

## CUSTOMS AND POLICY ALERT

### KEY SENATE COMMITTEE ANNOUNCES PROCESS FOR MISCELLANEOUS TARIFF BILL

On October 1, 2009, the U.S. Senate Committee on Finance announced the highly anticipated process by which senators may introduce individual legislation for possible inclusion in the Miscellaneous Tariff Bill (MTB).

Since the early 1980s, Congress has routinely considered the omnibus MTB, which is a unique legislative vehicle that combines individually introduced legislation seeking to temporarily suspend or reduce import tariffs or to make other technical corrections to U.S. tariff laws. In essence, the MTB process allows U.S. importers to petition the government to suspend customs duties on imports that are not produced in the United States. In practice, most of the products covered by the MTB are manufacturing inputs that are made into finished products by U.S. companies.

The last MTB was signed into law in 2006 and is currently set to expire on December 31, 2009. In the next few weeks, the House Ways and Means Committee is planning to pass MTB legislation that it assembled last year. The Senate process is just beginning, but the Finance Committee hopes to wrap it up this year. Senators seeking to sponsor provisions on behalf of constituent companies to be included in the MTB this year must introduce legislation by Friday, October 30, 2009.

### WHAT IS THE MTB AND HOW CAN COMPANIES BENEFIT?

The MTB process involves assembling legislation from hundreds of separate duty suspension provisions that meet certain criteria. From the perspective of MTB beneficiaries, the bottom line is clear: temporarily suspending or reducing duties on inputs and products not made domestically improves their bottom line and the competitiveness of U.S. manufacturing by eliminating what amounts to nuisance taxes on imported products.

Historically, large and small companies alike have utilized the MTB process to eliminate unnecessary overhead costs. In other instances, corporations sometimes are sometimes forced to manufacture commodities at foreign subsidiaries and import them to be used as components in domestically produced merchandise. A number of companies—many in the chemical sector but including many others—have employed the MTB process for suspensions on dozens of products that they import.

These provisions are subject to a thorough review by the congressional committees of jurisdiction, the independent U.S. International Trade Commission, the U.S. Department of Commerce and the U.S. Customs and Border Protection agency. If it is determined at the end of this process that the provision adheres to the strict MTB requirements, that provision will then be eligible for inclusion in the omnibus MTB legislation.

### WHAT ARE THE REQUIREMENTS?

To be eligible for inclusion in the MTB, provisions must adhere to established congressional guidelines. The three key criteria are: 1) there must be no domestic production of the article in commercial quantities; 2) tariff suspensions/reductions must not exceed \$500,000 in estimated loss of revenue to the U.S. Treasury per year; and 3) the proposed tariff suspension or reduction must be generally noncontroversial.

Additional requirements are set forth in the [official announcement](#) by the Senate Finance Committee.

To be included in the Senate MTB, an individual tariff suspension or reduction bill must be introduced by a U.S. senator on or before the October 30, 2009, deadline. Many senators routinely introduce such legislation for their constituents.

### HOW AKIN GUMP CAN HELP

The professionals at Akin Gump Strauss Hauer & Feld LLP have extensive experience working on the MTB. After analyzing import data, our professionals have worked with companies to identify key products eligible for consideration under the MTB process. Then we work with congressional staff and executive branch agencies to have duty suspension legislation introduced and, ultimately, signed into law. Through the MTB process, our professionals have assisted clients realize millions of dollars in tariff savings.

### CONTACT INFORMATION

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