Opportunity for temporary duty suspension or reduction - submit petitions for Miscellaneous Tariff Bills to ITC by 12/12/16

International Trade Alert

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Companies seeking temporary duty suspensions or reductions have the opportunity to submit petitions for Miscellaneous Tariff Bills (MTBs) to the US International Trade Commission (ITC) until December 12, 2016.

As a result of the American Manufacturing Competitiveness Act of 2016, companies may no longer petition members of Congress to introduce individual duty suspension bills. Instead, the Act modified the process for MTBs by requiring submission of petitions for duty suspensions or reductions directly to the ITC, which will then report to the House Ways and Means and Senate Finance Committees.

The agency has published interim rules governing the petition process and has opened a web portal – the MTB Petition System (MTBPS) – to facilitate submission of duty suspension requests.

In order to qualify for an MTB, the requested duty suspension or reduction:

1. must be administrable by US Customs and Border Protection
2. may not exceed an estimated annual duty loss of $500,000 and
3. must be available to any person importing the subject article.

In addition, the relevant congressional committees have discretion to exclude any petition that is subject to an objection from a member of Congress or that covers an article for which there is US production.

The MTBPS is open for submissions until December 12, 2016 at 5:15 p.m. Late petitions will not be accepted. Filed petitions may not be amended, but a petitioner can withdraw and submit a new petition by the deadline.

The MTBPS requires certain information from the petitioning company, including the following: the subject article’s Harmonized Tariff Schedule subheading, whether a duty suspension or reduction is requested, a proposed description of the article for legislative text, a brief description of the product and its use, a description of the industry processing and/or using the product, import sources, import data, US production, and other importers of the article. Petitioners have the option to claim confidentiality for certain information. However, basic information and information for which confidentiality has not been claimed will likely be treated as public.

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The ITC will review each petition to ensure that it has been properly filed and does not contain confidential information in a field that will be made publicly available. The ITC will also publish all completed petitions on its website for review on a rolling basis (and no later than January 11, 2017).

On January 11, 2017, a 45-day public comment period will begin on all published petitions. On June 10, 2017, the ITC will issue a preliminary report to the House Ways and Means and Senate Finance Committees that provides the ITC’s assessment of the information provided in each petition. The US Department of Commerce and US Customs and Border Protection will provide input to the Committees and the ITC regarding (1) whether there is US production of the article covered by a petition; (2) if so, whether a US producer objects to the duty suspension or reduction; and (3) whether any technical changes to the article description are necessary for Customs administration purposes. Within 60 days after its preliminary report, the ITC will issue a final report that determines whether each petition qualifies for an MTB under the three basic requirements set forth above. Finally, Congress will determine which petitions should be included in a comprehensive MTB.

DLA Piper attorneys have been monitoring the relevant legislation, implementing regulations, and the ITC’s guidance on the MTB petition process. They are available to assist with questions and petition submissions. Please contact Martin Schaefermeier or Christine Daya for additional information.

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