

French Digital Tax Ruling Puts Spotlight On Trade Tensions

By **Natalie Olivo**

Law360 (October 17, 2025, 2:40 PM EDT) -- A French court decision that upheld the nation's digital services tax could bolster similar measures in other European Union member states, but legal backing may mean little if countries use DSTs as bargaining chips in tariff negotiations with the United States.

Although the U.S. government's global tariffs are not directly related to DSTs, some countries — including Canada and India — have agreed to scrap digital measures as part of ongoing trade negotiations. Accordingly, even though a French court last month validated the country's DST under reasoning that has parallels to EU law, the ruling may do little to move the needle in tariff talks with President Donald Trump, who has long criticized foreign digital measures.

The legality of digital levies, whether in France or elsewhere in Europe, is of little consequence to Trump, who has been after DSTs since his first administration, according to Daniel Cannistra, a partner in Crowell & Moring LLP's Washington, D.C., office.

"Europe doesn't have much to offer Trump because their tariffs are already pretty low," he said. "So this is going to become one of those things that they could offer."

Legal Backing for DSTs

In upholding France's DST, the country's Constitutional Council ruled Sept. 12 that the measure is consistent with the country's constitution, including its principles of equality.

France's 3% DST applies to revenues that companies generate from providing digital platforms to French customers that allow them to deliver goods and services to users, provided they gross above €750 million (\$875 million) worldwide and €25 million in France, according to the decision. It applies regardless of where the company is headquartered and excludes online content, communications services and payment services, the decision said.

Laurence Mazevet, a partner in KPMG's Paris office, noted that the principles of equality in the French Constitution and EU law are substantively aligned. The ruling therefore may have an indirect influence on DSTs in other member states, she said.

The ruling, which is the first official position on the matter, is "a signal to the other EU countries" that the law is compliant, according to Mazevet.

Similarly, Paris-based Deloitte partner Eric Lesprit said while the technical details of DSTs may vary in each country, the French court's ruling could be helpful for other EU nations.

"The devil is always in the details, so they should carefully take a look and see if it is exactly the same kind of situation in other countries," he said. "But generally speaking, it is good for others to have, because it shows that this is quite in line with the EU principle approach."

Ongoing Trade Tensions

The French court's decision came as dozens of countries, including EU members, are facing the U.S. government's so-called reciprocal tariff regime, which includes a 10% baseline tariff on most imports, in addition to higher rates for many trading partners.

Trump issued the trade measures in April when declaring a national emergency of persistent U.S. trading deficits. He invoked the International Emergency Economic Powers Act, which the White House claims gives the executive broad authority to regulate imports, including imposing tariffs as a means for leverage.

Although the trade measures are not in response to DSTs, some countries are still agreeing to scrap their digital measures as part of negotiations to lower their overall tariff rates. Trump, who threatened tariffs specifically in response to DSTs during his first term and again this summer, has accused the offshore digital levies of discriminating against U.S. companies.

The Canadian government announced in June that it was rescinding its DST, citing goals to "advance broader trade negotiations" with the U.S.

India also agreed to withdraw its DST, while New Zealand sidelined legislation to enact one, which U.S. House Republicans cited in a September letter asking Trump to pressure the U.K. to repeal its digital levy as well.

Representatives of the French finance ministry and the White House did not respond to requests for comments for this article.

Trump would view a country removing its DST as a victory and part of his overall tariff negotiations, according to Cannistra.

"He doesn't care at all if they're lawful or unlawful, if they're consistent with international law or not," he said. "It is all about using their removal as tariff leverage."

As Lesprit saw it, while it's clear that the French court decision gives a strong technical position to the country's DST, and likely those in other EU countries as well, there is also a political way to look at it. As long as the U.S. position is to issue allegedly reciprocal tariffs, the U.S. is taking a position against value-added taxes, DSTs and other measures "to argue that tariffs simply exist to mirror in the U.S. the burden U.S. companies face in Europe," he said.

Despite the pressure that France and other EU countries are expected to feel, they aren't necessarily expected to cave.

Mazevet said she would be surprised if France and other EU countries cancel their DSTs, but a potential

bloc-wide digital levy may not move forward for now. The European Commission, the EU's executive arm, first proposed the 3% DST in 2018 but failed to get unanimous approval from member states.

"It's still on the table," she said of an EU DST. "But I don't believe it could happen in the short term, because of the discussion on tariffs."

DST Tariffs Possibly on the Horizon

International dynamics regarding digital taxes may shift if Trump ultimately follows through on his threats to specifically target these measures with retaliatory tariffs.

The Trump administration first threatened tariffs in response to France's DST in 2019, when the country became the first to enact a digital measure. The White House cited Section 301 of the Trade Act of 1974, arguing that the levy unfairly targeted U.S. tech companies, before it ultimately delayed them pending investigations into similar DSTs.

President Joe Biden's administration later suspended tariffs against six countries — Italy, Spain, Turkey, the U.K., India and Austria — as discussions continued at the Paris-based Organization for Economic Cooperation and Development to develop new global taxing rights.

The OECD discussions eventually culminated in a two-pronged international corporate tax rewrite that nearly 140 countries agreed to in principle in 2021. While most nations have moved forward with Pillar Two's 15% minimum tax rules, implementation has stalled for Pillar One, which would have reallocated a portion of large companies' profits to market jurisdictions where businesses have customers but not a physical presence.

As Cannistra saw it, there's about a 50% chance that the U.S. Supreme Court could strike down the IEEPA tariffs under challenges from businesses that the justices are currently weighing. If that happens, Trump could issue a new round of tariffs specifically against European DSTs under Section 301, he said.

"The DSTs give him a back door to keep the tariffs on Europe if the Supreme Court revokes the existing tariffs," Cannistra said.

While Trump has yet to officially impose Section 301 tariffs, he threatened to do so over the summer. In a late August post on Truth Social, he signaled potential tariffs and trade restrictions on technologies such as semiconductors from countries with DSTs that impact U.S. companies.

Shortly after Trump's post, European Commission spokesperson Paula Pinho told reporters at a news conference in Brussels that the commission stands by member states keeping digital taxes in place.

According to Pinho, "it's the sovereign right of the EU and its member states to regulate our economic activities on our territory that are consistent with our democratic values."

--Additional reporting by Kevin Pinner and Josh White. Editing by Tim Ruel and Neil Cohen.