

effective date of 12:01 a.m. eastern standard time on January 6, 2021. The U.S. Trade Representative will continue to monitor the developments in the France DST investigation and the additional DST investigations in considering the trade action in this investigation. If a further modification to the action is appropriate, the U.S. Trade Representative will consider the comments and testimony previously provided.

**Joseph Barloon,**

*General Counsel, Office of the United States Trade Representative.*

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## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

### Notice of Determination Pursuant to Section 301: Turkey's Digital Services Tax

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

**ACTION:** Notice.

**SUMMARY:** The U.S. Trade Representative has determined that Turkey's Digital Services Tax (DST) is unreasonable or discriminatory and burdens or restricts U.S. commerce and thus is actionable under Section 301.

**FOR FURTHER INFORMATION CONTACT:** For questions concerning the investigation, please contact Thomas Au or Patrick Childress, Assistant General Counsels at (202) 395-0380 and (202) 395-9531, respectively, Robert Tanner, Director, Services and Investment at (202) 395-6125, or Michael Rogers, Director, Europe and the Middle East at (202) 395-2684.

#### SUPPLEMENTARY INFORMATION:

#### I. Turkey's DST

Based on information obtained during the investigation, USTR has prepared a comprehensive report on Turkey's DST (Turkey DST Report). The Turkey DST Report, which is posted on the USTR website at <https://ustr.gov/issue-areas/enforcement/section-301-investigations/section-301-digital-services-taxes>, includes a full description of Turkey's DST. To summarize, Turkey adopted the operative form of its DST on December 7, 2019. The DST applies to companies that, during the previous calendar year, generated €750 million or more in worldwide revenues and TRY 20 million or more in revenues deriving from the provision of digital services in Turkey. The tax applies as of March 1, 2020.

#### II. Proceedings in the Investigation

On June 2, 2020, the U.S. Trade Representative initiated an investigation of Turkey's DST pursuant to section 302(b)(1)(A) of the Trade Act of 1974, as amended (Trade Act). 85 FR 34709 (June 5, 2020) (notice of initiation). The notice of initiation solicited written comments on, *inter alia*, the following aspects of Turkey's DST: discrimination against U.S. companies and unreasonableness as tax policy. With respect to unreasonable tax policy, USTR solicited comments on, *inter alia*, whether the DST diverges from principles reflected in the U.S. and international tax systems, including extraterritorial application and taxing revenue rather than income.

Interested persons filed over 380 written submissions in response to the notice of initiation. The public submissions are available on [www.regulations.gov](http://www.regulations.gov) in docket number USTR-2020-0022.

Under Section 303 of the Trade Act, the U.S. Trade Representative requested consultations with the Government of Turkey regarding the issues involved in the investigation. Consultations were held on September 29, 2020.

As noted, based on information obtained during the investigation, USTR has prepared and published the Turkey DST Report, which includes a comprehensive discussion on whether the acts, policies, and practices under investigation are actionable under Section 301(b) of the Trade Act. The Turkey DST Report supports findings that Turkey's DST is unreasonable or discriminatory and burdens or restricts U.S. commerce.

#### III. Determination on the Act, Policy, or Practice Under Investigation

Based on the information obtained during the investigation, and taking account of public comments and the advice of the Section 301 Committee and advisory committees, the U.S. Trade Representative has made the following determination under sections 301(b) and 304(a) of the Trade Act (19 U.S.C. 2411(b) and 2414(a)): The act, policy, or practice covered in the investigation, namely Turkey's DST, is unreasonable or discriminatory and burdens or restricts U.S. commerce, and thus is actionable under section 301(b) of the Trade Act. In particular:

1. Turkey's DST, by its structure and operation, discriminates against U.S. digital companies, including due to the selection of covered services and the revenue thresholds.

2. Turkey's DST is unreasonable because it is inconsistent with

principles of international taxation, including due to its application to revenue rather than income, extraterritorial application, and failure to provide tax certainty.

3. Turkey's DST burdens or restricts U.S. commerce.

#### IV. Further Proceedings

Sections 301(b) and 304(a)(1)(B) of the Trade Act provides that if the U.S. Trade Representative determines that an act, policy, or practice of a foreign country is unreasonable or discriminatory and burdens or restricts United States commerce, the U.S. Trade Representative shall determine what action, if any, to take under Section 301(b). These matters will be addressed in subsequent proceedings under Section 301.

**Joseph Barloon,**

*General Counsel, Office of the United States Trade Representative.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### Notice of Final Federal Agency Actions on Proposed Highway in California

**AGENCY:** Federal Highway Administration (FHWA), Department of Transportation (DOT).

**ACTION:** Notice of limitation on claims for judicial review of actions by the California Department of Transportation (Caltrans).

**SUMMARY:** The FHWA, on behalf of Caltrans, is issuing this notice to announce actions taken by Caltrans that are final. The actions relate to a proposed highway project, the Santa Maria River Bridge Replacement Project on State Route 1 at postmile 0.0, in San Luis Obispo County, and north of the City of Guadalupe, in Santa Barbara County, State of California. Those actions grant licenses, permits, and approvals for the project.

**DATES:** By this notice, the FHWA, on behalf of Caltrans, is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before June 11, 2021. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

**FOR FURTHER INFORMATION CONTACT:** For Caltrans: Matt Fowler, Branch Chief,