sparkling wines, but we would be remiss to ignore the much more existential threat to the American wine industry of the tariffs related to the LCA investigation, and the goods listed on Annex 2, which were released on December 12th, which proposes up to 100 percent tariffs on all wines from all European countries.

I'm here to describe from my professional viewpoint as a wine importer and a distributor the devastating effects that all of these tariffs will have on hundreds of thousands of American small businesses, of which my 16-year-old, family-owned company is a prime example.

My dad's family is from Boise, Idaho. My mom's family is from Cleveland. They met in Queens, New York, while attending the same Baptist church. My dad fought in World War II, and they financed their first home with help from the GI Bill.

My parents instilled in me and my siblings a great respect for this country and its system of government. I started Bowler Wine in 2003 with a loan from my mom, three employees. Last year we had over $30 million in revenues with 39 full-time employees. We pay well, and we also provide healthcare for every employee and 401(k) plans for every employee. We have more than 3,000 customers, stores, restaurants, and our local market of New York and New Jersey. And our national program sells wines to distributors in 28 states. And these are mostly smaller outfits, typically employing from 10 to 40 people.

The U.S. is the largest wine-consuming country in the world. And the American alcohol distribution business includes a few giant companies whose sales are in the billions, mostly large volume commercial wines and spirits. But beyond these mega-distributors there are tens of thousands of smaller importers and distributors ranging in size from tiny 1- and 2-person operations to mid-size companies that employ a couple of hundred people, and who specialize in selling wines from France, small family wineries from France, Italy, Spain, and Germany.

The proposed tariffs would force the price of these wines to the point where they would be unsellable. And that's not even to mention the completely untenable cash flow issues that we have of having to pay these tariffs upon arrival at the port. If you could imagine having to pay double for a container when the wine arrives rather than having the typically 90 days to pay a bill.

We're essentially paying for these wines twice now, once when they arrive and then later to the producer.

Wine is an everyday healthy beverage

you can find on the family dinner table and at your local restaurant in almost every city across this nation. The typical wine consumer now includes firefighters, police officers, teachers, construction workers.

It's an open question as to how much the European wine industry will be truly hurt by American tariffs. The markets for their wines are global. The production is by nature limited. They'll survive, but we may not. At a minimum, the American wine industry will be eviscerated.

And asking people to switch is like asking a country music fan to switch to heavy metal. It's just not going to happen.

We, the small to mid-size companies, are already struggling with the financial impact from the 25 percent tariffs imposed in October. If these new tariffs come to be, then thousands of us will simply fold, taking hundreds of thousands of jobs, millions in tax revenue, and employee healthcare plans with us. I'm talking about American-run companies, American-owned distributors, American-owned and run Italian and French restaurants that are located in all 50 states, not to mention their corresponding warehouse, trucking, hotels, travel budgets slashed as sales drop and events get canceled across the company.

I've already done so. I've already canceled travel plans and events for 2020, representing a few hundred thousand dollars of my budget next year.

In conclusion, I'm extremely concerned that the poison tip of the tariff arrow will overshoot its mark and hit thousands of American small businesses in the heart, killing them. We don't think that's the intention of these tariffs, but that will be the result if they are enacted.

Thank you.

MR. BURCH: Thank you.

(Applause.)

MR. BURCH: Thank you, Mr. Bowler.

Our next panel witness will be Antoine Marsot with INTERVALExport.

Mr. Marsot, you have 5 minutes.

MR. MARSOT: Thank you. First of all I would like to thank you for giving me the opportunity to come in this 301 notice about the French DST. I am sorry for my English accent. I'm not 100 percent pure.

I have been distributing French cheeses in the U.S. for over 40 years. And I hope my knowledge of this micro-industry can be of interest to you today.

As a first step, I would like to comment the consequences of a cheese tariff increase in France. You have to understand that in our country about 60 percent of the cheese production is in the hands of three major international companies. These companies have big production units in the States, producing brie and camembert, and they have as well production units all over the world that produce more cheese outside France than inside France.

As a consequence, these three companies, the major ones, would not be affected by an increase on the tariffs on French cheeses. But these three companies are the only ones in France that have the power to lobby our government regarding positions on French DST, or Airbus, or whatever. The other remaining companies producing cheeses in our country do not have this power.

From there I'd like to say that if the target of the notice, of the 301 notice, is to put pressure on the French government to change their action or position regarding Airbus or regarding DST, this in that case I have to say that French cheese is not the right target because the small producers that are concerned by this measure in France do not have the power to lobby our government.

The second comment I would like to bring as a second step, I'd like to comment the consequences on the U.S. economy.

I have been selling my cheeses to the U.S. importers for 40 years. And we work with about every single cheese importer in the U.S. today. There are about 50 companies importing French cheese every week in the States.

So, we have been interviewing these 50 companies by phone. Most of them are family business. We have had testimonies about wine. The cheese industry, cheese importing industry is about the same way and the same kind of structure as the wine importer families. I mean by that that the cheese importers in the U.S. are medium size or small size family business, average they employ about 100 people, it ranges from 10 to 500. And French cheese represents usually about 30 percent of their total activity.

It means that if the U.S. increased the cheese tariffs, the French cheese tariffs, it means that our estimation would be as a consequence that these importers would face job losses around 1,500. And on top of that we have to cumulate job losses in the retail business, in transportation, in testing and wrapping activities. And our total estimation of the consequences would be around 3,000 jobs lost in the U.S.

As a conclusion, first of all I want

to mention that we are pretty sure today that the remaining French cheeses that are on your market are cheeses that have very strong identity, very strong specificities linked to their terroir, and that they cannot be replaced by any other production from any other country. It's like you cannot replace the taste of Napa or Sonoma wines. The remaining French cheese you have on your market is the same when we are talking about Cantal, Roquefort, or Fromage d'Affinois; it's unique.

And from there we are pretty sure that if the French cheese tariff increased then the consequence will be just that micromarket will vanish in the air and disappear forever. And there is no way that American production would replace it.

I think the French cheese that would not have enough identity to be replaced by American cheeses have already disappeared. And after 50 years now of regular import of cheese into the U.S., the remaining French cheeses are the ones that cannot be replaced.

As a conclusion, I would like to say that I think it is not fair that small family business in the U.S. pay the addition for the French DST that is designated more to four big multinational companies. And it would be -- it's not my understanding of the American dream. And it would be my -- I think it would be more logical that the French services would be taxed as the DST concerns multinational services and American services.

I thank you for your attention.

MR. BURCH: Thank you, Mr. Marsot.

Our next panel witness will be Geoffroy Ducroux with Avant Garde.

Mr. Ducroux, you have 5 minutes.

MR. DUCROUX: Good morning. I am very happy to be here with you all.

Distinguished members of the committee, it's a pleasure to be here today and to discuss this very important issue.

In 2012, my wife Jessica and I invested our personal savings to launch a wine importing distribution company named Avant Garde Wine and Spirits. Our New York-based business focuses on directly selecting small natural wineries from Europe and the U.S. and selling to trade establishments, restaurants, retailers, and wholesalers across the United States.

Our business currently represents and imports 42 sought-after European wineries. We have about 350 customers across the U.S., and are partnered with American logistics, compliance and warehousing companies.

Our 350 customers employ thousands of American workers, from store clerks, sommeliers, waiters, bartenders, kitchen staff, and janitors. A small business is also a customer to American companies, employing truckers, warehouse workers, dock workers, delivery men, and office managers.

For our small company, 2019 started off as a great year, showing a 22 percent increase in sales up until October 18th when the first set of tariffs were implemented. Since the start of those tariffs in October, sales growth has halted.

This is caused by two factors. First, American companies like us are burdened to pay these tariffs up front, the moment the wine arrives at the port. This requires extra working capital our business does not have. Meaning we have to reduce the volume of our imports.

This burden does not fall onto French wine markers, it falls onto American companies.

Second, our customers are price-sensitive because their customers, the American wine consumers, are price-sensitive. Our orders are down because stores and restaurants know that consumers will start to reduce wine purchases as prices rise.

This is financially taxing not just my company but all the American companies which make up our supply chain.

Our plan for 2020 was to continue to develop our New York and California distribution by hiring two full -- two more full-time employees. Instead, the proposed tariffs, which range from 25 percent to 100 percent tariffs in French wine, will absolutely bankrupt our business and further hurt our U.S. customers' ability to purchase and sell wine.

Side note: our sales of French wine represent 90 percent of our revenue, and sparkling wine about 40 percent. The American wine industry that comprises $68.1 billion in annual sales and employs 1.744 million in this country from the sales of both American-made wine and imported wine will suffer under this new tariff.

Many would be hurt from going out of business, losing their job or losing their company. The list of these activities impacted will include freight companies, importers, distributors, salesmen and saleswomen, truckers, restaurant owners, servers, and busboys.

The supposed goal of the tariffs is to retaliate against France's Digital Services Tax and help the American economy. In my view, these tariffs will do neither, and in fact do the exact opposite. While I have already spoken about negative impact to the American economy, it is important to consider the French wines served to my clients. Their wine is in high demand and limited supply.

The wine they make is sought out across the world, and other countries, like China, will happily buy the French wine previously allocated to the American market. The effect if this proposal passes will be devastating, devastating to American businesses, devastating to my colleagues in the import, distribution, freight, and restaurant business whose jobs will be at stake, devastating to my family and my small business.

We understand that the proposed tariffs on French goods that the Office of the United States Trade Representative is considering is in connection with France's Digital Services Tax. Our industry and American customers should not be involved and impacted.

We respectfully ask the previous tariffs put in effect in October 18th, and any further proposal related to French DST, be dismissed.

Thank you, members of the committee.

MR. BURCH: Thank you, Mr. Ducroux.

And, Madam Chairman, this concludes all direct testimony from this panel.

CHAIR GRIMBALL: Thank you, all, for your testimony. I have a question for Mr. Zacharia.

Mr. Zacharia, your testimony cites a job loss statistic of 78,000 employees from an estimate by the Distilled Spirits Council of America. Was that estimate based on just sparkling wine or is that assuming that the 100 percent tariffs were applied to all wine imports from Europe?

MR. ZACHARIA: Yes. It's a good question. And I don't know the specific answer but I can get it for you. We'll research that.

CHAIR GRIMBALL: Thank you.

A quick follow-up. Since most wine retailers carry many types of wines from many sources, can you talk a bit about why consumption wouldn't just shift to other types of wines?

MR. ZACHARIA: Yeah. It's been discussed already. Because there is, there's like what was the comment before -- I can't remember what we were talking about -- people, people who buy French wines or buy Italian wines that's what they love, that's what they enjoy. And they're just, they're just not going to switch automatically to another type of product. This is where their focus is. This is where their love is. That is where they'll stay.

CHAIR GRIMBALL: Thank you.

MS. HUANG: My question is for Mr. Richard Blau. Thank you for your testimony.

In your testimony you contend that the imposition of duties on French origin sparkling wine would be injurious to both U.S. consumers and to U.S. businesses. Can you provide the committee with any further evidence, such as statistics to bolster this claim? You may do so in a post-hearing submission, if necessary.

MR. BLAU: Thank you very much. Thank you very much for that opportunity.

The written testimony that was submitted this morning, as well as the more detailed comments that were submitted on behalf of Sokolin contain data along the lines of what you're looking for. They also explain the DISCUS data regarding job losses in specific detail, if you want to consult that source as well.

I would make special note that businesses will be impacted, consumers will be impacted and, perhaps overlooked but shouldn't be, state and local governments will be impacted. Alcohol beverages, including sparkling French wines, are excise taxed, they're sales taxed, they're often subject to special local taxes.

All of those tax revenues -- and we've heard numbers earlier this morning -- $40 million in excise taxes, $39 million in sales and local taxes just from French sparkling wines, those are going to impact state and local governments that rely on those alcohol-related tax dollars for a variety of different purposes that are very important to their respective communities.

MS. HUANG: Thank you.

MR. AMDUR: This question is for Mr. Tomaszewski.

So, you mentioned that your company is the largest online retailer for wine. Can you talk about, like, the overall impact on your sales that placing tariffs on French sparkling wines would have, considering that I understand you sell more than just French sparkling wine?

MR. TOMASZEWSKI: So, wine.com, probably roughly 40 percent of our revenue comes from European wine. So, if I calculated that, probably from French champagne I would say probably 10 percent to 15 percent of our sales would be impacted.

MR. AMDUR: Thank you.

MS. BONNER: This question is for Mr. Aneff.

In your written request to testify you mentioned that 70 percent of your revenue comes from the sale of European wines. Can you tell us what percentage of your revenues come from the sale of sparkling wines from France?

MR. ANEFF: I'll have to look it up specifically, but I'd say probably, you know, 17 to 20 percent, something in that range.

MS. BONNER: Okay.

MR. ANEFF: If it's possible, I'd also like to respond to the questions about why wine from other regions could not replace France.

Specifically, if you're not aware, it takes years for California or Australia or anywhere to buy the land, plant the vineyards and make wine. Napa and Sonoma and loads of vineyards in California are still reeling from devastating wildfires. They're going to be replanting for years just to make up for the production that they've lost.

The idea that they could possibly replace a massive part of the market is very unlikely.

You'd also be asking them to make incredible investments that are totally dependent upon a U.S. tariff remaining in place. They'd have -- I believe vineyards sites in Napa are something like a million dollars an acre, and we would be asking them to make those investments that would only be enabled were 100 percent tariffs to remain in place.

Right now in the news you'll also see that huge portions of Australia, which are one of the other possible substitutes for these wines -- which again very unlikely that any other major wine producing area could replace these wines -- but huge, almost unbelievable portions of Australian vineyards, vineyard lands are on fire right now.

The wine industry worldwide, particularly those places that could possibly replace some portion of French or European wines, they are going to be reeling for years trying to recreate the supply just to meet what they were selling for years before.

MS. BONNER: Thank you.

MR. STEVENS: For Mr. Waldenberg, let me start from the analogy that Mr. Bowler made about heavy metal versus country music. Having just completed a road trip with my teenage children, we listened to both.

Tell me in your own words -- I understand perfect substitute, imperfect substitute -- what is it that makes French wine, or rather what is it that makes American sparkling wine not substitutable for French champagne?

MR. WALDENBERG: The main reason champagne is called champagne is because it's produced in the Champagne region of France. So, it's a misnomer, that's why California-produced sparkling wines are called sparkling wines.

But the more bigger issue, what's been touched on is that we have the right of our own determination of what we want to eat and drink. People through their lives, tastes and patterns change. We all started drinking beer or coolers or something else, and we all morphed in different directions -- the heavy metal, the rock-and-roll, the doo-wop, whatever.

So, people's preferences and tastes

have led them into French wines, particularly sparkling wine. It's just the nature of who we are as Americans. It's freedom of choice. And each one of us enjoys that option of exploring those opportunities.

And, again, the other underlying factor which was just commented on is that there is no immediate pipeline to open up and supply sparkling wine to the consumer demand. It would take many years for vines to be planted, grown, harvested, pruned, matured, so it's producing the same quality of wine that's being produced today.

So, people would be forced to eliminate that from their selection. Is that life-threatening? Absolutely not. But, again, we as Americans have always had the right and privilege of exploring opportunities wherever we see fit. And in my mind this severely limits that opportunity.

MS. BONNER: This question is for Mr. Bowler.

In your written comments you discussed

different additional duties on wines not covered by this present investigation. Do you have any specific comments for the committee on how proposed duties on sparkling wines of France would impact your business, and what portion of your inventory would fall in this category, and whether you would anticipate greater demand from U.S. wines or non-European wines such as Argentina or other countries?

MR. BOWLER: Yes, I do. French sparkling wine for my company represents about $1.3 million in sales, which is about 3 percent of my gross revenue, which is exactly what you're asking Mark Zuckerberg to give up, I might point out.

(Laughter.)

MR. BOWLER: It's 66,000 bottles from 24 different producers. So, it wouldn't kill us but it would hurt. Plus, that we're already dealing with 25 percent tariffs which has already impacted, as I mentioned, our budgets for next year.

Do I think people will go elsewhere? I mean, people want sparkling wine, so they will, they will go where good sparkling wine is made. So, perhaps we can make up some of that. I'm not going to say we won't make -- we won't try to make up some of those sales. But, again, it's not a -- it's a reason why people drink Chianti, for example, and why Billy Joel wrote a song about his Italian restaurant. It just sort of goes with the territory. Chianti is Chianti, champagne is champagne.

So, you're asking people not to drink champagne on holidays and birthdays and graduations and at New Year's. It's not just a commodity that is a sparkling beverage, there's a lot more that goes along with it. This is why all of us here are in the wine industry to some degree.

MS. BONNER: Thank you.

MR. BOWLER: I hope that helps.

MR. AMDUR: I have a question for Mr. Marsot, please.

Are you dealing in products that require a U.S. Department of Agriculture import license? And if you can provide any details?

MR. MARSOT: Could you repeat your question, please?

MR. AMDUR: Sure. Are you dealing in products that require a U.S. Department of Agriculture import license?

MR. MARSOT: Yes, sir.

MR. AMDUR: And if you could provide any details, any specifics.

MR. BURCH: Can you please turn on your microphone and repeat that? Can you turn on your microphone.

MR. MARSOT: So, my company do not import cheese in the States, we only export and send to importers who use import license in order to enter the cheese in the U.S.

Most of the cheeses we sell -- no, not most -- 40 percent of the cheese we sell in the U.S., knowing that we sell about 30 million U.S. dollar of French cheese per year in your country, about 40 percent of that amount is linked to import license.

The ones that are not linked to import

licenses are soft cheeses.

MR. AMDUR: Thank you.

MR. MARSOT: I'd like to add something, which is that all the family of cheeses are competing together. I mean by that that from a logistical point of view it's not possible to import half of the sort of French cheeses without the other half because you can fill up your container.

And the logistical cost of importation becomes much more heavier. Like, if you have to bring in by plane instead of boat, you come from 50 cents to 5 U.S. dollars per pound cost.

So, that's why it's all to consider together.

MS. HUANG: Thank you. My question is for Mr. Ducroux of Avant Garde. Thank you for your testimony. Your testimony addressed some matters in the large civil aircraft investigation and also the France DST. If you haven't submitted your comments for the LCA, you can submit those for those, that specific 301 investigation.

As for the France DST comments, do you

know how much a tariff increase would affect the final retail value of a bottle of wine? Could you also break down how would that affect the cost for transportation, warehousing, and any other factors?

MR. DUCROUX: Thank you for the question. I did comment for the first dispute on the aircraft. Yes, I will know if a 25 percent increase, what will be the retail price basically would be a 25 percent increase of the retail price. If there is a 50 percent increase, there would be a 50 percent increase in retail price.

Does it have an effect on the freight? No, it doesn't, but since my business will go bad, obviously my clients, the freight will lose my business, which is not what we intend to do because of these taxes.

So it will have an effect on the whole industry, whether it's warehousing in America, whether it's freight for water based in America, whether it's collecting taxes, since if I go out of business, you will not get my taxes, so that is -- I would put more of these numbers in terms of loss and loss of small business. I hope that answered your question.

MS. HUANG: It was more so how the 25 percent markup becomes a 50 percent markup on the retail value?

MR. DUCROUX: 25 percent --

MS. HUANG: Tariff on -- a 25 percent tariff results in a 50 percent --

MR. DUCROUX: It will have a 25 percent change of retail price, yes.

MS. HUANG: Thank you.

MR. BURCH: Madam Chair, may we release this panel with our thanks?

MR. WALDENBERG: Could I just give you clarification on that if you don't mind? The wine and spirit industry is three tiers, meaning there's an importer who is actually purchasing the product from a foreign supplier. There's a local distributor/wholesaler which is buying from that importer due to regulations amongst states and the country. Then that distributor is selling to the local retailer, so we're talking about a 25 percent increase at the acquisition price.

Each of those three tier members are entitled to a percentage of profit on that sale, so that's how we calculate that a 25 percent increase in the tariff, which would increase the costs of acquisition, translates into likely a 50 percent increase in the shelf price of that product.

MS. HUANG: Thank you.

MR. BURCH: Madam Chair, may we release this panel with our thanks? And would the members in panel four make their way to the front?

MS. GRIMBALL: If everyone could please, for panel four, if you could take your seat as quickly as possible? Earlier today, I believe there was a woman in the audience from panel five. Could you please come forward? Is there anyone else here from panels six or seven?

So for everyone in the room, the plan right now is to continue the hearings tomorrow morning at 10:00 a.m. The current plan, and I'll confirm at the conclusion of the hearing today, is to continue the hearings tomorrow in this room at 10:00 a.m. Again, we're going to try to get through as many people as possible this morning.

If you are in panels five, six, or seven, and you are unable to attend tomorrow at 10:00 a.m., please check in at our front desk so that we can try to make some other arrangements. Other than that, we're going to just continue and move forward, and we're ready to begin.

MR. BURCH: Madam Chairman, our first witness on this panel is Peter Weygandt on behalf of Weygandt-Metzler Importing. Mr. Weygandt, you have five minutes.

MR. WEYGANDT: Thank you. Let me be the first to say good afternoon to the committee. I appreciate very much the opportunity to be here. It's a real privilege for me, and I sincerely appreciate the time and attention of the committee.

My name is Peter Weygandt. I'm the president of Weygandt-Metzler Importing, Limited. My wife and I started this company in late 1986 working from our dining room table while I had another full-time job and with four small children.

We've been importing wine from European countries for over 33 years, and we now have nearly 20 employees in five states. We also sell to distributors our selections in 30 additional states. These distributors in turn have many employees.

Our wines are warehoused in two states. Each warehouse also has dozens of employees. Plus there is all of the trucking necessary for delivery around the country.

We are a small importer, but one can see that there are hundreds of people employed to make our company run. The national impact this proposed new tariff will have on many American companies and their employees must be considered.

Obviously, the matter of most concern with these tariffs of the first magnitude is the astronomical cost to the importer. Our business simply cannot absorb the current 25 percent tariff, let alone the possibility of a 100 percent tariff.

Within the first 10 weeks of the 25 percent tariff going into effect, it has cost us almost $100,000 paid upon arrival of the goods into the U.S.

The tariff will have a direct impact on the end cost to consumers as well. Few consumers will be able to pay 25 percent or 50 percent more, much less 100 percent more for a product. American consumers will thus be deprived of European wines, indeed for many, their clear preferences.

And to my written proposal, there is a footnote that as of 2018, 14 percent of all wines sold in the United States came from the two countries of France and Italy.

European wine was brought to the colonies over 300 years ago. It has continued to be imported into the United States ever since. Our founding fathers purchased wine from Europe. Thomas Jefferson had a famous wine cellar.

The President's proposed tariffs on wine are not on products that can be made the same in the U.S. as we have heard, such as computer parts or airplanes, but are wines unique to Europe. French wines and German wines are not California wines.

Outside of those such as our company directly affected is the matter of the effect this will have on the restaurant and hospitality industry all over the United States. In New York alone, our small company sells to over 500 restaurants, and in California over 400.

Further, in South Carolina, for example, our distributor sells our selections to over 100 restaurants. In the city of Nashville, Tennessee, our distributor with whom we have worked for barely two years sells our French wines in approximately 100 on-premise accounts.

Losing the variety of wines available to diners could cause many to cease eating out, and the lack of a choice affects all restaurants. The current and proposed tariffs impact U.S. businesses and consumers enormously, but will impact the tariff countries very little.

If American buyers delay purchasing

European wines in hope of the tariff ending, producers in countries on which tariffs are imposed will simply sell those importers' normal goods to other countries, namely the growing markets in China and Southeast Asia, and if I might, I'd like to expand upon that a little bit.

Twenty years ago or even 10 years ago, to experience a reduction in the U.S. market for European countries would have been a serious matter, but now with the advent of the power in the world economy of China and Southeast Asia, we're already seeing over the last five years, as prices increase to us in the normal course of things, the French suppliers have told me that if we are not prepared to pay the higher prices, they will simply -- they have ready, willing customers in Asia.

This will deprive some U.S. companies such as mine of the supply sources for their business. With the supply of European wines lost, there will be resulting loss of business for these companies.

Lost business will inevitably cause potential unemployment of thousands of American employees of directly affected companies. This could and almost certainly will then ripple through our economy --

MS. GRIMBALL: Mr. Weygandt, I have to ask you to conclude. Please conclude. Please conclude shortly. Please conclude.

MR. WEYGANDT: The stark reality of these tariffs is that they will end the importation of wines from the tariff countries. It's a very real possibility that many importers, distributors, and restaurants will need to terminate dedicated employees in the very near future with the possibility of ceasing their business' operations entirely.

I ask the commission to rescind the current tariff and not consider a 100 percent DST tariff. Thank you very much again.

MR. BURCH: Thank you, Mr. Weygandt. Our next panel witness will be Michelle DeFeo with Laurent-Perrier US, Inc. Ms. DeFeo, you have five minutes.

MS. DeFEO: Thank you. Members of the committee, my name is Michelle DeFeo and I'm --

MR. BURCH: Can you please turn your mic on?

MS. DeFEO: Thank you. Members of the committee, my name is Michelle DeFeo and I'm president of Laurent-Perrier US, a subsidiary of French champagne company Laurent-Perrier. I have concentrated specifically on champagne and sparkling wine for 19 of my 25 years in this business.

I request that HTS code 2204.10.00-sparkling wine be removed from consideration for tariffs related to the Digital Services Tax. Tariffs on this category would cause significant economic harm to thousands of American businesses.

French sparkling wines generated about $2 billion in retail sales in the U.S. last year. Only about one-third of that amount is paid to French producers. The remaining two-thirds, about

$1.3 billion, funds jobs at thousands of American companies along the supply chain.

Even at the maximum proposed rate of 100 percent, the value of this tariff to the Treasury is less than the annual revenue earned by American companies by selling wines in this category.

My company sells only French sparkling wines. Any reduction in demand caused by tariff induced price increases would have an immediate negative impact on us and on the American companies in 46 states who sell our wines, including 51 distributors, 49 of which are small businesses, five sole proprietor wine brokers, and 7,918 stores and restaurants, 76 percent of which are independent establishments.

Revenue and jobs would also be negatively affected at the over 40 American companies with whom we spend $5 million per year on products and services to support our business.

I've already laid off one position due to the extreme uncertainty around the DST and Airbus disputes. I'm not likely to add the position, but I was hoping to in 2020.

This represents 13 percent of my workforce. These are good jobs with full benefits and average salaries that are over four times the U.S. nominal median per capita income.

The current duty on French sparkling wines is 14.85 cents per bottle. Based on the current average import value, the proposed 100 percent tariff equates to $27.60 per bottle. That's an increase of 18,486 percent due to the change of volumetric to ad valorem duty calculations.

No producer can be expected to absorb such an increase. It will be passed through the supply chain, and American consumers will have to pay much more per bottle if they still decide to buy it.

Demand for sparkling wine and champagne, despite being considered luxury goods, is not inelastic. I'm not just speaking from my personal experience. A recent University of

Chicago study of American consumer behavior found that, quote, "Aggregate elasticity in the sparkling wine market increases 50 percent during the holidays," unquote.

Over 30 percent of French sparkling wines in the U.S. are purchased during the holidays when consumers are at their most price sensitive. An increase in price at the magnitude of the proposed tariffs will result in a significant decline in demand.

The average retail price is over $90 per bottle for French champagne in the U.S. versus only $15 for domestic sparkling wine. If consumers were to replace purchases of French champagnes with domestic sparkling wines, a drastic reduction in revenue would be incurred by distributors, brokers, stores, and restaurants.

The market for domestic sparkling wines is already robust. It would not be possible to supply enough domestic bottles to replace French volume without planting more vines, which wouldn't produce grapes for three years.

Sparkling wines then need to be aged, most for at least 15 months, so for at least five years, demand would outweigh supply, causing prices of domestic sparkling wine to increase, and this assumes that consumers would even switch to domestic sparkling wine.

Most French sparkling wines sold in the U.S. are from the Champagne region, an area with unique soils and climate that is governed by hundreds of regulations, including which grapes can be used, such as Meunier.

There are only about 200 acres of Meunier planted in the U.S. Over 2,000 acres worth of Meunier grapes are in the bottles of champagne imported into the U.S. each year. Even if U.S. producers did have the necessary grapes, the resulting sparkling wines would not taste like the ones made in the Champagne region. Many people may opt to not buy sparkling wine or even wine at all.

The most common purchase occasion of high-end champagnes is gifting. Consumers have specific budgets in mind when they're buying gifts. If tariffs cause high-end champagnes to exceed these budgets, consumers will buy a high-end gift out of the category instead, compounding lost revenue and job losses in the wine industry.

Champagne is sold in 134 countries. The U.S. represents only 7.8 percent of the market. Champagne exports to China grew over 9 percent last year. The exclusion of this category will have negligible impact on the ability of the USTR to persuade France to change their position regarding the DST, but its inclusion will do disproportionate harm to American businesses and consumers.

A reasonable maximum tariff, should the category be included, would be 3 percent to match the rate of France's DST. I thank the committee for its time, and I'm happy to answer any questions.

MR. BURCH: Thank you, Ms. DeFeo. Our next panel witness --

(Applause.)

MR. BURCH: -- will be Annette Peters

on behalf of Domaines and Appellations & Bourget Imports. Ms. Peters, you have five minutes.

MS. PETERS: Thank you, and thank you for the opportunity to speak with you today about the impact of these proposed actions pursuant to the Section 301 DST tax investigation.

I own a small importing company and distribution company in Minnesota. I'm probably one of the smaller companies that will talk to you today. I've worked in wine for over 40 years. I employ 18 people.

We have over 500 clients that we sell imported wines to. We also buy wine from other American importers. We're already weakened by previous tariffs, so this additional proposed tariff on sparkling wine brings yet another blow to our company business.

The tariffs that went into effect last October left us reeling from not having enough time to really adjust, and we went into our fourth quarter having to absorb all of the costs of the previous tariff.

So now with this additional sparkling wine tax which is 25 percent of my business -- we happen to be a specialized business, and we do specialize in French sparkling wines, specifically champagne.

Replacements for this type of wine are just not possible from other sources throughout the world, and some of the global demand for the producers we work with is so great that once they leave our market, they may never return after settling into markets elsewhere on the globe.

So what's the loss to the USA if companies like myself lose this business or the inevitable go out of business in general from the tariffs that are being imposed? There are 1,162 wine importers and, or excuse me, wine wholesalers in the United States. That's down from 3,000 in 1995.

As a small wholesaler, I'm part of a group that does 50 percent of the wine business in the United States. 88,000 people work in the wine wholesale business. There are $23.3 billion of imported wine sales that will be affected, and this does not even mention the countless supporting industries, warehousing, logistics, accounting, advertising, restaurants, retail shops, and more.

These peripheral businesses all add to the potential loss of jobs and revenue, and this is the start of a downturn in business that means that Americans may not have money to buy domestic product either.

This action doesn't hurt the French producers or EU wine producers we work with. This tariff may only mean that they divert their product to a different market. China has been mentioned several times today.

And once these products find a home in those other markets, they may not return to the U.S., and if those sales go away, so does the revenue that goes with those sales and the tax revenue.

And so will American buyers switch to buying U.S. wines? Not necessarily. There's a shortfall of product. It's estimated that even if the U.S. stopped exporting all of its wine sales to other countries, there would still be a shortfall of 190 million liters of wine.

And we're also living in a time when there have been, there's been a great global reduction in wine available. That would be hard for the U.S. to make up. There's a 25 percent gap in wine availability that would occur if imports weren't available to U.S. customers. Consumers may also see prices go up on all wines as that supply is diminished.

I appreciate the efforts of the USTR to protect U.S. economic interests, and I cannot recommend what industry might be better to settle this DST issue, but I know that placing a tariff on wine will be far more punitive to American businesses and employees, and to tax revenue and overall American prosperity.

It seems disproportionate to me to lay such heavy tariffs on a business such as wine that's made up of so many small players such as myself and small farmers compared to the large multinational companies such as Google, Amazon, or Apple.

It's U.S. wine importers, distributors, farmers, and businesses that they touch and surround them who will bear the real burden of this tariff. Thank you very much for your attention today.

MR. BURCH: Thank you, Ms. Peters. Our next panel witness will be James Federico on behalf of VINTUS. Mr. Federico, you have five minutes.

MR. FEDERICO: Thank you. Good afternoon, members of the panel, and thank you for the opportunity. I am Jim Federico. I'm the CFO of --

MR. BURCH: May you please pull your mic a little closer?

MR. FEDERICO: Sure, it's on. It's on.

PARTICIPANT: Okay.

MR. FEDERICO: It's on. So again, good afternoon, members of the panel, and thank you for the opportunity. I am the CFO of VINTUS and have been with the company since its launch. VINTUS is a family-owned company of approximately 75 employees that markets and sells domestic and imported wines and spirits.

Since our founding 15 years ago, we have been recognized as an industry leader due to our professionalism, growth, and work with nationally visible brands.

In 2017, we were named wine importer of the year by Wine Enthusiast Magazine, perhaps the highest honor a company in our category can receive. We have also been named one of four importers of the year by the Wine and Spirits Magazine, another leading industry publication, for the last five consecutive years.

I would like to testify about the inclusion of sparkling wine and specifically why it should not be subject to tariffs. The reasoning is as follows.

One, the wine and spirits supply chain in the United States is completely intertwined between domestic and imported wines. The majority of suppliers, distributors, retail stores, and restaurants carry both domestic and global wines.

The roots for these sales are not stratified, which means that any negative impact on the sale of imported wines and spirits would hurt the industry as a whole. As an import-heavy but diversified company, if 100 percent tariffs were enacted on this action in the upcoming WTO large civil aircraft dispute, we would immediately need to cut through a combination of salary reductions and terminations in the range of 30 percent of our payroll.

We lump these two actions together because in both cases, the intent is the same -- to utilize the unrelated wine and spirits industries to pressure the European Union. We believe the important point we are making is that these threats will instead deeply scar American industry company by company. It will obviously vary due to specialization, but applying any significant salary and job cuts to the following NAICS figures is downright scary.

According to the Bureau of Labor Statistics, the beer, wine, and liquor stores employ over 156,000 individuals. Beer, wine, and distilled alcoholic beverage merchant wholesalers employ in excess of 194,000 individuals, and food preparation and serving-related occupations employ in excess of 13 million individuals.

The second point is French sparkling wine. Champagne is the standout example in this category of a wine from a specific place. At entry level price points, wines will often have a broad geographic designation. They will be the lowest possible cost wines from many regions often blended together. Once you start to be more specific about the origin of a product, it becomes more distinct and less replaceable.

A 100 percent tariff on champagne sales will at least, for our estimate, with the two globally recognized brands we import, cause our company losses of 80 percent, if not more, in the category. We will likely have to terminate a group of people in our office and sales team. That pattern will be repeated at other import companies and distributors, at restaurants, at retail stores.

The total champagne exports to the U.S. last year were $650 million according to CIVC, the champagne professional body, which translates to somewhere above $2.5 billion in total sales to consumers at retailers and restaurants. That $2.5 billion directly supports American companies and employees, and as above, will, for the vast majority of businesses, not be replaced by alternative products.

We are allocated quantities we buy every year from Champagne Bollinger and Champagne Ayala. The 20,000 nine-liter cases will simply start to be reallocated by the producers to other global markets, as for example, Champagne Bollinger is sold in over 100 countries globally.

We have spent years in building the distribution of our champagne brands at the opportunity cost of working with other products. To see those efforts virtually destroyed will do serious harm to our company.

The third point is consumer choice. It is difficult to imagine a consumer's response to losing access to one of the most visible wine categories in the world -- again, I'm referencing champagne here -- as a result of an unrelated trade dispute. Consumers and we are upset about the trade imbalances caused by unfair practices.

When freedom of choices that are seen every day start to be taken away, and then consumers see on every block neighborhood restaurants and retailers affected as well, we believe consumers will feel this tariff has hit far closer to home and in an unfair manner. Thank you for the opportunity.

(Applause.)

MR. BURCH: Thank you, Mr. Federico. Our next panel witness will be Barkley Stuart of Southern Glazer's Wine & Spirits. Mr. Stuart, you have five minutes.

MR. STUART: Thank you. Distinguished members of the Section 301 committee, my name is Barkley Stuart. I serve as executive vice president of Southern Glazer's Wine & Spirts and am the immediate past chairman of the Wine and Spirits Wholesalers of America.

I come before you today to express the strong objection of America's wine and spirits wholesalers to the inclusion of French sparkling wine and champagne on the proposed list of products under consideration by the Office of the United States Trade Representative for tariffs in connection with France's Digital Services Tax.

Beverage alcohol companies, from suppliers, to wholesalers, to retailers, are responsible for hundreds of thousands of American jobs, and therefore, our industry has a direct and significant interest in this matter.

As the only national organization of wine and spirits distributors, WSWA advocates on federal, state, regulatory and legal issues impacting distributors. Southern Glazer's is the largest wine and spirits wholesaler in the United States and represents approximately 1,500 wine, spirits, beer, and beverage suppliers from around the world. The company alone employs more than 22,000 people, all of them here in the United States.

During a working week, the sales, delivery, and support staff of Southern Glazer's collectively calls on or services over 250,000 different chain and independent retail, grocery, lodging, restaurant, and bar customers across the country.

To meet this consumer pull, wine and spirits wholesalers have diversified our portfolios with products from around the globe, creating the most dynamic beverage alcohol marketplace in the world, delivering the widest variety of products to U.S. consumers. The industry's ability to offer a product for every taste, budget, and occasion has driven growth and created myriad job opportunities for U.S. workers.

The wine and spirits industry has directly created an estimated 1.3 million American jobs. Wholesalers alone account for 87,700 jobs paying nearly $7.5 billion in wages annually. To foster this continued growth, the U.S. has agreed through mutual recognition agreements with various trading partners to officially recognize products from a handful of key producing countries.

Thus, tequila can only be made in Mexico, Scotch whisky can only be made in Scotland, et cetera. In return, our trade partners have officially recognized bourbon and Tennessee whiskey as distinctive products of the United States. As a result, consumers have come to understand that products such as champagne have characteristics unique to the regions in which they are produced, and that these products cannot be made in the United States.

Since retaliatory tariffs are in effect taxes, imposing tariffs on French sparkling wine and champagne will have the unintended consequence of harming American consumers through market retail price increases and the associated reduction in consumer demand given no authentically designated category substitutions.

Over 300 alcohol distributor jobs could be lost because of higher prices resulting from tariffs, including all firms in the beverage alcohol industry. This would lead to a total of over 17,000 lost jobs and $767 million in lost wages. On top of this, the total cost to the American economy could be over $2.1 billion.

The beverage alcohol industry in the United States currently provides customers with the most diverse selection of products in the world, and supports hundreds of thousands of jobs across the country in an array of related industries.

U.S. consumers and companies have benefitted from efforts to open up markets around the world, which have been a tremendous success. We strongly urge the U.S. and France to reach a negotiated settlement in this dispute and avoid the implementation of new tariffs.

At a minimum, in order to avoid the negative economic impact and allow wine and spirits wholesalers to continue to respond to consumer demand, USTR should remove French sparkling wine and champagne from the final list of French origin products that may be subject to additional tariffs in this dispute.

Thank you for this opportunity to provide you with our views. Please do not hesitate to contact me or the Wine and Spirits Wholesalers of America should you need any additional information, and I'm happy to answer questions.

MR. BURCH: Thank you, Mr. Stuart. Our next panel witness will be Jenny Lefcourt on behalf of Jenny & Francois Selections. Ms. Lefcourt, you have five minutes.

MS. LEFCOURT: Hello, can you hear me okay? Members of the committee, thank you very much for the opportunity to speak this morning.

My name is Jenny Lefcourt. I'm the owner of a small successful wine import and distribution company based in New York City called Jenny & Francois Selections. I started my business 20 years ago. I used my savings and built it from nothing, reinvesting everything as I built it year after year. Today, I employ 10 well-paid employees. Many are longstanding employees who have families they support.

We also work with a logistics service provider. We make up one-third of their business. They employ 12 people, and in turn, we work with a warehouse that employs hundreds of people from office jobs, to forklift jobs, to jobs driving trucks and making deliveries.

All of these people will lose their jobs if the 100 percent tariff goes into effect, and certainly there will be many layoffs with these smaller tariffs proposed.

We work with 45 wholesale companies in 45 states across the country who also employ sales representatives, office managers, bookkeepers, warehouse managers, truck drivers, compliance specialists, and more. Many of these are blue collared American jobs. They all rely on European wines for their incomes.

My company will surely disappear if 100 percent tariffs are imposed on European wines.

Since our company sells around 75 percent wines from Europe, it will destroy our business and force us to lay off our employees. We will lose everything we built. I won't be able to pay my mortgage, and what will happen to my family?

I am not alone, of course. The United States imports over $5.8 billion a year in European wine which is handled by thousands of importers, distributors, wine store owners, and restaurants.

There are approximately 2,000 small import companies across the country, 6,500 wholesale companies, a restaurant industry of independent, sit-down, full service restaurants that generates $179 billion. This is more money and more people than Boeing employs.

High-end restaurants that serve wine are doing particularly well in the last five years. These restaurants survive by selling wine and beverages. The food itself is practically a loss leader for restaurants who have slim margins like us.

Wine, and liquor, and beer stores that generated $61 billion in 2019, with a growing amount of that coming from high-end imported beverages, these stores are one of the few bright spots in the brick-and-mortar retail economy. These are mom-and-pop shops.

What will be the effect of 100 percent tariffs on all of these businesses that sell European wine? How many jobs lost? How much lost revenue for the U.S. government and state governments? The full measure and scale of the potential job loss for Americans and tax dollar loss for state governments and the federal government is really mind-boggling and hard to measure.

Already since October, a peak season for wine sales, when the 25 percent tariff was imposed on French, Spanish, and German wines, I, and most of the other importers I know, spent weeks on the phone negotiating with winemakers to work with us until the tariffs were removed. Many of them wanted to walk away from the United States market.

After all, these days, demand from Asia is endless, as has been noted, but we persevered and negotiated, cut margins, and raised prices as little as possible, all the while wasting precious time usually spent on trying to grow our sales, and it's hard to work in this level of uncertainty.

Many companies put the brakes on hiring or expansion plans, hoping that the tariffs would come down after a few months. Instead, they are about to go much higher than any of us can afford to stomach. Wine sales of sparkling wine are the fastest growing segment of the wine industry right now, and these wines are particularly threatened here.

The unintended consequence of these tariffs as they are written is of the loss of American jobs across the nation. Their application would be an undue burden on U.S. small businesses.

It's easy to dismiss our particular concerns. "Who cares if the price of European wine goes up?" you might say, or of champagne. "People can just buy domestic wines instead," and perhaps they will, but in the process, the vast industry responsible for importing and selling billions of dollars in European wines, whisky, and other products will suffer, especially small businesses with narrow profit margins, and these are often the same companies, in fact, that sell American wines, so who will sell these American wines that are available?

MS. GRIMBALL: Please conclude. Your time has expired.

MS. LEFCOURT: No one I know would argue that the, what the French are doing is wrong.

MS. GRIMBALL: Ms. Lefcourt, please conclude.

MS. LEFCOURT: Yes, there should be some kind of retaliation for sure, but destroying the wine industry is not a good solution.

(Applause.)

MR. BURCH: Thank you, Mr. Lefcourt. Our next panel witness will be Mary Taylor on behalf of Mary Taylor Wine. Ms. Taylor, you have five minutes.

MS. TAYLOR: Thank you. Can you hear me? Thank you. I got up at 2:00 a.m. to come here, so I didn't want to wait until tomorrow. I'm a U.S.-based importer of sparkling and other European wines only. I don't work with American wines at all.

I'm 42 years old. I run my small business on a shoestring, my startup contracts with multiple U.S. operational and logistics companies, admins, accountants, graphic designers, and the like.

We pay our share of statutory wine regulatory fees, a system tilted to the advantage of the large wholesalers, not to us little companies. Our annual revenue was just over $700,000 for 2019, we're tiny, which was more than double from the year before.

I have four colleagues who work as 1099 consultants who were planning on transitioning to full-time employees this year. In 2020, I was finally going to start paying myself a salary. My dream company is finally launched and successful.

Without warning, the 25 percent tariffs implemented on October 18 put our net income into the red. We find ourselves suddenly underwater. Should tariffs reach 100 percent as proposed, I will surely have to give up my young business and find another line of work or depend on welfare.

My question to you is: how can you just gut my family business? I've read about farmer subsidies. Will my family be subsidized? If not, how do we eat? Where do we go?

I've been in the wine and cheese business since 1992 when I took an after school job at a French inspired cheese shop in a small town. From a young age, I loved the different languages and tastes of Europe, how cow milk could taste so many different ways depending on where it came from. I grew very interested in foreign languages and cultures.

After college, and in a literary job

in New York, when 9/11 hit, everything fell apart. However, I was able to pick up the pieces and find a job as an administrator in the wine department at Sotheby's Auction House. Through the past two decades, my career has woven in and out of wine sales positions, retail marketing, wine making, and wholesale.

In 2015, I enrolled in an MBA program so that I could gain the business skills necessary to create my own business, my dream company whereby I have a proprietary label which becomes a map to explore the historic wines of Europe.

The IP is American. The wines are European. I built my irreplaceable European supply chain over the years. My European suppliers could easily replace me with foreign buyers from elsewhere.

What I do is niche, but it's mine, and I have the right to life, liberty, and the pursuit of happiness. Most of the money generated from my business stays in America. Never could I have imagined my business would be threatened like this from the federal government, not in the America I know and love.

My family is not wealthy. Dad is a retired literature professor and Mom is a retired librarian. They spend their time helping others through foster care and charitable services. We are, however, American patriots. We trust the American system, one that does not arbitrarily select an industry to destroy as a pawn in a global trade war between multibillion-dollar entities.

We trust that the U.S. government won't shatter lives in a unilateral, authoritarian way without considering the effect on American small businesses and jobs. We don't live under an authoritarian regime. We fought the British for our freedoms.

Please stop the tariffs on EU agricultural products. Please roll back the 25 percent from October. I can think of 10 other EU industries that have a far more financially meaningful stake in the U.S. market. Please spare us small, passionate merchants as we have every right to exist.

We bring joy to consumers and we create jobs. Please do not decimate us and thereby lose an important cultural component which brings joy throughout the country and employs roughly 80,000 people.

I believe in the American ethos of entrepreneurship and independence. That is why I risked everything to work for myself. These tariffs are a mistake, and if they continue, I will be among the ranks of the destitute.

Just one more comment that I hadn't added here, I understand that Mr. Lighthizer is a Porsche enthusiast, and I also understand that Mr. Trump owns a winery in Virginia. I can't help but wonder if my means of survival is subject to their whims and personal bias.

To echo Mr. Herman's comment earlier, what does digital services have to do with European wines? Nothing. If Google and Facebook make a few less millions, that would be a lot less painful than if I have to lose my business and my means of survival. Thank you very much.

(Applause.)

MR. BURCH: Thank you, Ms. Taylor. Our next panel witness will be Peter Kafarakis on behalf of the Specialty Food Association. Mr. Kafarakis, you have five minutes.

MR. KAFARAKIS: Thank you. That's pretty hard to follow. My name is Phil Kafarakis. I'm the president of the Specialty Food Association, and I'd like to thank the USTR for the opportunity to present the viewpoints of the specialty food industry on the regulatory tariffs that are being proposed as part of an action pursuant to France's Digital Services Tax.

The Specialty Food Association is the association for all segments of the specialty food industry. The more than 3,900-plus SFA members are mostly small and very small food manufacturers, importers, distributors, and retailers, and they're located throughout the U.S. They make and handle food products that are often referred to as value-added or specialty.

Specialty food sales in the U.S. are $148 plus billion annually according to research from Mintel International. Specialty foods represent 16 percent of all food sales at retail, and are growing at three times the rate of mass market foods.

Specialty food manufacturers and retailers value their positive relationship with their consumers, many of whom are strong proponents of consumer choice in food. International foods along with local products are the backbone of the product offering.

This innovative mix of foods, sourced both globally and locally, is what makes specialty foods growth so rapid, and it's shaping the future of food. Small food companies will definitely be harmed. The primary list of 63 tariff subheadings with an estimated import trade value for calendar year 2018 of approximately $2.4 billion contains products that have nothing to do with digital services.

As stated on regulations.com, USTR is

considering whether to impose fees or restrictions on services of France. In that actionable act, policies or practices of France involves a tax on U.S. service providers. The Specialty Food Association supports the taxation of services of France rather than consumer goods produced in France. Despite that, the USTR is proposing tariffs on specialty foods from France, particularly cheeses and other dairy products.

Many of these products are produced by very small farms in France, and brought to the U.S. by very small importers, and sold to consumers by small retailers and independent restaurants. Small and very small businesses would be adversely affected along the supply chain in the retaliation of taxes on digital service giants. These tariffs and their effect on small food businesses would not be appropriate and feasible in this digital services dispute.

Cheese is the highest volume category in specialty foods with annual sales in excess of $4.2 billion. Yogurt and butters are also large categories with significant double-digit growth. These foods are sold by small retailers who distinguish themselves in part by their selection and mix of high quality and trending foods, often combining domestic and imported foods in their merchandising.

The proposed increased duties on French cheeses and dairy products will have an adverse effect on U.S. small food businesses, decreasing their sales and adversely affecting employment. The Specialty Food Association estimates that there are approximately 14,000 specialty food retailers across the country which would be impacted by these tariffs, as well as 20,000-plus other food retailers.

The impact on the food services establishment, an $863 billion dollar industry which relies on specialty foods, will also be negatively affected, especially for the small business owners who operate the majority of restaurants in the U.S.

The USTR has already imposed 25 percent

duties on many French products as part of the retaliatory action in the large civil aviation dispute, and is considering now increasing these tariffs. Action on these dairy products will impose additional tariffs on an industry already suffering from previous USTR actions.

We recommend the following be removed from the supplemental list, yogurt, whey protein concentrates, butter, fresh cheese, Roquefort cheese, Edam and Gouda cheese, Gruyere-process cheese, processed cheese, blue vein cheese, Cheddar cheese, Romano, Reggiano-Parmesan, Provolone, Provoletti cheese, Swiss or Emmenthaler cheese, cheese made from sheep's milk, and Pecorino cheese. The Specialty Food Association will provide the HTS subheadings and product descriptions in our written submission.

The Specialty Food Association has been working also with the Foreign Agricultural Service for the past 18 years to promote the export of value-added American foods, and has been very successful in building sales in France and other

European countries. French consumers can now buy salsa from Texas, avocado oil from California, maple syrup from Vermont, and thousands of other U.S.-produced specialty foods.

It has taken many years for these small businesses to expand their export sales. Possible retaliatory tariffs on U.S. foods would be devastating to these businesses. These businesses would not be sacrificed in this dispute, should not be sacrificed in a dispute --

MS. GRIMBALL: Please conclude.

MR. KAFARAKIS: -- involving digital service companies. Putting small food companies and the specialty foods they manufacture at risk is not appropriate and feasible. We would strongly recommend that they be removed, and are here to present any more data and answer questions. Thank you very much.

MR. BURCH: Thank you, Mr. Kafarakis. Our last panel witness will be Philip Burkhart on behalf of Latitude Wines. Mr. Burkhart, you have five minutes.

MR. BURKHART: Thank you very much. Maggie was kind enough -- my name is Philip Burkhart, and I'm with a company called Latitude Wines. We're an importer based on the west coast. Maggie was kind enough to squeeze me on here. I know everybody wants their fair share. You have my testimony in front of you, I think. I'm just going to skip to the bottom line.

I'm so excited that so many members of our industry are here. We're not represented by attorneys. We're not represented by industry groups. We're represented by ourselves. We're citizen businesspeople. So I know we've all got to get out of here by 1:00. If you want to take the chance or the opportunity to read my testimony, please do so.

My experience is very similar to everybody else's, so I'm just going to cut to the bottom line and read the last paragraph, couple paragraphs of my testimony.

We don't have the resources of the tech industry, nor do we have the perceived importance of those companies, although when I think about it, is it so important to put a selfie on Facebook? Is that more important than champagne? I don't know. So why am I here? Why are all of us here? Because our businesses that depend on the products this Administration is threatening to disrupt deserve to be heard.

I don't have any lofty expectations that our testimony will sway this panel's final recommendations or the ultimate decision. What I do hope for is that you will remember the most precious of all principles that make America what it is -- open markets, free speech, respect for all, and due process.

When you write this chapter of your story, I hope you'll be able to say that your actions were based on thoughtful ideas, based on what's best for all businesses affected. If you must put a tariff on French sparkling wine, please limit the tariff to less than 15 percent. Please give us time to prepare, and please limit the tariffs to less than one year, at which point I would hope you resolve this issue.

I hope that you are either given or will take the opportunity to speak up and that you will defend all of our stories. Thank you.

MR. BURCH: Thank you, Mr. Burkhart. And Madam Chairman, this concludes all of the direct testimony from this panel.

(Applause.)

MS. GRIMBALL: Thank you all for that testimony today. We have 11 minutes for questions from the panel, from, excuse me, to receive, to ask you all questions. We have about 11 minutes. We'll try to do that as quickly as possible.

I do want to ask our interagency representatives, please be as concise as possible with your questions, and to the witnesses, please be as concise as possible as well considering the time that we have.

I just want to ensure everyone that your oral testimony provided here today, along with your written comments and any supplementary comments that you may have, are all considered equally.

They will all be read. So with that being said, let's move forward with the questions.

MS. HUANG: Thank you. My question is for Mr. Weygandt. Do you have any concerns regarding the proposed imposition of tariffs on specifically French sparkling wine in relation to the French DST?

MR. WEYGANDT: Yes, thank you for that. It is going to cause, for us, as many small importers here, discontinuation of champagne most probably in our portfolio because there's a limit. It's not elastic as they say, completely elastic.

You can't take a $50 bottle of champagne that people were buying and make it $100 and expect it to continue, and that, as has been said, the French are not going to stop making champagne, and they're not going to stop selling it. They're just going to stop selling it to people who don't continue to buy, such as us.

MS. HUANG: Thank you.

MR. WENTZEL: This question is for Ms.

DeFeo. You stated, and others have stated, that China would be the likely alternative market for champagne if the U.S. imposed these tariffs. I believe the U.S. is the largest import market for wine in the world. I believe they're probably the largest market for French champagne. I think somebody said the market share for the United States is 7 percent of French champagne exports.

I guess my question is: given the investment that the champagne industry has made in the United States market, would they so easily just walk away from it? Wouldn't they make some sort of adjustments to maintain their position in this market?

MS. DeFEO: That's -- I'll give a two-part answer. The United States is the third largest market in the world for champagne, followed by France and then the UK. The UK is the largest export market.

There are 570 brands specifically of champagne that are imported into the U.S. each year. A large number of those are small grower producers who will simply stop selling into the market. Larger companies who, for example, those like us, who do have a subsidiary, are not going to walk away from the market, but the decline in demand is going to necessitate reduction in spending, first of all, the small tariff.

The first thing we would start doing is cutting the expenses that are not absolutely necessary, and eventually end in job losses at the subsidiaries, and then of course we all spoke about the ripple effect that that will have along the supply chain.

So I would -- I can't estimate as to exactly how many of those 570 brands would exit the market. It would be significant and U.S. consumers would have less choice as a result, and the remaining brands are -- there are many companies -- we are actually very unusual that we only import champagne. Companies that are larger that are importing other products will shift their focus to those products, and there's simply not enough margin in champagne for us to be able to absorb it, and we will look for homes elsewhere.

MR. ROGERS: My question is for Ms. Peters. Could you tell the committee what percentage of your business is actually the sale of French sparkling wines?

MS. PETERS: We are specialists in champagne. About 25 percent of my revenue is in sparkling wine, and most of that is French, like 90 percent of it.

MR. ROGERS: Thank you.

MS. NOLAN: Thanks to all for your testimony. My question is for Mr. Federico. I'm hoping you can explain a little bit about how reallocation impacts your business, whether periodic changes are commonplace, and how difficult it is for you to increase and decrease the size of your order when you experience change in demands.

MR. FEDERICO: Yeah, so, you know, of course, the reallocation, again, my colleagues have talked about, you know, you've asked the question, "Can you replace champagne?" Again, you know, no one mentioned it's about terroir, right? It's about where the winemaker is, where the vines and where the fruit is being grown. If ultimately at the end of the day, there is a 100 percent tariff, it's not sustainable. You can't, of course, think that your business is going to be able to increase its price 100 percent, and effectively they will be able to sell to many other countries.

Champagne Bollinger sells to a hundred other countries. So if, in fact, we can't bring it in because it's not sustainable and we can't sell it, if there's no profit margin whatsoever, we will have to look to source other wines domestically.

MR. CHANG: Thank you for your testimonies. My name is Won Chang, Treasury Department. This question is for Barkley Stuart, Southern Glazer. In your testimony, you cited a number of statistics that you said were based on a demand model developed by the Wine and Spirits Wholesalers of America.

Would it be possible for you to provide the committee with the detailed explanation of that demand model and the assumptions that were used to derive the statistics you cited? You may do so in a post-hearing submission.

MR. STUART: Yeah, we're happy to provide that information in a post-hearing letter or something.

MR. CHANG: Okay. Thank you. In discussing the impact of a 100 percent tariff, you estimated that sales losses would be 1.15 million gallons, while for a 25 percent tariff, the sales loss would be 5.2 million gallons. It is unclear why the potential loss for the smaller tariff would be higher than the loss for the 100 percent tariff.

MR. STUART: Not looking at the actual study myself, I think that's because of the scope of the products affected by the tariffs.

MR. CHANG: By the 25 percent tariff, okay. Thank you.

MS. NOLAN: My question now is for Mr. Burkhart. In your testimony, you spoke of tariffs on wine which are generally under the large civil aircraft 301 investigation and the proposed action in the French DST investigation, but no duties on sparkling wine of France are currently imposed under LCA. What percent of Latitude Wines' imports does sparkling wine of France account for?

MR. BURKHART: Approximately 20 percent.

MR. CHANG: One final question for Philip Kafarakis, the Specialty Food Association. Why could U.S. specialty retailers not source cheese from other countries or domestically in lieu of imports from France?

MR. KAFARAKIS: Part of the uniqueness of the specialty retailer is the assortment of products that come from all over the world, so that mix is really important, particularly as it relates to France given that some of the more unique products and the geographic preferences that come from France are a very large part of the assortment that comes from Italy, and Greece, and other parts of the EU in particular, so it's a mix and an assortment that brings the full category together.

The domestic U.S. business is growing, but it's nowhere near the specialty sizes to be able to keep up with the demand in these categories. This is an exciting time for the domestic industry, but at the same time, it can't really compete with these geographic regional preferences that come out of particularly France.

MR. CHANG: I see, okay. Thank you.

MS. BONNER: These questions are for Jenny Lefcourt and also Mary Taylor. Thank you, small businesses, for joining us here today.

My first question is: Ms. Taylor did specifically mention that there were other industries that might be a better fit for such retaliatory tariffs, if either of you would like to respond to that question?

Also, given that you're both small businesses who are also raising issues regarding the other tariffs on alcoholic beverages that are part of another action, I was wondering if the impact of additional tariffs on sparkling wine, if your greatest concern was the addition of another tariff or the higher percentage on this category. What would be the impact on your small business?

MS. LEFCOURT: I have found it very hard to function since the 25 percent tariffs were imposed, and then these 100 percent tariffs are looming, a tariff possible on sparkling wines.

How do you make business decisions which are related to reservations, moving quantities of wine across the ocean? All of this takes time, particularly in New York State. We post our prices with the government a month-and-a-half in advance, so I can't make price changes now. I'd have to make them for March. And so do I, you know, raise prices for March now? I have no idea.

So certain of my suppliers -- French, German, Spanish -- have already walked away because they won't negotiate the 25 percent, and I didn't think I could sell them for more. But, you know, this industry is so specific with the laws of the three-tiered system. It's so complex, and so to put the burden on wine really makes it very difficult for this whole industry to continue.

Why wine when there is machinery, pharmaceuticals, vehicles, optical and medical instruments, electrical machinery which all make up billions of dollars of imports?

Wine in particular in New York State, you can't sell anything else in a retail shop besides alcohol. You know, you can't sell it in a supermarket. So it is 100 percent of a lot of our businesses with these small margins with not a lot of room to make quick decisions.

MS. TAYLOR: Yeah, I'll echo that. The top eight industries, export industries in France, none of which are wine, I think wine is number nine. Why not Pfizer? They have $1 billion. Why me, you know? There is -- and just to give you a little picture of it, so I don't even pay myself. I'm, like, living hand to mouth right now because I'm trying to build my startup.

I've paid out of pocket now $30,000 or $40,000 that I didn't expect. I didn't see it coming. I haven't been to the dentist this year, you know, like this is $40,000, like it doesn't -- and this is me.

There's 500 tiny little import companies in New York alone. I work in states from South Carolina, to Vermont, to Arizona. I sell my product to distributors in those states. In every state, there's a dozen to hundreds of tiny little businesses. Why hurt them? Why not like Credit Agricole and their -- you know, there's plenty, Axa Advisors. You know, there's financial services. There's plenty of other goods and services that can handle it. Why decimate teeny-tiny little businesses like ours? It's just foolish. I mean, this is the backbone of this country.

I've had five letters written, Susan Collins from Maine, Senator King. I had Senator Murphy, Senator Blumenthal, Congressman Himes. I happen to live in a blue place, but we got a Republican, but nobody wants this. Now in Maine, the lobstermen, they can't make their living because of the Chinese tariffs, and now the wine industry. Maine -- Portland, Maine is the most passionate, exciting place to eat right now in the country.

And why would you -- like if everybody -- if you can only serve American wines on the wine list, you're not going to get the kids who want to work in restaurants and service. All of the dynamic inner city dining all over the place, that's just going to fall apart. If you have to serve Kendall-Jackson Chardonnay -- sorry, sorry Southern.

(Laughter.)

MS. TAYLOR: You know, nobody is going to get excited about it, you know, and it's just going to decimate something really important -- something that's really reviving our economy all over the country.

MR. BURKHART: And can I add to that?

(Applause.)

MS. BONNER: Yes.

MR. BURKHART: You asked how the tariffs affect us. When you import something into the United States, you have 10 days to pay the tariff, 10 days, and you know what? They take it out of your bank account. It's ACH. You don't bargain. It just comes out. They just take it out of your bank account.

And if the wine on your container is worth $100,000, and you guys put a tariff of 100 percent, we'll have to pay $100,000. We won't pay it. You take -- the Customs guys take $100,000 out of our bank accounts.

MS. GRIMBALL: Thank you all for your testimony today. As of three minutes ago, the Office of Personnel Management has directed that this building be closed and that all of us head home. Please do drive safely because of the weather.

As I stated, we will reconvene tomorrow morning, 10:00 a.m., in this room. If OPM issues any other instructions about closures, we will reconvene at the earliest hour after 10:00 a.m. that OPM designates.

(Whereupon, the above-entitled matter

went off the record at 1:04 p.m.)