

International Trade Alert

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Possible Realignment of Trade Regulatory Agencies Could Impact Global Commerce

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The Obama Administration announced a plan to combine six federal agencies with responsibility for U.S. international trade: the U.S. Department of Commerce's "core business and trade functions," the Small Business Administration, the Office of the U.S. Trade Representative, the Export-Import Bank, the Overseas Private Investment Corporation, and the U.S. Trade and Development Agency. The plan is part of the Administration's larger efforts to "streamline and modernize" agencies dealing with trade discussed during the President's 2011 State of the Union Address.

The White House's proposed restructuring of the core federal trade agencies, if implemented, could affect how importers, exporters, carriers, logistics companies and others involved with global commerce interact with the U.S. government. Keeping an eye on the President's proposed new trade regulatory landscape is practical and prudent.

While specific details regarding the planned consolidation remain unknown, the Administration highlighted several key points during briefings following the announcement:

- It envisions a "tightly integrated, new department focused on business with four pillars": trade and investment, including enforcement, financing and promotion; small business and economic development; technology and innovation; and statistics (including the Census Bureau, the Bureau of Economic Analysis, as well as the Bureau of Labor Statistics);
- The remaining elements of the Commerce Department not dealing with trade and investment, such as the National Oceanic and Atmospheric Administration, would be moved to the U.S. Department of Interior; and,
- The U.S. Trade Representative would retain Cabinet-level status, but would report to the secretary of the newly formed department.

The Administration also unveiled two small business reforms which will become effective immediately:

- The Small Business Administration will be elevated to a Cabinet-level agency.
- A new website, Business USA, is projected to come online in the coming weeks. The President described the site as a "one-stop shop for small businesses and exporters."

The President is expected to submit the proposal to Congress next month, together with a request for reinstatement of the presidential reorganization authority, which would guarantee that such federal agency consolidation proposals be subject to Congressional "fast track" treatment, comprised of an up-or-down vote within 90 days of notification. As President Obama explained, Congress has historically granted Presidents such reorganization authority, including almost "every President from Herbert Hoover to Ronald Reagan."

Reception to the Administration's plan has been mixed. Congressional members of both parties have publicly expressed concerns, particularly with respect to the integration of the U.S. Trade Representative into a larger department. Most major trade associations have also pronounced their opposition to this aspect of the plan, while welcoming the Administration's larger reorganization objectives. A letter to President Obama signed by more than eighty business and agricultural groups cited the U.S. Trade Representative's "unique and important role" in negotiating trade and market-opening agreements, and cautioned that subsuming the entity may negatively impact its credibility and its ability to "play its unique coordinating role within the U.S. government."

In his recent State of the Union address, President Obama reemphasized the need for consolidation within the executive branch, which he described as too often "inefficient, outdated and remote." However, the President did not specifically discuss the Administration's plan to consolidate the six agencies. And given the reaction from Congress and the business community, it remains to be seen whether the Administration will garner the Congressional support needed for its implementation.

Venable's **International Trade and Customs Group** will continue to follow the possible realignment of the trade agencies in the coming months.

For additional details on how the proposed reorganization may impact your international business activities, please contact any attorneys in our **International Trade and Customs Group** for assistance.