

Miscellaneous Tariff Bill (MTB) Process

The Ways and Means Subcommittee on Trade initiates the MTB process by issuing a public notice inviting Members of Congress to introduce bills by a set deadline. The bills are typically temporary duty suspensions on narrowly defined products but can be on any trade matter. They will be aggregated at the end of the process into a single Miscellaneous Tariff Bill. Interested individuals that wish to participate should contact their Congressional representatives in both the House and the Senate.

I. Drafting Bills

The following steps are designed to streamline the MTB process and to help create final bills that are administrable by U.S. Customs and Border Protection:

- It is the Subcommittee's policy that to be included in the MTB, a tariff modification (e.g. duty suspension or reduction) must (1) raise no objection, (2) cost under \$500,000 per year, and (3) be administrable. In the event a particular bill exceeds the threshold, the Subcommittee may recommend that a Member redraft the bill so that it meets all applicable requirements. To assist each agency's review, the Subcommittee encourages Members to include only one product or item per bill.
- For new temporary duty suspensions or reductions, determine the correct technical format and physical description of a product following the style of the Harmonized Tariff Schedule. A product should be described precisely based on its physical characteristics at the time of entry and include a correct 8-digit tariff line so that a Customs official can identify the product readily at the border. Chemical products should have a Chemical Abstracts Service (CAS) registry number in the description, if available. Applicable dyes, pigments, and other coloring matter should be identified by a Colour Index name. Avoid using copyrighted (or otherwise protected terms) and trade names for products.

It is advisable to avoid defining a product by its end use in such a manner that the product can be identified only by tracking the product after it leaves the border. For example, one should not draft a duty suspension on "steel screws used in furniture," because Customs officials would be unable at the border to distinguish those particular steel screws from any others. One would need to find a unique and functional feature of the screws present upon importation for description purposes.

- If a Member wishes to extend an existing temporary duty suspension or reduction beyond the current expiration, it is advisable that Members introduce a bill that simply modifies the effective date of the existing provision.
- Members should communicate with Legislative Counsel about drafting a bill several weeks before the deadline for introducing the bill to give time for drafting, as there is frequently a rush of requests as the deadline approaches.
- Member offices should contact the Congressional Liaison at the U.S. International Trade

Commission (ITC) before introducing their bills to obtain technical assistance on the proper format for the bill draft. The ITC may suggest multiple changes both before and after the bill's introduction, especially on complex chemical names or new products and their classification. Member offices are encouraged to limit pre-introduction questions to issues pertaining to format only. The ITC is not expected to provide comments on a bill's estimated revenue loss or potential domestic opposition prior to the introduction of a bill. Finally, the ITC will expect, and Member offices should be able to provide, a point of contact for the proponent with whom the scope and substance of the draft bill can be discussed.

- After the deadline for submitting bills, the Subcommittee will issue an advisory including all provisions qualifying for the next stage of the process and request public comment from all interested parties. Simultaneously, the ITC will seek information about domestic production as well as present and future imports, and will research the revenue loss of the bill. The ITC's review of imports and revenue loss is not limited to what is attributable to the proponent, but rather will include all goods that would qualify for the tariff reduction or suspension as drafted in the bill. The Department of Commerce also will simultaneously research whether domestic production and/or opposition to the bill can be identified.
- As a consequence of a new House Rule described further below, a proponent of a bill must provide a Member with a list of known or anticipated beneficiaries that includes a point of contact for each anticipated beneficiary provided. Upon a bill's introduction, or as soon as possible, the Member office will be responsible for providing this list to the ITC, which will verify the number of anticipated beneficiaries identified by the proponent. Members should provide this information at the earliest point possible to avoid delays in the ITC process. The information sought in this process could be made public in certain circumstances.

II. Limited Tariff Benefit Disclosure Requirement

- Amended House Rules require that Members provide a written statement disclosing specific information to the Ways and Means Committee Chairman and Ranking Member for any bill that contains a "limited tariff benefit," which is defined as "a provision modifying the Harmonized Tariff Schedule of the United States in a manner that benefits 10 or fewer entities." See Rule XXI (9)(f). In particular, the written statement must include: (1) the name of the Member; (2) the identification of the individual or entities reasonably anticipated to benefit to the extent known to the Member; (3) the purpose of the limited tariff benefit; and (4) a certification that the Member or spouse has no financial interest in the limited tariff benefit. See Rule XXIII (17)(a). Bills that do not involve modifications to the Harmonized Tariff Schedule are not subject to the disclosure requirement.

- Definition of Terms: For purposes of defining a limited tariff benefit, the term “provision” means a tariff schedule modification that applies to a single product or item. The term “entity” means a government unit, or an organization or being that possesses a separate existence for tax purposes, such as a corporation or partnership. Individual divisions, such as those within a single corporation or partnership, would not constitute separate entities. For guidance on the term “financial interest,” Members are advised to review the Committee on Standards of Official Conduct’s pink sheet entitled “Financial Interests Under the New Earmark Rules,” at: www.house.gov/ethics/m_financial_interest_earmark.pdf. Questions concerning compliance with the financial interest disclosure should be directed to the Committee on Standards of Official Conduct, (202) 225-7103.
- Identifying Anticipated Beneficiaries: The Committee expects that, as provided in the House Rules, Members will identify individuals and entities that are reasonably anticipated to benefit from a bill that contains a limited tariff benefit to the extent that the Member knows about such anticipated beneficiaries. The Committee expects that this would include the individuals and entities that are requesting the bill (i.e., the proponent company) and other direct and immediate beneficiaries of the bill that are reasonably known to the Member. Such other beneficiaries would either import the subject product and sell it to an unrelated individual or entity, or import the subject product and use it to manufacture a product that ultimately is sold to an unrelated individual or entity. Unrelated purchasers will not be considered beneficiaries for purposes of the House Rules. In addition, agents and intermediaries of the proponent, such as customs brokers, wholesalers or distributors, would not qualify as beneficiaries of the bill. Since the proponent company is in the best position to identify other direct and immediate beneficiaries of the bill, it is the proponent’s responsibility to provide the names of other direct and immediate beneficiaries to the Member for purposes of complying with the House Rules.
- Standard Letter and Disclosure Form. To assist Members in complying with the limited tariff benefit disclosure requirement, the Subcommittee has created a standard cover letter and disclosure form (available on-line) for Members to submit at the time a bill is introduced. Every Member submitting a bill for consideration in the MTB must at the time of introduction provide the Subcommittee with one of the following: (1) a statement certifying that the Member is not required to submit a disclosure statement because the bill does not contain a limited tariff benefit; (2) a statement certifying that the Member’s bill does contain a limited tariff benefit and a completed disclosure form; or (3) a statement certifying that the Member does not know whether the bill contains a limited tariff benefit, and as such is deferring submission of the disclosure form until additional information is available. Additional information and eligibility requirements for deferring a disclosure below are provided below. Failure to provide the Subcommittee

with a standard letter and disclosure form (where applicable) will disqualify an otherwise eligible bill from inclusion in the MTB.

- Deferral of Disclosure Submission. Recognizing that it may be difficult in certain circumstances for Members to identify the individuals and entities reasonably anticipated to benefit from the bill prior to the completion of the public comment period provided for in the MTB process and corresponding ITC review, Members will have the option to defer providing a complete disclosure statement until the completion of the MTB public comment period and the ITC's factual verification of the number of anticipated beneficiaries for a given bill that have been identified by the proponent. Members opting to defer must indicate that at the time of introduction they do not know whether the bill contains a limited tariff benefit. Members also must provide the ITC with a list of beneficiaries as soon as possible to avoid delays. Upon receipt of information provided through the MTB public comment period or ITC factual verification, a Member who has deferred filing a complete disclosure statement must within a time frame established by the Subcommittee, submit an updated disclosure statement that: (1) confirms the bill contains a limited tariff benefit and provides the required disclosure information; or (2) affirmatively states that the bill does not contain a limited tariff benefit. Failure to file an amendment to a deferred disclosure will disqualify an otherwise eligible bill from inclusion in the MTB.

Note on New ITC Process Verifying Anticipated Beneficiaries: During the course of the MTB process, the ITC will endeavor to verify that the named beneficiaries provided by a Member for a given bill are in fact beneficiaries. The ITC will conduct this verification by contacting the named beneficiaries by phone or e-mail to confirm whether the named beneficiary would actually benefit from the bill. The ITC will then report to the Member office the number and identity of verified beneficiaries. A Member could then rely on this information to make his or her disclosure in accordance with the House Rule.

Please note that the ITC also will include the number of verified beneficiaries in the Congressional Bill Report that it prepares for each bill. The ITC Congressional Bill Report will not include the identities of anticipated beneficiaries. However, because the House Rule requires Members to disclose this information for every bill that contains a limited tariff benefit, the identities of anticipated beneficiaries will be made public if such a bill is included in the MTB.