

Client Advisory

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Bipartisan Efforts Result in Last Minute Passage of GSP and Other Trade Measures

This weekend, Congress narrowly passed trade legislation (H.R. 6406) which grants extensions to several key trade programs that were set to expire later this month, as well as introducing several new trade provisions. The president is expected to sign the legislation into law later this week.

Generalized System of Preferences (GSP)

Congress granted a two-year extension to GSP. The bill also grants presidential authority to limit the availability of GSP benefits for supercompetitive products – i.e., those products for which the aggregate annual import value is greater than \$180 million or that constitute more than 75 percent of total U.S. imports of such products.

Andean Trade Preference Act (ATPA)

Congress granted a six-month extension for ATPA which is applicable to all four beneficiary countries (i.e., Columbia, Peru, Ecuador, and Bolivia). An additional six-month extension is granted if the U.S. and any beneficiary countries both complete legislation to approve a free trade agreement.

African Growth Opportunity Act (AGOA)

Congress granted an extension until 2012 for the AGOA “third country fabric provision.” This provision allows the least developed countries under the program duty free access for certain wearing apparel made with fabric from countries other than the U.S. or African countries. In addition, in order to remove disincentives to investment in fabric production in Africa, the bill creates an “abundant supply” exception to eligibility under the third country fabric provision with respect to fabrics and yarns that are available in commercial quantities from African suppliers. It also extends AGOA benefits to certain textile articles wholly made in sub-Saharan African countries.

Haitian Hemispheric Opportunity through Partnership Encouragement (HOPE) Act

The legislation also creates a new program designed to allow duty-free entry to specified apparel articles made and/or assembled in Haiti, the U.S., a beneficiary country of a U.S. trade preference program, or a country party to a U.S. free trade agreement. The sum of material and production costs must be an increasing percentage of the customs value over a five-year period (starting at 50 percent in year one), and import quantities are capped at an increasing percentage not to exceed 2 percent of annual U.S. apparel imports. The bill would also extend duty-free entry to certain wire harness automotive components if the cost of materials and processing operations performed in Haiti, the U.S., or both, exceeds 50 percent of the declared customs value of such articles. Haiti may only receive benefits under this legislation if the president certifies that Haiti meets certain political, economic, and labor criteria, as well as textile and apparel transshipment enforcement requirements.

Permanent Normal Trade Relations (PNTR) for Vietnam

In order to capitalize upon Vietnam’s recent accession to the WTO, which will ultimately facilitate U.S. access to Vietnam’s markets, the bill extends PNTRs thereby granting Vietnam unconditional normal trade relations with the U.S. The legislation also establishes a process for the Administration to examine whether Vietnam has maintained any prohibited subsidies to its textile and apparel industry in violation of the terms of its WTO accession.

Miscellaneous Tariff Bill (MTB)

The legislation also included items previously rolled into a House version of an MTB which offers temporary duty reductions on a variety of items not manufactured in the United States. The MTB also provides a limited number of reliquidations of entries in cases of government error.

Modifications to the Harmonized Tariff Schedule

Finally, the legislation extends the current 15-day window for the implementation of changes to Harmonized Tariff Schedule of the United States to 30 days in order to afford the private sector sufficient time to incorporate all of the changes in their computer systems and avoid costly, time-consuming errors to entries. This year, due to the thousands of changes to be made and to administrative delays, the business community has expressed interest in extending the period before such changes take effect. The Administration is expected to provide notice of the changes in the Federal Register sometime in early January.

We Can Help

If you have questions concerning the impact of this new legislation upon your transactions, or wish to learn more about how Katten Muchin Rosenman LLP might assist you, please contact one of Katten's Customs and International Trade professionals listed below.

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