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Opportunity to Enlist U.S. Government’s Help to Address Trade Barrier Problems in Foreign Markets—Deadline is November 6

The U.S. government, led by the Office of the U.S. Trade Representative (USTR), has announced its annual National Trade Estimate Report (NTE) process. The NTE is an annual report, issued each March, that identifies significant barriers to U.S. exports of goods, services and overseas direct investment in other countries. The NTE process is a good opportunity to engage a company’s interests with the U.S. government to address challenging problems with other nations’ trade laws and practices—especially for companies that are not otherwise engaged with U.S. agencies.

Written comments must be filed with the USTR by **November 6, 2008**. Information can be submitted on a non-public basis.

There are no hearings, and there are no trade sanctions involved. However, the NTE process is an open door to the U.S. government for U.S. clients doing business abroad who encounter significant trade barriers, whether legal or practical, in the target country. The NTE elevates the U.S. government’s attention to the barriers.

There are 10 categories of foreign trade barriers for which the USTR has requested input:

1. **Import policies** (e.g., tariffs and other import charges, quantitative restrictions, import licensing, customs barriers);
2. **Standards, testing, labeling, and certification** (including unnecessarily restrictive application of phytosanitary standards, refusal to accept U.S. manufacturers’ self-certification of conformance to foreign product standards, and environmental restrictions);
3. **Government procurement** (e.g., “buy national” policies and closed bidding);
4. **Export subsidies** (e.g., export financing on preferential terms and agricultural export subsidies that displace U.S. exports in third country markets);
5. **Lack of intellectual property protection** (e.g., inadequate patent, copyright and trademark regimes);
6. **Services barriers** (e.g., limits on the range of financial services offered by foreign financial institutions; regulation of international data flows; restrictions on the use of data processing; quotas on imports of foreign films; barriers to the provision of services by professionals, such as lawyers, doctors, accountants, engineers, nurses, etc.);
7. **Investment barriers** (e.g., limitations on foreign equity participation and on access to foreign government-funded R&D consortia, local content, technology transfer and export performance requirements; restrictions on repatriation of earnings, capital, fees and royalties);
8. **Anticompetitive practices with trade effects tolerated by foreign governments** (including anticompetitive activities of both state-owned and private firms that

- apply to services or to goods and that restrict the sale of U.S. products to any firm, not only to foreign firms);
9. Trade restrictions affecting electronic commerce (e.g., tariff and non-tariff measures; burdensome and discriminatory regulations and standards; discriminatory taxation); and
 10. Other barriers (i.e., barriers that encompass more than one category, e.g., bribery and corruption, or that affect a single sector).

There is also a catch-all request for information involving countries' violations of any trade agreements.

For more information about the 2008 National Trade Estimate Report on Foreign Trade Barriers, go to:
http://www.ustr.gov/Document_Library/Reports_Publications/2008/2008_NTE_Report/Section_Index.html?ht=.

For additional details on this docket in the Federal Register, go to:
<http://edocket.access.gpo.gov/2008/pdf/E8-17573.pdf>.

This *GT Alert* was prepared by Jim Bacchus, Maria Strong, Irwin Altschuler and Philippe Bruno in the Global Trade & Investment Practice Group. The Global Trade & Investment team can help clients participate in the NTE process. In addition, the GT team can help clients engage U.S. government agencies that address trade barrier issues.

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