

# Client Alert

International Trade & Litigation Practice Group

January 31, 2012

## **President Obama Calls for Returning Manufacturing Operations to the United States and Increased Investigations of Unfair Trade Practices Abroad**

In his State of the Union address on January 24, 2012, President Obama proposed a multi-faceted strategy to bolster the U.S. manufacturing base and help domestic industries succeed in global competition. He called for new tax incentives for U.S. manufacturing and policies that promote U.S. exports. The President also indicated that his administration would protect U.S. manufacturers through increased investigations of alleged foreign unfair trade practices, among other measures.

In terms of specifics, President Obama first called for tax reforms that encourage U.S. manufacturers either to remain in the country or bring operations back from overseas. His proposal would require multinational firms to pay a minimum corporate tax rate while rewarding companies with U.S. operations with tax deductions. The policy would grant further incentives for high-technology manufacturing and for manufacturers that invest in new plant, equipment, and employee training if the firms relocate to areas that have been blighted by the loss of industrial jobs or the closure of military bases. According to the President, "It is time to stop rewarding businesses that ship jobs overseas, and start rewarding companies that create jobs right here in America."

Second, the President indicated that he seeks to help U.S. companies by promoting U.S. sales to foreign markets. He recalled his goal of doubling U.S. exports by 2015, noting the role of recent free trade agreements in attaining that target. President Obama also called for new legislation to help U.S. companies take advantage of Russia's recent accession to the World Trade Organization and gain access to that country's markets.

Third, the President proposed measures to combat foreign unfair trade practices that harm U.S. manufacturers. In this regard, he called for the formation of a new Trade Enforcement Unit from resources and personnel across the federal government. The President also sought improved inspection processes to discourage the importation of goods that either infringe U.S. intellectual property rights or pose a danger to consumers. Furthermore, he asked Congress to ensure that U.S. companies have access to financing that is competitive with that offered by foreign governments.

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President Obama noted that his administration brought trade cases in support of U.S. manufacturers at twice the rate of the previous administration, and cited China as an example of a country that may be subject to investigation by his proposed enforcement unit. He said, “Our workers are the most productive on Earth, and if the playing field is level, I promise you – America will always win.” All of this suggests that the administration will be more aggressive in pursuing enforcement actions targeting perceived unfair trade practices, and that China’s currency and subsidies practices could be increasingly targeted.

President Obama’s focus on unfair foreign trade practices serves as an invitation to U.S. companies to register complaints about unfair import competition. The WTO agreements and U.S. law provide American manufacturers with many legal options to “level the playing field” with foreign companies. In his address, the President referenced as an example his administration’s action regarding Chinese-origin tires through a “Section 421” proceeding, which under the terms of China’s WTO accession is available until December 2013. Even after the expiration of this particular protection, however, other potential remedies remain available to counter foreign companies that receive unfair financial support from their governments, sell their goods in the United States at unfairly low prices, or export goods that infringe valid U.S. intellectual property rights.

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For more information about President Obama’s plan to promote U.S. manufacturing and enforce U.S. trade laws, please feel free to contact the lawyers identified in this alert or any member of the King & Spalding International Trade Team.

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