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CIAA Bulletin

**An Exclusive CIAA Member
Update**

USTR Announces Additional Duties on Cosmetics and Handbags from France, Comments on Large Civil Aircraft Dispute due July 26, 2020

On July 10, 2020, the U.S. Trade Representative (USTR) [announced](#) that it would impose a 25 percent additional duty on certain cosmetics and handbags from France, valued at \$1.3 billion, due to the French Digital Services Tax (DST). Earlier this year, USTR had targeted cheeses and other dairy products under this investigation. But with Friday's announcement, USTR has determined to not impose tariffs on those products at this time.

USTR has delayed the application of the duties for as long as 180 days, which means the additional duties should go into effect until January 6, 2020. However, USTR has stated that the tariffs could go into effect sooner than the 180-day suspension period, but USTR would issue a subsequent Federal Register Notice amending the effective date if this were to occur.

In July 2019, USTR [open an investigation](#) directed at the Government of France under Section 301 of the Trade Act of 1874 because of the new DST, which imposed a 3 percent revenue tax on companies providing certain online services directed at French customers. In December 2019, USTR [found](#) that the French DST is "unreasonable, discriminatory, and burdens U.S. commerce" and, when in effect, was expected to collect over \$500 million in taxes for activities in 2021. USTR accepted comment from interested parties in early 2020 on a proposed list of goods to be targeted for additional tariffs which included a number of French cheeses, wines, cosmetics, and handbags. CIAA testified at a public hearing and submitted written comment on this tariff action as to why cheese and dairy products should not be targeted by this action. Prior to the imposition of additional duties, the U.S. and French governments were able to negotiate a temporary truce earlier this year that temporarily delayed the implementation of the DST until December 2020 and the need for USTR to take immediate action.

USTR has stated that this action is not intended to escalate trade tensions with France, but instead was necessitated by the Trade Act of 1974. Specifically, Section 304(a)(2)(B) requires that USTR announce the action to be taken within 12 months of the initiation of a Section 301 investigation. The 180-day delay of the imposition of the tariffs is intended to provide USTR and France additional time to continue discussions that could lead to a satisfactory resolution of the DST matter.

USTR has stated that it will continue to monitor the effect of the trade action. USTR may deem modification of the list of effected good necessary to ensure resolution of the matter with the Government of France. This future action, which would likely involve a public comment process, could subject cheese and dairy products to additional Section 301 tariffs.

This action comes on the heels of USTR [announcing](#) a similar action into digital service taxes covering India, the European Union and several other countries. Over the last couple of years, various governments have enacted or considered taxes on revenues generated by companies from providing digital services within those jurisdictions. While the proponents of DSTs argue that the tax corrects corporate taxation to cover previously untaxed or undertaxed revenues, the position of the Trump administration, including the USTR, is that DSTs unfairly discriminate against "large, U.S.-based tech companies" such as Amazon and Google. USTR's announcement provides a brief but detailed overview of the current status of each of the named jurisdictions' enacted or proposed DSTs.

Large Civil Aircraft Comment Period Currently Open

USTR is [currently accepting](#) comments on the Section 301 additional duties imposed on imported goods pursuant to the Large Civil Aircraft Dispute with the European Union. The review is required by statute (Section 306(b)(2) of the Trade Act of 1974) and may result in goods being added to or removed from the list of products subject to Section 301 tariffs. It may also result in a change in the tariff level.

USTR is accepting comments on this review until Sunday, July 26, 2020 and will announce a final decision on or about August 12, 2020. CIAA highly encourages members subject to these tariffs submit comments to USTR.

CIAA members that import cheese and dairy products from France should note that many of cheese previously targeted by the DST investigation are also currently being considered for tariffs under the Large Civil Aircraft investigation.

We will continue to monitor these tariff sections closely. Please contact the Husch Blackwell team at CIAAGeneralCousne@huschblackwell.com for more information on these tariff actions.

Dates to Remember

August 31, 2020

Last day to enter dairy products into U.S. Customs territory that may be used to qualify and establish eligibility for a calendar year 2021 license.

* If a deadline date falls on a Saturday, Sunday, or Federal holiday, the deadline will be the next business day (Section 6.36(a) of the Dairy Tariff-Rate Import Quota Licensing Regulation). This does not apply to dates of entry for eligibility.

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