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Miscellaneous Tariff Bills (MTBs)

Background

On September 13, 2018, the President signed the Miscellaneous Tariff Bill Act of 2018 (P.L. 115-239), an act that provided temporary tariff suspensions and reductions on more than 1,600 products until December 31, 2020. This legislation followed a process enacted in the American Manufacturing Competitiveness Act of 2016 (AMCA, P.L. 114-159). The U.S. International Trade Commission (ITC) is preparing a new round of tariff suspension petitions to begin no later than October 15, 2019, as also provided for in the AMCA.

What Are MTBs? Miscellaneous Tariff Bills (MTBs) aim to temporarily suspend or reduce tariffs on certain imported products (called duty suspensions). In order to be considered for inclusion in an MTB, proposed individual duty suspensions must be noncontroversial (e.g., no domestic producer or Member objects); revenue-neutral (forgone tariff revenues of no more than \$500,000 per product); and administrable by U.S. Customs and Border Protection (CBP).

Debate. Many in Congress support MTBs as a relatively low-cost method of providing a competitive edge to U.S. businesses by reducing tariffs on chemicals and other inputs used to manufacture downstream products, thus making end-use products more affordable to consumers. However, the former process by which MTBs were originally assembled was controversial because it involved constituents asking individual Members to introduce duty suspension bills to benefit a constituent's company.

New MTB Process

To address these prior concerns, Congress enacted AMCA to reform the process for vetting MTBs. The law also established a process for initiating two MTBs, one in 2016, and the second in 2019. To be included in an MTB, the same conditions for duty suspensions are applied as in the previous process (i.e., noncontroversial, revenue-neutral, and administrable).

Expanded ITC Role. Prior to passage of the AMCA, the U.S. International Trade Commission (ITC), an independent agency with statutory responsibility to assist Congress (19 U.S.C. 1332(g)), reviewed duty suspension bills submitted by Members, made recommendations regarding proper tariff classification, calculated tariff amounts, and surveyed industries to determine if proposed duty suspensions were controversial. The AMCA expanded the ITC's role to include directly receiving the petitions for duty suspensions or reductions (MTB petitions) from industry representatives, collecting public feedback, gathering input from other related agencies, and reporting findings directly to the House Ways and Means and Senate Finance Committees.

The 2016 MTB process began on October 14, 2016, with an ITC notice published in the *Federal Register* asking members of the public who can demonstrate that they are potential MTB beneficiaries to submit petitions within 60 days (closed on December 12, 2016). The AMCA-authorized 2019 process must follow a similar timeline. Late petitions will not be accepted. The ITC will receive petitions directly and must publish them on a publicly available website no later than 30 days after the end of the 60-day petition period. Petitioners that wish to have existing duty suspensions continue must re-apply. After all petitions and relevant documentation are posted, the ITC will issue a notice requesting public comments within 45 days (expected by about mid-January 2020). All comments will be available to the public (see **Table 1**, MTB Process Timeline in P.L. 114-159, below).

Commerce Report. In previous MTBs, the Department of Commerce (Commerce) coordinated the Administration's comments on duty suspensions. Commerce analysts, along with the ITC, also researched proposed duty suspensions to determine the existence of any objecting domestic producers. In the new process, Commerce's role remains essentially the same, with the addition of a deadline.

As in the 2016 MTB process, the Department of Commerce, in conjunction with CBP and other relevant federal agencies, must submit a report to the ITC and Congress on each petition within 90 days after the ITC's publication of the MTB petitions. For each proposed duty suspension the report must include (1) a determination of whether domestic production exists, or if domestic production does exist, whether the producer objects to the MTB petition; and (2) identification of technical changes to the description, if any, necessary for purposes of CBP administration.

ITC Preliminary Report. In the AMCA, the ITC is required to submit a preliminary report to the House Ways and Means and Senate Finance Committees 120 to 150 days following the publication date of the MTB petitions. For each petition, the report must contain (1) the product's HTS heading or subheading; (2) a determination of whether or not domestic production or an objection to the duty suspension existed; (3) any technical changes necessary to the product description; (4) an estimate of the amount of loss in U.S. revenue; (5) a determination of whether the duty suspension or reduction would be available to any importer of the targeted product; and (6) the likely beneficiaries of the duty suspension or reduction. Based on the timeline in the AMCA and the previous cycle, the preliminary report may come out in June 2020.

Final ITC Report. After taking into account congressional committee feedback and other information, the ITC must submit its final report within 60 days determining, in part, whether each petition (1) is able to be administered by

CBP; (2) does not exceed \$500,000 in revenue loss per year; and (3) is available to any person importing the product. Based on the timeline (see below) the ITC's final MTB report to Congress for the 2019-petition cycle will likely be completed in August 2020. If Congress decides to pursue MTB legislation, the relevant committees may introduce MTB bills sometime after the final report is released.

Table 1. MTB Process Timeline in P.L. 114-159

Date	Action
No Later than October 15, 2016 and October 15, 2019	ITC publishes notice requesting duty suspension petitions
60-day period beginning on ITC notice publication date	Public sends duty suspension petitions to ITC
No later than 30 days after 60-day period expires	ITC publishes duty suspension petitions on Internet
45-day period beginning on the publication date of petitions	Public comment period (also viewable by the public)
No later than 90 days following the publication date of petitions	Commerce, in consultation with CBP and other relevant federal agencies, submits report to ITC and appropriate congressional committees
120 to 150 days following the publication date of petitions	ITC Preliminary Report to committees
60 days after submission of preliminary report	ITC Final Report to committees
No later than 12 months after enactment of MTB	ITC reports on the effects of MTB legislation on the U.S. economy

Source: Sections 3 and 4 of P.L. 114-159.

Issues for Congress

What are the costs and benefits of MTBs? The AMCA required the ITC to submit a report to Congress on the economic effects of duty suspensions and reductions on the U.S. economy within 12 months of the enactment of an MTB. The report on the MTB enacted in 2017 is expected in mid-September 2019.

Does Congress have to act for an MTB to become law?

Yes. Although the AMCA contains a sense of Congress that an MTB should be considered no later than 90 days after the final ITC report, there is no requirement in the law for an MTB to receive floor action. If an MTB is to be considered, the House Ways and Means Committee and/or Senate Finance Committee must draft legislation and publish a list of all "limited tariff benefits" (i.e., provisions modifying the HTS in a way that benefits 10 or fewer entities) under a process specified in the AMCA.

In the 115th Congress, companion MTBs based on the new process were introduced in the House (H.R. 4318) and Senate (S. 2108) on November 9, 2017. The House unanimously passed H.R. 4318 under suspension of the rules on January 16, 2018. On July 26, 2018, the Senate passed H.R. 4318 by unanimous consent, with an

amendment that removed several products from the MTB measure and added several types of lower-priced shoe products. All of these products (those removed from the bill as well as those that were inserted) had been previously vetted through the ITC process, open for public comment, and included in the MTB report submitted by the ITC to Congress. The Senate amendment also extended customs user fees through October 13, 2027, instead of April 22, 2026, as in the House version. The House agreed to the Senate amendment to H.R. 4318 on September 4, 2018. President Trump signed the measure on September 13.

What are the effects of the tariffs issued by the Trump Administration on the duty reductions in the MTB (P.L. 115-239)? The Miscellaneous Tariff Bill Act of 2018 suspended or reduced tariffs on 1,660 products, about half of which (based on analysis of the MTB petitions) are sourced from China. Thus, even though the MTB provided suspensions and reductions of the general (or "normal trade relations" tariff rate), certain products imported from China may still be subject to additional tariffs of 10% or 25% (which may increase) imposed under Section 301 of the Trade Act of 1974. However, importers could import these products from countries not subject to the Section 301 tariffs and import the product duty-free or at a reduced rate, as the MTB provides.

Is the new process working as intended, ensuring more transparency and timely consideration of these measures? Each MTB must be submitted through a petition process that allows for public comment, and likely beneficiaries are also disclosed. In the 2016-2017 MTB process, the ITC and other agencies were able to meet the time lines prescribed in the legislation.

Were there any complications in the 2016 MTB petition cycle? According to the ITC, many MTB petitions contained errors in accurately classifying the merchandise according to the Harmonized Tariff Schedule of the United States (HTSUS). Thus, almost 28% of the petitions were not recommended for inclusion in an MTB because the duty suspensions could not be administered by CBP. In the 2019 cycle, the ITC recommends that petitioners research the HTSUS product classification using the Customs Ruling Online Search System (CROSS, <https://rulings.cbp.gov>), or submit a request to CBP for a binding customs classification ruling (<https://apps.cbp.gov/erulings/home>), prior to filing an MTB petition. The ITC has also announced a series of workshops and webinars, the first of which were held in July and August 2019, to (1) help potential filers understand the MTB petition process, and (2) write acceptable product descriptions in various HTSUS categories.

Will MTBs continue under the current process after 2019? The AMCA provided for two MTBs, one in 2016 and one in 2019. In order for the MTB process to be continued beyond the 2019 process, Congress must extend the AMCA, amend the MTB process, or decide not to continue MTBs.

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