

Client Alert

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US Trade Representative Releases Obama Administration's First Statement of Trade Policy Specifics**Areas of Interest****Global Trade****Government Relations****United States**

On March 2, 2009, the Office of the United States Trade Representative released its "[2009 Trade Policy Agenda and 2008 Trade Policy Report of the President of the United States on the Trade Agreements Program](#)."

The initial portion of the report represents the Obama administration's first official foray into trade policy specifics. While the administration reserved judgment on some issues, on many others of commercial importance — ranging from climate change and trade to the Doha Round — they foreshadowed future positions, and even occasionally took concrete stands. Highlights of the President's 2009 Trade Policy Agenda include:

- **Free Trade Agreements (FTAs) and Bilateral Investment Treaties (BITs):** The administration will conduct outreach on whether the pending FTA and BIT negotiations should be completed, and will consider proposals for new agreements. If new negotiating authority is required, the administration will seek that from Congress.
- **The Completed FTAs:** The administration pledged to promptly, but responsibly, address the issues surrounding the Colombia, Korea, and Panama FTAs — specifically, moving the Panama FTA "relatively quickly," and establishing benchmarks for progress on the Colombia and South Korean FTAs.
- **The Doha Round of World Trade Organization (WTO) Negotiations:** Commitment to Doha was confirmed, but the administration stated that it will be necessary to correct the imbalance in the current negotiations. This is a concrete signal to other WTO members and Director General Pascal Lamy that agreement will not be reached quickly, and could signal a rejection of the July 2008 proposal by Lamy.
- **The Environment:** The administration intends to build on the environmental goods and services negotiations (EGSA) that were begun in the Doha Round, "whether at the WTO or in other negotiating arenas." This is significant for two reasons. First, this strongly implies breaking EGSA out from the Doha Round timetable (likely putting it on the same timetable as the UN post-Kyoto negotiations), a significant shift from the previous administration. Second, it implies negotiating EGSA in a forum other than the WTO (perhaps the UN negotiations, or APEC).
- **Climate Change:** While noting that climate policies should be consistent with US trade obligations, the administration also stated that the United States should be "creative and firm in assuring that trade rules do not block us from tackling this critical environmental task." This is likely referring to border measure/trade sanction proposals contained in pending bills that cap carbon production in the United States. Given the international controversy surrounding border measures — particularly with large developing country carbon emitters such as Brazil, India, and China — this is a very forward-leaning statement.

- **Overseas Market Access:** The administration stated a goal of negotiating for improved transparency and due process in our partners' trade practices, including government procurement and the crafting of market regulations. The transparency and due process reference likely refers to foreign anti-dumping/countervailing duty measures against US exporters.
- **Intellectual Property Rights:** The administration will protect American innovation and creativity by negotiating and enforcing strong and effective intellectual property rights protections. This could be a sign of support of the ongoing Anti-Counterfeiting Trade Agreement negotiations.
- **Other Negotiations:** The administration will pursue advances in trade facilitation and consumer product safety, through plurilateral negotiations if appropriate. Trade facilitation would save many commercial entities money and is currently a part of the Doha Round — this could be another example of extricating the most politically viable parts from Doha, to Doha's overall detriment.
- **NAFTA:** The administration will work with Canada and Mexico to identify ways to improve the North American Free Trade Agreement without adversely impacting trade. This follows up on a major campaign issue.
- **Trade Preference Programs:** The administration will work for renewal (most expire at the end of 2009) and reform, with an eye toward concentrating benefits more effectively on the poorest countries and those that need the margin of preference to compete. This implies dropping or curtailing Brazil and India from the Generalized System of Preferences.

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