

Congress Should Prioritize a 2020 Miscellaneous Tariff Bill

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KEY TAKEAWAYS

Tariff suspensions from the Miscellaneous Tariff Bill (MTB) Act of 2018 have saved Americans millions of dollars annually.

Suspension of these tariffs on imported goods that are not available domestically will expire on December 31, 2020.

Congress should approve a new MTB and remove procedural uncertainty so that businesses and families can better plan for the future.

On December 31, 2020, tariff suspensions included in the Miscellaneous Tariff Bill (MTB) Act of 2018 will expire, as will the process for reviewing MTB petitions. Congress generally considers an MTB every two years to temporarily eliminate costly tariffs on products with zero, or insufficient, domestic availability. Many of the products included in the MTB are intermediate goods, such as chemicals and food stuffs, and eliminating tariffs on them helps American businesses to stay competitive.

MTBs help manufacturers to remain competitive, and keep prices low for Americans. For example, the most recent MTB is estimated to save more than \$1 billion in taxes between October 2018 and the end of 2020. In the past, the MTB has been questioned due to concerns regarding the process for businesses to secure tariff elimination for specific goods. This

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resulted in a six-year lapse in the MTB, costing Americans millions in extra tariffs. Recognizing the benefits of the MTB, Congress addressed those concerns in the American Manufacturing Competitiveness Act of 2016, which developed a new, more transparent process.

The benefits of eliminating tariffs through the MTB Act are undeniable. The new MTB process has been a success, but the current law does not provide for future petitions to be submitted to the U.S. International Trade Commission (ITC). Congress should act quickly during the current lame duck to consider a 2020 MTB and codify the MTB process established in 2016.

History and Purpose of the MTB Process

An MTB temporarily reduces or suspends tariffs on imports with zero, or insufficient, domestic availability following the review of a petition submitted by an importer. The first example of MTB legislation appeared in the early 1980s as part of a larger omnibus bill and included close to 60 products.¹ Initially called “miscellaneous trade and technical correction bills,” these larger packages typically included a list of proposed tariff reductions and suspensions, trade law corrections, and instructions for agencies on how to manage imported items.²

In the past, MTBs followed a specific approval process, beginning with the Chairman of the House Ways and Means Committee and Senate Finance Committee inviting Members to notify constituents of the petition period, and to later introduce bills for potential tariff suspensions. All proposed tariff reductions or suspensions were required to be “non-controversial,” revenue neutral (no more than \$500,000 loss in tariff revenue), and able to be administered by U.S. Customs and Border Protection (CPB).³

After trade subcommittee staff review and consolidate eligible proposals into a larger package, the suspensions would be made public, and the ITC, the Department of Commerce, the CBP, and the Congressional Budget Office would assess the proposals. Following approval by these agencies and submission of Member disclosure agreements, the proposals would then be added to a formal MTB and proceed through regular congressional voting procedures.⁴

Although a tedious process, once passed, MTBs provide great benefits for Americans. It is estimated that duty suspensions in MTBs save Americans over \$700 million in taxes per year.⁵ Many items included in MTBs are intermediate goods, such as cocoa powder or sodium fluoride.⁶ Tariffs

on intermediate goods like these ultimately increase the price of manufacturing, making items even more expensive for American families. When tariffs are low, or zero, on intermediate goods, American businesses, especially manufacturers, are able to produce more competitively priced final goods, while also increasing productivity and output.⁷ For Americans, this translates into higher wages, better benefits, infrastructure investments, and more job opportunities.⁸

Reforms to the MTB Process

The House and Senate have rules on the books dating back to 2007 regarding earmarks, limited tax benefits, and limited tariff benefits.⁹ It is essentially a transparency mechanism to ensure that provisions in legislation are not included as a pay for play for one company or individual. Due to these rules, the MTB process had received criticism for several years. In 2012, the criticism came to a head when Senators Jim DeMint (R-SC) and Claire McCaskill (D-MO) introduced legislation to reform the MTB process.¹⁰ Senator DeMint characterized the existing process as “worse than unfair and inefficient; it’s fundamentally un-republican and un-democratic.”¹¹

Due to the targeted nature of MTBs, opponents of the process argued that MTBs were essentially earmarks that benefitted a select company or group of importers.¹² There were also concerns about transparency because companies had to go directly to their Member of Congress to get their import included in the bill.¹³ An MTB was passed in 2012, but the process remained highly contested. Due to the disagreement regarding MTBs and earmarks, Congress failed to advance another MTB for six years.

The New MTB Process. Recognizing both the value of eliminating costly tariffs and the need for a more transparent process, Congress passed the American Manufacturing Competitiveness Act (AMCA) of 2016.¹⁴ This law expresses the congressional intent for regularly eliminating miscellaneous tariffs, and establishes a new process through the ITC, an independent government agency, to ensure transparency. The conditions for a tariff to be considered for the MTB did not change following the passage of the AMCA.

Now, instead of working directly through a Member of Congress, roughly 15 months before the existing MTB expires, the ITC publishes a formal notice in the *Federal Register* requesting petitions from businesses that would like certain products to be included in a bill. Businesses have 60 days to submit petitions and the ITC then has 30 days to post the petitions online. After a 45-day comment period, the ITC has 105 days to assemble a

preliminary report for Congress, in which the ITC provides a list of products recommended for the MTB. A final report must be submitted to Congress 60 days later.¹⁵ Congress can remove products from the list provided by the ITC, but it cannot add items that were not previously evaluated under the AMCA process. The AMCA process is very similar to the old MTB process—it just removes the need to lobby Congress on specific tariff lines. Overall it is a more efficient and transparent process than before.

The Miscellaneous Tariff Bill Act of 2018. The first MTB to go through the new AMCA process became the Miscellaneous Tariff Bill Act of 2018. During a hearing, House Ways and Means Chairman Kevin Brady (R-TX) noted, “This [bipartisan bill] will deliver much-needed temporary tariff relief to American manufactures of all sizes, helping them reduce costs, create jobs, and compete globally.”¹⁶ Later, the House unanimously passed the act with a 402–0 vote, proving strong bipartisan support for tariff reductions.¹⁷

American companies echoed Representative Brady’s remarks when more than 200 businesses signed a letter urging the Senate to also approve the legislation.¹⁸ The letter highlighted the National Association of Manufacturers’ estimates that the 2018 MTB would save American companies approximately \$1 million in taxes per day and could increase manufacturing output by over \$3 billion.¹⁹

For example, Glen Raven, Inc., a private fabric company based in North Carolina, was a huge beneficiary of the 2018 bill’s passage. When the last MTB expired in 2012, Glen Raven’s President and COO Leib Oehmig said that the lapse cost the company millions, ultimately preventing it from investing, innovating, and hiring more workers.²⁰ The company filed nine petitions under the 2018 MTB, and following Congress’ approval of the bill, the company anticipated saving more than \$6 million in taxes from the approved suspensions.²¹

The House passed the 2018 MTB in January 2018, but the Trump Administration expressed dissatisfaction with the number of suspensions that would eliminate tariffs on products from China. In response, the Senate removed some products from the original bill in July 2018,²² and in September 2018, tariffs were temporarily eliminated on more than 1,600 items following President Trump’s approval of the legislation.²³

Status of the 2020 MTB

The current list of eliminated miscellaneous tariffs expires on December 31. The ITC transmitted its final report for 2020 MTB petitions to Congress on August 10, 2020.²⁴ In the AMCA, Congress expressed that tariffs on

products with zero or insufficient domestic availability “[create] artificial distortions in the economy of the United States that negatively affect United States manufacturers and consumers.”²⁵

Yet, a formal MTB bill has yet to be introduced in the House of Representatives or the Senate. Businesses have spent more than a year following the MTB process and at this point it is unclear if Congress will advance an MTB before the end of the year. It is crucial for American business and families to receive this tariff relief, especially as the economy recovers from the pandemic downturn.

It is also crucial for Congress to make the new MTB process permanent so that businesses know they have a future path for eliminating miscellaneous tariffs. The AMCA only allowed two MTBs to go through this process. Congress will need to codify the new process in addition to considering an MTB in 2020. Doing so will help businesses better plan for the future.

Recommendations

The MTB saves American businesses and families millions of dollars annually in tariffs by eliminating these taxes on products with zero or insufficient domestic availability. The current MTB expires on December 31, as does the process for reviewing future MTB petitions. To ensure that Americans continue to benefit from this program, Congress should:

- **Approve the elimination of miscellaneous tariffs.** MTBs eliminate tariffs on goods with zero or insufficient domestic availability, many of which are intermediate goods. This program saves American businesses and consumers millions of dollars a year in tariffs.
- **Codify the MTB process.** The AMCA set up a more transparent process for the evaluation and consideration of MTBs, but the legislation did not extend past this year.

Conclusion

The U.S. has tariffs on the books on hundreds of products with zero or insufficient domestic availability, artificially increasing the price of inputs and finished products for American businesses and families. Congress regularly eliminates or lowers these tariffs for a set period because it recognizes the burdensome nature of these tariffs. The current MTB expires on

December 31, 2020, as does the process for evaluating future MTB petitions. Congress should act quickly before the end of the year to approve an MTB and codify the review process.

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