Public Submission of

Daniel J. Ikenson, Director, Herbert A. Stiefel Center for Trade Policy Studies, Cato Institute
1000 Massachusetts Avenue, NW
Washington, D.C. 20001
P: (202) 218-4623
F: (202) 842-3490

United States House of Representatives
Committee on Ways and Means
Trade Subcommittee

Hearing on the Miscellaneous Tariff Bill: Helping U.S. Manufacturers through Tax Cuts

April 14, 2016

The views expressed herein are the authors and should not be construed as an official position of the Cato Institute. Cato is a public policy research organization and there are no clients represented in this submission.

In Defiance of Global Economics:
Small Thinking in Congress on Tariff Reform Impedes Investment and Growth

By Daniel Ikenson

Introduction

On April 13, 2016, House Ways and Means Committee leadership and 15 other members of Congress introduced *The American Manufacturing Competitiveness Act of 2016* (*AMCA*), a bill to reform and reinvigorate the stalled Miscellaneous Tariff Bill (MTB) process. MTBs are legislative vehicles through which Congress provides temporary suspensions of import duties on certain qualified products typically used as inputs in U.S. manufacturing operations. The last MTB afforded importers about $750 million in annual tax relief.

In a Ways and Means Committee statement released with the *AMCA's* introduction, Chairman Kevin Brady (R-TX) said: "This bipartisan bill will empower American manufacturers to compete around the world, create new jobs at home, and grow our economy."[1] Ranking Member Sander Levin (D-MI) added: "The MTB is a critical tool that supports American manufacturers and workers, and I'm pleased that we're finally moving forward with this legislation."[2] President Obama similarly described the *Manufacturing Enhancement Act of 2010* – the last MTB to pass Congress – as a tool to strengthen manufacturing, create jobs, and help U.S. companies compete.[3]

Despite their widely recognized benefits, the MTB in 2012 was derailed by GOP infighting over the question of whether duty suspensions constitute "earmarks," and has remained off-track ever since. The new legislation purports to resolve the problem by assigning to the U.S. International Trade Commission the role of an intermediary. Rather than continue to allow duty suspension requests from constituents directly to their Members and Senators, the legislation requires those requests to be made to the USITC, which will determine whether the statutory criteria are met. Presumably, inserting an objective, disinterested, third party into the process will provide enough of a buffer between the

[1] United States House of Representatives Ways and Means Committee, "Bipartisan Members Introduce American Manufacturing Competitiveness Act of 2016: Strengthens MTB Process, Upholds House Earmark Ban," Press Release, April 13, 2016, http://waysandmeans.house.gov/bipartisan-members-introduce-bill-to-strengthen-miscellaneous-tariff-bill-process/.
[2] Ibid.
[3] President Barack Obama, The White House, Office of the Press Secretary, "Remarks by the President at the Signing of the Manufacturing Enhancement Act of 2010," August 11, 2010.

constituent requests and Congress to make the distinction between duty suspensions and earmarks more obvious.

If one has low expectations about how Congress can make the United States a more attractive option for manufacturers to establish and maintain operations, then *AMCA* represents a laudable – though mostly cosmetic – effort to end a GOP semantics battle and restore the status quo. But Congress should be thinking bigger – much bigger – than the *AMCA*. Congress should aim to eradicate important deterrents to investment in U.S. manufacturing by eliminating, permanently, all duties on intermediate goods and revise the antidumping law to forbid the imposition of "remedial" duties when the costs of such action to downstream industries are estimated to exceed the benefits to the petitioning industry.

The Miscellaneous Tariff Band-Aid

At great expense to producers, consumers, and taxpayers, the U.S. government maintains "protective" tariffs on thousands of imported products, including many items not even produced domestically.[4] To mitigate these costs, since 1982 Congress has passed eight so-called Miscellaneous Tariff Bills, which temporarily suspend duties on certain, "non-controversial" products – usually intermediate goods, such as chemicals, electronic components, and mechanical parts – that are not manufactured domestically, but are needed by U.S. producers to generate their own output. Though limited in impact by its temporary nature, the "no domestic production" requirement, and the caveat that the suspended duty not reduce tariff revenues by more than $500,000, the MTB does provide some cost savings to U.S. producers. The last MTB provided an estimated $748 million of import tax relief.[5] Importantly, but sadly, the MTB is one of just a few U.S. trade policies that recognizes the importance of imports to the U.S. economy.

Two Congresses came and went without producing a MTB mainly because of disagreement among Republicans over whether the underlying duty suspensions that get bundled into the broader bill would violate their 2010 pledge to oppose earmarks. In 2012, then-Senator Jim DeMint (R-SC) – an otherwise ardent free trader – led a successful effort to derail the MTB process in the 112th Congress, declaring duty suspensions to be earmarks because they provide only a "limited tariff benefit" – defined under House GOP rules as benefiting ten or fewer entities. The 113th Congress failed to take up the issue of

[4] For a list of all imported product classifications and their official tariff rates, see the U.S. Harmonized Tariff Schedule, https://hts.usitc.gov/current.
[5] United States House of Representatives Ways and Means Committee, Press Release, April 13, 2016.

duty suspensions, and early efforts to revive the MTB process in the 114th Congress by way of the 2015 Customs Bill fell short when the language was stripped in the House-Senate conference committee process.

The American Manufacturing Competitiveness Act of 2016 is an effort to reconcile the MTB process with the Republican ban on earmarks so that duty suspensions can resume. The crux of the bill descends from De Mint's proposal in 2012 to insert the U.S. International Trade Commission into the process so that individual duty suspension requests don't go directly from constituents to Members and Senators, but are vetted first by a disinterested, objective third party. Though the bill seems to do nothing about weeding out duty suspensions with "limited tariff benefits," the insertion of the USITC into the process presumably puts enough distance between constituents and Congress to moot concern over whether duty suspensions are earmarks at all.

The effort to resuscitate a long-standing vehicle for lightening the burden of import duties is laudable. Its derailment, which probably cost importers $3 billion (and the economy even more) over four years, however, was an unnecessary setback.[6]

Myopic Misgivings about Miscellaneous Tariff Bills

Although *AMCA* provides resolution to the GOP impasse, it is important to see why this debate was unnecessary in the first place. First, duty suspensions will nearly always have more than ten beneficiaries – meaning they defy the earmark definition – because the number of importing entities is likely to increase after a duty is suspended, and the entities in the supply chains of these importers will benefit, too. The number of beneficiaries is not static.

Second, and crucially, it is the duties – not the measures to suspend them – that are the real earmarks. Duties enshrined in the U.S. Harmonized Tariff Schedule constitute transfers from consumers and consuming industries to specific, chosen producers. Those duties were obtained through a process that included earmarking, logrolling, and other forms of backroom dealing. Efforts to suspend those duties today are intended to return the tax landscape to a state of neutrality. That objective clearly differs

[6] Figure based on $748 million annual cost, quoted in House Ways and Means Committee Press Release, April 13, 2016, multiplied by four years.

from measures that would channel resources from the national treasury to projects that benefit a limited few in a particular congressional district.

Under the MTB process, the suspension of import duties on qualified products is an outcome available to anyone, and the suspended duties provide benefits to everyone in the downstream supply chain all the way to the final consumer. The fundamental failure to make this connection – to recognize that there are dynamic, but not immediately observable benefits that will accrue to the economy – helps explain why Congress struggles to see the bigger picture.

Given that duty suspension of qualified products is available to all, the only conceivable sense in which one might consider the benefits limited is that not everyone has equal access to the process. Some import-consuming companies have the wherewithal to make the formal requests – previously to their Members or Senators; prospectively to the USITC – while other companies do not.

Accordingly, *AMCA* aims too low. Why require formal duty suspension requests at all? Why not make them automatic? Why not have the USITC do an assessment of the entire Harmonized Tariff Schedule to identify all items that meet the statutory requirements for duty suspension? Why have such restrictive criteria at all? Congress can and should do much more about costly tariffs than what is proposed in *AMCA*.

House Ways and Means Trade Subcommittee Chairman Dave Reichert (R-WA) points out that since the last MTB expired in 2012, American companies have faced an annual $748 million tax hike on manufacturing. That may be true, but since 2012 U.S. Customs has collected roughly $43 billion annually in tariff "revenue," approximately $26 billion of which was from duties on intermediate goods.[7] In other words, *AMCA* fixes $748 million (less than 3 percent) of a $26 billion problem.

Congress should be thinking bigger about what it can do to eliminate costly, investment- and production-diverting import duties.

[7] Calculated from data extracted from the U.S. International Trade Commission's Interactive Tariff and Trade DataWeb, https://dataweb.usitc.gov/ and U.S. Customs and Border Protection, "Fiscal Year 2014 Report to Congress," November 24, 2014, http://www.cbp.gov/sites/default/files/documents/ADCVD-Outstanding-Collections-Report-FY14.pdf.

Attracting and Retaining Investment is the Proper Policy Goal

Although trade barriers have been reduced considerably since the end of the World War II, U.S. policy continues to reflect an intolerable amount of protectionism, including tariffs assessed on approximately one-third of all U.S. imports.[8] Eliminating – or at least reducing – these burdens should be a congressional priority because duties raise the cost of production, reduce investment and hiring, dissuade foreign companies from establishing operations in the United States, and encourage existing producers to relocate to countries where the burdens are less onerous.

Trade liberalization is about expanding markets across national boundaries and broadening the scope for specialization and economies of scale – the essential ingredients of wealth creation. Although the public often thinks of improved access to foreign markets as the conveyor of trade's benefits, the primary mechanism through which the benefits are channeled is imports. Of course it means more customers for U.S. exports, but it also means more competition for U.S. consumers' dollars, greater variety, better quality, more innovation, a wider number of sources for raw materials and intermediate goods, as well as greater scope for supply chain collaboration. When trade barriers come down, the factory floor can span borders and oceans, enabling production to be organized in new and more efficient formats, expanding the global production possibilities frontier to create more wealth and higher living standards.

In most tradable industries, global production sharing has become the norm. About half of the value of all U.S. imports in 2015 consisted of industrial supplies, other intermediate goods, and capital equipment – the purchases of U.S. producers, not end-use consumers.[9] According to estimates from the World Trade Organization, intermediate goods (excluding oil and fuels) account for about 60 percent of the value of global trade.[10]

In order to compete more effectively at home and abroad, U.S. companies (and the U.S. operations of foreign-headquartered companies) need access to imported inputs at world market prices. Production costs in the United States must be competitive. Yet, under U.S. tariff policy, many imported inputs are

---

[8] See the U.S. Harmonized Tariff Schedule, https://hts.usitc.gov/current.

[9] Bureau of Economic Analysis, U.S. International Trade in Goods and Services, Exhibit 6. U.S. Exports and Imports of Goods by Principal End-Use Category, February 2016.

[10] World Trade Organization, "International Trade Statistics 2013," https://www.wto.org/english/res_e/statis_e/its2013_e/its13_highlights4_e.pdf.

subject to duties – even when there are no domestic suppliers to "protect." These taxes raise production costs, deter investment, and chase producers offshore, where they can access needed inputs at market prices. The consequence of all of this is reduced economic output and job loss or suppression.

In the 21st century global economy, where capital is mobile and businesses have options regarding where they locate production, distribution, and research and development activities, governments are competing to attract job-creating, value-added investment in their economies. Public policies – including tariffs and other trade policies that increase the cost of production – are on trial, and the verdict will be found in the investment flow data.

For now, there is more investment in U.S. manufacturing than there is in any other country's manufacturing sector. But what matters is whether the rate of investment growth is sufficient to keep up with the growth in demand for manufacturing output and the supply of qualified labor. Nibbling around the edges with small, temporary tariff reprieves via legislation like the *AMCA* is an inadequate gesture that does little to put the United States in a better position to win more investment location decisions going forward.

Congress Should Be Thinking Bigger on Tariff Policy

In 2014, U.S. Customs collected nearly $45 billion in duties, taxes, and fees levied on imports, with approximately $27 billion collected on imported intermediate goods, which amounts to nothing more than a tax on U.S. value creators.[11] Duties on products such as magnesium, saccharine, polyvinyl chloride, and hot rolled steel may please their domestic producers, who are freed to raise prices and reap larger profits. But those same duties are costly to U.S. producers of auto parts, food products, paint, and appliances, who consume those products as inputs in their own manufacturing processes. Current U.S. tariffs elevate the interests of certain producers over the interests of others. Oddly, it tends to be the lower value-added, basic materials producers who are protected at great expense to the higher value-added, intellectual property-, capital-, and export-intensive industries, which tend to contribute more to GDP and employ more and higher-skilled workers.

[11] Calculated from data extracted from the U.S. International Trade Commission's Interactive Tariff and Trade DataWeb, https://dataweb.usitc.gov/ and U.S. Customs and Border Protection, "Fiscal Year 2014 Report to Congress," November 24, 2014, http://www.cbp.gov/sites/default/files/documents/ADCVD-Outstanding-Collections-Report-FY14.pdf.

Meanwhile, U.S. antidumping actions are more than a dispute between a domestic industry and its foreign competition. They reveal conflicts of economic interests between the duty-seeking U.S. industry and its U.S. customers. Those customers – usually other U.S. producers – are given no quarter under the law. If the petitioning industry can demonstrate that it has suffered "material injury" on account of less than fair value imports, duties are imposed regardless of the impact on these downstream consuming industries and the economy at large. That is hardly a recipe for rational policymaking – that is, policymaking in the national economic interest.

Last decade, 80 percent (130 of 164) of all U.S. antidumping measures were imposed on intermediate goods, raising the costs of production on U.S. producers who need those inputs to make their own downstream products. Yet the statute forbids the administering authority from considering the downstream impact. These restrictions clearly raise the costs of production for these producers, rendering them less competitive at home and abroad. In one-third of these cases, the petitioning industry obtaining relief consisted of a single company – a monopolist. In many cases, the U.S. producers move their operations to Canada, Mexico or other saner shores.[12]

During the financial crisis and subsequent recession in 2009, as G-20 governments were reassuring each other that they would not resort to beggar-thy-neighbor protectionism, the Canadian and Mexican governments took an entirely different tack, slashing duties on imported intermediate goods. Each government properly recognized import duties as business costs and, since business revenues were projected to plunge on account of the global economic contraction, chose to limit the adverse impact on their businesses by reducing their import tax burden. That logic is universal, and does not only apply in times of economic recession.

Recognizing that downstream import-consuming industries account for a greater share of U.S. GDP, employ more workers, pay more taxes, and are more innovative than the protected firms in upstream, raw material-producing industries, Congress should permanently eliminate import duties on all intermediate goods, regardless of the existence of domestic production. Import duties are taxes on U.S. producers and consumers for the benefit of some – and sometimes for the benefit of nobody. Any government seeking to minimize irrational policies and hoping to be a magnet for investment in value-

[12] Daniel Ikenson, "Economic Self-Flagellation: How U.S. Antidumping Policy Subverts the National Export Initiative," Cato Trade Policy Analysis No. 46, May 31, 2011.

added activities should avoid needless taxes on downstream industries. That includes the U.S. government.

Congress should establishing a policy of zero tariffs on intermediate goods and reform the antidumping law to require the administering authorities to conduct an analysis of the economic costs of prospective antidumping duties on downstream industries. The statute should instruct the authorities to deny imposition of duties if the estimated costs are deemed excessive or disproportionate to the estimated benefit conferred upon the petitioning industry. These would be meaningful reforms that would go a long way toward bolstering U.S. attractiveness, now and into the future, as a destination for both U.S. and foreign direct investment, which will be a major determinant of economic growth in the 21st century.

It's time for Congress to start thinking big on tariff reform.

HEARING ON THE MISCELLANEOUS TARIFF BILL: HELPING U.S. MANUFACTURERS THROUGH TAX CUTS

Statement for the Record

Huntsman Corporation is a major chemical manufacturer with dozens of sites in the United States and many more around the world. In the U.S., we manufacture a number of products that require raw materials to be shipped from outside the country due to a lack of availability domestically.

We urge Congress to develop a fair, transparent, and bipartisan process for considering the Miscellaneous Tariff Bill (MTB) that will strengthen American manufacturing by lowering costs, creating more jobs at home, and saving money for American consumers.

By suspending import duties on materials essential to manufacturing, but unavailable from domestic sources, passing the MTB would allow many U.S. manufacturers to lower costs and expand domestic production. According the National Association of Manufacturers, the most recent duty suspension legislation enacted in 2010 supported 90,000 jobs and expanded the gross domestic product by $3.5 billion.

At Huntsman, many of our products operate with narrow profit margins, and duties on raw materials can be a deciding factor on whether we will be able to manufacture in the U.S. or whether, for these products to be viable, we need to find alternative routes to market. In some cases, we are actually considering discontinuing products altogether due in part to the inefficiencies created by these duties. From our perspective, these duties on the raw materials operate as an *arbitrary excise tax* on the end products, since there are not domestic alternatives for the raw materials.

We and other manufacturers make critical decisions regarding our supplies and manufacturing every day. As such, speed is important, and we encourage Congress to quickly pass a bill that will allow for consideration of what should be a non-controversial, non-partisan MTB.

Sincerely,

Troy M. Keller
Huntsman Corporation
Vice President, Government Affairs
10003 Woodloch Forest Drive
The Woodlands, Texas 77380
Tel. 281-719-6000
Fax. 281-719-4045

NATIONAL ASSOCIATION OF Manufacturers

Leading Innovation. Creating Opportunity. Pursuing Progress.

Statement for the Record

National Association of Manufacturers
733 10th Street, NW, Suite 700
Washington, DC 20001

House of Representatives Committee on Ways and Means
Subcommittee on Trade hearing
on "Miscellaneous Tariff Bill:
Helping U.S. Manufacturers through Tax Cuts"

April 14, 2016

<u>Statement for the Record</u>

House of Representatives Committee on Ways and Means
Subcommittee on Trade

Miscellaneous Tariff Bill:
Helping U.S. Manufacturers through Tax Cuts

April 14, 2016

The National Association of Manufacturers (NAM) is pleased to provide the following statement to the House of Representatives Committee on Ways and Means, Subcommittee on Trade, on "Miscellaneous Tariff Bill: Helping U.S. Manufacturers through Tax Cuts."

The NAM is the nation's largest industrial association and voice for more than 12 million women and men who make things in America. Manufacturing in the U.S. supports more than 17 million jobs, and in 2015, U.S. manufacturing output reached a record of $2.17 trillion. It is the engine that drives the U.S. economy by creating jobs, opportunity and prosperity. The NAM is committed to achieving a policy agenda that helps manufacturers grow and create jobs. Manufacturing has the biggest multiplier effect of any industry and manufacturers in the United States perform more than three-quarters of all private-sector R&D in the nation – driving more innovation than any other sector.

The NAM leads industry efforts to advance the competitiveness of manufacturers in the United States through many trade initiatives, including seeking the elimination of border taxes on inputs and other products not produced or available in the United States. Such tariffs undermine U.S. competitiveness and Congress has long addressed these harmful distortions in the tariff code through the enactment of Miscellaneous Tariff Bills (MTBs).

While Congress had effectively addressed these distortions through the enactment of MTBs with strong bipartisan support for three decades, Congress has not renewed MTBs since the U.S. Manufacturing Enhancement Act in 2010 expired on December 31, 2012. Since then, businesses in the United States have faced an annual $748 million tax increase on manufacturing and the U.S. economy has suffered a $1.875 billion economic loss, according to an analysis by the National Association of Manufacturers.

As a result, manufacturers, especially small- and medium-sized manufacturers, in industries ranging from agriculture and textiles to chemicals, electronics, machinery and beyond, have seen their costs rise for inputs not produced in the United States, undermining American competitiveness and the ability of these companies to innovate and retain and create manufacturing jobs in the United States.

Consider the example of Lasko Products Inc., an electric fan manufacturer based in West Chester, Pennsylvania. The MTB would allow Lasko to compete against low-cost imports of household electric fans from China. Lasko is the last American manufacturer of portable oscillating fans and has been able to stay in this business with the MTB program and heavy investment in capital equipment and tooling.

Another illustration is Bayer CropScience, based in Research Triangle Park, North Carolina. Since the expiration of the last MTB at the end of 2012, Bayer has seen the cost of its manufacturing increase tens of millions of dollars due to the loss of duty relief.

Yet another example is Milliken & Company, based in Spartanburg, South Carolina. Milliken employs 6,000 men and women in the United States and manufactures polypropylene clarifiers and nucleators used in the packaging, food storage and container markets. Because the raw materials needed are not produced in the United States, Milliken had relied on the MTB process to reduce its overall costs and improve its global competitiveness. Thanks to past MTBs, Milliken had been able to add jobs in South Carolina and grow its chemical business.

Lasko, Bayer and Milliken represent just a fraction of the manufacturers and their employees who would benefit from the MTB. The NAM has been advocating for reform of the MTB process to create a transparent, regularized and predictable MTB process that would correct these tariff distortions that place an unnecessary and anti-competitive tax on manufacturers across the United States.

Manufacturers are, therefore, strongly encouraged by the bicameral and bipartisan introduction of the "American Manufacturing Competiveness Act of 2016" that will set in place a new MTB process. The House version of the legislation was introduced by House Ways and Means Committee Chairman Kevin Brady (R-TX) and Ranking Member Sander Levin (D-MI) and Trade Subcommittee Chairman Dave Reichert (R-WA) and Ranking Member Charles Rangel (D-NY), with original co-sponsors including Representatives Pat Tiberi (R-OH), Earl Blumenauer (D-OR), Tom Reed (R-NY), Bill Pascrell (D-NJ), Jim Renacci (R-OH), Danny Davis (D-IL), Mark Walker (R-NC), Jim Clyburn (D-SC), Mick Mulvaney (R-SC), Michael Doyle (D-PA), Tom McClintock (R-CA), Sanford Bishop (D-GA), Todd Rokita (R-IN), Joseph Courtney (D-CT) and Rod Blum (R-IA). The Senate version was introduced by Senate Finance Committee Chairman Orrin Hatch (R-UT) and Ranking Member Ron Wyden (R-OR), with original co-sponsors including Senators Rob Portman (R-OH), Claire McCaskill (D-MO), Richard Burr (R-NC), Bob Casey (D-PA), Pat Toomey (R-PA) and Sherrod Brown (D-OH).

This legislation sets in place a new transparent process by which manufacturers and others can seek the temporary elimination of tariffs on products not produced in the United States by petitioning the U.S. International Trade Commission (USITC), which will conduct an analysis of whether the products are eligible for the duty-elimination. The House Ways and Means Committee and the Senate Finance Committee, with input from the administration, will review the preliminary report on the petitions for duty suspensions and reductions assembled by the USITC, and will have the ability to eliminate products that they find are not eligible.

For manufacturers, this relief is long overdue. The NAM, therefore, strongly urges Congress to consider and work expeditiously and jointly to pass this new MTB process to eliminate distortions in the U.S. tariff code that are undermining the competitiveness and growth of manufacturers throughout America.

April 14, 2016

Representative Kevin Brady
Chairman, House Committee on Ways & Means
1102 Longworth House Office Building
Washington, DC 20515

Dear Chairman Brady,

On behalf of our organizations, we write in support of your legislation, the "American Manufacturing Competitiveness Act of 2016," which would revise and improve the process for consideration of Miscellaneous Tariff Bills (MTBs). For years, MTBs served as an imperfect, yet effective means to reduce unnecessary tariffs on selected goods and materials that are not produced domestically.

By cutting or eliminating tariffs on raw materials and other products, MTBs helped create economic benefits for consumers while bolstering the competitiveness of American companies. In fact, according to the National Association of Manufacturers, passage of a MTB would provide the U.S. with $1.875 billion of economic growth annually.

There are also strict rules as to what is eligible for tariff relief. There could not be domestic production of the imported good, the estimated cost of the waived or reduced tariff could not exceed $500,000 and it had to be implementable by the U.S. Customs Service at the border. The International Trade Commission (ITC) was the arbiter of whether a proposal met the criteria.

Though its economic benefits are clear, since 2010 the MTB process has been halted by concerns about earmarks. Specifically, a provision in the rules of the House of Representatives prohibits the passage of a "limited tariff benefit" that affects fewer than 10 companies – a threshold triggered by many previous MTBs. Your legislation would wisely allow Congress to achieve the positive economic effects of an MTB without violating the ban on earmarks.

The revised process in your bill would require companies to file petitions for tariff relief directly to the ITC instead of to individual Members of Congress. The ITC would carefully analyze these requests and report its recommendations to Congress. Congress could exclude products from the ITC proposal, but could not add to it. This would ensure that all enacted tariff reductions were thoroughly vetted by both the ITC and Congress.

These important procedural changes should serve to eliminate any concerns about the parochialism and unethical behavior that were endemic to the earmarking process. Additionally, they add unprecedented

transparency, as all correspondence between businesses, the ITC, and Congress would be made easily available to the public in real time.

Again, we applaud you on creating a revised MTB process that increases transparency, avoids the pitfalls of earmarking, and sets the table for economic growth. Our organizations are pleased to endorse your bill and hope it will be swiftly enacted into law.

Sincerely,

Brandon Arnold, Executive Vice President
National Taxpayers Union

Grover Norquist, President
Americans for Tax Reform

Norman Singleton, President
Campaign for Liberty

Jeffrey Mazzella, President
Center for Individual Freedom

Tom Schatz, President
Council for Citizens Against Government Waste

Lisa Nelson, CEO
Jeffersonian Project

Lori Sanders, Outreach Director and Senior Fellow
R Street Institute

Karen Kerrigan, President and CEO
Small Business and Entrepreneurship Council

Steve Ellis, Vice President
Taxpayers for Common Sense

David Williams, President
Taxpayers Protection Alliance

Comments on the American Manufacturing Competitiveness Act of 2016
By Nufarm Americas, Inc.
April 2016

We applaud the introduction of the "American Manufacturing Competitiveness Act of 2016" (H.R. 4923 and S. 2794), new legislation that would create a reformed Miscellaneous tariff bill (MTB) process. This new approach is vitally necessary to avoid unwarranted import tariffs on imported goods that are not produced domestically.

My name is Tom Lyons, and I am Vice President of Operations at Nufarm Americas Inc. ("Nufarm"), a U.S. manufacturer and processor of crop protection products such as herbicides, insecticides, fungicides and plant growth regulators. I am writing today to encourage the broadest possible support of the MTB reform legislation in Congress and across the government.

As a leading supplier of crop protection products for American farmers, Nufarm maintains its U.S. headquarters and two manufacturing plants in the Chicago area. Together, these two Illinois sites provide 122 jobs in the greater Chicago area, 55 of which are manufacturing jobs. In the past few years, we have also completed tens of millions of dollars in capital expenditure improvements for our Chicago plants as a demonstration of our commitment to U.S. manufacturing, despite appreciable economic headwinds in Illinois. Nufarm additionally maintains a research and development site in Morrisville, North Carolina, which. also houses the company's regulatory and marketing teams. Nufarm employs 24 people at its Morrisville, NC location.

We support passage of trade legislation that includes MTB reform for the reason that current policy introduces unnecessary and unjustified cost into Nufarm's U.S. manufacturing activities that could be eliminated through the MTB. Manufacture of many of Nufarm's products requires chemical compounds that are not produced in the U.S., and that are subject to import tariffs when imported. For example, one of Nufarm's key products, MCPA Acid, is subject to a 6.5% tariff upon import. This tariff does not protect domestic producers as MCPA Acid is not produced in the U.S. The tariff raises production costs for U.S. producers such as Nufarm, who are then compelled to pass on costs to distributors and crop growers through higher prices when possible.

For many years, Congress addressed the unnecessary tariff costs by passing periodic MTB legislation. Unfortunately, Congress has not renewed the MTB since the final duty reductions and suspensions from the 2010 MTB expired at the end of 2012. As a result, manufacturers have seen their input costs go up undermining American competitiveness in trade as well as in U.S. job retention and creation. Nufarm has experienced specific adverse impact by paying duty on MCPA imported into the U.S. for processing and re-export to Canada with no

way to avoid the duty at import or to recover the duty upon re-export. Obviously, this greatly reduces the competitiveness of U.S. processing and threatens jobs.

Nufarm has been active in and supportive of the MTB process for over 20 years, including advocacy for MTB reform. There is no defensible reason to continue adding unnecessary cost into Nufarm's (or others') U.S. based production activities, and the new proposed MTB legislation is poised to address this issue. The time has come to reshape the process in a less political framework beginning administratively in the International Trade Commission, moving on through analysis and public comment, and culminating in a legislative recommendation to Congress.

I greatly appreciate your time and consideration of this most important issue to my company. Should you wish to hear further information regarding Nufarm's operations and the effects of tariff legislation, I would be most happy to discuss this issue further.

Sincerely,

Tom Lyons
Executive Vice President, Operations
Nufarm Americas Inc
11901 S. Austin Ave
Alsip IL 60803
708 377 1375
tom.lyons@us.nufarm.com

THOMPSON & ASSOCIATES, PLLC
gwt@gwthompsonlaw.com
1250 Connecticut Avenue, NW, Suite 200
Washington, DC 20036
202.261.6585

April 28, 2016

The Honorable Kevin Brady
Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Re: H.R. 4923, *American Manufacturing Competitiveness Act of 2016*.

I am providing these comments in support of the *American Manufacturing Competitiveness Act of 2016*. They are not submitted on behalf of any clients, but instead reflect my own views after 35 years as an international trade attorney, including over 5 years at the U.S. International Trade Commission, and 21 years as an adjunct professor at George Mason University.

In my private law practice I have represented a number of domestic manufacturers, most of them small businesses, that rely on imported materials for their production activities. While some of them were able to take advantage of the traditional tariff suspension process and some were not, all found it to be cumbersome and confusing. The absence since 2012 of even this flawed process has saddled such companies with unnecessary, additional costs.

The *American Manufacturing Competitiveness Act* provides a vastly improved procedure for temporary suspension of anti-competitive tariffs. It addresses the two chronic problems in the previous ad hoc approach: unpredictability, and the perception of undue political influence in choosing the beneficiaries of legislation.

That a tariff suspension process is appropriate is noncontroversial. While tariffs serve both protective and revenue-raising purposes, the former does not

apply when there is no domestic production of a product competitive with imported items. This puts U.S. manufacturers that must import materials at a cost disadvantage, with no concomitant benefit to a domestic industry.

There are two features of the Harmonized Tariff Schedule that must be taken into account in devising an effective suspension process:

- Tariff rates on parts and materials tend to be higher than on finished goods.
- Tariff provisions, while detailed in coverage, generally are broader in scope than the specific item that a manufacturer needs to import.

Additionally, to ensure that the tariff relief is beneficial to domestic producers, the process must provide mechanisms to:

- Permit importers to apply and demonstrate their eligibility.
- Confirm there is no domestic production of the item for which suspension is sought.
- Make certain that the importer receiving the benefit will in fact use it in domestic production activities.

H.R. 4923 meets each of these requirements. The International Trade Commission has the investigative and research capability to serve as a gatekeeper and evaluate the merits of each application. It also has the tariff expertise to craft appropriate classification provisions that are administrable by U.S. Customs and Border Protection. Armed with the Commission's disinterested advice, Congress will be in a position to weigh the merits of proposed suspension measures.

For these reasons, I support enactment of H.R. 4923.

Very truly yours,
/s/
George W. Thompson