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## SENATE DEMS, HOUSE PUSH AHEAD WITH MTB IN FACE OF DEMINT OPPOSITION

Senate Finance Committee Democrats and members of both parties in the House are pressing ahead with their effort to put together a new miscellaneous tariff bill (MTB) this year even as Sen. Jim DeMint (R-SC) is working to solidify opposition to the current process among Senate Republicans, informed sources said this week.

DeMint is dead set on reforming the process this year, a Senate Republican aide said this week. As outlined in his reform legislation, S. 1162, DeMint wants to shift the first step of the MTB process from Congress to the U.S. International Trade Commission (ITC) in an apparent effort to remove the need for companies to lobby members of Congress in order to introduce a tariff suspension bill.

At this point, a compromise with supporters of the current process does not seem to be on the horizon, according to informed sources. House Ways and Means Committee Chairman Dave Camp (R-MI) received a cool reaction when he tried to convince Senate Republicans to move forward with the process as it currently exists, sources said.

In the Senate, one possible solution being discussed to win over DeMint is to attach an MTB reform bill to this year's MTB itself, but that is unacceptable to House Republicans, according to a House aide. Such a proposal would ensure that this year's MTB process would be the last under the current rules.

The argument that resonates most with House Republicans is that the DeMint proposal ignores the power of Congress, as reflected in the Constitution, to levy tariffs and by extension suspend them, according to the aide. They also question how beginning the MTB process at the ITC would change the substance of the provisions that DeMint considers earmarks, the aide said.

Moreover, DeMint's proposed change would not eliminate the lobbying surrounding the MTB, but merely shift it to the ITC, in the House Republican view. This would actually be less transparent than the current system because lobbyists are not subject to the same disclosure rules when interacting with the ITC as they are when dealing with Congress, the source said.

As a result of this deadlock, House supporters of the current MTB process at this point are taking the position that DeMint's demands are something that Senate Republicans have to sort out, while the House moves forward with its own process. Senate Finance Committee Chairman Max Baucus (D-MT) is also opting to proceed with the process as outlined earlier this year. However, in order for the bill to pass, some kind of solution will ultimately have to be worked out, one private-sector

source noted.

In the meantime, DeMint is working to bolster support for his MTB reform legislation and is close to building a consensus around his approach within the Senate Republican caucus, according to a Senate Republican aide. In the last couple weeks, the senator has attracted seven new cosponsors for his bill, including one member of the Senate Finance Committee, Sen. Tom Coburn (R-OK).

The others are Sens. Pat Toomey (R-PA), Saxby Chambliss (R-GA), Daniel Coats (R-IN), David Vitter (R-LA), Mike Lee (R-UT), and Kelly Ayotte (R-NH). Sen. Claire McCaskill (D-MO) was the original cosponsor of the bill when it was introduced last June.

DeMint is pushing to have this bill approved and signed by the end of June, thus leaving time to complete the new process before the current MTB expires at the end of 2012, according to the Senate Republican aide. But even without the opposition in the House, the private-sector source downplayed the possibility of such quick action from a purely logistical standpoint -- especially with the Memorial Day recess just two weeks away and the ITC vetting process having already started.

House Republicans are bolstered in their commitment to the current process by the fact that members from both parties have filed a record 1,300 tariff suspension bills in the House by mid-week, the aide said. The bills were offered by 144 members, 77 of them Republicans, the aide said.

Once all the bills have been introduced this week, Ways and Means will seek public comment on them, with a notice posted on its website. Those public comments will also be posted, according to the aide.

Under the current MTB process, companies approach members of Congress first with their requests to suspend tariffs on a good or list of goods, and members then introduce these requests as bills, which are vetted and folded into one piece of legislation.

Before that, the bills must be vetted by the ITC and the administration to make sure they are not controversial for a domestic industry and that they will not cost the Treasury more than \$500,000 per year in lost tariff revenue.

Supporters of MTB reform argue that the current process makes it more difficult for small and medium sized companies to request tariff suspensions for inclusion in the MTB because they must engage with members of Congress in order to do so. This means that they often need to hire lobbyists, and sometimes feel they need to contribute to members' reelection campaigns, they argue.

DeMint and others have also criticized the bills that lawmakers propose for inclusion in the MTB as essentially being earmarks, which the congressional Republican caucus has pledged to forgo. The MTB earlier became entangled in this ban in the House because, under House Rules, earmarks and "limited tariff benefits" benefiting fewer than 10 people are subject to the same disclosure requirements (Inside U.S. Trade, April 6).

Supporters of the current MTB process argue, however, that the tariff suspensions in an MTB do not confer a limited benefit because any importer, downstream

manufacturer or consumer can take advantage of them.

House Republicans have rejected the notion that the MTB amounts to an earmark. The Ways and Means Committee Republicans this week also circulated an op-ed published in Forbes by Dan Ikenson, director of the **Cato Institute's** Herbert A. Stiefel Center for Trade Policy Studies, that attacked DeMint specifically on this point and criticized his reform proposal as "cosmetic".

"There is a pretty clear distinction between funding expenditures from the national treasury for the benefit of a limited few in a particular congressional district and suspend the payment of taxes on imports, which is available to all and can benefit many," Ikenson wrote. "Moreover, even if these duty suspension were earmarks, DeMint's proposed alternative does nothing to change that."