

Client Alert

International Trade & Litigation Practice Group

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ITC Reopens Comment Period For Certain MTB Petitions *Short Window Follows Release Of Preliminary Report*

As part of its ongoing efforts under the new Miscellaneous Tariff Bill (“MTB”) process, the U.S. International Trade Commission (“ITC”) announced last Friday that it would accept additional public comments on certain MTB petitions. As reported previously, the American Manufacturing Competitiveness Act of 2016 (the “Act”) required the ITC to submit a preliminary report to the House Ways & Means and the Senate Finance Committees for the purpose of providing Congress with information on the MTB petitions that were filed with the ITC. The ITC’s preliminary report may be accessed here.

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In relevant part, Section VI of the ITC’s preliminary report identifies the petitions that the agency does not recommend for inclusion by Congress in any MTB (“Category VI MTB Petitions”). The ITC has decided to solicit additional comments for the limited purpose of developing further information on Category VI MTB Petitions. In doing so, the ITC explained that it “will only accept information from the public that relates to its decision to place these petitions into Category VI”, and that the ITC “will not consider comments that relate to petitions listed under categories I, II, III, IV, and V.” As specified by the Act, Category I relates to petitions that meet the requirements of the Act without modification. Categories II, III, and IV relate to petitions that meet the requirements of the Act with certain modifications. Category V addresses petitions that do not contain the information required by the Act or that were not filed by a “likely beneficiary” of the requested duty suspension or reduction (another requirement of the Act).

The ITC identified several types of information that may be responsive to its request for comments on Category VI MTB Petitions, including: (1) “the administrability of the article descriptions in the petitions”; (2) “the existence of domestic producer objections to the petitions”; and (3) “other issues affecting their placement in Category VI.”

The ITC has requested “input that would clarify or narrow the scope of proposed article descriptions in Category VI petitions, including the constituent materials in the intended merchandise or similar information that would help verify the” appropriate classification of the articles within the Harmonized Tariff Schedule of the United States. The ITC also has requested “information that could clarify technical criteria, distinguish the

intended merchandise in a petition from other goods in the same rate line, or narrow the scope of an article description to avoid covering domestically produced goods.”

Comments must be filed via the ITC’s MTB Petition System (MTBPS) website between 8:45 a.m. on June 12, 2017, and 5:15 p.m. on June 21, 2017. As with comments filed during earlier segments of the MTB process, commenters may claim confidential treatment of certain information contained in their comments (we note, however, that commenters may not claim confidential business information treatment for attachments).

In sum, the ITC is soliciting additional comments on Category VI MTB Petitions so it can determine whether to modify its preliminary recommendation that affected petitions not be included in any MTB. The comment period will remain open through 5:15 p.m. on June 21, 2017. Interested parties must comply with all applicable substantive and technical filing requirements. Later this summer (no later than August 8, 2017), the ITC will submit its final report to the House Ways & Means and the Senate Finance Committees. Thus, parties that desire to submit additional information on Category VI MTB Petitions for consideration by the ITC must do so by Wednesday, June 21.

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