



ML Strategies Update

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TRADE POLICY IN THE 114TH CONGRESS

After their overwhelming success in the 2014 mid-term elections, Republicans are preparing to assume their new majority in the Senate, while their House colleagues have secured an expanded majority that exceeds their World War II-era peak. President Obama, who began his presidency with a Democratic majority in the Congress, will now round out his last two years in office with Republicans leading both the House and Senate. Although on many issues this could make for a difficult two years for the Obama Administration, on trade policy the president may find that his agenda will fare better under divided government, with the expected Senate Majority Leader Mitch McConnell (R-KY) identifying trade as an area where he believes Republicans and President Obama can work together. Washington is watching not just to see what the Republican trade agenda will be in the new congress, but how the 2014 mid-term elections will impact committees, including those focused on trade policy.

CONGRESSIONAL COMMITTEES

Senate Finance Committee

Senators Ron Wyden (D-OR) and Orrin Hatch (R-UT) will continue to lead the Finance Committee next year but will trade roles next year with Hatch assuming the chairmanship and Wyden moving to Ranking Member. The International Trade Subcommittee will likely also see its current leaders, Chairwoman Debbie Stabenow (D-MI) and Ranking Member Johnny Isakson (R-GA), continue to lead but in reversed roles. The subcommittee is losing one member, Senator Jay Rockefeller (D-WV), who did not seek reelection this year, and there is some question of whether Senator Mark Warner (D-VA) will be able to remain once the new Republican-Democratic membership ratios are established. There is speculation that Senators Dean Heller (R-NV) and Dan Coats (R-IN) are among the leading candidates for new Republican members of the committee.

House Ways and Means Committee

With the retirement of current Ways and Means Committee Chairman Rep. Dave Camp (R-MI), former vice presidential candidate Rep. Paul Ryan (R-WI) is the expected incoming chairman, although he will have to first overcome a challenge from Rep. Kevin Brady (R-TX) – a previous chairman of the Trade Subcommittee. Current Ways and Means Committee Ranking Member Sandy Levin (D-MI) will remain in this role for the new congress. The Trade Subcommittee chairmanship could open up if current chairman Rep. David Nunes (R-CA) is successful in his quest to become Chairman of the House Intelligence Committee. The likely successor to Nunes as subcommittee chair is Rep. Charles Boustany (R-LA) or Rep. Dave Reichert (R-WA).

TRADE POLICY ISSUES

Trade Promotion Authority

Congress last approved Trade Promotion Authority (TPA) in 2002, giving then-President George W. Bush “fast track authority” to negotiate free trade agreements that would be sent to the Senate for an up-or-down vote with no amendments. That TPA agreement expired in 2007 and has not been renewed. Earlier this year, TPA legislation was introduced by Senate Finance Committee Ranking Member Hatch, House Ways and Means Committee Chairman Camp, and then-Senator Max Baucus (D-MT), who was at the time chairman of the Finance Committee before resigning from Congress to become the U.S. Ambassador to China. Notably, Ways and Means Committee Ranking Member Levin did not join in introducing the TPA legislation, stating that he did not view the legislation as meeting the needs of a rapidly globalizing economy. While current Finance Committee Chairman Senator Ron Wyden (D-OR), Ranking Member Hatch, and Chairman Camp will be urged to secure passage of TPA in the lame duck session of congress before years’ end, this is not likely to occur, leaving TPA for the 114th Congress next year.

Free Trade Agreements

The Obama Administration continues to negotiate the Trans-Pacific Partnership (TPP), a free trade agreement between Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States, and Vietnam. President Obama and Ambassador Froman, the U.S. Trade Representative, are in Beijing this week for the APEC Economic Leaders’ Meeting, and had hoped to use the gathering of Asia-Pacific leaders as an opportunity to conclude TPP negotiations. However, with some obstacles still to be cleared in negotiations and TPA not having moved in Congress, final negotiations of TPP will not conclude until next year.

Also undergoing negotiation by USTR is the Transatlantic Trade and Investment Partnership (TTIP), a proposed free trade agreement between the U.S. and the European Union (E.U.). In 2011, the Obama Administration worked with European leaders to establish a working group to identify policies and measures to increase trade and investments between the U.S. and the E.U. Negotiations on TTIP began in 2013, with final negotiations not expected until 2016 or even later in the next presidential administration.

Although Ambassador Froman has said that congressional approval of Trade Promotion Authority (TPA) is not imperative to a successful conclusion of TPP and TTIP negotiations, his international negotiating partners, particularly in the Asia-Pacific region, have argued that they cannot bring their best offer to the table without TPA.

Miscellaneous Tariff Bill

The Miscellaneous Tariff Bill (MTB), which provides duty relief on manufacturing inputs that are not domestically available, could see activity in the lame duck session of congress, though this is unlikely. The last MTB expired at the end of 2012 when the previous congress did not pass a renewal. House Ways and Means Committee Chairman Camp introduced the current MTB in July 2013, but the measure has not moved forward in the legislative process.

If the bill is not approved in the lame duck, the House Ways and Means Committee and Senate Finance Committee will need to restart the MTB process next year, vetting duty suspensions for thousands of imported products.

Generalized System of Preferences Reauthorization

The Generalized System of Preferences (GSP) provides non-reciprocal, duty-free tariff treatment to certain products from designated developing and least-developed beneficiary countries. First authorized in 1974 and last renewed in 2011, the GSP expired in July 2013. Renewal of GSP has previously been blocked by Senator Tom Coburn (R-OK) over objections to how an extension of the program would be paid for. Another obstacle to renewal was Russia’s participation in the program. With Senator Coburn’s retirement, and Russia having its eligibility for the program terminated by President Obama last month, there is increased optimism that the program will be renewed in the 114th Congress.

African Growth and Opportunity Act Reauthorization

The African Growth and Opportunity Act (AGOA) is set to expire on September 30, 2015, making reauthorization a likely priority for action next year. AGOA is a non-reciprocal trade preference program offering duty-free treatment to U.S. imports of certain products from sub-Saharan African countries.

Low-Value Duty Threshold

Legislation to increase the low-value (*de minimis*) threshold for duties on shipments entering the U.S. from the current \$200 to a new threshold of \$800 was introduced in the House and Senate this congress, although neither measure has made it out of committee. The Senate measure was introduced by Senator Wyden (D-OR) and Senator John Thune (R-SD), who will become the new Chairman of the Senate Commerce Committee in the 114th Congress, likely giving this issue new life next year.

Trade Adjustment Assistance

The current Trade Adjustment Assistance (TAA) program, providing job training to workers facing job displacement as a result of foreign trade, is set to expire on December 31, 2014. Legislation has been introduced in both the House and Senate, but has not moved. Thought by many to be a likely candidate for inclusion in TPA legislation, a renewal of TAA before it expires looks increasingly unlikely and will roll over into the next congress.

Customs Reauthorization

Legislation to reauthorize and modernize U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement was introduced in the Senate in 2013, but the measure never moved out of committee. Although not controversial, reauthorization has not risen to become a priority issue, but could present an opportunity for the Republican majority and the White House to find common ground.

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