



Tariff Modifications: Miscellaneous Tariff Bills

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Summary

Importers often request that Members of Congress introduce bills seeking to suspend or reduce tariffs on certain imports on their behalf. The vast majority of these commodities are chemicals, raw materials, or other components used as inputs in the manufacturing process. The rationale for these requests, in general, is that they help domestic producers of the downstream goods reduce costs, thus making their products more competitive. In turn, these cost reductions can be passed on to the consumer.

In recent congressional practice, the House Ways and Means and Senate Finance Committees, the committees of jurisdiction over tariffs, have combined individual duty suspension bills and other technical trade provisions into larger pieces of legislation known as miscellaneous tariff bills (MTBs). Before inclusion in an MTB, the individual legislative proposals introduced by Members are reviewed by the trade subcommittee staff in each committee, the U.S. International Trade Commission (USITC), and several executive branch agencies to ensure that they are noncontroversial (generally, that no domestic producer objects) and relatively revenue-neutral (revenue loss of no more than \$500,000 per item).

In the 111th Congress, the United States Manufacturing Enhancement Act of 2010 (P.L. 111-227) was signed by the President on August 11, 2010. As enacted, the law temporarily suspended or reduced for three years (through December 31, 2012) duties on over 600 products, many of which renewed duty suspensions or reductions that were already in place. On December 15, 2010, H.R. 6517, a bill that, in part, sought further duty suspensions on approximately 290 products, passed in the House. On December 22, 2010, however, the Senate passed an amendment in the nature of a substitute of H.R. 6517 that did not contain the duty suspension measures. The House passed the amended version of the bill on the same date (P.L. 111-344).

Legislation could emerge in the second session of the 112th Congress proposing duty suspensions. On March 30, 2012, Chairman Camp and Ranking Member Levin of the House Ways and Means Committee, and Chairman Brady and Ranking Member McDermott of the Trade Subcommittee announced the beginning of the MTB process in the House, and invited Members to submit duty suspension bills by April 30, 2012. Senate Finance Committee Chairman Baucus also announced on March 30 that duty suspension bills are due in the Senate on the same date. Since the duty suspensions enacted in P.L. 111-227 expire on December 30, 2012, an MTB could include renewal of some or all of the provisions included in that bill, as well as the original duty suspensions included in H.R. 6517 in the 111th Congress that were not enacted. However, some in Congress assert that duty suspensions, also referred to in legislation as “limited tariff benefits,” are similar to earmarks—and should, therefore, be subject to the non-binding moratorium on earmarks supported by House and Senate Republicans last year.

This report, first, briefly presents a discussion of the MTB legislation debated in the past few Congresses. Second, the reviews of individual duty suspension bills by House Ways and Means and Senate Finance committee staff, the U.S. International Trade Commission (USITC), and other relevant agencies are discussed. Third, the report presents some pros and cons for MTB passage. Fourth, **Table 1** at the end of the report illustrates MTB legislation considered in Congress from the 97th Congress (1983) to the present.

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Introduction

Due to Congress's constitutional role as the primary actors in international trade policy, any modification of tariffs must be approved by Congress. Constituents, usually manufacturers or representatives of industry associations, will sometimes ask Members to introduce legislation seeking to reduce, repeal, or temporarily suspend duties on certain imports. Since the early 1980s, the House Ways and Means and Senate Finance committees, the primary committees of jurisdiction on trade matters, have tended to incorporate these duty suspension requests into omnibus legislation known as miscellaneous trade and technical corrections bills (MTBs). The introduction of MTB legislation in an omnibus format appears to have originated in the 97th Congress (1983), when 58 duty suspensions were enacted in P.L. 97-446. These larger trade packages may also include minor technical corrections to U.S. trade laws and specific instructions to U.S. Customs and Border Protection (CBP) regarding shipments of certain imported products.

This report discusses the current process by which duty suspension bills and other provisions are introduced, reviewed by several government agencies and committee staff, made available for public comment, and finally included in omnibus MTB legislation reported out by the committees of jurisdiction.

MTB Legislation

In recent Congresses, the number of proposed duty suspensions has strikingly increased. For example, in the 109th Congress, duty suspensions were granted for a total of 680 products, out of more than 1000 proposed in individual pieces of legislation introduced in the House and Senate.

109th Congress

Congress did not pass stand-alone MTB legislation during the 109th Congress. Instead, almost 700 MTB provisions were attached to other legislation before the House Ways and Means and Senate Finance Committees. First, about 300 duty suspensions were attached to H.R. 4 (Boehner), the "Pension Protection Act of 2006," (P.L. 109-280), signed by the President on August 6, 2006. Second, On December 7, 2006, the House and Senate reached an agreement on trade legislation to be included in a larger legislative package of tax break extensions. As part of the House-Senate compromise, H.R. 6406 (Thomas, introduced December 7, 2006) proposed to suspend or reduce tariffs on about 380 additional products. H.R. 6406 passed the House on December 8, 2006, by a vote of 212-184. H.R. 6406 was ultimately appended to a previously House-passed tax extension package (H.R. 6111, Tauscher). H.R. 6111, including the duty suspensions, passed the Senate on December 9. The President signed H.R. 6111 on December 20, 2006 (P.L. 109-432). Both P.L. 109-280 and P.L. 109-432 suspended tariffs until December 31, 2009.

110th Congress

In the 110th Congress, no MTB was introduced in either House. Although a November 2007 Ways and Means advisory called for House Members to submit legislative proposals for inclusion in a proposed MTB by December 14, 2007, no omnibus bill was introduced. However, individual provisions introduced continued to be vetted by the Trade Subcommittee, agency input was

submitted, and proposed duty suspensions were posted on the Ways and Means Committee website for public comment.

Since most of the duty suspensions passed in 2006 were not set to expire until the end of 2009, many lawmakers reportedly regarded the end of 2009 as the “real deadline” for passage of an MTB—thus making consideration of an MTB in the 111th Congress more likely.¹

“Limited Tariff Benefit” Disclosure Rules

In the 110th Congress, the House and Senate adopted earmark reform procedures, aimed at increasing transparency in congressionally directed spending. These procedures also extended to “limited tariff benefits,” defined in both House and Senate rules as “a provision modifying the Harmonized Tariff Schedule of the United States in a manner that benefits 10 or fewer entities.” The 111th Congress further amended these rules to require transparency for new spending earmarks added to conference reports or appropriations legislation.²

House Rules

House rules (see House Rule XXI, clause 9) provide that in order to be considered on the House floor, a bill or joint resolution reported by a committee must include in the report a list of congressional earmarks, limited tax benefits, and *limited tariff benefits* in the bill or the report, along with the name of the Member, Delegate, or Resident Commissioner requesting them, or a statement certifying that the proposal does not contain them.³ Depending on the type of measure, the list or statement should be included in the measure’s accompanying report, or published in the *Congressional Record*.⁴

House Rule XXIII, clause 17(a) requires any Member, Delegate, or Resident Commissioner requesting a limited tariff benefit to provide a written disclosure to the chairman and ranking minority Member of the committee of jurisdiction including (1) the name of the sponsor, (2) identification of the individual or entities “reasonably anticipated to benefit” from the measure, (3) the purpose of the limited tariff benefit, and (4) a certification that the sponsoring Member or spouse has no financial interest in the benefit. The committees of jurisdiction are directed to maintain the disclosures and make the statements regarding limited tariff benefits included in a committee-reported bill or conference report to regular appropriations bills “open for public inspection.” Thus, committees may also have their own administrative requirements beyond those required by House rules, such as requiring the posting of disclosure forms online.⁵

¹ “Senate GOP Trade Counsel Sees No Miscellaneous Tariff Bill This Year,” *Inside U.S. Trade*, August 8, 2008.

² H.Res. 5, “Adopting Rules for the 111th Congress.” CRS Report RL34462, *House and Senate Procedural Rules Concerning Earmark Disclosure*, by Sandy Streeter. The House originally adopted a similar new spending earmark transparency requirement in H.Res. 491, 110th Congress, by unanimous consent on June 18, 2007.

³ CRS Report RS22866, *Earmark Disclosure Rules in the House: Member and Committee Requirements*, by Megan Suzanne Lynch.

⁴ *Ibid.* The House may waive this rule by unanimous consent (that is, if no Member objects) or by a motion to suspend the rules and pass the measure, which requires a two-thirds vote to adopt. The rule also provides a mechanism for the House to decide on a case-by-case basis whether to adopt a special rule waiving this new rule, which requires a majority vote.

⁵ *Ibid.*

Senate Rules

In Title I of S. 1, the *Legislative Transparency and Accountability Act of 2007*, the Senate also included disclosure requirements for congressionally directed spending similar to those passed in the House. An amended version of S. 1 was considered in the House and passed on July 31, 2007. The Senate then passed an identical version on August 2, 2007. The President signed the legislation on September 14, 2007 (became P.L. 110-81).

Section 521 (Senate Rule XLIV) amended the standing rules of the Senate⁶ to provide that it will not be in order to consider a bill, joint resolution reported by any committee, a bill or joint resolution not reported by a committee, or the adoption of a conference committee report, unless the chairman of the committee of jurisdiction, the majority leader, or his or her designee, certifies that any congressionally directed spending items (earmarks), limited tariff benefits, or limited tax benefits (1) have been identified (“through lists, charts, or other similar means including the name of each Senator who submitted the request”); and are (2) searchable “on a publicly accessible congressional website” at least 48 hours (or “as soon as practicable” in the case of spending items proposed in floor amendments) prior to the vote. If the disclosure is not completed, the measure is subject to a point of order.⁷

Any Senator who requests a limited tariff benefit (or any other directed spending item mentioned in the law) must now submit disclosure forms including (1) the name of the sponsor, (2) the name and location of the intended recipient, (4) any individual or entities reasonably anticipated to benefit, (5) the purpose of the benefit, and (5) a certification that neither the Senator nor their immediate families have a financial interest.⁸

111th Congress

Then-House Ways and Means Trade Subcommittee Chairman Sander M. Levin and then-Ranking Member Kevin Brady announced the introduction of H.R. 4380, the Miscellaneous Tariff and Technical Corrections Act of 2009, on December 15, 2009. The bill sought to renew many of the duty suspensions that were in place prior to January 1, 2009. The bill covered more than 600 products, most of which are manufacturing inputs for finished goods made in the United States.

On October 1, 2009, the Senate Finance Committee announced that it would also move forward on an MTB, and laid out the process for Senators to introduce individual bills for consideration in a final omnibus package by October 30, 2009. This announcement came after a bipartisan agreement between the House and Senate was reached involving additional disclosure requirements for lobbyists. When engaging in lobbying activities associated with the MTB process, lobbyists must now register these efforts under a separate issue code (“TAR” for tariff). Then-Senate Finance Committee Ranking Member Chuck Grassley sought this requirement so

⁶ See Senate Rule XLIV. CRS Report RS22867, *Earmark Disclosure Rules in the Senate: Member and Committee Requirements*, by Megan Suzanne Lynch.

⁷ Any Senator may move to waive the application of the rule or all points of order under the rule pending an affirmative vote of three-fifths of the Senate.

⁸ Senate Rule XLIV, paragraph 6. CRS Report RS22867, *Earmark Disclosure Rules in the Senate: Member and Committee Requirements*, by Megan Suzanne Lynch.

that the process “would benefit from improved transparency in the disclosure of lobbying activities associated with individual miscellaneous tariff bills.”⁹

On June 7, 2010, then-Chairman Levin and then-Chairman Tanner issued a “Dear Colleague” letter urging Members to support passage of the MTB (H.R. 4380). The letter mentioned that “some have attempted to characterize MTB provisions as ‘congressional earmarks,’” and enclosed a copy of the House Rules pointing out the definitions of “earmark” and “limited tariff benefit” as discussed in the previous section (see “Limited Tariff Benefit” Disclosure Rules,” above).¹⁰ The letter also mentioned the vetting process (discussed in more detail below) and suggested that the MTB could generate an increase in U.S. production and support U.S. jobs.¹¹

On July 7, 2010, the committee released a draft manager’s amendment to H.R. 4380, the “United States Manufacturing Enhancement Act of 2010.” The manager’s amendment divided the duty suspensions into three categories: Title I included bills requesting new duty suspensions or reductions that had a House and Senate counterpart; Title II included House bills extending expired MTB provisions; and Title III included Senate bills extending expired provisions. Bills in Titles II and III (extensions of expired provisions only) were subject to retroactive treatment effective January 1, 2010. The Ways and Means Committee posted the manager’s amendment on its website and sought comments and feedback on the proposed legislation.¹²

H.R. 4380 passed in the House on July 21, 2010, under suspension of the rules by a vote of 378-43. The Senate subsequently passed the bill by unanimous consent on July 27, 2010, and it was signed by the President on August 11, 2010 (P.L. 111-227).

On November 24, 2010, The Ways and Means Committee posted a discussion draft of a second MTB package, along with an updated matrix (listing bill sponsors, bill beneficiaries, and government agency comments, among other things) combining all bills introduced in the MTB process during the 111th Congress.¹³ H.R. 6517, the Omnibus Trade Act of 2010, was subsequently introduced on December 15. The bill sought, in part, duty suspensions for about 290 additional products. The House approved H.R. 6517 on the same date. On December 22, 2010, the Senate by unanimous consent passed an amendment in the nature of a substitute to H.R. 6517 that did not contain the duty suspension measures. The House also passed the amended version of H.R. 6517 without objection on December 22 (P.L. 111-344).

Also in the 111th Congress, a bill seeking to streamline the approval process for MTBs was introduced. The “Duty Suspension Facilitation Act of 2010” (S. 4003, December 2, 2010) would have authorized the USITC to develop and submit duty suspension legislation to the House Ways and Means and Senate Finance committees every two years.

⁹ “Grassley Welcomes New Transparency in Miscellaneous Tariff Bill Process,” Press Release, October 1, 2009.

¹⁰ U.S. Congress, House Committee on Ways and Means, *Support Passage of the Miscellaneous Tariff Bill (MTB)*, Dear Colleague letter, 111th Cong., 2nd sess., June 7, 2010.

¹¹ Ibid.

¹² See House Ways and Means Committee website, <http://waysandmeans.house.gov/>, “Hot Topics.”

¹³ U.S. House, Committee on Ways and Means, Discussion Draft of second 111th Congress MTB, http://waysandmeans.house.gov/media/pdf/111/MTB_Second_DiscussionDraft.pdf; Updated MTB matrix <http://waysandmeans.house.gov/singlepages.aspx?NewsID=10501>.

112th Congress

In the first session of the 112th Congress, S. 1162 (the Removing Hurdles for American Manufacturers Act of 2011) proposed that the USITC be authorized to develop and recommend legislation for temporary duty suspensions. The USITC would be prohibited from recommending a suspension or reduction if (1) an interested federal agency determines it is not in the U.S. interest and includes that determination in an agency public hearing record; (2) a domestic producer objects to the suspension or reduction and demonstrates that there is U.S. domestic production of the article in commercially available quantities; (3) U.S. revenue loss exceeds \$500,000 annually (adjusted for inflation); or (4) the duty suspension or reduction is for more than three years.

MTB legislation could also emerge in second session of the 112th Congress. March 30, 2012, Chairman Camp and Ranking Member Levin of the House Ways and Means Committee, and Chairman Brady and Ranking Member McDermott of the Ways and Means Trade Subcommittee announced the beginning of the MTB process in the House, and invited Members to submit duty suspension bills by April 30, 2012.¹⁴ Senate Finance Committee Chairman Baucus also announced on March 30 that duty suspension bills are due in the Senate on the same date.¹⁵ Since the duty suspensions approved by P.L. 111-227 expire on December 31, 2012, legislation may also include renewals of some or all of these duty suspensions, as well as duty suspensions originally presented in H.R. 6517 in the 111th Congress. However, congressional passage of any MTB could be complicated by non-binding votes by House and Senate Republicans to ban all earmarks—which some Senators assert include “limited tariff benefits”—for two years.¹⁶

Committee, Agency, and Executive Review of MTBs

In recent practice, one MTB has been introduced per Congress. In most cases, the MTB process is begun by the House Ways and Means and Senate Finance committee chairs (the committees of jurisdiction) sending out Dear Colleague letters inviting Members to introduce stand-alone legislation on proposed duty suspensions.¹⁷ The deadline for introduction is usually several months before an MTB is expected to be reported out of committee. The MTB, when introduced, includes all committee-approved measures, including duty suspensions. The stated legislative goal of the committees is for an MTB to be “non-controversial”—meaning that the measure is able to pass both Houses by unanimous consent or under suspension of the rules.¹⁸

In recent Congresses, due to the number of bills submitted, the committees of jurisdiction have tended to request comments from interested parties at the subcommittee level, rather than holding

¹⁴ U.S. Congress, House Committee on Ways and Means, Subcommittee on Trade, *Chairman Camp, Ranking Member Levin, Chairman Brady, and Ranking Member McDermott Kick Off Pro-Growth, Pro-Job Miscellaneous Tariff Bill Process*, Dear Colleague Letter, 112th Cong., 2nd sess., March 30, 2012.

¹⁵ U.S. Congress, Senate Committee on Finance, *Baucus Announces Process for Miscellaneous Tariff Bill*, Committee Announcement, 112th Cong., 2nd sess., March 30, 2012.

¹⁶ “New Senate Republican Earmark Ban Puts MTB Push in Serious Trouble,” *Inside U.S. Trade*, November 18, 2010.

¹⁷ House Committee on Ways and Means. Miscellaneous Tariff Bill (MTB) Process <http://democrats.waysandmeans.house.gov/media/pdf/111/mtbprocessfinal.pdf>.

¹⁸ See U.S. House, Committee on Ways and Means Trade Subcommittee Advisory, “Levin and Herger Request Introduction of Miscellaneous Tariff and Duty Suspension Bills by December 14, 2007”, November 1, 2007.

hearings on these bills. In practice, the subcommittee considers duty suspensions for inclusion in the MTB only if the corresponding goods or materials are deemed “noncontroversial” or “noncompetitive,” meaning that (1) there is no domestic producer objecting to the duty suspension, and (2) the suspension or reduction of the tariff is seen to be in the interest of U.S. “downstream” manufacturers (and theoretically, consumers).

Furthermore, the volume of imports and corresponding revenue loss must be “revenue neutral” or generally not more than \$500,000 per commodity per year. For example, the Congressional Budget Office estimated that all duty suspensions and extensions to suspensions in House-passed H.R. 4380 would cost the government about \$298 million in lost revenue over 10 years.¹⁹

Agency and Executive Review

After duty suspension bills are introduced and referred, they are reviewed by trade subcommittee staff, who, in turn, solicit comments from the Administration (including the United States Trade Representative, CBP, and the Department of Commerce) and the USITC. Committee staff often solicit public comments directly, but may do so through Administration channels or the USITC. Duty suspensions that do not meet the above criteria are generally filtered out in this process.

U.S. International Trade Commission’s Role

Generally, the USITC is the first agency that provides a response to the committees, and is the only agency directly required to do so by statute.²⁰ The USITC usually contacts companies and industry groups through its Office of Industries (either through direct contact or by sending out a questionnaire) to solicit responses from interested parties, especially looking for U.S. producers of similar goods as those targeted for duty suspensions.

The USITC issues “congressional bill reports” on the stand-alone bills, which they forward to the committees and share with relevant agencies in the executive branch.²¹ These reports provide information on the dollar amount and volume of trade; estimated revenue loss if the tariff is suspended; and technical information, including proper nomenclature, HTS heading, and Chemical Abstracts number, if applicable. The reports also list the proponent company’s name, other domestic firms contacted by the USITC, and each firm’s position on the proposal. If a company writes a letter either supporting or opposing the duty suspension, a copy of the letter is also attached.²²

¹⁹ Congressional Budget Office. Cost Estimate. *CBO-Estimated Revenue Effect of Titles I, II and III of H.R. 4380, Amending the Harmonized Tariff Schedule to Modify Temporarily Certain Rates of Duty, as dated July 20, 2010, July 20, 2010.*

²⁰ 19 U.S.C. 1332 (d) and (g).

²¹ The USITC also publishes congressional bill reports on the Internet. See http://www.usitc.gov/tata/hts/other/rel_doc/bill_reports/index.htm.

²² The USITC takes no official position on duty suspension measures, but relays any domestic company support or objections to committee staff. An example of an instance in which an objection has been raised can be found in U.S. International Trade Commission, Memorandum on Proposed Tariff Legislation of the 109th Congress on S. 791 (Santorum) on a proposed duty suspension on plasma flat panel screen assemblies for use in televisions (http://hotdocs.usitc.gov/tata/hts/other/rel_doc/bill_reports/s-0791.pdf). The USITC report on S. 701 (Lautenberg) proposing a duty suspension on sorbic acid is an example of an instance in which no domestic opposition was noted (http://hotdocs.usitc.gov/tata/hts/other/rel_doc/bill_reports/s-0698.pdf).

Administration's Response

The overall Administration response is coordinated by the Department of Commerce (Commerce). Analysts at Commerce also research the targeted commodities, either independently or in conjunction with the USITC, depending on the time frame. With regard to comments on duty suspensions, Commerce generally does not object to a suspension of duties on a commodity unless a U.S. producer is found. In most cases, intra-company transfers (instances in which a multinational with a subsidiary in the United States imports a product manufactured in a plant owned by the same company overseas) are also not opposed, even if a like product is manufactured in the United States.

CBP also comments on duty suspensions, largely by recommending reclassifications or changes in nomenclature for ease in administering the proposed tariff changes. CBP has a formal agreement to share this information with the USITC, and may also provide information to other agencies. However, if certain measures impact CBP more directly (e.g., changes in duty drawback statutes, legislative responses to CBP rulings, liquidations and reliquidations, or permanent duty suspensions), CBP also communicates directly to the committees on a confidential basis.²³

The Office of the United States Trade Representative (USTR) may also comment on individual duty suspension bills, but generally focuses on larger issues in the legislation that could more permanently affect U.S. trade policy. However, USTR officials indicate that the Administration usually prefers that any tariff modifications in MTBs are temporary, so that more permanent revisions of duties can continue to be used in trade negotiations to seek reciprocal tariff benefits for U.S. exports.²⁴

Policy Considerations

Tariffs on many products have been reduced over a period of almost seven decades as a result of bilateral and multilateral trade negotiations. Most economists believe that lower foreign tariffs benefit U.S. exporters because they make U.S. goods more competitive in foreign markets, and that lower U.S. tariffs can benefit domestic manufacturers and consumers because the cost savings on imported goods may be passed on consumers and other “downstream” producers.

Tariffs are also used protectively in many countries, including the United States, in an effort to help domestic industries remain competitive—especially those considered vulnerable to foreign imports, such as agriculture, textiles, and steel. Duty suspensions on these more competitive products would largely be considered controversial, thus ineligible for inclusion in an MTB.

Supporters of duty suspension measures point out that since they are largely requested on chemicals, raw materials, and other production inputs, they are a significant means of reducing manufacturing costs. Some opponents, however, view them as an increasingly popular means by which Congress confers a benefit on business constituents, and point to instances in which competing domestic manufacturers have been harmed, despite the efforts of committee staff and administrative agencies to control their impact.

²³ Discussion with CBP officials, various dates in 2009.

²⁴ Discussions with USTR officials, various dates in 2009.

Concerns About Passage of Omnibus MTBs

Despite the efforts of House and Senate committees to ensure the neutrality of MTBs, insertion of controversial measures has also held up floor consideration of the legislation in the past, especially in the Senate. These measures have largely dealt with larger trade policy concerns rather than with the duty suspensions themselves. For example, the last omnibus MTB reported out of the Senate—first introduced in 2002—reportedly faced opposition from Senator Richard Shelby, who placed a hold on the bill because it did not include a provision to roll back preferential access previously given to beneficiaries of the Caribbean Basin Trade Partnership Act in the Trade Act of 2002 (P.L. 107-210).²⁵ Several other provisions, including one proposing to grant normal trade relations status to Laos, one to repeal the Antidumping Act of 1916 (pursuant to a WTO ruling), and another providing a trust fund for U.S. wool producers also met with objections.²⁶ Ultimately, the bill passed in late 2004 (P.L. 108-429).

Some private-sector supporters of MTB legislation have reportedly criticized the MTB process because they say that the large omnibus bills have come to be seen by Members as a moving vehicle to which they could attach trade initiatives unrelated to duty suspensions.²⁷ One source indicated that part of the problem is that since many trade policy votes take place under fast-track rules, Members are prevented from amending the legislation. Since Members see fewer opportunities to move their trade policy issues, the MTB becomes an attractive target on which to attach potentially controversial trade measures.²⁸

Observers have suggested various ways to ensure that MTB legislation is enacted in future Congresses. One alternative is the creation of a separate “fast-track” procedure by which the Ways and Means Committee would introduce a bill consisting solely of duty suspensions and customs-related matters that could only be voted up or down with no amendments.²⁹ Others suggested that future miscellaneous tariff measures could be worked out between Ways and Means and Finance Committee staff and then attached to larger revenue measures,³⁰ which was the procedure ultimately implemented in the 109th Congress. Others suggest giving the President the authority to issue duty suspension proclamations.³¹

Rationale for Passage of Duty Suspensions

According to House Ways and Means Committee documents, duty suspensions are considered “in light of compelling circumstances of inadequate domestic supply, unusually demanding conditions, or long-run changes in marketing conditions warranting special legislation.”³² In this light, there are several reasons that duty suspensions have merited consideration.

²⁵ The Senator insisted that the preferential access of socks from Caribbean nations needed to be rolled back because it was harmful to Alabama sock producers. Letter to Senator Charles Grassley, Chairman of the Senate Finance Committee, from Senators Richard Shelby and Jeff Sessions, October 4, 2002.

²⁶ “Miscellaneous Tariff Bill Approved, Supporters Seek New Approach,” *Inside U.S. Trade*, November 26, 2004.

²⁷ “Miscellaneous Tariff Bill Approved, Supporters Seek New Approach,” *Inside U.S. Trade*, November 26, 2004.

²⁸ *Ibid.*

²⁹ *Ibid.*

³⁰ *Ibid.*

³¹ *Ibid.*

³² U.S. Congress, House Committee on Ways and Means, *Report on Legislative Activity During the 97th Congress of* (continued...)

First, in some cases, a higher tariff rate may apply to a relatively uncompetitive product because it is aggregated in a Harmonized Tariff Schedule (HTS) grouping that also contains similar products that are considered more import-sensitive. This is often the case where certain chemical compounds are concerned. In these cases, a new HTS subheading is created, thus disaggregating the product in question so that the duty can be suspended on it without affecting the tariff on the more import-competing products.

Second, there might be no current domestic production of a particular product, or it might not be produced in sufficient quantities to satisfy domestic demand. Therefore, U.S. producers who use the commodity as manufacturing input may have to depend on imports. In this case, a duty suspension could lower the overall price of the good without significant harm to domestic suppliers.

Third, the duty rate of a component essential in the manufacture of a domestic product may be higher than that on the comparable imported finished good. One example of this was a case in which casein button blanks used by U.S. button manufacturers were imported at 22.1% *ad valorem* (tariff is a percentage rate based on the value of the good), while finished buttons were imported at a rate of 6.9% *ad valorem*. Domestic producers complained that they were put at a competitive disadvantage *vis-à-vis* foreign manufacturers of the same product because of the higher duty rate for the raw material.³³

Fourth, multinational corporations sometimes manufacture commodities at foreign subsidiaries and import them to be used as components in domestically produced merchandise. For example, a U.S. automobile manufacturer may fabricate some of its car parts in a plant overseas, and then import the parts into the United States, where it assembles the finished product. Congress, on occasion, may consider these duty suspensions in order to facilitate the transaction because the importing company would not be likely to purchase it from a domestic producer.

Fifth, a nonprofit association may wish to import an item and ask their Member to introduce a one-time duty suspension for the product. For example, churches have sometimes requested duty-free status for pipe organs purchased from Europe, or an educational institution might ask for duty-free status for parts used in the construction of a telescope.

A sixth, less frequent, reason for congressional approval of duty suspension legislation is that it represents a compelling national interest. For example, in 1942, the 77th Congress considered the suspension of import duties on all scrap metal because the War Production Board predicted a shortage of as much as 6.5 million tons of metal necessary for the defense industry to operate its open hearth and electric furnaces at full capacity.³⁴ The board recommended that all barriers to importing these metals be dropped. The bill passed both chambers by unanimous consent.

(...continued)

the Committee on Ways and Means, 97th Cong., 2nd sess., January 3, 1983, H. Report 97-1005 (Washington: GPO, 1983), p. 69.

³³ P.L. 97-446, 96 Stat. 2329.

³⁴ U.S. Congress. Senate. Committee on Finance. *Hearing to Suspend Tariffs on Scrap Metals; to Amend the Internal Revenue Code Relating to Production of Alcohol; to Amend Internal Revenue Code Relating to the Leakage and Evaporation of Distilled Spirits*, 77th Congress, Second Session, March 5, 1942.

Table I. Miscellaneous Trade Legislation, 97th Congress to the Present

Congress	Bill No./Sponsor	Reports	Status
111 th	H.R. 6517	Information was posted on the House Ways and Means Committee website.	12/15/2010: passed House. 12/22/2010: Amended version of bill that passed House and Senate did not contain duty suspensions P.L. 111-344).
111 th	H.R. 4380	Information was posted on the House Ways and Means Committee website. See also Senate Finance Committee website: http://finance.senate.gov/legislation/comment/?id=54211d78-fc55-51c6-b8e6-0b9ef2f44044	7/21/2010: Passed House under suspension of rules (378-43) 7/27/2010: Passed Senate by Unanimous Consent 8/11/2010: Signed by President (P.L. 111-227).
110 th	No MTB Introduced	Information was posted on the House Ways and Means website.	11/1/2007: House Ways and Means Trade Subcte. Advisory requesting MTB legislation by Dec. 14, 2007.
109 th	H.R. 6406 (Thomas)/H.R. 6111 (Tauscher).	No published reports on MTB legislation. Information and highlights were posted on the House Ways and Means Committee website.	12/8/2006: H.R. 6406 passed House. 12/9/2006: H.R. 6111 (including provisions of 6406) passed Senate. 12/20/2006: P.L. 109-432, in Tax Relief and Health Care Act of 2006.
109 th	H.R. 4 (Boehner) contained about 300 duty suspension measures.	No published reports on MTB legislation.	8/17/2006: P.L. 109-280, in the Pension Protection Act of 2006.

Congress	Bill No./Sponsor	Reports	Status
109 th	H.R. 4944 (Shaw)	No published reports.	3/15/2006: passed House.
108 th	H.R. 1047 (Crane)	H.Rept. 108-771 (conference report)	12/3/2004: P.L. 108-429, the Miscellaneous Trade and Technical Corrections Act of 2004.
107 th	H.R. 5385 (Crane)	No published reports.	10/7/2002: passed House.
106 th	H.R. 4868 (Crane)	H.Rept. 106-789 S.Rept. 106-503	11/9/2000: P.L. 106-476, the Tariff Suspension and Trade Act of 2000.
106 th	H.R. 435 (Archer)	see H.Rept. 105-367 (on related bill H.R. 2622 in 105 th). see S.Rept. 106-2 (on related bill S. 262)	6/25/1999: P.L. 106-36, the Miscellaneous Tariff and Technical Correction Act of 1999.
105 th	H.R. 4856 (Archer)	see H.Rept. 105-367 (on rel. bill H.R. 2622). see S.Rept. 105-356 (on rel. bill H.R. 4342)	10/20/1998: passed House.
105 th	H.R. 4342 (Crane)	H.Rept. 105-671; S.Rept. 105-356	8/4/1998: passed House.
104 th	H.R. 3815 (Crane)	H.Rept. 104-718 S.Rept. 104-393	10/11/1996: P.L. 104-295, the Miscellaneous Trade and Technical Corrections Act of 1996.
103 rd	H.R. 5110 (Gephardt)	H.Rept. 103-826, parts 1 and 2. (See S.Rept. 103-421 on related bill S. 2467)	12/8/1998: became P.L. 103-465. Uruguay Round Implementation bill; see Subtitle B, Tariff Modifications, §§112-116.
102 nd	H.R. 4318 (Gibbons)	H.Rept. 102-634, WCMP 102-37	7/31/1992: passed House.
101 st	H.R. 1594 (Gibbons)	see H.Rept. 101-427 (on related bill H.R. 4328) S.Rept. 101-252; H.Rept. 101-650 (conf. rpt.)	8/20/1990: P.L. 101-382, the Customs and Trade Act of 1990.

Congress	Bill No./Sponsor	Reports	Status
100 th	H.R. 4333 (Rostenkowski)	H.Rept. 100-795; H.Rept. 100-1104 (conf. rpt.), vols. 1 and 2	11/10/1988: P.L. 100-647, Technical and Miscellaneous Revenue Act of 1988
100 th	H.R. 4848 (Rostenkowski)	no published reports on subtitle G	8/23/1988: P.L. 100-418, Omnibus Trade and Competitiveness Act of 1988, subtitle G, Tariff Provisions
99 th	H.R. 4800 (Wright) H.R. 5686 (Rostenkowski)	no published reports	5/22/1986: H.R. 4800 passed House. 10/14/1986: H.R. 5686 passed House.
98 th	H.R. 3398 (Gibbons), H.R. 6064 (Gibbons)	H.Rept. 98-267; S.Rept. 98-308	10/30/1984: P.L. 98-573, the Trade and Tariff Act of 1984, Title I.
97 th	H.R. 4566 (Gibbons), H.R. 6867 (Gibbons)	H.Rept. 97-257 H. Rept. 97-837 H. Rept. 97-989 S.Rept. 97-564	10/12/1983: P.L. 97-446, the Educational, Scientific, and Cultural Materials Importation Act of 1982.

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