

CLIENT ALERT

Duty Suspension Bill Finally Passes Senate; Is Your Company Ready to Take Advantage?

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Yesterday, the Senate passed the Miscellaneous Tariff Bill (MTB), known as the American Manufacturing Competitiveness Act of 2016 (AMCA), by unanimous consent, sending it to the President for signature. The bill was passed by the House on April 27 and will reform the long-stalled MTB process by reducing or eliminating tariffs on the importation of products not manufactured in the U.S. Companies should begin to get ready to take advantage of the new MTB process as the U.S. International Trade Commission (ITC) can initiate the process at any time after AMCA goes into effect, but no later than October 15, 2016.

In the past, MTBs were individual bills introduced by members of Congress to suspend or eliminate duties on certain imported commodities on behalf of their constituents. The imported commodities had to be “noncontroversial” or “noncompetitive,” meaning that (1) there is no domestic producer who objects to the duty suspension, (2) the suspension or reduction of the tariff is seen to be in the interest of the U.S. “downstream” producers and consumers, and (3) the volume of imports and corresponding revenue loss was relatively small, or under \$500,000. Once passed, the MTBs were in effect for three years.

AMCA retains much of the same general concepts of the previous MTB process but formalizes the initial process through the U.S. International Trade Commission (ITC). Now interested parties would file a petition with the ITC, who would be tasked with vetting the proposals. After the ITC reviewed and either approved or dismissed tariff reduction petitions, a report would be generated for Congress recommending products that meet the MTB criteria outlined above. The public could also comment on the petitions through a notice and comment period. Congress would then draft a MTB proposal wherein it could strike certain ITC recommendations, but could not add new ones. The MTB would then proceed through Congress under the normal legislative process. The MTB would continue to provide temporary relief for a three year period, after which the process would be repeated.

AMCA also provides certain timelines by which the ITC must complete its processes. Once enacted, the measure would direct the ITC to begin the MTB process by Federal Register notice no later than October 15, 2016. Assuming an October 15th start date:

- Petitions will be due within 60 days of the Federal Register notice, or December 14, 2016.
- ITC will publish a list of petitions submitted and the public comment period opens within 30 days of the petition submission deadline, or January 13, 2017.
- The public comment period would close 45 days later, or February 27, 2017.
- ITC would then publish preliminary report to Congress between 120-150 days of the public comment period opening, or May 13, 2017 – June 12, 2017.
- ITC finally publishes a final report to Congress within 60 days of its preliminary report, or between July 12, 2017 and August 11, 2017.

Assuming the ITC initiates the MTB petition process on October 15 and Congress promptly considers the ITC report, converts the report into a MTB bill and passes the MTB, importers could receive benefits as early as the fourth quarter of 2017. If the ITC initiates the MTB petition process sooner, the sooner importers could begin to receive benefits.

Companies should begin to review their import and purchasing data to identify potential MTB opportunities because the petition period will only be open with the ITC for sixty days and then would not be open again until 2019. Crowell & Moring has developed an “MTB Tool Kit” to assist clients in filing petitions with the ITC and obtaining MTB benefits.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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