

New ITC Petition Process to Suspend Tariffs

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For decades, the Congress regularly suspended tariffs on hundreds of imported products to benefit American businesses and consumers. This legislation was referred to as the Miscellaneous Tariff Bill or MTB. In the last few years, some came to view the MTB legislation as similar to “earmarks,” and resulting congressional ethics concerns halted the process after 2010.

In recent weeks, congressional leaders unveiled a new approach to revive the MTB legislation relying on a new International Trade Commission (ITC) petition process rather than upon the introduction of individual MTB bills. This legislation seems to be moving quickly through Congress. If all goes as scheduled, the ITC may open a request for petitions in October of 2016, which could lead to the suspension of tariffs in mid-2017.

The New Petition Process

The new MTB legislation envisions US companies seeking an MTB tariff suspension to petition the ITC for a period starting in October 2016. The ITC is charged with evaluating these petitions to ensure that: 1) there is no domestic production of the good for which the tariff suspension is sought, and 2) the revenue loss to the US government (lost tariff revenue due to the suspension) would not exceed \$500,000 per year.

After a public comment period, the petitions that satisfy the above criteria are combined into a single bill to be considered by the US Congress under special procedures.

What is the Opportunity?

In the past, MTB legislation has suspended tariffs on up to 2,000 products. Each of those tariff suspensions was sought by a US company. The products subject to suspensions run the gamut from sporting goods to industrial chemicals to high value capital equipment. The most common users of the MTB process have been manufacturing companies seeking to reduce their manufacturing costs by suspending tariffs on input products.

The MTB process cannot be used to suspend all tariffs. The key limiters are that there must be no competing domestic production and the revenue lost cannot exceed \$500,000 per year for each suspension. By carefully defining the scope of the product covered, however, it is often possible to craft an MTB that meets the needs of the importer. In past MTB bills, a number of companies – many in the chemical industry – successfully pursued dozens of separate MTB suspensions. Any company with substantial imports, however, may benefit from the new MTB petition process.

How to take Advantage

Kelley Drye can work with companies to review their imports for potential MTB possibilities. If possibilities are identified, we can work to refine the concept, develop a petition, and advance the petition through the process. If you would like more information, please contact [Jennifer McCadney](mailto:jmccadney@kelleydrye.com) (jmccadney@kelleydrye.com)