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Duty Suspensions vs. Earmarks

1. Duty suspensions are NOT earmarks.

Because the disclosure requirements for the limited tariff benefits provided by duty suspensions and reductions are similar to those for congressional earmarks, it is often erroneously thought that duty suspensions are earmarks. In fact, duty suspensions do not meet the definition of an earmark, either as defined by the House Ethics Committee¹ or as outlined by President Obama in statements about banning earmarks from the stimulus bill.

As stated by the House Committee on Standards of Official Conduct, “the term ‘congressional earmark’ means a provision or report language included primarily at the request of a Member, Delegate, Resident Commissioner, or Senator providing, authorizing or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality or Congressional district, other than through a statutory or administrative formula-driven or competitive award process.” This differs from what the Committee defined as a “limited tariff benefit,” which “means a provision modifying the Harmonized Tariff Schedule of the United States in a manner that benefits 10 or fewer entities.” Most duty suspensions fall under the definition of a “limited tariff benefit.” No duty suspensions fall under the Committee’s definition of a “congressional earmark,” since no federal money is spent upon the enactment of these provisions.

2. Duty suspensions have been thoroughly reviewed by U.S. Government authorities and are completely transparent.

President Obama has stated that earmarks are “*the process by which individual members [of Congress] insert pet projects without review.*”² By this definition, the Ways and Means Committee package of duty suspension and reduction bills could in no way be seen as an earmark. First, the duty suspension and reduction provisions were solicited by Ways and Means Trade Subcommittee in a November 2007 advisory and are thoroughly publicized on the Committee’s website. Second, each provision was vetted by the U.S. International Trade Commission (ITC), U.S. Department of Commerce, and other U.S. Government agencies to verify that no U.S. producers would be harmed by the provision, and reports on each provision have been posted online by the ITC. Finally, these duty suspension provisions would benefit a wide cross-section of U.S. industry, not the “pet interests” of a few members of Congress.

¹ U.S. House of Representatives, Committee on Standards of Official Conduct, Memorandum for All Members on Financial Interests Under New Earmark Rules, March 27, 2007.

² President-elect Obama meeting with budget team, January 6, 2009;
http://change.gov/newsroom/entry/budget_draft