

American Manufacturing Competitiveness Act of 2016:

Section-by-Section Summary

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SECTION 1: SHORT TITLE

Section 1 entitles the bill the “American Manufacturing Competitiveness Act of 2016”.

SECTION 2: SENSE OF CONGRESS AND THE NEED FOR A MISCELLANEOUS TARIFF BILL

Section 2 establishes certain Congressional findings, including that:

- The Harmonized Tariff Schedule (HTS) imposes duties on imported goods for which there is no or insufficient domestic availability, and the imposition of duties on such goods creates artificial distortions in the U.S. economy that negatively affect U.S. manufacturers and consumers;
- U.S. manufacturing competitiveness will be enhanced if Congress regularly and predictably updates the HTS to suspend or reduce duties on such goods.
- Creating and maintaining an open and transparent process for consideration of petitions for duty suspensions and reductions builds confidence that the process is fair, open to all, and free of abuse.
- Complying with the Rules of the House and the Senate is essential to fostering and maintaining confidence in the process for considering a miscellaneous tariff bill (MTB).
- A miscellaneous tariff bill developed under this process will not contain any Congressional earmarks (or congressionally directed spending items) or limited tax benefits within the meaning of House or Senate Rules
- Because any limited tariff benefits contained in any MTB following the process set forth by this Act will not have been the subject of legislation introduced by an individual Member of Congress and will be fully vetted through a transparent and fair process free of abuse, it is appropriate for Congress to consider limited tariff benefits as part of that MTB as long as:
 - in the case of an MTB considered in the House, consistent with the Rules of the House, a list of such limited tariff benefits is published in the reports of the

- Committee on Ways and Means accompanying the MTB, or in the Congressional Record; and
 - in the case of an MTB considered in the Senate, such limited tariff benefits are identified and made available consistent with the Standing Rules of the Senate.
- When this process is followed, it is consistent with the letter and intent of the Rules of the House and the Senate and other related guidance.

Section 2 also expresses a Sense of Congress that, to remove the competitive disadvantage to U.S. manufacturers and consumers and to promote the competitiveness of U.S. manufacturers, Congress should, not later than 90 days after the U.S. International Trade Commission (ITC) issues a final report on petitions for duty suspensions and reductions required by section 3 of this bill, consider an MTB.

SECTION 3: PROCESS FOR CONSIDERATION OF DUTY SUSPENSIONS AND REDUCTIONS

Section 3(a) states that the purpose of this section is to establish a process for the submission and consideration of petitions for duty suspensions and reductions.

Section 3(b)(1) requires the ITC to initiate the process by publishing a notice on a publicly available website and in the Federal Register requesting members of the public who can demonstrate that they are “likely beneficiaries” of duty suspensions or reductions to submit petitions and Commission disclosure forms to the ITC within 60 days of the notice.

Section 3(b)(2) establishes the information that each petition must contain.

Section 3(b)(3) sets out the ITC’s review process. As soon as practicable after the expiration of the 60-day period in section 3(b)(1), the ITC shall publish on its publicly available website the list of petitions that meet the requirements of section 3(b)(2) and the corresponding Commission disclosure forms. The public will have 45 days from the date of this publication to provide comments to the ITC on the posted petitions, and the ITC shall publish these comments on in the Federal Register and on its website.

Section 3(b)(3)(C) provides that no later than 150 days after the ITC’s publication of the petitions, the ITC shall submit a preliminary report on the petitions to the Committee on Ways and Means of the House and the Committee on Finance of the Senate (the Committees) with its analysis and recommendations regarding the petitions, including whether there is “domestic production,” an estimated cost of the duty reduction, and the likely beneficiaries. The ITC shall classify petitions into categories based on whether: (1) the ITC recommends inclusion without modification; (2) the ITC recommends inclusion with specified technical changes, adjustments in product scope, or adjustments in the amount of duty reduction; (3) the ITC recommends not including because the petition did not meet the petition requirements or the petitioner was not a likely beneficiary; (4) the ITC otherwise recommends not including. With respect to the latter category, section 3(b)(3)(D) provides that the ITC shall consider any information submitted by the Committees. Under section 3(b)(3)(E) the ITC shall then prepare a final report, due no later than 60 days after submission of the preliminary report, to update the preliminary report and to

state whether each provision is administrable, has an estimated cost that does not exceed \$500,000, and is available to any person importing it.

Section 3(b)(3)(F) provides that the Committees may exclude petitions from a miscellaneous tariff bill based on the ITC's recommendations, an objection from a Member of Congress, or domestic production. However, the Committees cannot add products that did not either (1) receive a favorable recommendation from the Commission; or (2) undergo the processes required by this section.

Section 3(b)(4) requires the ITC to comply with the procedures concerning the release of confidential business information set forth in section 332(g) of the Tariff Act of 1930 when it [posts petitions on its website] and in its preparation of reports for Congress.

Section 3(b)(5) requires the ITC to prescribe and publish procedures required for submitting petitions for duty suspensions and reductions on its website and in the Federal Register.

Section 3(c) requires the Secretary of Commerce, in consultation with U.S. Customs and Border Protection and other relevant Federal Agencies, to submit to the ITC and the Committees a report on each petition that includes: 1) a determination of whether there is domestic production of the article that is the subject of the petition, and if so, whether a domestic producer objects to the petition, and 2) any technical changes to the article description that are necessary for the purpose of administration when the articles are presented for importation.

SECTION 4: REPORT ON EFFECTS OF DUTY SUSPENSIONS AND REDUCTIONS ON U.S. ECONOMY

Section 4 requires the ITC to submit a report to the Committees, no later than May 1, 2018, and May 1, 2020, on the effects on the U.S. economy of duty suspensions and reductions enacted pursuant to this Act, including a broad assessment of the economic effects of such duty suspensions on producers, purchasers, and consumers in the United States, using case studies describing such effects on selected industries or by type of article as available data permits. The ITC shall also solicit and append to the report recommendations with respect to those domestic industry sectors or specific domestic industries that might benefit from permanent duty suspensions or reductions, either through a unilateral action of the United States or through negotiations for reciprocal tariff agreements, with a particular focus on inequities created by tariff inversions. These reports shall be unclassified, but may include a classified annex.

SECTION 5: PUBLICATION OF LIMITED TARIFF BENEFITS IN THE HOUSE OF REPRESENTATIVES AND THE SENATE

Section 5(a) requires the chair of the Committee on Ways and Means of the House to include a list of limited tariff benefits contained in a miscellaneous tariff bill in the report to accompany such a bill or, in a case where a miscellaneous tariff bill is not reported by the committee, to cause such a list to be printed in the appropriate section of the Congressional Record. For the purposes of this subsection and consistent with clause 9 of rule XXI of the Rules of the House,

the term “limited tariff benefit” means a provision modifying the Harmonized Tariff Schedule of the United States in a manner that benefits 10 or fewer entities.

Section 5(b) requires the chairman of the Committee on Finance of the Senate, the Majority Leader of the Senate, or the designee of the Majority Leader of the Senate, to provide for the publication in the Congressional Record of a certification that 1) each limited tariff bill contained in a miscellaneous tariff bill considered in the Senate has been identified through lists, charts, or other similar means, and 2) any such information identified has been available on a publicly accessible congressional website in a searchable format at least 48 hours before the vote on the motion to proceed to the miscellaneous tariff bill or the vote on the adoption of a report of a committee of conference in connection with the miscellaneous tariff bill, as the case may be. Publication of a certification in the Congressional Record satisfies the certification requirements of paragraphs 1(a), 2(a), and 3(a) of rule XLIV of the Standing Rules of the Senate. For purposes of this subsection and consistent with rule XLIV of the Standing Rules of the Senate, as in effect during the One Hundred Fourteenth Congress, the term “limited tariff benefit” means a provision modifying the Harmonized Tariff Schedule of the United States in a manner that identifies 10 or fewer entities.

Section 5(c) establishes that this section is enacted by Congress as 1) an exercise of the rulemaking power of the House and the Senate, respectively, and as such are deemed a part of the rules of each House, respectively, and such procedures supersede other rules only to the extent that they are consistent with such other rules, and 2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SECTION 6: JUDICIAL REVIEW PRECLUDED

Section 6 establishes that the exercise of functions under this Act shall not be subject to judicial review.

SECTION 7: DEFINITIONS

Section 7 defines certain terms in this Act.

Section 7(4) defines “domestic producer” as a person that demonstrates production, or imminent production, in the United States of an article that is identical to, or like or directly competitive with, an article to which a petition for a duty suspension or reduction would apply.

Section 7(6) defines “duty suspension or reduction” as extending, for a period not to exceed 3 years, a new or existing temporary duty suspension or reduction.

Section 7(7) defines “likely beneficiary” as an individual or entity likely to utilize, or benefit directly from the utilization of, an article that is the subject of a petition for a duty suspension or reduction.