

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC

Investigation No. 332-561

Global Digital Trade I: Market Opportunities and Key Foreign Trade Restrictions

Institution of Investigation and Scheduling of Hearing

AGENCY: United States International Trade Commission.

ACTION: Institution of Investigation and Scheduling of Public Hearing.

SUMMARY: Following receipt of a request from the U.S. Trade Representative (USTR) dated January 13, 2017 under section 332(g) of the Tariff Act of 1930 (19 U.S.C. §1332(g)), the U.S. International Trade Commission has instituted investigation no. 332-561, *Global Digital Trade I: Market Opportunities and Key Foreign Trade Restrictions*, for the purpose of preparing the first of three reports requested by the USTR. The Commission will hold a public hearing in the investigation on April 4, 2017.

DATES:

March 21, 2017: Deadline for filing requests to appear at the public hearing.

March 23, 2017: Deadline for filing pre-hearing briefs and statements.

April 4, 2017: Public hearing.

April 11, 2017: Deadline for filing post-hearing briefs and statements.

April 21, 2017: Deadline for filing all other written submissions for the first report.

August 29, 2017: Transmittal of the first Commission report to the USTR.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E Street SW, Washington, DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW, Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>.

FOR FURTHER INFORMATION CONTACT: Project Leader David Coffin (202-205-2232 or david.coffin@usitc.gov) or Deputy Project Leader Jeremy Streatfeild (202-205-3349 or jeremy.streatfeild@usitc.gov) for information specific to this investigation. For information on the legal aspects of these investigations, contact William Gearhart of the Commission's Office of the General Counsel (202-205-3091 or william.gearhart@usitc.gov). The media should contact Margaret O'Laughlin, Office of External Relations (202-205-1819 or margaret.olaughlin@usitc.gov). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202-205-1810. General information concerning the Commission may also be obtained by accessing its website (<https://www.usitc.gov>). Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2002.

BACKGROUND: As requested, the Commission will deliver to the USTR three reports relating to digital trade. The first report, titled *Global Digital Trade I: Market Opportunities and Key Foreign Trade Restrictions*, will be based on a review of the literature and other available information, and will, to the extent practicable:

- Describe the broad landscape and recent developments of important business-to-business (B2B) digital technologies used primarily by firms (such as cloud-based data processing, storage, software applications, as well as communications services and digital services related to manufacturing and the Internet of Things);
- Provide an overview of developments in the provision of business-to-consumer (B2C) digital products and services used primarily by consumers and individuals;
- Provide information on the market for digital products and services, both in the United States and in key foreign markets, such as the European Union, China, Russia, Brazil, India, and Indonesia, for the purpose of assessing U.S. firms' global competitiveness;
- Provide up-to-date information on the rate of adoption of digital technologies, domestically and abroad, and document the importance of data-flows (domestic and cross-border) to a wide range of sectors across the economy; and
- Describe regulatory and policy measures currently in force in important markets abroad that may significantly impede digital trade. Such measures affecting digital trade might include: FDI and other market access restrictions; cross-border data flow limitations (data localization requirements, Internet blocking, censorship, cultural regulations of digital content, and data privacy protections); cybersecurity regulations and limitations on the choice of encryption technologies; ISP regulations, including limitations on ISPs intended to protect IPR; and rules determining liability for third-party content.

The Commission expects to transmit the first report to the USTR by August, 29, 2017.

The Commission will institute a second investigation at a later date for the purpose of preparing the second report. As requested by the USTR, the second report will build on the first report to:

- Provide qualitative, and to the extent possible, quantitative analysis of measures in key foreign markets (as identified in the first report) that affect the ability of U.S. firms to develop and/or supply B2B digital products and services abroad; and
- Assess, using case studies or other qualitative and quantitative methods, the impact of these measures on the competitiveness of U.S. firms engaged in the sale of digital products and services, as well as on international trade and investment flows associated with digital products and services related to significant B2B technologies.

The Commission will deliver to the USTR its report on the second investigation by October 28, 2018. More information regarding the second report will be made available when the second investigation is instituted.

The Commission will institute a third investigation at a later date for the purpose of preparing the third report. As requested by the USTR, the third report will build on the first and second reports to:

- Provide qualitative, and to the extent possible, quantitative analysis of measures in key foreign markets (as identified in the first report) that affect the ability of U.S. firms to develop and/or supply B2C digital products and services abroad; and
- Assess, using case studies or other qualitative and quantitative methods, the impact of these measures on the competitiveness of U.S. firms engaged in the sale of digital products and services, as well as on international trade and investment flows associated with digital products and services related to significant B2C technologies.

The Commission will deliver to the USTR its report on the third investigation by March 29, 2019.

PUBLIC HEARING: A public hearing in connection with this investigation will be held at the U.S. International Trade Commission Building, 500 E Street SW, Washington, DC, beginning at 9:30 a.m. on April 4, 2017. Requests to appear at the public hearing should be filed with the Secretary, no later than 5:15 p.m., March 21, 2017, in accordance with the requirements in the “Submissions” section below. All pre-hearing briefs and statements should be filed not later than 5:15 p.m., March 28, 2017; and all post-hearing briefs and statements responding to matters raised at the hearing should be filed not later than 5:15 p.m., April 11, 2017. In the event that, as of the close of business on March 21, 2017, no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or nonparticipant should contact the Office of the Secretary at 202-205-2000 after March 21, 2017, for information concerning whether the hearing will be held.

WRITTEN SUBMISSIONS: In lieu of or in addition to participating in the hearing, interested parties are invited to submit written statements concerning this investigation. All written submissions should be addressed to the Secretary, and should be received not later than 5:15 p.m., April 21, 2017. All written submissions must conform with the provisions of section 201.8 of the Commission’s *Rules of Practice and Procedure* (19 C.F.R. 201.8). Section 201.8 and the Commission’s Handbook on Filing Procedures require that interested parties file documents electronically on or before the filing deadline and submit eight (8) true paper copies by 12:00 p.m. eastern time on the next business day. In the event that confidential treatment of a document is requested, interested parties must file, at the same time as the eight paper copies, at least four (4) additional true paper copies in which the confidential information must be deleted (see the following paragraph for further information regarding confidential business information or “CBI”). Persons with questions regarding electronic filing should contact the Office of the Secretary, Docket Services Division (202-205-1802).

CONFIDENTIAL BUSINESS INFORMATION: Any submissions that contain CBI must also conform to the requirements of section 201.6 of the *Commission’s Rules of Practice and Procedure* (19 C.F.R. 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the “confidential” or “non-confidential” version, and that the CBI is clearly identified by means of brackets. All written submissions, except for those containing CBI, will be made available for inspection by interested parties.

In its request letter, the USTR stated that his office intends to make the Commission’s first report available to the public in its entirety, and asked that the Commission not include any CBI or national security classified information in the report that it delivers to the USTR. All information, including CBI, submitted in this investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S.

government employees and contract personnel for cybersecurity purposes. The Commission will not otherwise disclose any CBI in a manner that would reveal the operations of the firm supplying the information.

SUMMARIES OF WRITTEN SUBMISSIONS: The Commission intends to publish summaries of the written submissions filed by interested persons. Persons wishing to have a summary of their submission included in the report should include a summary with their written submission. The summary may not exceed 500 words, should be in MSWord format or a format that can be easily converted to MSWord, and should not include any CBI. The summary will be published as provided if it meets these requirements and is germane to the subject matter of the investigation. The Commission will identify the name of the organization furnishing the summary and will include a link to the Commission's Electronic Document Information System (EDIS) where the full written submission can be found.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', with a stylized flourish at the end.

Lisa R. Barton
Secretary to the Commission

Issued: February 6, 2017