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ALERT

President Obama Signs Into Law Trade Promotion Authority, Including Significant New Changes to Strengthen U.S. Trade Remedy Laws

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First changes to strengthen AD/CVD laws in more than 20 years

Yesterday, President Obama signed into law a series of trade measures, including trade promotion authority (TPA), providing the Administration with rules governing the negotiation of international trade agreements subject to approval by Congress without amendment. TPA, which last expired in 2007, has been a crucial element for past administrations in negotiating and gaining passage of trade agreements. The White House announcement can be found here.

The passage of TPA and the other trade measures occurred after a series of divisive debates and highly contested votes in both the Senate and the House of Representatives. The package of trade legislation signed by the President should help the Administration to close out negotiations on the 12-country Trans-Pacific Partnership (TPP), which Obama hopes will set a new standard for trade agreements in the 21st century.

As part of the TPA package, President Obama also signed into law:

- New trade remedy law provisions known as the "American Trade Enforcement Effectiveness Act" or the "Leveling the Playing Field Act,"
- Renewal and expansion of Trade Adjustment Assistance (TAA), which provides job training, income support and other benefits

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to U.S. workers displaced by international trade,
- A ten-year extension of the African Growth and Opportunity Act (AGOA), and
- An extension of the Generalized System of Preferences (GSP), which provides preferential duty-free treatment to more than 120 developing countries.

All of these legislative measures provide opportunities for U.S. companies and industries engaged in international trade. In particular, the Leveling the Playing Field Act provisions are notable for U.S. companies and industries facing unfair trade practices such as dumping and subsidies. These changes are the first legislative changes to strengthen U.S. antidumping and countervailing duty laws in more than 20 years. Among other things, these provisions would:

- Enhance the Commerce Department's ability to address foreign companies and governments who fail to cooperate in trade remedy proceeding,
- Clarify the material injury standard in trade cases to state that U.S. industries may be injured by imports even if they are still profitable or their performance has improved,
- Enhance the ability of the Commerce Department to calculate a trade remedy when foreign prices or costs are distorted, and
- Clarify the Commerce Department's authority regarding the selection of which foreign companies to investigate in a trade remedy proceeding.

Wiley Rein's International Trade Practice is actively involved in monitoring trade negotiations such as TPA and TPP, and regularly advises clients on how to eliminate barriers to trade in a variety of manufacturing and services sectors, including metals, raw materials, chemicals, telecommunications technology, food and drug products, and clean energy technology.