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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Termination of Section 301 Digital Services Tax investigations of Brazil, the Czech Republic, the European Union, and Indonesia

AGENCY: Office of the United States Trade Representative (USTR).

ACTION: Notice.

SUMMARY: The U.S. Trade Representative is terminating the Section 301 investigations of Digital Services Taxes (DSTs) under consideration by Brazil, the Czech Republic, the European Union, and Indonesia because these jurisdictions either have not adopted or not implemented a DST during the period of investigation.

FOR FURTHER INFORMATION CONTACT: For questions concerning the investigations, please contact Benjamin Allen or Patrick Childress, Assistant General Counsels at (202) 395-9439 and (202) 395-9531, respectively; or Robert Tanner, Director, Services and Investment at (202) 395-6125. For jurisdiction-specific questions, please contact: Courtney Smothers, Deputy Assistant U.S. Trade Representative for Latin America at (202) 395-7657 (for Brazil); Michael Rogers, Director, Europe and the Middle East at (202) 395-2684 (for the Czech Republic and the EU); or Bart Thanhauser, Director for Southeast Asia and the Pacific at (202) 395-4088 (for Indonesia).

DATES: The Section 301 investigations of DSTs under consideration by Brazil, the Czech Republic, the European Union, and Indonesia are terminated as of March 26, 2021.

SUPPLEMENTARY INFORMATION:

On June 2, 2020, the U.S. Trade Representative initiated investigations pursuant to section 302(b)(1)(A) of the Trade Act of 1974, as amended, of DSTs under consideration by Brazil, the Czech Republic, the European Union, and Indonesia. 85 FR 34709 (June 5, 2020).

On January 13, 2021, USTR issued a status update on these four investigations: <https://ustr.gov/sites/default/files/files/Press/Releases/StatusUpdate301InvestigationsBEUIndCR.pdf>. The status update summarizes the DSTs under consideration, outlines USTR's preliminary concerns with each of the proposed DSTs, and notes that USTR would continue to monitor the status.

As of March 25, 2021, Brazil, the Czech Republic, and the European Union have not adopted DSTs, and Indonesia has not implemented a DST. Under the Section 301 statute, determinations must be made within one year of initiation, or in this case by June 2, 2021. Even if one or more of these jurisdictions were to adopt or implement a DST prior to June 2, USTR would not have sufficient time to determine whether the DST was actionable under Section 301 and, if so, what action, if any, to take to obtain the elimination of the measure.

Accordingly, the U.S. Trade Representative has determined that it is appropriate to terminate these investigations at this time. USTR will continue to monitor the status of any proposed or adopted DST in these four jurisdictions, and may, if appropriate, initiate one or more new Section 301 investigations.

Greta Peisch
General Counsel
Office of the United States Trade Representative.