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# ML Strategies Lame Duck Update: Trade and China Tariffs

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With a dwindling number of in-session legislative days before the end of the current 116th Congress, the U.S. House of Representatives and Senate are working to conclude their work before adjourning at the end of the year. The top "must-pass" legislative priorities remain finalizing the Fiscal Year 2021 appropriations process, the annual National Defense Authorization Act (NDAA), and perhaps another round of economic stimulus related to the COVID-19 pandemic. The current appropriations Continuing Resolution, temporarily extending federal spending, expires this Friday, December 11. There is diminishing expectation that agreement will be reached before the end of this week, so we anticipate another short-term extension as congressional negotiators continue to strike a deal – possibly for one week.

We are likely to see a number of other policy priorities folded in with the final spending bill, potentially in the form of an omnibus legislative measure – and that could include trade and tariff-related matters. We are watching most closely the renewal of the Generalized System of Preferences (GSP) and the Miscellaneous Tariff Bill (MTB).

**MTB:** ML Strategies is hearing that the MTB is bogged down by Member objections to specific MTB petitions and there is a good chance we won't see completion of the bill before the end of the year. The high number of objections seems to be a result of the overall number of tariff relief petitions submitted to the International Trade Commission (ITC) for inclusion in this year's MTB – and not as a result of any widespread philosophical objection to the MTB itself (although there are a few Members who do oppose). Those who have followed the MTB in previous years will recall that there is some history of the MTB not being completed on time. Despite the potential delay, there is a high degree of confidence on Capitol Hill that even if they don't finish MTB this year, it will be completed early next year. Unfortunately for successful petitioners, they cannot retroactively recover any duties paid before passage of the new bill. This is also the last MTB under the current statute, so Congress will likely pass another MTB authorization bill in the 117th Congress. Some well-placed congressional staff seem to feel that the new process, where the MTB originates at ITC and then goes to Congress, is much more effective and manageable than the previous process that worked more like earmarks and started with Member offices directing tariff relief petitions to ITC on behalf of constituents.

**GSP:** As reported in the press last week, Republicans are not happy with Democratic calls for new provisions in the GSP renewal, largely focused on human rights, worker rights, and similar provisions. Senate Finance Committee Chairman Grassley (R-IA) introduced a 16 month straight extension of the GSP in September and would like to pass that before he steps aside as chairman at the end of this congress due to Republican term limits on committee chairmanships. Assuming Democrats do not take the Senate majority with the two Georgia runoffs, Senator Crapo (R-ID) will assume the chairmanship of the Finance Committee. Our expectation is that Senator Crapo would in large part adhere to the same policy positions as Chairman Grassley – and in fact is keeping Grassley's chief of staff as his own. From the Democratic perspective, the proposed changes are non-controversial and would simply update GSP, which was first enacted in 1974, to be more aligned with the provisions of other more recent trade laws like the African Growth and Opportunity Act (AGOA) which was enacted in 2000 and addresses human and worker rights issues.

Our sense is that GSP negotiations are continuing apace and there is still a likely chance that GSP is renewed this year – with the goal of including it in an end of the year catchall omnibus bill as opposed to passing as stand-alone legislation. If for some reason Congress does not get it across the finish line before the year-end deadline, we should bear in mind that previous GSP renewals have been done retroactively, so even if they do not meet the deadline, importers will still be able to secure a retroactive refund of any duties paid. With that said, congressional staff are very much aware that GSP is a bit of a lifeline for many importers already facing the China tariffs and are working hard to ensure GSP renewal is completed this year.

**With regard to tariffs,** President-elect Biden has indicated he does not plan to make any immediate changes to the Section 301 China tariffs. As we shared previously, the more immediate change will likely be more one of tone and style since many Democrats are in agreement with President Trump on addressing China's economic and trade policies. Key congressional offices have indicated that they are not anticipating any immediate changes with regard to the tariffs but many are looking for a more active engagement on international trade with the incoming administration.

## Authors



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Neal Martin brings more than two decades of experience in government and federal relations to his work, helping clients navigate a wide range of issues. He provides strategic guidance to organizations seeking to advance their legislative priorities and enhance their visibility before Congress and federal agencies.