

OFFICE OF THE U.S. TRADE REPRESENTATIVE

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HEARING REGARDING THE PROPOSED ACTION
IN THE SECTION 301 INVESTIGATION OF DIGITAL
SERVICES TAXES ADOPTED BY INDIA

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MONDAY
MAY 10, 2021

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The hearing convened via
videoconference, Thomas Au and Benjamin Allen,
Chairs, presiding.

PRESENT

THOMAS AU, USTR
BENJAMIN ALLEN, USTR
NABIL ABBYAD, Department of Commerce
ALEXANDER AMDUR, Customs and Border Protection
SARAH BONNER, U.S. Small Business Administration
WON CHANG, Department of the Treasury
PATRICK CHILDRESS, USTR
SUSAN KARIMIHA, USDA
EMMA LAURY, Department of Labor
BRENDAN LYNCH, USTR
REBECCA NOLAN, Department of State
MATTHEW SHAILER, USDA
SARAH SHORT, USTR
ALBERT YAM, Department of the Treasury

ALSO PRESENT

BRIAN SCARPELLI, ACT | The App Association
MANAB MAJUMDAR, Federation of Indian Chambers of
Commerce and Industry

KAPIL SHARMA, Confederation of Indian Industry
NIGAM NUGGEHALLI, School of Law, BML Munjal
University

KINSHUK JHA, Jindal Global Law School

ROSMY JOAN, National Law University

R.V. ANURADHA, Clarus Law Associates

VALUN CHABLANI, Gujarat National Law University

RAJIV JAIN, Sitapura Gems & Jewelry Industry
Association

SUVANKAR SEN, Senco Gold Limited

ARVIND GUPTA, Gallant Jewelry

COLIN SHAH, Gem and Jewelry Export Promotion
Council (GJEPC)

RAJEEV PANDYA, SEEPZ Gems & Jewelry

Manufacturers Association (SGJMA)

NEVILLE TATA, Renaissance Global Limited

SIVAKUMAR KUNAPULI, Seafood Exporters

Association of India

JOHN WILLIAMS, Southern Shrimp Alliance

DAVID VEAL, American Shrimp Processors

Association

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

2 9:31 a.m.

3 MR. AU: Good morning and welcome.

4 The Office of the United States Trade
5 Representative, in conjunction with the
6 Interagency Section 301 Committee, is holding
7 this public hearing regarding a potential trade
8 action in connection with its Section 301
9 investigation of India's digital services tax, or
10 DST.

11 The United States Trade Representative
12 initiated this investigation on June 2, 2020. In
13 a notice published on March 31, USTR announced a
14 proposed trade action in this investigation.
15 That notice can be found at 86 FR 16824.

16 In this public hearing, USTR and the
17 Section 301 Committee will hear witness testimony
18 regarding the proposed trade action.

19 The deadline for rebuttal comments,
20 which may include written answers to questions
21 posed at today's hearing, is one week from today.
22 The Section 301 Committee will carefully consider

1 the testimony provided at this hearing as well as
2 testimony provided at the multi-jurisdictional
3 hearing held on Monday, May 3.

4 The Committee will also review the
5 written comments received in response to the
6 March 31 notice of the proposed trade action as
7 well as any post-hearing rebuttal comments from
8 interested parties.

9 The Section 301 Committee will then
10 make a recommendation to the U.S. Trade
11 Representative regarding what, if any, trade
12 action to take.

13 Before we begin today's testimony, I
14 will provide some procedural and administrative
15 instructions and introduce the U.S. Government
16 representatives that will participate in the
17 hearing.

18 First, some procedural and
19 administrative instructions. Today's hearing is
20 organized into four panels of witnesses, across
21 which 17 individuals are scheduled to testify.
22 The provisional list of witnesses has been posted

1 to USTR's website.

2 Each witness appearing at the hearing
3 is limited to five minutes of direct testimony.
4 After the testimony from each panel of witnesses,
5 the Section 301 Committee will have an
6 opportunity to ask questions.

7 Given the large number of witnesses
8 that will be testifying today, we ask that you
9 please answer our questions directly and
10 succinctly. Please recall that you have the
11 opportunity to provide more extensive responses
12 in a post-hearing submission.

13 Between panels, there will be a short
14 break while we assemble the next panel.
15 Post-hearing comments, including any written
16 responses to questions from the Section 301
17 Committee, are due by May 17th. The rules and
18 procedures for written submissions are set out in
19 the March 31st Federal Register notice.

20 A written transcript of this hearing
21 will be posted on the USTR website as soon as
22 possible at the conclusion of this hearing.

1 Now, for a few technical points. For
2 those participating in the hearing, when it is
3 not your turn to speak, please be sure to leave
4 your video and microphone muted. If you would
5 like to respond to a question posed to another
6 witness on your panel, you may unmute your video.
7 That will signal to us that you would like to be
8 recognized to speak.

9 If you are having technical difficulty
10 and need help, please let us know in the chat box
11 on the BlueJeans platform.

12 When you are speaking, you are
13 responsible for keeping time.

14 I would now like to introduce the U.S.
15 government panel that will be presiding over this
16 hearing.

17 I am Thomas Au from the USTR Office of
18 General Counsel. I will serve as the Chair for
19 Panels 1 and 2 of this hearing. I am joined in
20 the room by my USTR colleagues Benjamin Allen and
21 Patrick Childress, who are also from the USTR
22 Office of General Counsel. Benjamin Allen will

1 serve as Chair for Panels 3 and 4 of this
2 hearing.

3 Also joining us for some of our panels
4 today are Brendan Lynch from USTR's Office of
5 Central and South Asian Affairs and Sarah Short
6 from USTR's Office of Small Business, Market
7 Access and Industrial Competitiveness.

8 We are so pleased to be joined today
9 by several international trade and economic
10 experts from a range of U.S. government agencies.

11 From the State Department, we have
12 Rebecca Nolan. From the Department of Commerce,
13 we have Nabil Abbyad. From Customs and Border
14 Protection, we have Alexander Amdur. From
15 Treasury, we have Won Chang and Albert Yam. And
16 from the Department of Agriculture, we have
17 Matthew Shailer and Susan Karimiha. From the
18 Department of Labor, we have Emma Laury. And
19 from the Small Business Administration, we have
20 Sarah Bonner.

21 With that, we will now proceed with
22 testimony from our first panel. That panel is

1 comprised of Brian Scarpelli from ACT, The App
2 Association, Manab Majumdar from the Federation
3 of Indian Chambers of Commerce and Industry and
4 third, we have a change from the initial witness
5 list, representing the Confederation of Indian
6 Industry will be Kapil Sharma.

7 We will begin with Brian Scarpelli.
8 You may proceed with your testimony when ready.

9 MR. SCARPELLI: Great. Thank you so
10 much. Thank you for the opportunity to share
11 views on India's digital service tax, and its
12 impact on the American small business digital
13 economy community that ACT, The App Association
14 represents.

15 ACT, The App Association, represents
16 thousands of small business software application
17 development companies and technology firms that
18 create the software used on mobile devices and in
19 enterprise systems around the globe.

20 Today the ecosystem The App
21 Association represents, which we call the app
22 economy, is valued at approximately \$1.7 trillion

1 annual and is responsible for over 5.9 million
2 American jobs.

3 Alongside the world's rapid embrace of
4 mobile technology, our members have been creating
5 innovative solutions that power the Internet of
6 Things across modalities in segments of the
7 economy.

8 India is a very important market for
9 App Association members. As one example of that,
10 since 2014 annual net revenue for apps across
11 some major platforms has increased over 1,400
12 percent from 20 million to 316 million by 2020,
13 2014 through 2020.

14 Generally, The App Association
15 believes that the position of DSTs are
16 unreasonable and discriminatory, disjoint the
17 digital economy and impede U.S. exports and
18 investment abroad. Their position on U.S.
19 digital exports directly impacts America's most
20 innovative service industries and the small
21 businesses that are driving those industries,
22 including software development and connected

1 devices in which our members are leading.

2 Adopted in March 2020, India's DST is
3 an expansion of an Equalization Levy that has
4 been in place since 2016 and imposes a 2 percent
5 tax on revenue generated from a broad range of
6 digital services, including digital platform
7 services, digital content services, digital sales
8 of a company's goods, data related services,
9 software as a service and several other
10 categories.

11 DSTs like the one being imposed by the
12 Indian government unduly discriminate against
13 American companies, are extraterritorial and
14 would unreasonably increase administrative
15 burdens and are otherwise unreasonable.

16 They are, in effect, tariffs on the
17 digital economy, and The App Association agrees
18 with USTR that unilateral digital service taxes
19 are a significant trade barrier.

20 The App Association also agrees that
21 the imposition of DSTs gives rise to conflicts
22 with international treaties and taxation

1 principles reflected in the organization for
2 Economic Cooperation and Development's model tax
3 convention on income and capital, the UN model
4 double taxation convention and numerous bilateral
5 tax treaties.

6 These established approaches recommend
7 the taxation of income, not revenue, and
8 discourage assessing taxes to entities without
9 considering if they're established in that
10 country and also avoid assessing taxes
11 retroactively.

12 Further, digital service taxes likely
13 conflict with commitments made under the WTO's
14 general agreement on trade and services, GATS'
15 Articles 2 and 17, and contravene, in effect, a
16 WTO moratorium on custom duties on electronic
17 transmission that has been in place since 1998.

18 In all of its hearings, including this
19 one, we strongly encourage USTR to reinforce how
20 the DSTs at issue, do not align with these
21 important multilateral and bilateral constructs
22 and that proposed end with those in place

1 unilateral DSTs at issue are unreasonable and
2 discriminatory.

3 We also note that some changes may be
4 needed with respect to international taxation,
5 and we endorse and urge the U.S. Government to
6 support the ongoing OECD efforts to reach a
7 consensus on needed tax changes and support of
8 the development of such a solution as soon as
9 possible, which have seen significant progress of
10 late within OECD.

11 Country specific digital service taxes
12 put into place while the OECD solution is being
13 pursued, we think, will undermine the goal of
14 consensus needed to reach a workable
15 international taxation agreement that addresses
16 the global digital economy and will damage the
17 ability of American digital economy small
18 businesses to innovate and create new jobs.

19 Fortunately, the OECD's Center for Tax
20 Policy and Administration has announced that an
21 agreement in October is likely and that it should
22 include a mechanism and implementation plan for

1 rolling back unilateral digital taxes.

2 Should USTR decide that some or all of
3 the tax policies being investigated are
4 actionable under Section 301 of the Trade Act,
5 The App Association recommends that the U.S.
6 government focus on attaining a consensus
7 multilateral tax agreement through the OECD
8 process and avoid the imposition of retaliatory
9 tariffs that would most impact the American SME -
10 - the American small business community or small
11 SME community like The App Association's members.

12 We appreciate the opportunity to
13 provide these views and happy to assist in any
14 way that we can moving forward. Thank you.

15 MR. AU: Thank you for your testimony.
16 I would now like to invite Manab Majumdar from
17 the Federation of Indian Chambers of Commerce and
18 Industry to testify.

19 MR. MAJUMDAR: Good morning. Good
20 morning, everyone. Am I audible? Can you hear
21 me?

22 MR. AU: Yes, we can. Thank you.

1 MR. MAJUMDAR: Okay. Thank you for
2 the opportunity. I will get straight to the
3 point. We represent FICCI -- we represent the
4 trade chamber in India. We have already
5 submitted written submission on part of this one.

6 So what I'll do is I'll just take the
7 salient and important points and then, of course,
8 I will be happy to take questions.

9 At FICCI, as the business chamber, our
10 members -- and we strongly support and advocate
11 the principles of non-discriminatory, fair, and
12 transparent trade. And we believe in a rule-
13 based multilateral trading system.

14 We submit that the proposed
15 retaliatory action of 25 percent of add-value tax
16 on a preliminary list of 40 products, likely just
17 products from India, would be inimical to the
18 vibrant bilateral trade relations between our two
19 countries.

20 Our members are of the view that such
21 a tax on 40 items imported into the U.S. from
22 India would have negative consequences and impact

1 on both economies.

2 First and foremost, I would like to
3 highlight that the targeted products, including
4 seafood, bamboo, Basmati rice, gems and jewelry,
5 articles of furniture, et cetera, all are labor-
6 intensive. They are the only source of
7 livelihood of the producers and manufacturers.

8 A 25 percent additional tax will make
9 exports from India less competitive. They will
10 be outpriced in the American market, and
11 therefore it will result in loss of jobs in
12 India.

13 Second, the same measure we hold --
14 our members are of the view that it will make the
15 target projects costlier, more expensive in the
16 U.S. market. It will lead to supply chain
17 burdens and supply chain disruptions.

18 It will lead to adverse impact on the
19 American business, retailers, and consumers. As
20 a result, there may be cost escalation. In fact,
21 this particular factor has been corroborated by
22 various other agencies of nations who have

1 submitted their feedback given in this hearing
2 itself.

3 Third, for several products, our
4 submission is India has been the principle or a
5 significant supplier to the U.S. market. An
6 example given, as we have highlighted in our
7 written submission, the Basmati rice, the gems
8 and jewelry, fashion accessories, et cetera.

9 So the point is not only India, even
10 U.S. sales plans to lose out in terms of
11 disruptive supply chain as well as reduced
12 consumer welfare.

13 From the trade policy angle, if we see
14 the discussions on the multilateral framework
15 regarding rules of digital taxation are at an
16 evolved stage, and if we are expecting a
17 solution, a multilateral solution in the near
18 future, then we think the best way forward would
19 be to wait for that and to take a proactive
20 stance to have that negotiation of trust included
21 instead of taking any unilateral step.

22 My last point, I would like to cover

1 and highlight the current challenges, current
2 formidable challenges arising out of the present
3 pandemic situation.

4 Is this the right time to consider
5 such a unilateral action like additional levy up
6 to 25 percent? I would like to submit that USA
7 is a great country. It has set out many fine
8 examples of human development, crisis management,
9 aid for trade, capacity building, cross-country
10 partnership, and collaboration in the past.

11 So even at this juncture, I would like
12 to submit that as many countries and people
13 around the world recognize, appreciate and value
14 the U.S. contribution in the interest of overall
15 development so we would like to submit that USTR
16 and all other concerned authorities to kindly
17 reconsider and revisit this decision.

18 With that, I'll stop. But if there
19 are any questions, I would be very happy to field
20 those questions. Thank you so much. Thank you
21 for your kind attention. Over to you, moderator.

22 MR. AU: Thank you for your testimony.

1 I would now like to invite Kapil Sharma from the
2 Confederation of Indian Industry to testify.

3 MR. SHARMA: Thank you and good
4 morning. My name is Kapil Sharma, and I serve as
5 the Chair of CII-IBF, the Confederation of Indian
6 Industries-India Business Forum based here in the
7 United States.

8 Before I begin to give my testimony,
9 first I want to express my thoughts and
10 condolences to all of my friends in India that
11 are going through a horrific humanitarian crisis.

12 It's difficult to have this kind of
13 conversation about tariffs and levies when both
14 of our countries, all of our interests, are
15 really focusing on trying to end the crisis so
16 that way we can return back to normalcy.

17 So with that I just want to say that
18 I'm thinking about all of you sitting in India
19 right now and those in the U.S. who have impacted
20 families.

21 With that, I also want to express on
22 the record that CII and myself, we are proud that

1 the Biden administration has also waived and
2 supports the TRIPS waiver on COVID vaccines.
3 That waiver is extremely important in our ability
4 and India's ability to bring this crisis into a
5 manageable level and to hopefully end it.

6 Now with that, I'd like to begin my
7 testimony. On behalf of the Confederation of
8 Indian Industries, I would like to strongly
9 dissent the proposed trade action in connection
10 with USTR's Section 301 investigation of India's
11 digital services tax.

12 We maintain that the interim two
13 percent Equalization Levy is not discriminatory
14 and that we strongly suggest that the United
15 States waits until the OECD negotiations are
16 complete on global corporate taxes.

17 The proposed Section 301, retaliatory
18 actions will not only hurt India's economy but
19 will also impact the interest of U.S. consumers.
20 The levy ensures that all companies serving
21 Indian residents are brought under the ambit of
22 tax. In the absence of the levy, non-resident

1 operators are not required to pay taxes on e-
2 commerce supply or services made in the Indian
3 market. This levy does not discriminate. And I
4 think that's a very important point to make.

5 It applies equally, irrespective of
6 country of residence. Instead, it establishes a
7 level playing field for local tax paying e-
8 commerce companies with multinational
9 marketplaces who can no longer escape the purview
10 of India's tax regime by billing their customers
11 from offshore units.

12 The EO, or the levy, is the best
13 interim solution to address the global tax
14 concerns for commerce companies as OECD
15 negotiations are finalized. Again, I'd like to
16 stress that this is a non-discriminatory levy.

17 CII and other industry members,
18 including our friends from FICCI who just
19 testified are disappointed in USTR's
20 disproportionate response with the proposed
21 retaliatory actions, including a 25 percent ad
22 valorem tax on Indian products that in 2020 were

1 valued at approximately \$161 million.

2 Many of the cited products are derived
3 from the nation's most labor intensive sectors.
4 For instance, the U.S. ranks among India's top
5 export markets for gems and jewelry, Basmati rice
6 and marine products. Increased duties will
7 therefore inordinately affect India's labor
8 market, which has already suffered from the
9 withdrawal of GSP benefits, intensifying a burden
10 that will be felt by U.S. customers and also as
11 they are trying to recover from the COVID
12 pandemic.

13 Further penalties will result in a
14 severe adverse impact on the India-U.S. bilateral
15 trade relationship. On behalf of my friends and
16 colleagues at CII, we urge USTR to respond
17 prudently and not take unilateral action against
18 a temporary levy designed to support designed to
19 support ongoing international negotiations.
20 Thank you very much.

21 MR. AU: Thank you for your testimony.
22 With that, I would like to open the floor to the

1 U.S. government questions. I believe our first
2 question is from the Department of State.

3 I can see you, but I cannot hear you.
4 I'm still having trouble with the audio from you.
5 Okay. I think it should work now. That's okay.
6 I think we're still having some trouble. But
7 that's okay. We have the question over here on
8 our side as well.

9 Mr. Majumdar, from the Federation of
10 Indian Chambers of Commerce Industry, your
11 testimony notes that many small and medium
12 enterprises rely on exports to the United States.
13 To your knowledge, have any of your members
14 reached out to the Government of India to request
15 that India address U.S. concerns with the
16 Equalization Levy and have you considered making
17 such a suggestion to your members? Thank you.

18 MR. MAJUMDAR: Yes, certainly. Our
19 members from at least two other groups for the
20 time being, I remember currently there may be two
21 others, two product groups, seafood as well as
22 gems and jewelry. They did. They did approach

1 us. And we had an elaborate discussion with
2 them. And on the gems we have made the
3 supplementation. We have included their
4 submissions along with other submissions in our
5 testimony.

6 MR. AU: Thank you. I believe our
7 next question is from the Department of Labor.

8 MS. LAURY: Hi. Good morning. My
9 question is also for Mr. Majumdar. In your
10 testimony, you state that workers in the United
11 States depend on shrimp from India for jobs in
12 their supply chain. I believe your testimony
13 specifically cites "a substantial fraction of
14 500,000-plus workers."

15 I wondered if you could elaborate on
16 the types of employment that shrimp from India
17 provides in the United States? And can you also
18 elaborate more on how the proposed trade action
19 might impact that employment?

20 MR. MAJUMDAR: Give me a second. My
21 written submission, which has more details, just
22 a moment. One moment, please, yes. For the

1 shrimps and employment -- okay, if you can hear
2 me properly, seafood are marine products and
3 their exports play a very, very significant role
4 in the Indian economy in terms of employment,
5 income generation, besides valuable foreign
6 exchange earnings.

7 Not only in the fishery section, the
8 marine section occupies an important place in the
9 socioeconomic development of our country. The
10 sector provides livelihood support to 28 million
11 at the primary level and almost twice the number
12 on the value chain.

13 In fact in the recent post, the sector
14 has been growing at a rate of 7 percent also. If
15 I want to give more figures, the fishery sector
16 in water, not fishing, like our fishery sector,
17 accounts for 1.2 percent of our gross value-added
18 and 7.3 percent of agricultural value-added.

19 So all these facts and figures greatly
20 amplify how this particular sector's income
21 generation occupies such an important place in
22 terms of employment and livelihood for our

1 people.

2 That was the reason I was trying to
3 argue against such a levy on seafood chains,
4 whatever they have been listed in there, that
5 preliminary list of 40 items. Over to you.

6 MR. AU: Thank you for that response.
7 I believe our next question is from the USDA.

8 MR. SHAILER: Yes. Good morning.
9 This is also from -- the proposed trade action
10 would be a loss-loss outcome. Is it your
11 assumption that the United States could not
12 source shrimp from sources other than India? If
13 so, why? Thank you.

14 MR. MAJUMDAR: A valid question. A
15 little clarification. Yes. I did make the
16 testimony both written and oral that the proposed
17 levy, additional levy, would lead to a loss-loss
18 outcome for both the countries. But that was not
19 with reference to shrimps alone. It was for the
20 overall framework.

21 So if I come to your specific question
22 whether the U.S. can source shrimps from

1 elsewhere, of course it can. Of course it can.
2 That is not the issue.

3 The issue is that shrimp, as far as
4 shrimp is concerned, or particularly that product
5 is concerned, India, because among the prominent
6 suppliers, principal suppliers as of now, if I
7 remember correctly, for this particular, India
8 supplies a substantial portion of total U.S.
9 imports. I can just go back and find out exact
10 figure. At the moment, I don't have it.

11 Similarly, even from the other side,
12 even from the side, first of all, although USA
13 can source from other sources, it can source
14 shrimps from other countries, but for a
15 comparable quality, maybe the price will be
16 higher. So that remains to be seen.

17 And also if you take from India's
18 point of view, if you take the overall framework
19 and development in prominent sectors, from India
20 also USA is among one of the top destinations for
21 India's shrimp or seafood supplies, seafood
22 exports from that point of view.

1 But I still hold, yes, the particular
2 levy, if implemented, will lead to a loss-loss,
3 lose-lose outcome for everyone, but it is not
4 only with reference to shrimps if I have
5 clarified myself. Over to you.

6 MR. AU: Thank you for that response.
7 I believe our next question is from the
8 Department of Treasury.

9 MR. CHANG: Hi. Thank you very much.
10 And thank you all for your testimony. My
11 question goes to the Confederation of Indian
12 Industry, Mr. Sharma.

13 In your testimony, you refer to the
14 Equalization Levy as an interim measure. Please
15 explain why you view the measure as interim. For
16 example, is it your understanding that the
17 Government of India will remove the levy upon the
18 OECD reaching an agreement on the international
19 tax issues? Thank you.

20 MR. SHARMA: Thank you, Mr. Chang, for
21 your question. It is always difficult to predict
22 what the government will do, the Government of

1 India will do, when it comes to levies. But our
2 understanding is that it is interim. And that
3 much of it is -- that what a lot of people are
4 having concern about is really because of the, I
5 guess, it's that a lot of the points that were
6 made in the recent Budget Act of India were more
7 clarifications than they were actually an
8 expansion of a levy or anything else that was
9 going further with the levy.

10 I cannot confirm that it is going to
11 only be interim. And I can provide a much more
12 formal written comment to you with greater
13 clarification based on our understanding of how
14 far the levy will go.

15 I do want to convey one point though,
16 that, one of the biggest concerns for CII with
17 regards to USTR's reaction has been that a lot of
18 the numbers and stuff that are being cited by
19 USTR are estimations and that they have not
20 provided how they came up with those calculations
21 on the estimations. And so we would like some
22 clarification as to how they came to those

1 particular numbers.

2 MR. CHANG: Thank you. Has your
3 organization taken a position with the Government
4 of India on these issues? For example, stating
5 your view that the measure should be lifted on an
6 OECD outcome?

7 MR. SHARMA: At this time, I'm taking
8 a contrary view to the Government.

9 MR. CHANG: Okay. Thank you very much
10 for your answers. Thank you.

11 MR. AU: Thank you. I believe our
12 next question is from Mr. Lynch. I believe
13 you're still muted.

14 MR. LYNCH: Thank you. I should
15 probably avoid that mistake from now on. But
16 thanks to all of our panelists for participating
17 today. I think I should have learned that lesson
18 by now. But thanks again for all of you
19 appearing today.

20 And I have a question for CII, Mr.
21 Sharma. And actually before I get to that, I
22 would like to second his comments earlier in

1 expressing sympathies for all of our friends in
2 India. At the moment, it certainly is a tragic
3 situation that we are all closely tracking. So
4 with that, I'll just turn to my question briefly.

5 Mr. Sharma, your testimony addressed
6 a wide range of various issues. And I just
7 wanted to get a sense of whether or not you have
8 any additional thoughts on the specifics of the
9 proposed trade action. And for example, do you
10 have views on whether the limitation of the
11 tariffs might actually be effective in persuading
12 the Indian Government to revisit the DST policy
13 moving forward?

14 MR. SHARMA: First of all, Mr. Lynch,
15 thank you. Thank you for recognizing the crisis
16 in India. And we have a lot of common friends
17 that are going through some very difficult times,
18 especially in the Ministry of Commerce, including
19 CII, which has approximately 30 percent of its
20 workforce impacted by COVID. So I think it's
21 important for us to remember the bigger issue.

22 With regards to your question, I can't

1 answer that because I'm not sure. I'm not clear.
2 And I'm more than happy to confer with my
3 colleagues over at CII and come back to you with
4 a written answer on that.

5 As far as I'm aware, CII believes that
6 the reaction by USTR is unwarranted mainly
7 because of the data that was provided. It was
8 unclear as to how USTR came with the numbers that
9 they cited as well as it was an overreach by USTR
10 on the various actions, whether it's the tariff
11 or the levy itself, that it was a far reach and
12 that the impact on Indian industry would be far
13 greater than the action that USTR thinks that
14 they are going to be getting by moving forward
15 with these particular policies.

16 It's just difficult, as you know, to
17 predict what governments will do in response to
18 government action from one side to the other.

19 MR. LYNCH: Well, thank you for that.
20 I appreciate your testimony and your comments.
21 And now I will turn it back over. Thank you.

22 MR. AU: Thank you. Our next question

1 is from Customs and Border Protection.

2 MR. AMDUR: So good morning. We also
3 now have some questions for Mr. Scarpelli. We
4 haven't forgotten about you.

5 In your testimony, you refer to the
6 tremendous growth that The App Association has
7 had in India in recent years. You also mentioned
8 the Equalization Levy. Have you conducted an
9 analysis on how India's Equalization Levy might
10 impact that growth and what have you learned?

11 MR. SCARPELLI: Thank you for that
12 question. The short answer is that if it's okay,
13 I would love to follow-up in more detail on that.
14 We're just -- I guess I would say it is something
15 of a struggle for us as we survey our members to
16 get as much of a granular, you know, capturing of
17 the impact of specific DSTs not only on ones who
18 are operating there now but probably more
19 interestingly, and maybe of interest to USTR
20 even, I'm guessing, but speculating there. But
21 that the impact on small businesses from our
22 membership and others who are considering

1 entering the market and how the levy and whether
2 it continues on or not in its current form or
3 whether it has changed, how it would influence
4 their, you know, business decisions about
5 entering the market. So it's something that
6 we're continuing to work on. If it's okay, I can
7 follow-up with you with data.

8 But I can tell you that, you know,
9 when we speak to our members, we hear grave
10 concern and dismay with the imposition of DSTs in
11 fee markets, particularly India being certainly
12 if not the top and tied for the top market for
13 these American SMEs that want to grow and gain
14 new customers and create more jobs in the U.S.

15 So, you know, we have anecdotal input.
16 We have less formal input that continues to
17 indicate to us that our members want us to, you
18 know, appear at hearings like this and convey our
19 objection to unilateral DSTs. And we hear that
20 it's a strong disincentive to pay in and/or enter
21 a new market. But, again, as far as data goes,
22 if it's okay, I'd love to pull together all that

1 we can and share it with you and follow-up after
2 the hearing.

3 MR. AMDUR: Thank you.

4 MR. AU: Thank you. I believe our
5 next question is from the Department of Commerce.
6 I believe we don't have audio for you. Do you
7 want to try again? I don't believe we can hear
8 you at the moment but that's okay. I do have the
9 question in front of me for Mr. Scarpelli.

10 We note that your organization is
11 testifying at a number of our hearings in various
12 investigations. In light of this, would you like
13 to comment on whether there are any other unique
14 aspects of India's DST that might be relevant to
15 the proposed trade actions?

16 MR. SCARPELLI: Sure. And you're
17 right, we're participating -- and I probably
18 should know that, too. We're participating in
19 all hearings on DSTs, including the multi-
20 jurisdictional one and the other countries'
21 investigations. And we're really pleased with
22 the opportunity to do that.

1 I think that, you know, some notable
2 -- there are maybe a couple of aspects that are
3 notable here for the India DST that, you know, we
4 have -- I can just kind of reflect some of the
5 aggregated concerns we've heard from our members.

6 I think that the broad range, the
7 scope of the tax is quite broad, at least as I
8 think about it in relation to some of the other
9 DSTs being investigated in specific -- being
10 investigated such as the Spanish or Italian one.

11 As I read it, I think the Indian DST
12 is much broader, and I don't know of that many
13 called out, you know, at least called out or
14 exceptions that we understand to apply, like,
15 there may be for some other DSTs.

16 The other aspect that we've heard
17 about, and this aspect is shared with at least a
18 few other of the DSTs being investigated, is a
19 clarification -- it's what is in effect a
20 requirement for a -- well, okay. So I'm sorry.
21 What I'm trying to say is that it is a
22 clarification from the Indian Government that

1 offshore firms that use an India-based -- that
2 operate through an India-based organization don't
3 have to pay the levy.

4 So I guess what I was trying to spit
5 out there was in effect that having a permanent
6 establishment in the country would, I believe,
7 make you not subject to the tax. In effect
8 that's a -- you know, so that being a targeting
9 of foreign companies.

10 And I think that's very relevant to,
11 you know, the analysis in USTR's determination of
12 about whether the DST is unreasonable or
13 discriminatory as far as American businesses and
14 then that's just a particularly concerning aspect
15 of the Indian DST that we would flag.

16 MR. AU: Thank you for your response.
17 The next question is for the Federation of Indian
18 Chambers of Commerce and Industry. We understand
19 that you're opposed to unilateral acts. And U.S.
20 tax was not approved by any international body.
21 Do you consider India's DST to be a unilateral
22 act?

1 MR. SHARMA: Thank you for the
2 question. What CII would like to see is for the
3 United States to wait for the OECD negotiations
4 to end by the end of the summer on these
5 particular types of taxes. CII would prefer that
6 USTR and the United States government wait. That
7 there's no rush to resolve this issue now but
8 that we should wait for the next couple of months
9 and see where the OECD negotiation -- thank you.

10 MR. AU: Thank you for your response.
11 And also with regard to that question, Mr.
12 Majumdar, would you like to provide a response to
13 that question as well?

14 MR. MAJUMDAR: Thank you. No, I agree
15 with my colleague from CII. But by unilateral
16 action, what I meant is retaliatory, the proposed
17 retaliatory levy, additional levy at the rate of
18 up to 25 percent, that I have described as part
19 of our member's view as a unilateral action. And
20 we have submitted that that unilateral action,
21 they should reconsider, reverse, should not take
22 it. That was the reference of our term

1 unilateral.

2 However, on the particular, just now
3 the response given by Kapil from CII, we totally
4 stand by that.

5 And on the record, if you would allow
6 me, to just I would like to supplement my
7 previous answer to the USTR gentleman that time I
8 said we would come back with figures.

9 So the difference with shrimps for the
10 two particular product lines, 03063500 and
11 03069500, India in the year 2020, India supplied
12 21 and more than 50 percent of these two items of
13 total U.S. imports, total U.S. imports in the
14 year 2020. I hope those figures can relate and
15 you can now correlate this. Thank you, Mr.
16 Moderator. Back to you.

17 MR. AU: Thank you for those
18 responses. Before concluding this panel, we
19 would like pause to see if any member of the 301
20 Committee has any remaining questions for this
21 panel.

22 Hearing none, I would like to ask if

1 any of the witnesses would like to address
2 questions that we had posed to other witnesses or
3 make a final comment on matters that we have
4 discussed this morning.

5 Hearing none there, that concludes
6 this first panel. Thank you again for your time
7 today. We will now take a short break as we
8 compose the second panel.

9 MR. MAJUMDAR: Before we disperse, I
10 would like to thank you, Mr. Moderator. Thank
11 you for being very efficient in managing the
12 session and all the other participants who have
13 posed questions. And thank you very much on
14 behalf of the Federation of Indian Chambers of
15 Commerce and Industry. Thank you.

16 MR. AU: Of course. Thanks to all.
17 We will now take a short break.

18 (Whereupon, the above-entitled matter
19 went off the record at 10:15 a.m. and resumed at
20 10:34 a.m.)

21 MR. AU: We'd like to now proceed with
22 our next panel, which is composed of five

1 witnesses, first Nigam Nuggehalli from the School
2 of Law, BML Munjal University, Kinshuk Jha from
3 Jindal Global Law School, O.P. Jindal Global
4 University, Rosmy Joan from National Law
5 University, R.V. Anuradha from Clarus Law
6 Associates, and Valun Chablani from Gujarat
7 National Law University.

8 We will begin with School of Law, BML
9 Munjal University, you may proceed with your
10 testimony, whenever you are ready.

11 MR. NUGGEHALLI: Thank you very much
12 for this opportunity. My name is Nigam
13 Nuggehalli, I am the Dean of the School of Law at
14 BML Munjal University.

15 I have practiced tax law in the U.S.
16 after having studied tax law at NYU Law School,
17 and I have taught tax law in the U.S., the United
18 Kingdom, and India.

19 I have written extensively on
20 international tax issues, most recently I've
21 written a book on international tax from an
22 Indian perspective and I worked with Indian tax

1 lawyers on international tax issues.

2 Today I'll talk about the Section 301
3 investigation of India's Digital Services Tax
4 from two perspectives, the fact that the argument
5 is that the taxes discriminate as it targets only
6 non-dissident companies.

7 And the tax is unreasonable because it
8 violates international tax constraints relating
9 to certainty, nexus, and scope of charge. And
10 I'll be addressing each of these issues in turn
11 over the next four minutes.

12 The tax is not discriminatory in my
13 opinion. Indian companies applying goods and
14 services are already taxed on a resident's basis
15 under Section 4 of the Indian Tax Act.

16 Non-visiting companies without a
17 physical presence in India will likely neither
18 have a business connection under Section 9 of the
19 Indian Tax Act, or neither will have a permanent
20 establishment in India.

21 And this influences the host of issues
22 taken by Indian courts and tribunals. So,

1 without looking at India, non-resident companies
2 cannot be taxed on their income attributable to
3 India and in many cases the income attributable
4 to India cannot be considered as royalty income
5 either or fees from technical service.

6 Therefore, while Indian companies
7 supplying the same services, as non-resident
8 companies taxed in India, the non-resident
9 companies are not subject to Indian taxation
10 despite being in business with Indian customers.

11 It is to address this inconsistency
12 that the Digital Service Tax or the Equal
13 Additional Levy, as it's called here, has been
14 enacted. I also believe that the ESG is not
15 unreasonably vague or uncertain.

16 The challenge section is clear and the
17 scope of the tax has been laid down. There are
18 uncertainties in its application but I think this
19 is the case with many tax enactments and I think
20 over a period of time it will be ironed out.

21 In fact, quite a few amendments have
22 been made in this year's budget, which has driven

1 the issue to some extent.

2 In any case, I believe the use of
3 open-ended language that is subject to varying
4 interpretations is common in tax legislation.
5 Examples of the new capital levy new distinctions
6 in domestic tax law and the business purpose
7 substance test in U.S. law, and the principal
8 purpose test in international tax law.

9 I also believe that the application of
10 DSG is not related to international norms as it
11 pertains to tax restriction.

12 In fact, the best action plan 1 itself
13 is the surges, DSG off stop that India is able to
14 apply in light of the fact that the digital
15 revolution requires some new ways of asserting
16 tax (indiscernible).

17 The Indian constitution also allows
18 the Indian Parliament to do something of this
19 sort. In fact, there is case law both in India
20 and in the U.S. which suggests that online
21 presence in a certain territory is sufficient
22 nexus to exercise tax restrictions.

1 The Indian case and facts stated that
2 the availability of transactions to a website at
3 a particular place is virtually the same thing as
4 a seller having shops in that place in the
5 physical world.

6 Lastly, I believe that the DSG
7 taxation of revenue rather than income is not
8 relative to international law and taxation.
9 There are numerous examples of revenue-based
10 taxation, both in domestic tax law and
11 (indiscernible). In domestic tax law dividends,
12 for example, have been taxed on a crossed basis.

13 In double tax treaties, royalties, and
14 technical services are taxed for a revenue basis.
15 And most importantly, non-resident entities have
16 the option of being taxed on a net income basis
17 if they have a distinction in India.

18 So, thank you for this opportunity
19 again and I'll give the mic back to the
20 moderator.

21 MR. AU: Thank you for your testimony.
22 I'd now like to invite Kinshuk Jha from Jindal

1 Global Law School.

2 MR. JHA: Good morning, distinguished
3 members of the panel, I'm Kinshuk Jha and I'm
4 speaking on behalf of Center for Comparative
5 Issues and Center for International Tax Laws at
6 Jindal Global Law School, India.

7 I would like to thank you for this
8 opportunity to present the order of submissions
9 as part of the USTR investigations against India,
10 taking forward the contentions made in my
11 preliminary written submissions, I would like to
12 highlight two points during the course of this
13 virtual hearing.

14 My first point is on the investigation
15 findings of the USTR, India has abandoned
16 international tax principles while implementing
17 the DST. I would like to begin by drawing your
18 attention to the OECD inclusive framework
19 blueprint.

20 The second chapter of the blueprint
21 which defines the scope of Pillar 1 has a
22 pertinent observation in context of taxation of

1 the digital economy. It reads, and I quote, the
2 definition of the scope response to the need to
3 revisit taxing rules in response to a changed
4 economy.

5 The existing international tax rules
6 generally attached a tax rate to profits that are
7 either from a physical presence jurisdiction,
8 however, given globalization and the digitization
9 of the economy.

10 This is a scan with or without the
11 benefit of local physical operations participate
12 in an active and sustained manner in the economic
13 life of market jurisdiction during the age
14 extending beyond the mere conclusion of sales in
15 order to increase the value of the products, the
16 sales, and thus their profits.

17 Such participation is attributable to
18 the nature of what is being supplied, how it is
19 being supplied, and the active interaction or
20 engagement with market jurisdictions.

21 This means that an allocation of
22 taxing rates and taxable profits can no longer be

1 exclusively circumscribed by their friends to
2 physical presence, unquote.

3 The report on Pillar 1 was published
4 in October 2020 and it reflects the latest
5 mindset of multiple jurisdictions that physical
6 nexus, or we could say, that existing permanent
7 establishment rules are not sufficient for
8 taxation of the digital economy.

9 The economic nexus has gained
10 prevalence over physical nexus in context of
11 taxation of non-resident digital corporations in
12 the market jurisdictions and the general
13 consensus seems to be moving in that way.

14 India as a sovereign has a right to
15 post access on its subject matters, a non-
16 resident corporation driving economic benefit
17 from the jurisdiction of India should qualify as
18 an Indian subject matter.

19 Certain judgments of the Indian codes
20 under United States codes, they have already been
21 cited by Professor Nigam just before I spoke.
22 So, with the emergence of dynamic economic

1 activities, we cannot keep referring to this
2 element and inadequate taxation principles.

3 While non-taxation is not the case
4 here, de minimis, which the global economy has
5 been trying to deal with and the data indicates,
6 the underlying issue is that source jurisdictions
7 taxing rights are going unrecognized in the
8 absence of a non-discriminatory measure like
9 these.

10 Now, the second point which I would
11 like to highlight is that the retaliated tariffs
12 would not lead to the benefit of either India or
13 the United States.

14 The retaliatory tariffs the U.S. is
15 proposing are intangible commodities that took
16 products which are either manufactured or
17 supplied by micro, small, medium-scale
18 enterprises in India.

19 These products have already been
20 subject to taxation for a level by now. On the
21 other hand, the digital tax that India has
22 imposed is a measure to tax the earnings of non-

1 resident digital companies mostly, with
2 intangibles in the foundations.

3 The purpose is to tax non-residents
4 who have not paid any taxes on income despite
5 having earnings in India. Therefore, from the
6 perspective of any retaliated tariffs the scales
7 seem to be imbalanced.

8 Whether digital economy is only set to
9 go further the proposed categories of trading
10 activities facing retaliated tariff only in a
11 state of economic diversification due to the
12 severe impact of the COVID pandemic.

13 And introduction to retaliated tariffs
14 is not only going to have an adverse impact on
15 Indian entities but also the American small and
16 medium-scale enterprises. As is evident from
17 several of the submissions on the USTR portal as
18 part of this investigation.

19 To conclude, if USTR is still of the
20 opinion that the Indian tariff is detrimental to
21 the interests of U.S. digital corporations,
22 further dialogs would be concerned and

1 appreciated are humbly satisfied.

2 They have shown their weakness to
3 discuss at multiple series. Indian Government
4 has already deferred the implementation of the
5 significant economic presence and has also stated
6 that the DST can be reviewed provided we arrive
7 at a multinational solution.

8 As we wait for multilateral solutions
9 to arrive, any bilateral solution for an
10 appropriate taxation of U.S.-based digital
11 companies having economic nexus with India would
12 be definitely sensible.

13 This would help in establishing a
14 proper and fair system of taxation of digital
15 economy where none of the sites feel agreed.

16 Thank you.

17 MR. AU: Thank you for your testimony.
18 I would now like to invite Rosmy Joan from
19 National Law University to testify.

20 DR. JOAN: A very good morning to all
21 the members of Section 301 Investigation
22 Committee, I'm Dr. Rosmy Joan working as

1 assistant professor at the National Law
2 University, Jodhpur.

3 I teach international trade law at the
4 University. It's indeed an honor for me to
5 appear before this esteemed committee on behalf
6 of the National Law University, Jodhpur and I
7 thank you for the opportunity.

8 As the Committee may allow, the
9 factual scenario is such that the sequence to the
10 amendment to the Indian Finance Act in March 2020
11 involving a two-person capitalization levy on
12 non-resident e-commerce operators.

13 The review of the United States Trade
14 Representative found that the capitalization levy
15 is actionable under Section 301 of the Trade Act
16 of 1974 and proposed an ad valorem duty of
17 \$25,000 should be largely unselected.

18 In response to the request in writing
19 comments concerning the proposed action in
20 Section 301 of the investigation of India's DST,
21 they would like to submit four points before the
22 Committee.

1 The first point is that the U.S. is
2 proposing the actualization of the tariffs is
3 inconsistent with the WTO obligations. We humbly
4 submit before the Committee that the proposed
5 action contravenes Article 1 and Article 2 of the
6 JAB as well as Article 23 of the DRC.

7 We would like to cite the panel
8 reporting in the United States tariff measures,
9 DS-543, wherein the location of Section 301 was
10 found as inconsistent with the reference
11 statement as in Article 2.

12 Any proposal in words in the tariff on
13 this basis is clearly inconsistent with Article
14 151 of the JAB and could be potentially
15 inconsistent with Article 2 of the JAB.

16 Moreover, any relaxed tariffs endorsed
17 in the Section 301 implies a complete disregard
18 to the extent of the legal legend of the WTO
19 thereby invalidating the power and mandate of the
20 WTO for trade regulation.

21 Therefore, we humbly submit that such
22 an action goes against the spirit of cooperation

1 and sets a bad precedent.

2 The second point is that India has
3 the sovereign right to tax and the equalization
4 levy in both India does not contravene
5 international taxation principles and validate
6 emission and then Action Plan 1 on tax in the
7 digital economy.

8 We would like to submit that the right
9 to taxation could be reasonably construed as one
10 of the instruments establishing the sovereign
11 status of the state under international law.

12 Further, the JAB's framework and the
13 purpose behind the OECD-based projects
14 substantiate this view. Therefore, we submit
15 that the U.S. may change the compilation of these
16 thoughts at the senior level before initiating
17 any unilateral actions.

18 The third point is that the
19 equalization levy is not disconnecting in nature,
20 we would like to submit that the equalization
21 levy has been applied to non-Indian e-commerce
22 operators in India as a way to offset the

1 disadvantage and disparity Indian firms face by
2 being subject to paybacks on their earnings
3 arising from similar transactions.

4 Further, the equalization levy is
5 applicable on all non-Indian e-commerce operators
6 the threshold that the equalization levy is
7 low-income barriers in the United Kingdom,
8 Austria, Indonesia and applies equally to all the
9 states.

10 Finally, we submit that the U.S.
11 proposal to propose a 25 percent ad valorem duty
12 would cause distortion and unreasonably increase
13 the burden the on U.S. consumers and producers
14 relying on import (indiscernible).

15 In light of all these points, we
16 propose that the direct tariff be imposed. Thank
17 you for your patience here.

18 MR. AU: Thank you for your testimony.
19 I would like to invite R.V. Anuradha from Clarus
20 Law Associates to testify.

21 MS. ANURADHA: Thank you, good
22 morning, Members of the Committee and thank you

1 for this opportunity.

2 Let me begin by endorsing a common
3 thread, a common point that has been made by all
4 the preceding speakers in the first panel and in
5 this one, which is an urging to the Government of
6 the United States for a multilateral solution and
7 not to resort to unilateral retaliatory actions
8 through these proposed tariffs.

9 Let me also reflect briefly on the
10 recent report of the Congressional service, which
11 is noted that with the entry into force of the
12 WTO, the U.S. had significantly reduced its
13 recourse to Section 301 retaliatory action.

14 It is in this context particularly
15 that the USTR notice proposing retaliatory
16 tariffs against India stands as a departure from
17 that practice.

18 And especially at a time when both our
19 governments aren't collaborating for finding a
20 concrete solution at the OECD, which again,
21 several of the previous panelists have already
22 reflected on.

1 As the report of March 21 that I'm
2 referring to also acknowledged that any
3 determination to bypass the WTO's disputes
4 settlement system and impose retaliatory tariffs,
5 if any, in response to a Section 301
6 investigation may be challenged at the WTO.

7 The fundamental, underlying point,
8 which again, some of the previous speakers have
9 emphasized on is that the motivations of India's
10 equalization levy and I would argue is similar to
11 the same as that of the U.S. and several other
12 jurisdictions worldwide.

13 Which is the need to level the playing
14 field between domestic and foreign corporations
15 in both (indiscernible) transactions?

16 We also understand that taxation laws
17 in various states in the U.S. have recently
18 evolved to a post-taxation on any activities that
19 are not (indiscernible) in the state of the U.S.
20 but those actions have a nexus based on the
21 economic activities of that state.

22 Nigam earlier had referenced to case

1 laws to this effect as well pursuant to which is
2 the laws, what I understand is that majority of
3 the states in the U.S. have already put into
4 place.

5 Coming back to USTR's report of
6 January of all India's service tax, it appears to
7 ignore the underlying basis for India's
8 equalization levy, which is that taxation of
9 revenue from digital sales that have occurred in
10 the territory of India is clearly based on a
11 territory nexus, which is the fact that the sales
12 are occurring in the territory of India.

13 There is nothing in international tax
14 law that prohibits taxation of revenues, and in
15 fact, revenues in the form of royalties and fees
16 with technical services are frequently the
17 subject of taxation.

18 The focus of India's equalization levy
19 is only on revenue from India-related
20 transactions so, therefore, the nexus itself is
21 narrow and clearly defined.

22 The objective of this levy is to

1 create a level playing field as some of the
2 previous panelists have reflected on between
3 entities that are resident in India or have a
4 permanent establishment in India and those that
5 do not.

6 It applies to all non-resident digital
7 service suppliers irrespective of the country of
8 origin, and therefore, does not count
9 (indiscernible) also reflect on the previous
10 panelist from CIF, Mr. Sharma had reflected on,
11 which is the fact that the report of January 2021
12 does not really explain the basis for the
13 conclusion that predominantly the U.S. entities
14 that appear to be impacted.

15 The basis for characterizing whether
16 an e-commerce entity is from U.S., U.K. or any
17 other jurisdiction has not really been explained.

18 The estimates that have been made in
19 the tables in that report also ignore the fact
20 that e-commerce and technological companies will
21 have complex structures and they're often
22 incorporated in jurisdictions that have the least

1 tax (indiscernible).

2 I would also like to emphasize that
3 from what we have read and learned about the tax
4 reforms in the U.S., in 2017 there appears to
5 have been revisiting of the entire taxation
6 structure and the rationale for that structure of
7 that reform process in the United States appears
8 to have been a concern of the international
9 taxation system.

10 And in particular, the laws of revenue
11 due to the artificial shifting of profit outside
12 of the U.S. led by international firms with U.S.
13 employment.

14 The tax chains in 2017 had several
15 components and recent developments in the U.S.
16 seem to be taking this forward as well. Clearly,
17 in recognition of the pitfalls prevailing in
18 international taxation structures.

19 In conclusion, clearly the issue at
20 discussion is taxation of the digital economy and
21 ask negotiations to seek at the bilateral level
22 it would make that it tends to commit to finding

1 a solution at that level rather than resorting to
2 retaliatory action.

3 Thank you.

4 MR. AU: Thank you for your testimony.
5 I'd now like to invite Valun Chablani from
6 Gujarat National Law University.

7 MR. CHABLANI: Hello, can you see and
8 hear me?

9 MR. AU: Yes, we can, thank you.

10 MR. CHABLANI: Okay, thank you. So
11 most of the points I was supposed to say have
12 already been spoken by some of the esteemed
13 panelists for this panel as well as the previous
14 one. But in any case, let me just take the time
15 to explain my testimony and make my views heard.

16 My name is Valun Chablani and I'm a
17 tax practitioner, I'm also guest faculty at
18 Gujarat National Law University, which is the
19 foremost law schools in India. I am grateful to
20 Office of USTR in having this opportunity to send
21 my comments.

22 Of course, many of the comments have

1 been said. I am sure many of our friends before
2 have mentioned the terrible COVID wave that we
3 are all facing in India and also, to some extent,
4 in the U.S.

5 And it has really hit public finances
6 too, it's pushed finances to its limits and any
7 retaliatory action which also my friend Professor
8 Kinshuk Jha had mentioned that any such action in
9 this situation can only lead to bad results.

10 And whether it is the retaliatory
11 action or whether it is the forcing of the
12 suspension or the domination of the law itself.

13 We'd also like to mention that, what
14 my friend had also mentioned, that the USTR does
15 not have jurisdiction with respect to this
16 hearing and the imposition of the tax.

17 And if the U.S. really had any
18 grievances with respect to the levy, they should
19 have approached the WTO test, Article 1423, these
20 are the articles of the DST that come into play.

21 There is unilateral measures
22 undermining the unilateral conflict resolution

1 system on which the group had created the speech
2 today. As the responsible state, U.S. activists
3 would obtain obligations and call off any further
4 sanctions.

5 On the public act of good faith, like
6 many of my friends have explained before, we
7 should examine the real intention of what we find
8 though.

9 And as many of my friends have said,
10 this was a temporary measure, this was a measure
11 to spell out attached policy position under
12 Action 1 and, of course, this was fast tracked
13 because of COVID-19.

14 And in fact, the U.S. has made a
15 laudable effort to come back to the negotiating
16 table with the play on decisions and in the same
17 spirit, like what some of my friends in the first
18 panel had said, we should wait for the
19 multilateral solution because again, any
20 retaliatory measures is definitely going to
21 affect both parties in a very bad way.

22 Further, we ignored the literature

1 that says that this was not be subject to a tax
2 levy in the first place, we submit this is not a
3 tax levy anyway and in this regard it's important
4 to delve into the origins of the concept of
5 public establishment.

6 This concept had come up because
7 international tax law system when it was first
8 being brought up required people to determine
9 circumstances where you can say, oh, enterprise
10 is sufficiently amendment therapy in the economy
11 for the this state to justify taxation in that
12 state.

13 This was a presumption back in the day
14 because brick and mortar businesses with the old
15 models which could do that. That presumption,
16 again like many of my friends have said before,
17 is not true anymore given the nature of the
18 business models enterprises they face.

19 And really, that's why the project it
20 came up in the first place. Therefore, in terms
21 of a holistic interpretation, if we use Article
22 31 of the CLD, we need to understand the

1 intention of the tax treaty and try to adapt it
2 to whatever new technologies have come up so as
3 to make sure that the prohibitions themselves do
4 not become infectious.

5 So, again that (indiscernible), that
6 data interpretation act committee sharing be
7 focused solely the taxing right on to be
8 preserved even beyond just the concept as long it
9 is in line with the economy.

10 Which again, like many of my friends
11 have said before, is because they need to get it.
12 So, the tax, that could mean for example user
13 participation network affects data generations
14 and show me significant (indiscernible) in
15 turning the jurisdiction in India in this case,
16 justifying some state levy in India.

17 Finally, I'd like to conclude saying
18 that the U.S. has always been in the forefront of
19 our technological innovations and surely a
20 sanction like this would undermine the American
21 attitude of embracing changes of being in the
22 technologies and adapting regulations thereon.

1 The U.S. has also, as what a friend of
2 mine had said before, that it happens again with
3 respect to vaccine data and with the same
4 intention, of course, given the situation that
5 they're all living in today, NIDA has requested
6 that following that same principle and same
7 intention of the U.S. Government, it is requested
8 that these proposed sanctions also be dropped.

9 And I will end my speech right now and
10 I'll be open to any questions. Thank you.

11 MR. AU: Thank you for your testimony.
12 With that, we'll proceed to questions from the
13 panel here and I believe our first question is
14 from the Department of Commerce.

15 MR. ABBYAD: Thank you, my question is
16 for Mr. Nugehalli from School of Law from BML
17 Munjal University. As you know, today's hearing
18 is focused on the proposed trade action in
19 relation to the investigation.

20 Do you have a view on whether placing
21 tariffs on the products USTR has identified would
22 help persuade the Government of India to address

1 U.S. concerns with India's DST?

2 MR. NUGGEHALLI: No, sorry. Thank you.
3 No, I don't have a view on that. My testimony
4 was really confined to the two issues I defined
5 at the beginning, which was about discrimination
6 and about the fact that the enactment of the DST
7 was supposedly violating of certain international
8 laws on taxation violating the confinement of the
9 regulation.

10 MR. ABBYAD: Okay, thank you very much
11 for your response.

12 MR. AU: Thank you, I believe our next
13 question is from the Department of State.

14 MS. NOLAN: Testing audio.

15 MR. AU: We can hear you.

16 MS. NOLAN: Great let's go ahead then.

17 At the start of your testimony, it's not
18 discriminatory to tax only digital services
19 because the analog services are usually not
20 exported to India.

21 Although this is not the focus of
22 today's hearing, we're interested in what you

1 mean by this statement.

2 Perhaps you can provide examples and
3 then similarly would this be the case for travel
4 services, education services, or other kinds of
5 services?

6 And are such non-digital services
7 typically subject to taxation in India? Thank
8 you.

9 MR. AU: And just for clarification,
10 this is for Mr. Nuggehalli.

11 MR. NUGGEHALLI: Thank you, can I just
12 ask the concerned person to repeat that question,
13 please? I didn't get what she was getting at.

14 MS. NOLAN: Of course. Referring to
15 in your testimony when you note that it is not
16 discriminatory to tax only digital services
17 because the analog of these services are not
18 usually exported to India. And recognizing that
19 it's not the focus of today's hearing I'm just
20 interested in hearing more from you about what
21 you mean by that and any examples?

22 MR. NUGGEHALLI: In that part of my

1 testimony I was referring to the fact that if
2 physical goods were being exported to India they
3 would not be subject to the digital services tax.
4 But I believe that is not really a big problem in
5 today's economic circumstances. We are not
6 really in other words talking about a situation
7 where there's a huge supply of physical goods to
8 India which are then in some ways being treated
9 differently from digital services. I believe
10 that the discussion that what the discussion we
11 are having today is not pertaining to that kind
12 of situation. Thank you.

13 MS. NOLAN: Just a quick follow-up
14 then, sir, this is, as you assert, the case for
15 digital services. Do you think that's true for
16 other kinds of services like education services,
17 travel services, et cetera?

18 MR. NUGGEHALLI: I think if education
19 services and travel services have a digital
20 aspect to them, then I think it's fair and non-
21 discriminatory that they should be subject to a
22 tax of this sort.

1 MS. NOLAN: Thank you.

2 MR. AU: Thank you for your responses.

3 I believe the next question is from the
4 Department of the Treasury.

5 MR. CHANG: Hello, everyone, thank you
6 very much for your testimony. My question goes
7 out to Kinshuk Jha of Jindal Global Law School at
8 O.P. Jindal Global University.

9 You argue in your testimony that
10 products subject to the proposed trade action are
11 purchased by low-income consumers in the United
12 States. Could you please explain the basis for
13 this assertion?

14 Secondly, in addition, is it your
15 position that the U.S. should include luxury
16 products on the list of products subject to trade
17 action in this investigation? If so, which
18 products might those be?

19 Thank you very much.

20 MR. JHA: So, as for this, my
21 contention in the written submission was that
22 there are certain low-income consumers, perhaps,

1 in the United States which are procuring products
2 from India.

3 I was already (indiscernible) is a
4 summary of the data which was already submitted
5 on the USTR platform by then and even now it's
6 available. The latest USTR submissions which I
7 was following.

8 One example without naming the
9 organization concerned I can think of was with
10 respect to certain materials being used for
11 handbags and there were certain other industries
12 which were talking about something to do with
13 jams and jellies.

14 So, the point that being a consensus
15 were not just being used by the Indian traders
16 but they were consumers based out of U.S.A. who
17 were also raising similar concerns. So, in that
18 way, we had maybe got that contention.

19 Now, to answer the second part of the
20 question that can certain luxury items be brought
21 into the framework of USTR retaliatory tariffs?
22 In my honest opinion, first of all, the

1 retaliatory tariffs should not be the measure
2 which we are looking forward to.

3 It should be a bilateral negotiation-
4 based exercise and particularly in the case if at
5 all we are not able to arrive at a multilateral
6 situation.

7 So, instead of being penalty and
8 imposing mode, both jurisdictions I would say for
9 them, instead of being in a penalty-imposing
10 position zone, the exercise should be to
11 understand that this is a new economic activity
12 which has emerged with the period of time in the
13 last couple of decades.

14 And a decent amount of taxation
15 mechanisms should be developed that are agreeable
16 to both.

17 (Simultaneous speaking.)

18 MR. CHANG: Thank you Mr. Jha and
19 thank you for that answer.

20 MR. AU: Thank you, I believe our next
21 question is from the USDA?

22 MR. SHAILER: Hi, yes, good afternoon,

1 this question is for Rosmy Joan, National Law
2 University. In your testimony you object to the
3 proposed tariffs on various grounds.

4 We would be interested in hearing your
5 views on the related matter which is whether the
6 imposition of tariffs might encourage the
7 government of India to address U.S. concerns with
8 India's DST?

9 And could you address why this may or
10 may not be the case? Thank you.

11 DR. JOAN: I'm sorry, can you please
12 repeat the question once again?

13 MR. SHAILER: Yes, in your testimony
14 you object to the proposed tariffs on various
15 grounds so we want to hear your views on a
16 related matter, which is whether the imposition
17 of tariffs might encourage the Government of
18 India to address U.S. concerns with India's DST.

19 If you could just let us know whether
20 or not you think this is the case.

21 DR. JOAN: Thank you so much for this
22 question and I regret that I would not make any

1 reaction from the point of alignment.

2 But if I understand okay, my
3 submission is really based on the jurisprudence,
4 which are available in the trade jurisprudence
5 and the (indiscernible) otherwise available.

6 I regret that I could not make any
7 inferences as to how the government will proceed
8 probably in the future or something, but I hope
9 that, okay, the friendly relations and the
10 friendly trade between the States will be a
11 priority.

12 MR. SHAILER: Thank you.

13 MR. AU: Thank you. I believe our
14 next question is from CBP.

15 MR. AMDUR: Thank you. So this
16 question is for another panelist, R.V. Anuradha
17 from the Clarus Law Associates. In your
18 testimony you focus on the basis for assessing
19 which U.S. companies were affected by India's
20 DST. As stated in our March 31st notice USTR
21 looked at the amount of taxes that India is
22 expected to collect from U.S.-based company

1 groups. Do you have any views on this approach
2 and are you suggesting an alternative approach?

3 MS. ANURADHA: So it sounded you got
4 cut in between. Can you just repeat your
5 question again?

6 MR. AMDUR: Of course. So this has to
7 do -- in your testimony, when you focus on the
8 basis for assessing which U.S. companies were
9 affected by India's DST. And USTR looked at the
10 amount of taxes that India is expected to collect
11 from U.S.-based company groups. Do you have any
12 views on this approach and are you suggesting an
13 alternative approach?

14 MS. ANURADHA: So my question was
15 really -- or my concern was really on what basis
16 has that assessment been made because the
17 methodology for identifying what is a U.S.-based
18 company? Is it based on corporate headquarters
19 or is it based on point of incorporation or where
20 the investments are coming from? Those were the
21 aspects I think would be helpful if that gets
22 clarified for a better dialogue or an

1 understanding of the entire process in which that
2 conclusion has been arrived.

3 MR. AMDUR: Thank you.

4 MR. AU: Thank you. Our next is from
5 Ms. Short.

6 MS. SHORT: Hello. My question is for
7 Mr. Chablani. In your testimony you address a
8 range of issues, but do you have any specific
9 thoughts on the proposed trade action? For
10 example, do you have views on whether the
11 implementation of tariffs on these products would
12 be effective in persuading the Indian government
13 to revisit its DST policy?

14 MR. CHABLANI: Ms. Short, could you
15 perhaps repeat the question?

16 MS. SHORT: Absolutely. Your
17 testimony addresses a wide range of issues, but
18 do you have any specific thoughts on the proposed
19 trade action? For example, do you have views on
20 whether the implementation of tariffs on these
21 products would be effective in persuading the
22 Indian government to revisit its DST policy?

1 MR. CHABLANI: Ms. Short, I am not
2 sure of that. Again, I do not represent the
3 government. And like a friend of mine in the
4 previous panel had said that in a situation like
5 this it's really difficult to perhaps guess what
6 governments may do in a situation like this. So
7 I do not have an answer to that question.

8 MS. SHORT: Okay. Thank you.

9 MR. AU: Thank you. Before concluding
10 this panel I want to pause to see if any member
11 of the Section 301 Committee has any remaining
12 questions for the panel.

13 Hearing none, I would ask if any of
14 the witnesses would like to address questions
15 that we have posed to other witnesses or if they
16 would like to make any final comments on the
17 matters that we've discussed this morning.

18 (No response.)

19 MR. AU: Okay. Thank you. Well, with
20 that, that concludes this panel. Thank you again
21 for your time and testimony today. We will
22 briefly pause while we constitute the next panel.

1 As a reminder, the remaining panels will be
2 chaired by Benjamin Allen of USTR. We'll take a
3 break, a short break. Thank you.

4 (Whereupon, the above-entitled matter
5 went off the record at 11:15 a.m. and resumed at
6 11:22 a.m.)

7 MR. ALLEN: All right. Good morning,
8 everybody. I am Benjamin Allen from USTR. I'll
9 be taking over as chair of these hearings for
10 Panels 3 and 4. We are now going to proceed with
11 testimony from our next panel, which is composed
12 of: Rajiv Jain of the Sitapura Gems & Jewelry
13 Industry Association; Suvankar Sen of Senco Gold
14 Limited; Arvind Gupta of Gallant Jewelry; Colin
15 Shah of the Gem and Jewelry Export Promotion
16 Council, GJEPC. And I'll note this is a change
17 from the preliminary witness list. We also have
18 Rajeev Pandya of SEEPZ Gems & Jewelry
19 Manufacturers Association, and Neville Tata of
20 Renaissance Global Limited.

21 We will begin with Rajiv Jain. You
22 may proceed with your testimony when you are

1 ready. Thank you.

2 MR. JAIN: Yes. Good morning,
3 everybody. I was going through the testimonies
4 of previous chambers from India and the law
5 schools of India. Now we come to the sector-
6 specific, which I'll take up as gem and jewelry.
7 And I'm representing Sitapura Gems & Jewelry
8 Association, which comprises of more than 145
9 units in Jaipur and it gives employment to more
10 than 35,000 people, and of course they're
11 supporting colored stone industry based in
12 Jaipur, which is the largest center. Also
13 supports that. That's the Sitapur industry
14 because we are making jewelry here and the
15 colored stone is supplied from Jaipur.

16 So I duplicate what has been proposed,
17 that the levy of up to 25 percent should be
18 imposed on the gems and jewelry items because
19 that will impact the whole supply chain. If I
20 may elaborate, that lots of gemstones are
21 exported from India to U.S. Lots of silver
22 items, silver jewelry. Gold jewelry is a

1 different thing. That is a product. But there
2 are lots of components which are exported from
3 India to U.S. And then they are used to make
4 jewelry also. So that is one aspect because even
5 U.S. is exporting a lot. It's a substantial
6 amount of jewelry which U.S. exports to other
7 country.

8 Now if I talk about jewelry, jewelry
9 is supplied mainly -- India makes low-end jewelry
10 and Jaipur makes silver jewelry and gold jewelry
11 which goes to the distribution centers in U.S.
12 And then again it's redistributed to the stores.
13 There are lots of mom and pop stores, TV networks
14 which are selling jewelry made in India.

15 So if we impose or add the duty, that
16 will disturb the whole value chain between India
17 and U.S. And not only Indian industry will
18 suffer, but U.S. industry will also suffer. And
19 again then there is a large diaspora of Indians
20 living in U.S. which prefer to wear Indian
21 jewelry, which is supplied by India because the
22 design skills are there. And if the price goes

1 up because of the duty, then even the retailers
2 there will have to suffer.

3 The impact of this would be that the
4 other countries, Asian countries would benefit,
5 and the most beneficial country can be China
6 because of this. So my humble request to the
7 Panel is that please do not impose such duty
8 because already we are going through a very
9 troublesome time because of this pandemic.

10 And in the same situation, if this is
11 done, then India and U.S. both will lose
12 business. And we have to take care of the large
13 skilled labor because Sitapura Gems & Jewelry, we
14 are three zones, and they were all established
15 just to cater mainly to U.S. companies because 50
16 percent, or about 50 percent of the production
17 goes to U.S. And the whole skilled labor and the
18 artisans or the designers, they are trained to
19 produce the jewelry, the kind of jewelry which is
20 used in U.S. So if this comes, both sides will
21 lose business.

22 So my humble submission is that it

1 should be not imposed. Thank you.

2 MR. ALLEN: Thank you very much for
3 your testimony.

4 I'd now like to invite Suvankar Sen of
5 Senco Global Limited to present their testimony.

6 You may begin when you're ready.

7 MR. SEN: We've already had a lot of
8 discussion in terms of the technicalities and the
9 legalities. I would be representing from the
10 softer aspect of it representing the Gem and
11 Jewelry Export Promotion Council and the company
12 Senco Limited, but these were manufacturing of
13 gold jewelry for the past 80 years.

14 And what I would like to basically
15 raise three points, and that is that jewelry
16 manufacturing in India is a heritage. It's a
17 skill that is passed over generations. There are
18 people who have been working and dealing with
19 this industry for over three, four generations.
20 And as a responsible country, United States of
21 America and India, we must come together to
22 ensure that you can protect and preserve the

1 skill and the art of the human endeavor that we
2 have been generating over a period of time.

3 And also one more important thing is
4 that in this world of mechanization the
5 handcrafted jewelry manufacturing is a rarity,
6 and India is excelling in handcrafted
7 manufacturing jewelry; the skills are semi-
8 automated, but more of handcrafted, generating
9 millions of employment from all sections of the
10 society. And especially with the way we are
11 seeing COVID, we need to preserve the employment.
12 We need to generate the human skills and efforts.

13 And finally, we all know India and
14 U.S. has a very, very strong relationship.
15 There's a huge diaspora of South Asian community
16 members: India, Pakistan, Bangladesh, Sri Lanka,
17 Middle East. And they are appreciating the
18 handcrafted jewelry made in India.

19 So as a responsible country towards
20 its citizens we must not impose duties so that
21 people get dissatisfied and there is any form of
22 unhappiness in today's time. People need to --

1 for the auspicious occasion, for weddings, for
2 marriages, for so many happy occasions jewelry is
3 a very critical part to create happiness.

4 So these are the three soft points
5 that we would like to present from our company's
6 perspective and the Gem and Jewelry Export
7 Promotion Council. Thank you.

8 MR. ALLEN: Thank you very much for
9 your testimony.

10 I'd now like to invite Arvind Gupta of
11 Gallant Jewelry to present their testimony.

12 You may proceed when you are ready.

13 MR. GUPTA: Hi, everyone. I'm Arvind
14 Gupta. I'm glad to introduce our company Gallant
15 Jewelry. It has been in gems and jewelry
16 business for the past 19 years. Our current
17 annual revenue is 30 million out of which 70
18 percent comes from selling in the U.S.A. Mostly
19 our jewelry is focused in colored gemstones,
20 precious stones, semiprecious stones and
21 diamonds. We use diamonds as an accent.

22 Jaipur is known for its colored

1 gemstones for the last 150 years or so. There
2 are more than 200,000 direct and indirect people
3 associated with this business. These people are
4 only able to make U.S. dollar \$200 to 225 a
5 month. Since U.S. is the main destination of
6 gems and jewelry product their livelihood depends
7 on business we get from customers in U.S.

8 Our argument against the proposed
9 additional tariffs: Increased duty will divert
10 American importers to shift their business to
11 other countries. Lot of Jaipur artisans will
12 lose their jobs if business gets shifted from
13 India.

14 It is important to consider that size
15 and status of e-commerce companies in comparison
16 to jewelry companies are very high. We have
17 people who are semi-skilled and skilled and they
18 can only work in our industry because the skill
19 requirement is limited. Any hasty decision can
20 take a lot of jobs and a lot of people can be
21 unemployed. Also, being our biggest competitor,
22 other Asian countries, especially China, will get

1 the maximum benefit which is neither in interest
2 of India, nor of U.S.A.

3 India is a low-cost manufacturing
4 country and increased duty will make the import
5 goods expensive for the American traders and
6 retailers. This will ultimately make the India
7 gems and jewelry items expensive for general U.S.
8 public. New punitive duties on U.S. import from
9 India during COVID times will disturb the entire
10 supply chain for the U.S. retailers, too.

11 It is important to mention that --
12 here that even this (indiscernible) Industry
13 Association U.S. have also opposed a move to
14 impose additional tariffs on Indian goods in
15 retaliation to the equalization levy taking
16 economic harm to their business workers and
17 consumers. And finally, it will also adversely
18 affect long term trade relationship between
19 U.S.A. and India.

20 For us the suitable solution to this
21 problem is only possible by adopting meaningful
22 and appropriate trade policies in international

1 trade and through dialogue on government level.
2 Punishing the business community both in U.S. and
3 India by additional tariffs will not serve the
4 purpose, but only make the things difficult.
5 Therefore, our organization requests you to
6 please reconsider proposed tariff. Thank you.

7 MR. ALLEN: Thank you very much for
8 your testimony.

9 I would now like to invite Colin Shah
10 of Gem and Jewelry Export Promotion Council to
11 present their testimony.

12 You may begin when you're ready.

13 MR. SHAH: Thank you and good morning.
14 I am the chairman of the Gem and Jewelry Export
15 Promotion Council, which is the effects body for
16 our industry from India for all gem and jewelry
17 exports. The council represents over 7,000
18 members: manufacturers, traders across the
19 country.

20 So firstly I would like to quickly
21 jump into I guess the question which a lot of I
22 guess members asked on the other side is about

1 these -- what does our government feel? So
2 representing very closely to the government in
3 Delhi, Commerce and Finance Ministry, what they
4 feel is that this issue of digital tax which is
5 being addressed at multilateral discussions at
6 the OECD to which both the governments of the
7 U.S. and India have committed with the view to
8 achieving multilateral consensus. But until the
9 consensus is achieved, is it fair to impose these
10 unilateral tariffs against other sectors,
11 especially when these tariffs could clearly be
12 opposed even to the rules of WTO? So that's the
13 feeling of this side that when these multilateral
14 discussions were -- are going on and at the OECD,
15 then where was the need to do a unilateral -- I
16 guess the status?

17 The adverse impact on India was it
18 started happening with the abrupt withdrawal of
19 the GSP benefits, which has significantly hurt
20 our exports. So out of our 35, \$45 billion of
21 exports of the year 9 to \$10 billion goes to the
22 U.S., which is 25 percent of our total exports.

1 But despite the impact of GSP, when it was
2 withdrawn, India is still the third largest
3 exporter to the U.S. And this will only harm our
4 relationship if these tariffs indeed go ahead.

5 We are deeply concerned that out of 17
6 out of the 40 product lines pertain to the
7 interests of our members, which is basically gem
8 and jewelry exports, our sector has already been
9 significantly impacted with the abrupt withdrawal
10 of the GSP benefits and we are now further
11 disturbed with the threat of further action
12 against our niche sector. Imposing these tariffs
13 on goods covered under the tariffs subheading
14 gems will cause severe economic harm, not only to
15 Indian businesses and employees, but also to the
16 American businesses with whom we have built solid
17 relationships over the last many, many decades.

18 This will also cause -- create
19 disputes between India and the U.S. I come here
20 with the hope that U.S. does not proceed with the
21 imposition of tariffs since my fear is that this
22 will only unleash a tit-for-tat trade dispute

1 between countries and which ultimately both the
2 countries imposing the tariff, the one at the
3 receiving end and the one -- we could both end up
4 hurting somewhere.

5 This will also result -- and I'm sure
6 the U.S. and India both -- and a lot of speakers
7 have said it earlier also -- that India -- and
8 the diversion will only be to China, which is our
9 main competitor for the U.S. market. Any tariff
10 increase -- even when the GSP benefit went away,
11 the benefit went directly to China, and China's
12 exports to the U.S. went up.

13 As of today the tariff on Indian gems
14 and jewelry imports into U.S. is ranging from 5
15 to 13½ percent, whereas the tariff on imports
16 from China into the U.S. is 10 to 21 percent. So
17 this further increase will only damage us and
18 will be a benefit to China.

19 Now besides that, and again just to
20 repeat what a lot of speakers have said earlier,
21 it will damage India and U.S.' long trade --
22 long-standing trade relations in many, many

1 industries.

2 And further to that, it will impact
3 the employment. We employ over 4 million people
4 in India, this industry, gems and jewelry. It's
5 one of the largest employers of non-agrarian
6 labor in our industry. These are not people who
7 are recruited in the IT and pharma sector.
8 They're not engineers, not doctors. It's non-
9 agrarian labor, not so educated, but who have
10 hand skills which they've developed over many,
11 many years. So this will impact that employment
12 very severely and we're really hoping that you
13 will take another lenient, lenient view on this.

14 Further to that, and again like many
15 other speakers besides me told, we are in the
16 midst of a pandemic and the timing could not have
17 been worse for businesses which are already
18 reeling under this pandemic effect. Just to give
19 you a small tidbit, our exports were down by \$1.7
20 billion last year. They're down to 7.8. We used
21 to be at 10. A further tariff increase will only
22 harm this further, won't be in the interest of

1 India or America, and it will only go benefit
2 China and loss of employment in India.

3 Besides this and lastly but not the
4 least, it will also impact the supply chain in
5 U.S. with reference to finance and employment.
6 Like we all know, the Indians and the banks in
7 India have been very I guess progressive with
8 financing this industry and funding of the same
9 industry, the gems and jewelry sector in the U.S.
10 isn't even possible except for the listed
11 companies. So the American companies really bank
12 on Indian finance for their retail business where
13 the inventory turns like we know are not as high
14 as FMCG industry. So this will have a direct
15 impact even on American retail business which
16 will have a further impact on the jobs there.

17 So just to recap, our exports are
18 already down. There's a pandemic. So this will
19 further impact our industry. Employment will get
20 impacted. The benefit will only go to China.
21 And our government strongly, strongly feels that
22 when the multilateral discussion is happening at

1 OECD, why are we taking this unilateral action?

2 So thank you. And thank you for this
3 opportunity to represent our case to the USTR.

4 MR. ALLEN: Thank you very much for
5 your testimony.

6 I'd now like to invite Rajeev Pandya
7 from SEEPZ Gems & Jewelry Manufacturers
8 Association to present their testimony.

9 You may begin when you're ready.

10 MR. PANDYA: Can you hear me? Can you
11 hear --

12 MR. ALLEN: Yes, we can hear you.

13 MR. PANDYA: Can you hear me? Okay.

14 MR. ALLEN: Yes.

15 MR. PANDYA: Good morning to all the
16 members of the Section 301 Committee. I am
17 Rajeev Pandya, the president of the SEEPZ
18 Manufacturers Association. Our association
19 represents 150 jewelry exporters in SEEP Zone in
20 Mumbai. We are the largest cluster of studded
21 jewelry manufacturers in the world. Eighty-five
22 percent of India's exports of studded jewelry to

1 U.S. come from this zone. This sector directly
2 and indirectly employs about 350,000 workers.
3 Plus we are extremely grateful to the U.S.
4 Government for their timely help by provided the
5 much needed relief materials to India during this
6 pandemic crisis.

7 The surge of second wave of COVID-19
8 in India has -- is going to cause loss of
9 millions of jobs. Like last year, this year also
10 our workers are -- will be forced to go back to
11 their home villages due to lock-downs in cities
12 like Mumbai, Surat and Jaipur. Compared to U.S.
13 there was minimal financial support from the
14 Indian government due to the scarcity of funds.
15 In these challenging times we request USTR not to
16 precipitate any action which would increase the
17 hardship of these workers.

18 This is -- here is how it will impact
19 the Indian economy: After the withdrawal of --
20 as our previous speaker, Mr. Shah, had pointed
21 out, that after the withdrawal of our -- just six
22 percent GSP benefits in the year 2007, India's

1 market share in U.S. declined from 28 percent in
2 2007 to 22 percent in 2013. That was almost a 40
3 percent drop in the sale. And for the
4 corresponding period the market share of China
5 had increased from 18 percent to 25 percent.
6 This -- we have given the data in the written
7 submission.

8 Margins in the jewelry are
9 (indiscernible) in imposition of duty up to 25
10 percent will make our business totally unviable
11 in items listed in the proposal. (indiscernible)
12 Our zone has been developed focusing the needs of
13 the U.S. market, especially in the small diamond
14 and precious stone jewelry segment where U.S.
15 manufacturers are not involved.

16 About 80 percent of the cost of
17 jewelry is gold and stones. I would say it is
18 from 70 to 90 percent depending on the type of
19 jewelry, but as an average I would say 80
20 percent. And the jewelry making cost is about 20
21 percent, which is the net retention in India.
22 Hence, a 25 percent duty will increase the non-

1 material base cost from 20 to 45, which is an
2 increase of more than 100 percent.

3 Now impact on U.S. economy and jewelry
4 industry will also be very (indiscernible). This
5 will dramatically reduce margins of wholesale
6 importers of Indian jewelry. Further, Indian
7 jewelry companies, are financing U.S. jewelry
8 retail business by giving long credit and memo
9 (phonetic) facilities to large retailers.

10 There will also be negative
11 repercussions on the business of U.S.-based
12 supplies, machines, tools and consumables in
13 imports like gold as well as supplies of
14 logistics, services. U.S. jewelry manufacturers
15 have focused on production of higher-end jewelry.
16 Therefore, imposition of duty on Indian jewelry
17 will not create or bring back jobs in the U.S.,
18 but reduce job opportunities.

19 Now from USTR perspective it can be
20 seen that the proposed action will hurt both
21 Indian and U.S. economy. There is no competitive
22 overlap between U.S. and Indian jewelry

1 manufacturers. We are also fundamentally
2 concerned that Indian gems and jewelry sector is
3 being unfairly targeted even though the United
4 States does not have any grievance against the
5 business practices or legal framework in our
6 sector.

7 Finally, any terms at play adverse to
8 India will benefit China as was told by other
9 speakers in the panel as India competes most
10 directly in the U.S. market with China, which
11 along with Hong Kong is the next source of U.S.
12 imports of jewelry. None of the other jewelry
13 manufacturing countries like Thailand, Turkey and
14 Indonesia have the requisite skill or capacity to
15 compete with China.

16 Therefore, we respectfully submit
17 before the Section 301 Committee USTR reconsider
18 our request for removal of the 17 jewelry
19 articles from the proposal.

20 Thank you for giving me the
21 opportunity to present my views. Thank you.

22 MR. ALLEN: Thank you very much for

1 your testimony.

2 Lastly I would like to invite Neville
3 Tata of Renaissance Global Limited to present
4 their testimony.

5 You may begin when you're ready.

6 MR. TATA: Yes, good evening and good
7 morning, everyone. I'm Neville Tata representing
8 Renaissance Global Limited from India. We are a
9 jewelry manufacturing company for over 25 years
10 now.

11 Most of my -- most of the point have
12 been covered by all my colleagues who have spoken
13 before me. Would like to explain to you all that
14 imposing of the DST 301 of 25 percent, up to 25
15 percent duty on jewelry items and remaining items
16 of whatever categories we have covered: basmati
17 rice, furniture and marine, would only be
18 detrimental for both the countries because we
19 have to understand that jewelry has started
20 exporting out of India from the late 1980s and
21 the early 1990s when the boom took place when the
22 markets opened up in U.S.A., and it has taken us

1 almost 30 years to establish what India is
2 capable of supplying to the U.S. market and the
3 understanding of the U.S. market.

4 Also, for our customers and retailers
5 in the U.S. I speak from both the sides because
6 it takes a lot of effort and years of exuberance,
7 hard work and pricing to establish and categorize
8 that what India is good in supplying to the U.S.
9 market and understanding the consumer needs.

10 By imposing these duties, which are as
11 high as 25 percent, would only be detrimental to
12 both the countries because we will not be able to
13 compete with lower DST duties which are already
14 in place with China, Hong Kong or Bangkok,
15 Thailand, and we will be unviable in our
16 business. Most of our business will be
17 transferred to all these other countries.
18 Nevertheless, too, imagine that what would happen
19 to our industry which is already established in
20 India. We will have lot of industries which will
21 shut shop. Plus there will be loss of jobs.

22 And obviously the whole world crisis

1 right now is the COVID-19 pandemic, which
2 everybody is trying to battle with. And imposing
3 such large duties would definitely not even give
4 us a thought to touch (phonetic) shop in India
5 because when you're battling a crisis like a
6 virus and we are asking for aid and help from
7 other countries, especially from the U.S., when
8 you're now considering lot of duty, cancellations
9 on lot of medical and help line support, imposing
10 such kind of duties on us would obviously mean
11 that the business would come to absolute halt.

12 And we only -- last but not the least,
13 we only expect that the USTR would take our plea
14 forward and defer this for a while or give it a
15 rethought that if it is a 25 percent duty would
16 be implied to jewelry sector and all the other
17 sectors that have been mentioned in the HTS Code
18 would only mean that there would be a loss of
19 relationship and partnership which we have built
20 over the last 30-40 years with the U.S.A. would
21 come to absolute halt.

22 It would not be -- we would not be

1 able to reinvent the wheel again because raw
2 materials are getting expensive and there would
3 be no other alternative left for us.

4 I would end my plea by saying this,
5 that please reconsider what a 25 percent DST duty
6 would mean to India. Thank you very much.

7 MR. ALLEN: Thank you for your
8 testimony.

9 We will now proceed with questions
10 from the Section 301 Committee Panel. For our
11 first question we will go to Sarah Short from
12 USTR.

13 MS. SHORT: Thank you. My question is
14 for Mr. Shah from the Gem & Jewelry Export
15 Promotion Council.

16 Could you please elaborate on how the
17 withdrawal of GSP benefits has impacted Indian
18 jewelers? For instance, have you U.S. importers
19 shifted demand elsewhere in response and how do
20 you imagine this might compare to the effect of
21 the proposed action?

22 MR. SHAH: Okay. So I'll need a few

1 minutes to I guess give you a detailed reply, but
2 I mean just to give you an example, when this
3 benefit used to be there -- yes, I'll maybe
4 reverse the clock a little bit.

5 Like you know, 14 out of 15 diamonds
6 in the world are cut and polished in India. I
7 mean it's like we are probably the diamond
8 factory to the entire world. This was an
9 industry which used to be in Israel, Belgium, and
10 then over the last 20-30 years has moved to
11 India.

12 Now when we had this GSP benefit a lot
13 of American manufacturers and retailers had
14 started shifting their entire production from
15 other countries to India. Because of the six
16 percent duty, and especially in jewelry, which is
17 say under the value of \$500 where the duty
18 component is \$30 for every \$500 unit price, that
19 jewelry naturally started getting manufactured in
20 India. The minute the GSP benefit went away a
21 lot of products which were say the higher average
22 unit price, they either went to China or Mexico.

1 So they were the beneficiaries because then that
2 business started moving out of India.

3 Now what happened is that while we
4 were growing nicely and from a level of around
5 \$2-3 billion the Indian industry grew to \$10
6 billion when the GSP benefit was there. And now
7 progressively what we've seen in the last six
8 years or seven years is that in dollar terms
9 actually our imports into the U.S. has been
10 dropping progressively every year. So we've not
11 had any growth for the last six, seven years and
12 actually we've been dropping every year.

13 So this will further only accelerate
14 that drop and the beneficiaries will be China and
15 Mexico where a lot of production has moved. It
16 hasn't moved back domestically to the U.S.
17 because it still is very expensive for jewelry to
18 be manufactured in the U.S., but the
19 beneficiaries has been China, Thailand, and to an
20 extent even Mexico. So I would say three
21 countries over there.

22 So I hope I've been able to answer

1 your question.

2 MS. SHORT: Thank you.

3 MR. ALLEN: Our next question will
4 come from Labor.

5 MS. LAURY: Okay. Yes, my question is
6 also for Mr. Shah.

7 In your written testimony you noted
8 that there are significant employment benefits
9 from GJEPC's network of relationships in the
10 United States. Could you provide a bit more
11 detail on the employment benefits in the U.S. of
12 your network?

13 MR. SHAH: See, all of our 7,000
14 members -- believe it or not, a big chunk of them
15 -- and I don't have the exact numbers because
16 they're not privy to the data on the American
17 side, but I can very easily say that at least 500
18 of our members have offices in the U.S., right?
19 They have distribution and sales offices in the
20 U.S. where they employ I would say, right, from
21 as low as two people to as high as -- I know
22 somebody who has 200 people in the U.S. So

1 that's the amount of jobs between New York, L.A.,
2 Dallas, Chicago. These are distribution centers.
3 They are merchandising and design teams,
4 marketing teams.

5 So between our members there is like
6 a huge amount of employment. Good jobs, mind
7 you. Because the low-paying jobs, the labor-
8 intensive jobs are happening in India, right? So
9 these are the little higher-salary jobs: sales
10 people, merchandisers, distribution, SEO, SEM,
11 marketing. So it's that kind of jobs which our
12 member companies have in the U.S. through their
13 subsidiaries, sales offices, joint ventures,
14 partnerships. Somebody who is working very
15 closely with Amazon, somebody who is working very
16 closely with Macy's. So it's a variety of
17 things. And obviously there will be an impact
18 even on that end when these tariffs come into
19 being.

20 So I guess that's what I meant when I
21 said that there's a huge impact even on the jobs
22 which the Indians create even in the American

1 economy through this industry.

2 MS. LAURY: Thank you.

3 MR. ALLEN: All right. For our next
4 question we will go to Treasury.

5 MR. YAM: Hello. My question is for
6 Mr. Rajiv Jain of the Sitapura Gems & Jewelry
7 Industry Association.

8 You note in your testimony that the
9 proposed actions will impact the supply chain of
10 gems and jewelry between India and the United
11 States and negatively impact the whole supply
12 chain including exports from the United States to
13 other countries. Could you elaborate further
14 your basis for predicting the negative supply
15 chain effects or provide additional evidence of
16 supply chain impacts? Thank you.

17 MR. ALLEN: Mr. Jain, you're on mute.
18 You'll need to un-mute yourself.

19 MR. JAIN: Sorry. Yes, so why I wrote
20 this was that we are not even exporting jewelry
21 from India; we are also exporting components
22 which are again converted into jewelry

1 (indiscernible) because we are making low-end
2 jewelry in India.

3 But the high-end jewelry which is
4 viable to produce in U.S. is made in U.S., and we
5 supply the components like colored gemstones, the
6 high-end quality of colored gemstones, and the
7 components: say silver beads, silver balls,
8 chains and other items. And they're all going
9 and they're assembled there. So the assembly
10 line is there. And this is how the employment is
11 also generated there and they re-export from U.S.
12 to other country. So that is also substantial.
13 So when this happens the prices, the cost of
14 their production will also go up.

15 That was my view that I wrote this.
16 Am I able to answer you?

17 MR. YAM: Yes, thank you for your
18 answer.

19 MR. ALLEN: For our next question we
20 will go to CBP.

21 MR. AMDUR: Thank you. I have a
22 question for Suvankar Sen.

1 You mention in your testimony that
2 retailers might be forced to look at other ways
3 of procuring products making compliance a risk.
4 Can you elaborate regarding the ways that
5 shifting the source of supply might entail
6 compliance risks?

7 MR. SEN: Sir, basically the fear --
8 it is more of an apprehension that the high duty,
9 if it is imposed on the product, then instead of
10 the jewelry that might be coming from India, the
11 retailers might look at opportunities of getting
12 imported from other countries. But this is just
13 to surmise it's a risk. We do not want to
14 specify it and think about it, but it is always a
15 possibility. So we must take care that
16 unnecessary duty will be disincentive for the
17 retailers to take it from India directly. So
18 that's what my thought process is.

19 MR. AMDUR: Thank you.

20 MR. ALLEN: Great. Our next question
21 will come from Commerce.

22 MR. ABBYAD: Thank you. My question

1 is also for Mr. Sen from Senco Gold.

2 In your testimony you argue that
3 because of the proposed tariffs of this
4 investigation U.S. retailers and consumers will
5 not be receiving products at competitive prices
6 and the price of products for consumers shall
7 increase compared to other parts of the world.
8 Do you have a view on whether the Indian
9 manufacturers might absorb some of this increased
10 tariff cost? Thank you.

11 MR. SEN: Thank you, sir. Very
12 honestly speaking, as already specified by my
13 colleagues, the margins for the jewelry that we
14 sell is very, very minimal. Capital is
15 expensive. So it will not be very possible for
16 the retailers and manufacturers of India to
17 absorb any kind of cost. It will make the
18 business more unfeasible. So it is not a
19 possibility at all. Thank you very much.

20 MR. ABBYAD: Thank you for your
21 response.

22 And then I have another question.

1 This is one is for Mr. Tata from Renaissance
2 Global.

3 Thank you for your testimony as well.
4 In your written comments you state that the
5 impact of the proposed trade action will make it
6 difficult to compete with suppliers in other
7 countries. Can you please explain why you
8 believe it is important from a U.S. perspective
9 to be concerned that sourcing of these products
10 might shift to other countries? Thank you.

11 MR. TATA: For the same reason, like
12 I said, that it takes a lot of time and effort
13 and relationship with the customer in the U.S. or
14 a retailer in the U.S. to build a competent
15 product to be sold to the U.S. market. And with
16 the implication of these high tariff duties which
17 will kick in, it will also make our customers,
18 retailers source from somewhere else, which will
19 delay the whole process and maybe they might not
20 be able to find a solution.

21 Because India, the kind of raw
22 material: diamonds, color stones that we supply

1 -- and as my colleague Colin Shah has also
2 mentioned that out of 15, 14 diamonds have been
3 cut and polished in India -- we know how to low
4 price those products because we are into mass
5 production manufacturing out of India for middle
6 to low-end jewelry, which our FOB is typically
7 \$50 to \$70. And if you impose a 25 percent duty
8 on that, we will be unviable in business. And
9 neither will your end consumer be able to pay for
10 that product that we supply. So that's the
11 reason why we mentioned that comment.

12 MR. ABBYAD: Okay. Thank you for your
13 response.

14 MR. ALLEN: Our next question will
15 come from State.

16 MS. NOLAN: Hi. My question is for
17 Mr. Gupta with Gallant Jewelry.

18 Thank you, Mr. Gupta, for your
19 testimony. Can you elaborate please on your
20 company's supply chain structure? Does Gallant
21 Jewelry have U.S.-based manufacturing and service
22 providers or do you --

1 MR. GUPTA: Oh --

2 MS. NOLAN: Oh, please.

3 MR. GUPTA: No, you go ahead, please.

4 You go ahead.

5 MS. NOLAN: It was a follow-up. I'm
6 wondering -- or are -- do you go to the United
7 States to export the final jewelry products made
8 in India?

9 MR. GUPTA: Ma'am, like I said we
10 started our business 19 years back, and mostly we
11 sell our jewelry to TV customers, like Home
12 Shopping, QVC and all that. And lately what we
13 are facing, all these customers, the way they are
14 buying, their price points are very tough.
15 So if any duty increase will eventually make them
16 to purchase from us and we will be eventually
17 unviable for them.

18 Like I said, we have started our
19 business 19 years back. We have 500 people in
20 our company. If duties will increase, eventually
21 they have -- they will not buy from us and our
22 job, our people will be out from that company and

1 a lot of jobs will be -- will go, you know,
2 jobless. And for 19 years, like we have
3 wholesalers also in America; we have retailers
4 also in America, but they don't want to increase
5 their price points. Duties -- increased duties
6 will eventually affect our business a lot. A
7 lot. I think I answered your question.

8 MS. NOLAN: You have indeed. Thank
9 you.

10 MR. GUPTA: Thank you.

11 MR. ALLEN: Our next question will
12 come from USDA.

13 MS. KARIMIHA: Hello. My question is
14 for Mr. Pandya.

15 Thank you, Mr. Pandya, for your
16 testimony. Can you provide some more information
17 regarding the general structure and supply chain
18 regarding your association's membership? You
19 note in your written testimony that most of your
20 members exports; 85 percent of India's exports of
21 diamond, studded, precious, metal jewelry, to the
22 U.S. originate from India's zone in Mumbai. Do

1 most of your association members have U.S.-based
2 manufacturing or service providers or are most of
3 your sales of membership to the U.S. through
4 exports of final products made in India? Thank
5 you.

6 MR. PANDYA: What was the question?
7 I'm sorry, I didn't get the question.

8 So you want to know how we get the
9 figures? We can come back to you with my
10 original submission, how we had this 85 percent,
11 how we achieve.

12 Basically the SEEPZ -- SEEP Zone, all
13 our members are -- most of our members are --
14 they are geared to supplying to the U.S. market.
15 They have developed the skill. The workers have
16 been developing the skill. The designers are
17 catering to the U.S. market. So they are totally
18 geared to serve the U.S. market. We are not
19 selling so much to the other European markets and
20 the other global markets as much as U.S.

21 So, and the figures can be sent to you
22 by written submission. And you see the total

1 U.S. export from -- I mean export from India to
2 U.S. would be something like about 1 -- I'll have
3 to -- I think I would have the total figure of
4 U.S. import from India in 2013, \$1,200 million.
5 Our share was something like 80 percent. So I
6 can get back to you with the exact figures. And
7 this is how -- and we will continue to grow in
8 the U.S. market because we are specializing that.
9 Our skill and our specialties is focused on the
10 U.S. market. Thank you.

11 MR. ALLEN: All right. Thank you for
12 that answer. I have one final question, and this
13 question is for Mr. Shah and Mr. Pandya.

14 So to your knowledge have any of your
15 members reached out to the government of India to
16 request that India address U.S. concerns with the
17 DST and have you considered making such a
18 suggestion to your members?

19 Let's have Mr. Shah please begin with
20 his response first, and then afterwards, Mr.
21 Pandya, you can give us your response.

22 MR. SHAH: No, no. We have been in

1 constant touch I would say since the GSP benefit
2 has gone away with our government. And what they
3 tell us is that it's part of every I guess
4 discussion, meeting, bilateral trade talks which
5 happen between the two commerce ministries, at
6 every possible forum. But somehow it's not being
7 reinstated.

8 We are hopeful and it seems from my
9 last interaction with the ministry that there's
10 another round of talks happening at some point
11 this year, maybe in September or October. And
12 it's going to be back on the table even at that
13 time. So I mean we continue to try.

14 And our government does realize the
15 huge potential this has both for I guess the
16 American consumer interest, for India's, I guess,
17 soft part of the U.S., and even for the Indian
18 economy because it's an industry which has been
19 like our IT industry nurtured over the last
20 three, four decades. Employs a lot of --
21 millions of people in the country and has huge
22 potential to be actual world class. So I mean I

1 guess our government is taking it very seriously
2 and is very hopeful that at some point in their
3 talks with the U.S. it will happen.

4 So in answer to your question, yes,
5 our members are in touch with the government and
6 we as the effects body do represent their
7 interests from time to time. Very regularly,
8 actually.

9 Rajeev, you?

10 MR. PANDYA: Yes. We understand the
11 concern of the United States that is the taxation
12 on the retail companies. It should be resolved
13 by arriving at a consensus through mutual
14 negotiation. This is what -- recently we had two
15 separate meetings with -- our consulate had --
16 has invited the Department of Commerce, Director
17 of the Commerce Ministry, and we requested them
18 to speed up the process of negotiation, which
19 should be done amicably and -- and because our
20 concern should also be taken into account by the
21 ministry. Thank you.

22 MR. ALLEN: All right. Thank you.

1 Thank you very much for your responses.
2 Appreciate them.

3 Before concluding this panel we'll
4 pause to see if any member of the Section 301
5 Committee has any further questions.

6 Okay. Hearing none, I would like to
7 ask if any of the witnesses would like to address
8 questions that were posed to other witnesses or
9 make a final comment on any of the matters we've
10 discussed this morning.

11 (No response.)

12 MR. ALLEN: All right. Very well.

13 Oh, do we have a question? I'm sorry.

14 (No response.)

15 MR. ALLEN: Okay. No questions.

16 All right. That concludes this panel.

17 Thank you for your time today. We will now take
18 a brief pause while we constitute the fourth and
19 final panel. Thank you.

20 (Whereupon, the above-entitled matter
21 went off the record at 12:11 p.m. and resumed at
22 12:21 p.m.)

1 MR. ALLEN: Okay, good afternoon
2 everybody. We are now ready to proceed with our
3 final panel, which is composed of Sivakumar
4 Kunapuli of the Seafood Exporters Association of
5 India, John Williams of the Southern Shrimp
6 Alliance, and David Veal of the American Shrimp
7 Processors Association. We will begin with
8 Sivakumar Kunapuli. You may proceed with your
9 testimony when you are ready.

10 MR. KUNAPULI: Can you hear me, please?

11 MR. ALLEN: Yes, we can hear you.

12 We can hear you. You may proceed.

13 MR. KUNAPULI: Can you hear me now?

14 MR. ALLEN: Yes, we can hear you. Can
15 you hear us?

16 (Simultaneous speaking.)

17 MR. KUNAPULI: I can't hear -- can I
18 go ahead?

19 MR. ALLEN: Yes.

20 MR. KUNAPULI: Thank you. Seafood
21 Exporters Association of India, thanks USTR and
22 Section 301 Committee for giving this opportunity

1 to present its testimony. I am Sivakumar
2 Kunapuli, adviser to SEAI, a trade association,
3 and presenting the entire Indian seafood
4 industry.

5 We believe that the USTR's present
6 tariff action on certain merchandise from India
7 is not justified at this stage. Indian and the
8 U.S. economies are recovering from the pandemic.
9 And I assure you, larger freight and economic
10 priorities than DST. Therefore, all efforts
11 should be directed to such priorities and the DST
12 should be resolved through bilateral negotiations
13 and other resolution processes at their disposal.

14 If USTR recommends that it is
15 appropriate to continue with the present action,
16 then we oppose proposed tariffs on any shrimp
17 products because such tariffs will not help to
18 obtain elimination of DST. And on the other
19 hand, they cause disproportionate hardship to
20 U.S. businesses and consumers. As I generally
21 noted, all shrimp products exported from India
22 account for less than two percent of India's

1 merchandise exports, and less than 1.25 percent
2 of aggregated merchandise and services exports.
3 In value terms, India has international exports
4 rank around 15, merchandise exports, and farther
5 down in combined merchandise and service exports.
6 The core concern, which is the main source of
7 shrimp, accounts for a relatively smaller share
8 of employment in India. Shrimp is of course
9 entirely unrelated to DS, which is the cause of
10 the present action.

11 There's -- the economic relevance of
12 shrimp is not, relatively speaking, significant
13 and certainly not pursuable from the point of
14 view to obtain elimination of DST. If however
15 USTR's own assessment in this regard is to the
16 contrary, then we request USTR for an opportunity
17 to study their assessment and comment on it. As
18 a general note that tariffs on certain products
19 will hurt U.S. businesses and consumers were
20 entirely unrelated to DST. Shrimp is an
21 important source of protein and it is widely
22 consumed across all U.S. consumer segments.

1 Products under Chapter 3, which is the subject of
2 the proposed tariffs, are not meant for human
3 consumption. Shrimp consumption in the U.S. is
4 increasing steadily over the years, each year
5 about 4.60 pounds per capita in 2018. The
6 tariffs on any shrimp product will adversely
7 affect the consumer prices that will be felt
8 across all consumer segments in the U.S.

9 The U.S. imports about 85 percent of
10 shrimp it consumes because the domestic sources
11 of shrimp are limited and have no prospect of
12 increase in output. The shrimp imports have very
13 much a share of customs duty, which signifies its
14 importance with the U.S. consumers. And reaches
15 the U.S. consumers in retail sectors, passing
16 through a network of freezers, distributors and
17 transporters. Any dislocation or disruption in
18 shrimp trade caused the tariffs who have
19 consequent disruptive effect. This would cause
20 disproportionate harm to U.S. small and medium
21 businesses and consumers.

22 In light of what was stated previously

1 -- the proposed tariffs on three shrimp products
2 in the name of remedying an entirely unrelated
3 DST is unreasonable and arbitrary. That's an
4 action that disproportionately affects three
5 shrimp products from imports of identical
6 products from other countries, or potentially
7 violating the United States commitment to the
8 USTR. As a matter of fact, the proposed tariffs
9 on any shrimp products will -- in the face of
10 evidence, if it is an ineffective measure to
11 obtain the elimination of DST. And retaliatory
12 action that goes against the governments all our
13 of promoting free and fair trade. Of course, as
14 previously stated, it hurts U.S. consumers and
15 small businesses. For these reasons, we urge
16 USTR to exclude all shrimp products from the
17 scope of its proposed tariffs if at all USTR
18 determines that it is appropriate to impose the
19 tariffs. I am open for any questions. Thank
20 you.

21 MR. ALLEN: Thank you for your
22 testimony. I would now like to invite John

1 Williams of the Southern Shrimp Alliance to
2 present their testimony. You may begin when
3 you're ready.

4 MR. WILLIAMS: Good afternoon. Can you
5 hear me okay?

6 MR. ALLEN: Yes, we can hear you.

7 MR. WILLIAMS: Great, okay. Good
8 afternoon to the Committee. My name is John
9 Williams. I am the Executive Director of the
10 Southern Shrimp Alliance. The Southern Shrimp
11 Alliance was formed at 2002 to address unfairly
12 traded shrimp imports. We organized as an
13 industry and we filed petitions that led to
14 antidumping duties on frozen warm-water shrimp
15 from six different countries, including India.

16 The humanitarian crisis taking place
17 in India is of enormous scale. I am not here
18 today to pile onto the problems confronting that
19 country and its people. Everyone in my industry
20 hopes that India is able to gain control of the
21 pandemic quickly. I do not intend to compare
22 what is happening over there because of this

1 horrible virus with the impact that Indian shrimp
2 imports have had on our shrimp industry. But I
3 do not want to -- I do want to explain why, if
4 the USTR decides to take action under Section 301
5 to impose additional tariffs, these duties should
6 be imposed on imports of shrimp from India.

7 For the last decade, the shrimp
8 industry has been directly confronted by India's
9 unfair trade practices -- massive subsidies,
10 citations for rampant use of antibiotics in
11 shrimp aquaculture, and easy access to a labor
12 force vulnerable to forced labor practices that
13 have led to Indian shrimp dominating the United
14 States market. Today, roughly two out of every
15 five pounds of shrimp imported into the United
16 States is of Indian origin. The rapid growth in
17 Indian shrimp imports has coincided with Indian
18 merchandise export from India's scheme. This
19 export subsidy program provided Indian exporters
20 with subsidies where there was \$7 billion
21 annually and led to the USTR successfully
22 challenging this program at the WTO.

1 Now that India's shrimp exporters are
2 aggressively advocating for benefits under a new
3 export subsidy program, the remission of duties
4 and taxes on exported products scheme. In
5 addition to being forced -- being forced to
6 compete in the market place with subsidized
7 Indian shrimp, production costs in India are
8 artificially low because of the rampant use of
9 banned antibiotics in their aquaculture. While
10 the other large shrimp importing marketplaces
11 such as the E.U. and Japan have cracked down on
12 imports of contaminated Indian shrimp, there are
13 no equivalent measures in the United States. As
14 a result, the Indian shrimp industry has
15 redirected exports to the U.S. market. Moreover,
16 production costs in India are artificially low
17 because of the proliferation of contract peeling
18 in that country's shrimp supply chain, despite
19 the fact that the use of unregulated contract
20 peeling in Thailand was found to be the nexus of
21 forced labor in that shrimp supply chain. Shrimp
22 importers in the United States simply shifted

1 their product purchases to India, continuing to
2 take advantage of the massive, unregulated,
3 contract peeling sector.

4 With this production model, India now
5 supplies well over half of all the peeled shrimp
6 imported into the United States. Because of this
7 experience, the Southern Shrimp Alliance strongly
8 supports the USTR's proposal to impose additional
9 tariffs on Indian shrimp products. However,
10 instead of placing a 25 percent tariff on shrimp
11 imported under 3-H-T-S subheading, we are
12 requesting that in the Section 301 action, place
13 a 2 percent tariffs on the Indian imports under
14 all seven shrimp-specific H-2-S subheadings. An
15 additional 2 percent tariff on all the Indian
16 shrimp imports would have resulted in the
17 assessment of another \$47.1 million in duties
18 based on 2020 import values.

19 I believe our proposal is more than
20 effective proposed to a response -- in India's
21 response to digital service tax. First, the 2
22 percent additional duty is on par with the 2

1 percent rate of the Indian Digital Service Tax
2 that this Section 301 action is addressing.

3 Second, applying additional duties to
4 all shrimp imports would make the 301 actions
5 more enforceable by eliminating opportunities for
6 misclassification. Third, the two percent duty
7 proposed would have a minimal impact on American
8 consumers as domestic shrimp and -- as well as
9 shrimp imports from other countries are readily
10 available. Both at the same time -- a two
11 percent duty would impact a large and politically
12 powerful segment of India's exporting industry, a
13 segment that is currently openly advocated for
14 the return of a large export subsidy program.

15 The Southern Shrimp Alliance is
16 grateful that the proposed Section 301 action
17 covers shrimp imports. However, we believe that
18 the proposed Section 301 action would be more
19 effective if it took the form of 2 percent of all
20 imports of Indian shrimp. And again, on behalf
21 of members of the Southern Shrimp Alliance, I
22 thank the Committee for its time and attention

1 today. Thank you.

2 MR. ALLEN: Thank you for your
3 testimony. I would now like to invite David Veal
4 of the American Shrimp Processors Association to
5 present their testimony. Mr. Veal, you may begin
6 when you're ready.

7 MR. VEAL: Good morning, or afternoon
8 I guess -- depending on where we might be now. I
9 am David Veal, Executive Director of the American
10 Shrimp Processors Association who is an
11 organization created in 1964 to foster the
12 interest of the domestic wild-caught, warm-water
13 shrimp processing industry. Members of ASPA
14 range from Texas to North Carolina.

15 I appreciate the comments by John
16 Williams, a longtime friend, and we support the -
17 - the proposals just made by John on behalf of
18 the Southern Shrimp Alliance. We both agree that
19 in order to accomplish its goals regarding
20 India's digital service tax, USTR should apply
21 301 duties to warm-water shrimp from India.

22 India is one of the world's largest

1 producers of warm-water shrimp. It also happens
2 to be located on the Indian Ocean, not in an area
3 conducive to producing any significant quantities
4 of cold-water shrimp. As detailed in the
5 comments we've submitted in addition to my
6 comments here, India is highly supportive of
7 warm-water shrimp farming, especially where
8 shrimp are farmed for export. India currently is
9 many times over the leading source warmwater
10 shrimp imports covered by four U.S. antidumping
11 orders on warmwater shrimp; orders that are
12 intended to provide relief to the U.S. shrimp
13 industry from unfairly traded, mostly farmed
14 shrimp.

15 But even with those orders in place
16 over the past years, the volume of warmwater
17 shrimp coming from India has exploded, driven in
18 large part by government support -- support and
19 subsidies. Warmwater shrimp is India's single
20 largest export product, and most of the warmwater
21 shrimp that India exports is sent to the United
22 States. Not only are coldwater shrimp not found

1 in Indian water, but they're also not farmed in
2 India. Only warmwater species of shrimp are
3 farmed. So it seems unlikely that any volume of
4 allegedly coldwater shrimp entering the U.S. from
5 India is likely, at least in part, warmwater
6 shrimp that has been mis-declared to avoid
7 current antidumping duties. Applying the 25
8 percent, 301 duty to these categories of imports
9 would only cause those shipments to immediately
10 switch back to warmwater shrimp categories to
11 avoid the higher duty.

12 Further, for any coldwater shrimp that
13 is caught in a distant coldwater fishery and
14 brought to India to be processed and then
15 exported to the United States, exporting Indian
16 processors would likely switch to abundant
17 supplies of farmed warmwater shrimp in India to
18 avoid a 25 percent duty.

19 In short, applying a 301 duty to the
20 proposed coldwater shrimp category would only
21 result in a rapid avoidance of that duty with
22 minimal effort by exporters, and little impact on

1 the government of India. By contrast, as ASPA
2 and the Southern Shrimp Alliance are proposing,
3 applying 301 duties to imports of warmwater
4 shrimp instead would get the immediate attention
5 of the government of India. As I mentioned,
6 warmwater shrimp are India's single largest
7 export product and the U.S. is the single largest
8 market for that product.

9 Since it is a product that India has
10 shown a great deal of interest in supporting,
11 particularly for export to the United States, a
12 duty applied to these products is likely to get
13 the immediate attention of the Indian government.
14 Due to the huge volume of warmwater shrimp coming
15 from India, applying a 25 percent duty on imports
16 of warmwater shrimp would far overshoot the \$55
17 million target USTR has set.

18 That is why we propose, like SSA, a 2-
19 percent 301 duty on key warmwater shrimp HTS
20 categories already covered by antidumping duty
21 orders. That two percent is the same rate the
22 government of India applies through its DST --

1 applying this rate is an -- to an important
2 Indian export will send a powerful message about
3 the effects that such measures can have.
4 Additionally, applying the 301 duty to these HTS
5 categories would have the added advantage of
6 benefitting a U.S. industry that is suffering
7 from ongoing industry -- or from unfairly traded
8 products -- shrimp products from India. Thank
9 you for your time today and I hope you'll give
10 this proposal serious consideration. Thanks.

11 MR. ALLEN: Thank you very much for
12 your testimony. We will now proceed with
13 questions from the Section 301 Committee. And
14 for our first question, we'll go to Commerce.

15 MR. ABBYAD: Thank you. My question
16 is for Mr. Kunapuli from the Seafood Export
17 Association of India. You mentioned in your
18 testimony that the U.S. will be first to pass on
19 any tariffs on shrimp to consumers and that U.S.
20 employment opportunities and the supply chain
21 would be disrupted. Is your assumption that
22 consumer demand in the U.S. is not elastic enough

1 to shift to other sources of shrimp available
2 worldwide? Is the assumption that the shrimp
3 supplies from India would not be able to absorb
4 some of the costs from additional tariffs? And
5 if so, why? Thank you very much.

6 MR. KUNAPULI: The global future is
7 highly dynamic. Even in the normal time -- the
8 many constellations made with prices fluctuated
9 by an extra ten percent in a year -- in a normal
10 year. So in a scenario like that when there is a
11 tariff that is immediately imposed, possibly what
12 it will do is cause a disruption immediately.

13 Now there's a precedent to this where
14 that -- where ten years ago Thailand used to
15 account for about 30 percent of the shrimp
16 supplied to the U.S. Well, Thailand was hit by a
17 devastating shrimp disease. And the supply went
18 down. But at the same time, some supplies from
19 India have increased. But the consequence of
20 this disruption is that prices went up.

21 (indiscernible) more than a year, 30 percent.

22 So where does the price increase go?

1 We do not know. Because like I said, it is so
2 dynamic. You know, you could look at Thai
3 precedent which is -- what happened about 10
4 years ago. The U.S. consumer paid the price.
5 But what is the consequence of it? Indian
6 producer absorb some part of anything benefit
7 caused to work at -- we do not know. The market
8 is so dynamic that when the price goes up,
9 somebody benefits. When the price goes down,
10 somebody else loses. That again, the study of
11 who -- who is underselling on anything.

12 Given these factors, we are not aware
13 of what the cost will be. But generally what
14 will happen is, given, like I said -- the only
15 fact that even in the normal -- in a normal year
16 the prices fluctuate anywhere between six to ten
17 percent. And of course, supply demand dynamics.
18 The immediate -- person affected by any -- any
19 reason that upsets the trade, it needs to be the
20 U.S. consumer. It is the U.S. consumer.

21 How much of an effect goes down the
22 chain to U.S. consumers -- you mentioned farmers

1 -- we are not going to be able to assess that.

2 MR. ABBYAD: Okay, thank you for your
3 response.

4 MR. ALLEN: For our next question we
5 will go to USDA.

6 MS. KARIMIHA: My question is for Mr.
7 Kunapuli. You mentioned in your written
8 testimony that two-thirds of shrimp from India is
9 exported globally. And you argued that any
10 adverse impacts from these proposed trade actions
11 could be mitigated by shifting exports to other
12 markets. Could you please explain the basis for
13 this view? For example, is it your view that
14 various unsatisfied demand in other export
15 markets? Thank you.

16 MR. KUNAPULI: The purpose of
17 mentioning about India's share of the U.S. market
18 and share of other exports is this -- the only
19 basis on which USTR has asked for comments is
20 whether imposing duties on certain products will
21 help in eliminating the DST. From that
22 perceptive we were trying to analyze whether

1 these tariffs, if they are imposed on shrimp, can
2 the government of India eliminate the duties. As
3 I explained in my -- well, I mean, my testimony
4 now, we believe it does not compel the government
5 of India to eliminate DST.

6 Now what is the reason? One reason,
7 like I said, okay we are not a very powerful
8 contributor to the economic growth. The other
9 reason is, they come to a justification like
10 this. Well, Indian shrimp industry exports 34,
11 35 percent to the U.S. in two years, 65 percent
12 to other markets. So they can shift the 35
13 percent to other markets and mitigate the impact
14 of these duties. The purpose for which I
15 mentioned that point is to the reinforce the view
16 that imposing these tariffs on shrimp will not
17 serve the purpose of compelling the Indian
18 government to withdraw the DST. I hope that
19 answers your question.

20 MS. KARIMIHA: Yes, thank you.

21 MR. ALLEN: For our next question
22 we'll go to Labor.

1 MS. LAURY: Hello, thank you. My
2 question is for Mr. Williams. Thank you for your
3 testimony, Mr. Williams. In it you advocate for
4 a 2 percent tariff on all shrimps that take HTS
5 subheadings, in part because you argue it will
6 have a minimal impact on U.S. consumers.
7 However, you also state that the domestic shrimp,
8 and shrimp from other countries are readily
9 available. If this was the case, why would the
10 proposed trade action also have a minimal impact
11 on U.S. consumers. Why or why not?

12 MR. ALLEN: Mr. Williams, I think you
13 may need to unmute. We can't hear you at this
14 moment.

15 MR. WILLIAMS: How about now?

16 MR. ALLEN: Yes, we can hear you now.

17 MR. WILLIAMS: Okay, I'm sorry. I
18 tell you, in 2020 the force of Indian shrimp
19 declined a little bit. And immediately
20 Indonesia, Ecuador, and Vietnam were there to
21 take their place. And there is an increase to --
22 we don't see a problem with anything with a

1 decline in certain amount of shrimp based on
2 tariffs or anything else from India. Someone
3 would immediately take their place for domestic
4 industry -- and international industry there also
5 to make up for the loss.

6 MS. LAURY: Thank you.

7 MR. ALLEN: For our next question we
8 will go to State.

9 MS. NOLAN: Hello, yes, my question is
10 also for Mr. Williams of the Southern Shrimp
11 Alliance. Thank you for your testimony, Mr.
12 Williams. In your testimony you state that the 2
13 percent -- a 2 percent duty on all shrimp
14 products of India would impact a large and
15 politically powerful segment of India's exporting
16 industry. Do you expect that a 25 percent tariff
17 on certain shrimp products of India outlined in
18 USTR's proposed action would have a similar or
19 greater effect? Why or why not?

20 MR. WILLIAMS: I think anything that
21 does not -- does not -- does not include all
22 shrimp -- HT U.S. codes -- that there will be a

1 certain amount of misclassification to avoid
2 paying duties on one -- one code as opposed to
3 another. And that is something that we see
4 pretty regular, sometimes, and we just don't --
5 we don't agree with it for sure. The -- whether
6 it be 25 percent -- that would -- I think that
7 would include more misclassification. Two
8 percent on all codes, that would -- that would
9 make everyone have the same type of duty on the
10 Section 301 and misclassification would be very
11 much harder because CBP would have to learn a
12 different species between cold water and warm
13 water, and the misclassification may come in the
14 form of putting something -- even the shrimp --
15 under a different code, such as crab, lobster --
16 anything. And you could just look at that --
17 that particular issue and see that it's been
18 labeled -- misclassified. So -- did that make
19 sense?

20 MS. NOLAN: Yes, thank you for your
21 response.

22 MR. ALLEN: Next we'll go to CBP.

1 MR. AMDUR: Good afternoon. Thank
2 you, Mr. Veal, for your testimony. I really
3 appreciate it. Just have a follow-up question.
4 You talked about, like a -- again -- also talked
5 about a proposal for a 2 percent duty on -- on
6 various HTS classifications of shrimp from India.
7 Can you talk about how that would impact the U.S.
8 market? You've talked about of course the -- the
9 impact on the domestic -- domestic producers of
10 shrimp. Can you talk about the impact on
11 consumers and importers?

12 MR. VEAL: I don't believe -- even at
13 25 percent tariff -- assuming that -- that all of
14 that product continued to come to the U.S., would
15 make much difference on the categories that are
16 there now. Coldwater shrimp generally go into --
17 into a slightly different market. They're --
18 they're a -- typically a much smaller shrimp than
19 we see in warmwater shrimp. And the individual
20 consumer will likely never see that package of
21 shrimp that is -- that is sent into the U.S.

22 The 2 percent on warmwater shrimp --

1 the price disparity between shrimp from India and
2 shrimp from the rest of the world, including
3 domestic shrimp, is so significant that -- that
4 you just simply won't notice it. Some -- some
5 products from India -- when I look at individual
6 competitor's prices featuring Indian shrimp are
7 as much as \$3 a pound -- \$3.50 a pound, depending
8 on the size of the shrimp. Makes it very
9 difficult for us to compete with -- with anybody.

10 And in fact when you talk to producers
11 in other countries, they have that same problem.
12 And it's simply a matter of -- of not the
13 product, it's the matter of subsidies going into
14 the Indian marketplace that distorts the Indian
15 marketplace and the cost of the -- the value of
16 the product of the Indian marketplace. They're -
17 - they're more than capable of absorbing a 2
18 percent, or even larger, duty if -- if they
19 wanted to make that choice.

20 MR. AMDUR: Thank you.

21 MR. ALLEN: Next we will go to
22 Treasury.

1 MR. YAM: Hello, my question is also
2 for Mr. David Veal of the American Shrimp
3 Processors Association. And it's a related
4 question about the similar proposal to Mr.
5 Williams that you mentioned in your testimony
6 about broadening the shrimp-specific HTS
7 subheadings subject to the proposed action to
8 include warmwater shrimp. Do you share Mr.
9 Williams's sentiment that shrimp from other
10 sources, other than India, are readily available
11 in the United States? Thank you.

12 MR. VEAL: Certainly. And in fact we
13 often see countries replace each other. It
14 hasn't been all that many years ago that India
15 was a relatively small player, as opposed to the
16 40 percent of the product they provide now. And
17 when I visited with other countries, one of them
18 -- a close -- in fact, a very close neighbor to
19 India -- two years ago, one of the things they
20 were concerned about is how we could all compete
21 with India. And -- and those will be -- they
22 have since had their production reduced and

1 shipped to other markets. So they will -- they
2 will readily come back here. This is the market
3 of choice for every producer of shrimp.

4 MR. ALLEN: Next we'll have Sarah
5 Short from USTR.

6 MS. SHORT: Thank you. My question
7 goes to Mr. Kunapuli with the Seafood Exporter
8 Association of India. To your knowledge have any
9 of your members reached out to the government of
10 India to request that India address U.S. concerns
11 with India's DST? And have you considered making
12 such a suggestion to your members?

13 MR. ALLEN: Mr. Kunapuli, you're on
14 mute.

15 MR. KUNAPULI: Yes --

16 (Simultaneous speaking.)

17 MR. ALLEN: We can hear you now.

18 MR. KUNAPULI: Okay. To the best of
19 my knowledge, we have not asked the government of
20 India -- we have not approached the Government of
21 India to reexamine the DST. As I explained in my
22 testimony a short while ago, we are not an

1 economic heavyweight in India. And with
2 possibility of government really paying attention
3 to our plea is not significant. Maybe in the
4 future we may do that. I am not sure. But as of
5 now we have not done that, for the reasons I
6 explained.

7 MR. ALLEN: Thank you very much for
8 that response. Before concluding this panel, I
9 will pause to see if any of the members of the
10 Section 301 Committee have any further questions?

11 MR. AMDUR: I have one additional
12 question.

13 MR. ALLEN: Go ahead.

14 MR. AMDUR: So again, this is a
15 question for Mr. Kunapuli. Can you elaborate on
16 the impact of the proposed tariff on the -- the
17 coldwater shrimp industry in India, figuring what
18 we've heard in other testimony that some of this
19 coldwater shrimp, you know, actually might not be
20 even -- that's imported to the United States
21 might not even be coldwater shrimp, might be
22 warmwater shrimp? And also the ability for the

1 industry in India to shift exports to warmwater
2 shrimp?

3 MR. KUNAPULI: We are not very
4 familiar with coldwater shrimp exports. If you
5 look at the value of the exports -- volume or
6 value, either way -- it is very insignificant --
7 very, very small. So one possibility why that
8 line item was there in exports was that some
9 means that somebody will have imported coldwater
10 shrimp, reprocessed them to be exported.

11 Generally it happens a lot in seafood industry
12 that seafood is caught on high seas, which is
13 rather complicated, reprocessed there, frozen
14 there, and re-exported to the consumer markets.
15 So while it was presumed it was rather small bit
16 of coldwater shrimp exposed, somebody else
17 probably trying to develop a market of it by
18 reprocessing it. So a unfortunately I do not
19 have any further information on that.

20 MR. AMDUR: Okay, thank you.

21 MR. ALLEN: Are there any other
22 questions from the Section 301 Committee?

1 Okay, hearing none, finally I would
2 ask if any of the witnesses would like to address
3 questions that we posed to other witnesses or
4 make final comment on any of the matters we've
5 discussed this afternoon?

6 Great. Hearing none, that concludes
7 this panel. Thank you for your time today.

8 I would like to thank the parties that
9 testified today for their important contributions
10 to our investigations. As a reminder, the
11 deadline for rebuttal comments, which may include
12 written answers to questions posed at today's
13 hearing, is one week from today. Those comments
14 should be submitted through USTR's online portal.
15 Today's hearing is adjourned. Thank you very
16 much.

17 (Whereupon, the above-entitled matter
18 went off the record at 12:54 p.m.)
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This is to certify that the foregoing transcript


In the matter of: Section 301 Investigation

Before: US Trade Representative

Date: 05-10-21

Place: teleconference

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