

AMERICAN MANUFACTURING COMPETITIVENESS ACT OF
 2016

APRIL 25, 2016.—Committed to the Committee of the Whole House on the State of
 the Union and ordered to be printed

Mr. BRADY of Texas, from the Ways and Means,
 submitted the following

R E P O R T

[To accompany H.R. 4923]

The Committee on Ways and Means, to whom was referred the bill (H.R. 4923) to establish a process for the submission and consideration of petitions for temporary duty suspensions and reductions, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:
 Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “American Manufacturing Competitiveness Act of 2016”.

SEC. 2. SENSE OF CONGRESS ON THE NEED FOR A MISCELLANEOUS TARIFF BILL.

(a) FINDINGS.—Congress makes the following findings:

(1) As of the date of the enactment of this Act, the Harmonized Tariff Schedule of the United States imposes duties on imported goods for which there is no domestic availability or insufficient domestic availability.

(2) The imposition of duties on such goods creates artificial distortions in the economy of the United States that negatively affect United States manufacturers and consumers.

(3) The manufacturing competitiveness of the United States around the world will be enhanced if Congress regularly and predictably updates the Harmonized Tariff Schedule to suspend or reduce duties on such goods.

(4) 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.

(5) Complying with the Rules of the House of Representatives and the Senate, in particular with clause 9 of rule XXI of the Rules of the House of Representatives and rule XLIV of the Standing Rules of the Senate, is essential to fostering and maintaining confidence in the process for considering a miscellaneous tariff bill.

(6) A miscellaneous tariff bill developed under this process will not contain any—

(A) congressional earmarks or limited tax benefits within the meaning of clause 9 of rule XXI of the Rules of the House of Representatives; or

(B) congressionally directed spending items or limited tax benefits within the meaning of rule XLIV of the Standing Rules of the Senate.

(7) Because any limited tariff benefits contained in any miscellaneous tariff bill 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 miscellaneous tariff bill as long as—

(A) in the case of a miscellaneous tariff bill considered in the House of Representatives, consistent with the Rules of the House of Representatives, a list of such limited tariff benefits is published in the reports of the Committee on Ways and Means of the House of Representatives accompanying the miscellaneous tariff bill, or in the Congressional Record; and

(B) in the case of a miscellaneous tariff bill considered in the Senate, consistent with the Standing Rules of the Senate—

(i) such limited tariff benefits have been identified through lists, charts, or other similar means; and

(ii) the information identified in clause (i) 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.

(8) When the process set forth under paragraph (7) is followed, it is consistent with the letter and intent of the Rules of the House of Representatives and the Senate and other related guidance.

(b) SENSE OF CONGRESS.—It is the sense of Congress that, to remove the competitive disadvantage to United States manufacturers and consumers and to promote the competitiveness of United States manufacturers, Congress should, not later than 90 days after the United States International Trade Commission issues a final report on petitions for duty suspensions and reductions under section 3(b)(3)(E), consider a miscellaneous tariff bill.

SEC. 3. PROCESS FOR CONSIDERATION OF PETITIONS FOR DUTY SUSPENSIONS AND REDUCTIONS.

(a) PURPOSE.—It is the purpose of this section to establish a process for the submission and consideration of petitions for duty suspensions and reductions.

(b) REQUIREMENTS OF COMMISSION.—

(1) INITIATION.—Not later than October 15, 2016, and October 15, 2019, the Commission shall publish in the Federal Register and on a publicly available Internet website of the Commission a notice requesting members of the public who can demonstrate that they are likely beneficiaries of duty suspensions or

reductions to submit to the Commission during the 60-day period beginning on the date of such publication—

- (A) petitions for duty suspensions and reductions; and
 - (B) Commission disclosure forms with respect to such duty suspensions and reductions.
- (2) CONTENT OF PETITIONS.—Each petition for a duty suspension or reduction under paragraph (1)(A) shall include the following information:
- (A) The name and address of the petitioner.
 - (B) A statement as to whether the petition provides for an extension of an existing duty suspension or reduction or provides for a new duty suspension or reduction.
 - (C) A certification that the petitioner is a likely beneficiary of the proposed duty suspension or reduction.
 - (D) An article description for the proposed duty suspension or reduction to be included in the amendment to subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States.
 - (E) To the extent available—
 - (i) a classification of the article for purposes of the amendment to subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States;
 - (ii) a classification ruling of U.S. Customs and Border Protection with respect to the article; and
 - (iii) a copy of a U.S. Customs and Border Protection entry summary indicating where the article is classified in the Harmonized Tariff Schedule of the United States.
 - (F) A brief and general description of the article.
 - (G) A brief description of the industry in the United States that uses the article.
 - (H) An estimate of the total value, in United States dollars, of imports of the article for each of the 5 calendar years after the calendar year in which the petition is filed, including an estimate of the total value of such imports by the person who submits the petition and by any other importers, if available.
 - (I) The name of each person that imports the article, if available.
 - (J) A description of any domestic production of the article, if available.
 - (K) Such other information as the Commission may require.
- (3) REVIEW.—
- (A) COMMISSION PUBLICATION AND PUBLIC AVAILABILITY.—As soon as practicable after the expiration of the 60-day period specified in paragraph (1), but in any case not later than 30 days after the expiration of such 60-day period, the Commission shall publish on a publicly available Internet website of the Commission—
 - (i) the petitions for duty suspensions and reductions submitted under paragraph (1)(A) that contain the information required under paragraph (2); and
 - (ii) the Commission disclosure forms with respect to such duty suspensions and reductions submitted under paragraph (1)(B).
 - (B) PUBLIC COMMENT.—
 - (i) IN GENERAL.—The Commission shall publish in the Federal Register and on a publicly available Internet website of the Commission a notice requesting members of the public to submit to the Commission during the 45-day period beginning on the date of publication described in subparagraph (A) comments on—
 - (I) the petitions for duty suspensions and reductions published by the Commission under subparagraph (A)(i); and
 - (II) the Commission disclosure forms with respect to such duty suspensions and reductions published by the Commission under subparagraph (A)(ii).
 - (ii) PUBLICATION OF COMMENTS.—The Commission shall publish a notice in the Federal Register directing members of the public to a publicly available Internet website of the Commission to view the comments of the members of the public received under clause (i).
 - (C) PRELIMINARY REPORT.—
 - (i) IN GENERAL.—As soon as practicable after the expiration of the 120-day period beginning on the date of publication described in subparagraph (A), but in any case not later than 30 days after the expiration of such 120-day period, the Commission shall submit to the appropriate congressional committees a preliminary report on the petitions for duty suspensions and reductions submitted under paragraph (1)(A).

The preliminary report shall contain the following information with respect to each petition for a duty suspension or reduction:

(I) The heading or subheading of the Harmonized Tariff Schedule of the United States in which each article that is the subject of the petition for the duty suspension or reduction is classified, as identified by documentation supplied to the Commission, and any supporting information obtained by the Commission.

(II) A determination of whether or not domestic production of the article that is the subject of the petition for the duty suspension or reduction exists, taking into account the report of the Secretary of Commerce under subsection (c)(1), and, if such production exists, whether or not a domestic producer of the article objects to the duty suspension or reduction.

(III) Any technical changes to the article description of the article that is the subject of the petition for the duty suspension or reduction that are necessary for purposes of administration when the article is presented for importation, taking into account the report of the Secretary of Commerce under subsection (c)(2).

(IV) An estimate of the amount of loss in revenue to the United States that would no longer be collected if the duty suspension or reduction takes effect.

(V) A determination of whether or not the duty suspension or reduction is available to any person that imports the article that is the subject of the duty suspension or reduction.

(VI) The likely beneficiaries of each duty suspension or reduction, including whether the petitioner is a likely beneficiary.

(ii) CATEGORIES OF INFORMATION.—The preliminary report submitted under clause (i) shall also contain the following information:

(I) A list of petitions for duty suspensions and reductions that meet the requirements of this Act without modifications.

(II) A list of petitions for duty suspensions and reductions for which the Commission recommends technical corrections in order to meet the requirements of this Act, with the correction specified.

(III) A list of petitions for duty suspensions and reductions for which the Commission recommends modifications to the amount of the duty suspension or reduction that is the subject of the petition to comply with the requirements of this Act, with the modification specified.

(IV) A list of petitions for duty suspensions and reductions for which the Commission recommends modifications to the scope of the articles that are the subject of such petitions to address objections by domestic producers to such petitions, with the modifications specified.

(V) A list of the following:

(aa) Petitions for duty suspensions and reductions that the Commission has determined do not contain the information required under paragraph (2).

(bb) Petitions for duty suspensions and reductions with respect to which the Commission has determined the petitioner is not a likely beneficiary.

(VI) A list of petitions for duty suspensions and reductions that the Commission does not recommend for inclusion in a miscellaneous tariff bill, other than petitions specified in subclause (V).

(D) ADDITIONAL INFORMATION.—The Commission shall consider any information submitted by the appropriate congressional committees to the Commission relating to moving a petition that is contained in the list referred to in subclause (VI) of subparagraph (C)(ii) of the preliminary report submitted under subparagraph (C) to a list referred to in subclause (I), (II), (III), or (IV) of subparagraph (C)(i).

(E) FINAL REPORT.—Not later than 60 days after the date on which the preliminary report is submitted under subparagraph (C), the Commission shall submit to the appropriate congressional committees a final report on each petition for a duty suspension or reduction specified in the preliminary report. The final report shall contain with respect to each such petition—

(i) the information required under clauses (i) and (ii) of subparagraph (C) and updated as appropriate under subparagraph (D); and

(ii) a determination of the Commission whether—

(I) the duty suspension or reduction can likely be administered by U.S. Customs and Border Protection;

(II) the estimated loss in revenue to the United States from the duty suspension or reduction does not exceed \$500,000 in a calendar year during which the duty suspension or reduction would be in effect; and

(III) the duty suspension or reduction is available to any person importing the article that is the subject of the duty suspension or reduction.

(F) EXCLUSIONS.—The appropriate congressional committees may exclude from a miscellaneous tariff bill any petition for a duty suspension or reduction that—

(i) is contained in any list referred to in subclause (I), (II), (III), or (IV) of subparagraph (C)(ii), as updated as appropriate under subparagraph (E)(i);

(ii) is the subject of an objection from a Member of Congress; or

(iii) is for an article for which there is domestic production.

(G) ESTIMATES BY THE CONGRESSIONAL BUDGET OFFICE.—For purposes of reflecting the estimate of the Congressional Budget Office, the appropriate congressional committees shall adjust the amount of a duty suspension or reduction in a miscellaneous tariff bill only to assure that the estimated loss in revenue to the United States from that duty suspension or reduction, as estimated by the Congressional Budget Office, does not exceed \$500,000 in a calendar year during which the duty suspension or reduction would be in effect.

(H) PROHIBITIONS.—Any petitions for duty suspensions or reductions that are contained in any list referred to in subclause (V) or (VI) of subparagraph (C)(ii), as updated as appropriate under subparagraph (E)(i), or have not otherwise undergone the processes required by this Act shall not be included in a miscellaneous tariff bill.

(4) CONFIDENTIAL BUSINESS INFORMATION.—The procedures concerning the release of confidential business information set forth in section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) shall apply with respect to information received by the Commission in posting petitions on a publicly available website of the Commission and in preparing reports under this subsection.

(5) PROCEDURES.—The Commission shall prescribe and publish in the Federal Register and on a publicly available Internet website of the Commission procedures to be complied with by members of the public submitting petitions for duty suspensions and reductions under subsection (b)(1)(A).

(c) DEPARTMENT OF COMMERCE REPORT.—Not later than the end of the 90-day period beginning on the date of publication of the petitions for duty suspensions and reductions under subsection (b)(3)(A), the Secretary of Commerce, in consultation with U.S. Customs and Border Protection and other relevant Federal agencies, shall submit to the Commission and the appropriate congressional committees a report on each petition for a duty suspension or reduction submitted under subsection (b)(1)(A) that includes the following information:

(1) A determination of whether or not domestic production of the article that is the subject of the petition for the duty suspension or reduction exists and, if such production exists, whether or not a domestic producer of the article objects to the petition for the duty suspension or reduction.

(2) Any technical changes to the article description that are necessary for purposes of administration when articles are presented for importation.

SEC. 4. REPORT ON EFFECTS OF DUTY SUSPENSIONS AND REDUCTIONS ON UNITED STATES ECONOMY.

(a) IN GENERAL.—Not later than 12 months after the date of the enactment of a miscellaneous tariff bill, the Commission shall submit to the appropriate congressional committees a report on the effects on the United States economy of duty suspensions and reductions enacted pursuant to this Act, including a broad assessment of the economic effects of such duty suspensions and reductions 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 permit.

(b) RECOMMENDATIONS.—The Commission shall also solicit and append to the report required under subsection (a) recommendations with respect to those domestic industry sectors or specific domestic industries that might benefit from permanent duty suspensions and 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.

(c) FORM OF REPORT.—Each report required by this section shall be submitted in unclassified form, but may include a classified annex.

SEC. 5. PUBLICATION OF LIMITED TARIFF BENEFITS IN THE HOUSE OF REPRESENTATIVES AND THE SENATE.

(a) HOUSE OF REPRESENTATIVES.—

(1) IN GENERAL.—The chair of the Committee on Ways and Means of the House of Representatives shall 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, shall cause such a list to be printed in the appropriate section of the Congressional Record.

(2) LIMITED TARIFF BENEFIT DEFINED.—For purposes of this subsection and consistent with clause 9 of rule XXI of the Rules of the House of Representatives, 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 benefits 10 or fewer entities.

(b) SENATE.—

(1) IN GENERAL.—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, shall provide for the publication in the Congressional Record of a certification that—

(A) each limited tariff benefit contained in a miscellaneous tariff bill considered in the Senate has been identified through lists, charts, or other similar means; and

(B) the information identified in subparagraph (A) 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.

(2) SATISFACTION OF SENATE RULES.—Publication of a certification in the Congressional Record under paragraph (1) satisfies the certification requirements of paragraphs 1(a), 2(a), and 3(a) of rule XLIV of the Standing Rules of the Senate.

(3) LIMITED TARIFF BENEFIT DEFINED.—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 benefits 10 or fewer entities.

(c) ENACTMENT AS EXERCISE OF RULEMAKING POWER OF HOUSE OF REPRESENTATIVES AND SENATE.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the House of Representatives 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 inconsistent 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.

SEC. 6. JUDICIAL REVIEW PRECLUDED.

The exercise of functions under this Act shall not be subject to judicial review.

SEC. 7. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(2) COMMISSION.—The term “Commission” means the United States International Trade Commission.

(3) COMMISSION DISCLOSURE FORM.—The term “Commission disclosure form” means, with respect to a petition for a duty suspension or reduction, a document submitted by a petitioner to the Commission that contains the following:

(A) The contact information for any known importers of the article to which the proposed duty suspension or reduction would apply.

(B) A certification by the petitioner that the proposed duty suspension or reduction is available to any person importing the article to which the proposed duty suspension or reduction would apply.

(C) A certification that the petitioner is a likely beneficiary of the proposed duty suspension or reduction.

(4) DOMESTIC PRODUCER.—The term “domestic producer” means 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.

(5) DOMESTIC PRODUCTION.—The term “domestic production” means the production 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, for which a domestic producer has demonstrated production, or imminent production, in the United States.

(6) DUTY SUSPENSION OR REDUCTION.—The term “duty suspension or reduction” refers to an amendment to subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States for a period not to exceed 3 years that—

(A) extends an existing temporary duty suspension or reduction on an article under that subchapter; or

(B) provides for a new temporary duty suspension or reduction on an article under that subchapter.

(7) LIKELY BENEFICIARY.—The term “likely beneficiary” means 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.

(8) MEMBER OF CONGRESS.—The term “Member of Congress” means a Senator or Representative in, or Delegate or Resident Commissioner to, Congress.

(9) MISCELLANEOUS TARIFF BILL.—The term “miscellaneous tariff bill” means a bill of either House of Congress that contains only duty suspensions and reductions and related technical corrections that—

(A) are included in the final report of the Commission submitted to the appropriate congressional committees under section 3(b)(3)(E), except for—

(i) petitions for duty suspensions or reductions that the Commission has determined do not contain the information required under section 3(b)(2);

(ii) petitions for duty suspensions and reductions with respect to which the Commission has determined the petitioner is not a likely beneficiary; and

(iii) petitions for duty suspensions and reductions that the Commission does not recommend for inclusion in the miscellaneous tariff bill;

(B) are not excluded under section 3(b)(3)(F); and

(C) otherwise meet the applicable requirements of this Act.

I. SUMMARY AND BACKGROUND

A. PURPOSE AND SUMMARY

The bill, H.R. 4923, the “American Manufacturing Competitiveness Act of 2016,” establishes a process for the submission and consideration of petitions for temporary duty suspensions and reductions.

B. BACKGROUND AND NEED FOR LEGISLATION

Since 1982, Congress has passed legislation to temporarily reduce or suspend tariffs on certain imported products and make technical corrections to U.S. tariff laws. This legislation is known as the “Miscellaneous Tariff Bill” (MTB). The MTB is designed to boost the competitiveness of U.S. manufacturers by lowering the cost of imported inputs without harming domestic firms that produce competing products. In the case of finished goods, MTB legislation similarly reduces costs for consumers where there is no domestic production and thus no impact on domestic firms. The tariff relief contained in the MTB is broadly available to any entity that imports the product.

The last MTB passed by Congress expired on December 31, 2012. Since then, U.S. manufacturers have faced an annual \$748 million tax increase on their inputs 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 in a broad range of industries have experienced tax burdens and lost jobs, consumers have faced higher prices, and U.S. businesses have lost their competitive edge over foreign companies.

This legislation, which creates an open, transparent and effective process for the House to consider MTBs, will help American manufacturers regain the ability to compete with manufacturers from other countries.

C. LEGISLATIVE HISTORY

Background

H.R. 4923, to establish a process for the submission and consideration of petitions for temporary duty suspensions and reductions, and for other purposes, was introduced on April 13, 2016, by Chairman Kevin Brady (R-TX), Ranking Member Levin (D-MI), Trade Subcommittee Chairman Reichert (R-WA), Trade Subcommittee Ranking Member Rangel (D-NY), and Representatives Tiberi (R-OH), Blumenauer (D-OR), Reed (R-NY), Pascrell (D-NJ), Renacci (R-OH), Davis (D-IL), Walker (R-NC), Clyburn (D-SC), Mulvaney (R-SC), Doyle (D-PA), McClintock (R-CA), Bishop (D-GA), Rokita (R-IN), Courtney (D-CT), and Blum (R-IA).

Committee hearings

On April 14, 2016, the Subcommittee on Trade held a hearing on the Miscellaneous Tariff Bill: Helping U.S. Manufacturers through Tax Cuts. The hearing focused on the U.S. manufacturing and economic benefits of providing temporary tariff relief on imported finished goods and raw materials not produced in the United States. The Subcommittee received testimony from Leib Oehmig, President and Chief Operating Office of Glen Raven, Inc.; Dawn Grove, Corporate Counsel, Karsten Manufacturing; Brooke DiDomenico, Production Manager, Nation Ford Chemical; and Matthew Schreiber, Global Leader for GORE-TEX Footwear Innovation, W.L. Gore & Associates.

Committee action

The Committee on Ways and Means marked up H.R. 4923, to establish a process for the submission and consideration of petitions for temporary duty suspensions and reductions, and for other purposes, on April 20, 2016. Chairman Brady offered an amendment in the nature of a substitute. H.R. 4923 was then ordered favorably reported to the House of Representatives, as amended, by a voice vote (with a quorum being present).

II. EXPLANATION OF THE BILL

SECTION 1: SHORT TITLE

Present law

No provision.

Explanation of provision

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

Reason for change

The short title reflects the Committee’s belief that this Act will help American manufacturers regain a competitive edge over manufacturers from other countries.

Effective date

The provision is effective upon enactment.

SECTION 2: SENSE OF CONGRESS ON THE NEED FOR A MISCELLANEOUS
TARIFF BILL*Present law*

No provision.

Explanation of provision

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).
- An MTB 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.

Reason for change

Recognizing that 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 since the expiration of the last MTB in 2012, the Committee has developed a new process for consideration of an MTB in a manner that is open, transparent, free of abuse, and consistent with House Rules for disciplining earmarks. Pursuant to clause 9 of Rule XXI of the House Rules and related guidance, limited tariff benefits (LTBs), or provisions modifying the Harmonized Tariff Schedule of the United States in a manner that benefits 10 or fewer entities, may be considered by the House if no Member has introduced them and if the Ways and Means Chairman certifies that there are no earmarks and publishes a list of the LTBs. The Committee believes that when the process set forth in this bill is followed, it is consistent with the letter and intent of the Rules of the House and the Senate and other related guidance.

Under this new process, U.S. manufacturers will be able to lower costs, create new jobs, increase U.S. production, reduce consumer prices, and regain their competitive edge over manufacturers from other countries.

The Committee intends to consider a Miscellaneous Tariff Bill in the fall of 2017 and the fall of 2020.

Effective date

The provision is effective upon enactment.

SECTION 3: PROCESS FOR CONSIDERATION OF PETITIONS FOR DUTY
SUSPENSIONS AND REDUCTIONS

Present law

No provision.

Explanation of provision

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 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 prelimi-

nary 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 provisions 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.

Reason for change

The Committee believes that the process for consideration of a miscellaneous tariff bill should begin exclusively through petitions made by businesses to the independent, non-partisan International Trade Commission (ITC). Such a process provides ample opportunity for local businesses to petition for relief in a manner that is consistent with House Rules and related guidance, to which the Committee is fully committed.

The Committee places great importance on the transparency requirements of section 3. The fair, open, and transparent process established under the Act will allow the American people to see the petitions, comment on them, and access the ITC’s recommendations to Congress. Moreover, it is the Committee’s intention that this full

transparency be maintained throughout the process in a manner that does not compromise business confidential information.

In establishing under section 3(b) the information requirements that each petitioner must include in a petition, the Committee believes that the ITC should be as thorough as possible and take into account the recommendations of relevant Federal agencies. The Committee emphasizes that the list of items specified in the legislation for inclusion in the petition is not exhaustive, and the ITC may require further information from petitioners so that the ITC and relevant Federal agencies can conduct a complete and efficient analysis. The Committee also expects that the list of items should include a notation as to whether the petitioner is submitting confidential business information, and that information shall be treated in compliance with statutory procedures.

The Committee also believes that the ITC should establish clear standards for determining the sufficiency of each petition. If a petitioner does not provide information required by the ITC and the Administration in the petition or does not fully respond to a request by those agencies later in the process, then that petition could be deemed insufficient by the ITC.

The Committee believes that the ITC should require that only one product be included per petition and that the ITC should consolidate identical petitions.

Finally, the Committee expects that petitioners will be required to submit legislative text using a format provided by the ITC so that the Committee process of preparing final legislation is expedited.

The Committee expects that the ITC's website will contain a fully searchable portal for submission of petitions and comments, with all information available to the public, Congress, and the Administration. The Committee believes that the ITC's website will increase efficiency and transparency in the review of petitions by the public and the Administration. The Committee expects the ITC to post petitions and comments on a rolling basis, thereby permitting the public and the Administration to review and analyze the petitions and to submit their views as early in the process as possible.

Section 3(c) provides an opportunity for the Administration to provide a report to the ITC that includes information related to technical changes and domestic production, as well as any other information the agencies deem relevant to submit for consideration. Throughout this process, the Committee is committed to working with the relevant Federal agencies, including the Department of Commerce (Commerce), U.S. Customs and Border Protection (CBP), and the Office of the United States Trade Representative (USTR), so that they can make their views and analysis on the petitions known to the Committees and to the public based on all of the information presented to the ITC in the petitions. The Committee believes that these agencies provide an enormously useful and valuable contribution, which allows the Committee to conduct the best analysis possible. The Committee expects that the Administration's report will be thorough and complete based on the information available to the Administration at the time of submission. In addition, the Committee expects that if the Administration has any additional views or information to share after the report is issued, it will provide such views or information to the ITC and the

Committee after the report is submitted. The Committee is committed to taking into account the views and information submitted by the agencies, the ITC, and the public throughout the process, including up until the Committee finalizes the miscellaneous trade bill for Congressional consideration.

The Committee expects a significant number of petitions to be submitted to the ITC for review, and to this end, greatly appreciates the amount of time and resources that the ITC and the Administration will be dedicating to reviewing petitions. Accordingly, the Committee has built in timelines it considers to be reasonable, weighing the time needed by the ITC and the Administration to conduct a thorough analysis against the importance of an expedient and efficient process to address the harm done to U.S. manufacturers in the absence of the MTB.

Finally, the Committee believes that it is essential that each product included in a miscellaneous tariff bill is non-controversial and that the MTB does not contain controversial products. The Committee affirms that, as in the past, a product will be considered controversial if, for instance, another Member objects to the product or if a domestic producer objects to the product. If a product is deemed controversial in nature, it will be ineligible for inclusion in the MTB.

Effective date

The provision is effective upon enactment.

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

Present law

No provision.

Explanation of provision

Section 4 requires the ITC to submit a report to the Committees, no later than 12 months after enactment of an MTB, 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 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.

Reason for change

Section 4 requires the ITC to investigate and recommend to Congress those domestic industries or sectors that might benefit from permanent duty suspensions or reductions, either through unilateral action of the United States or through negotiations for reciprocal tariff agreements. The Committee requires the ITC to give

special emphasis on the significant inequities caused by tariff inversions, in which tariffs on imported components are higher than tariffs for finished goods. Such tariff inversions discourage U.S. manufacturing because it is cheaper to import the finished product than to import components for manufacture in the United States. The Committee believes this analysis gives Congress necessary information to determine where permanent changes to the U.S. tariff code are particularly warranted to help U.S. manufacturers and consumers, while maintaining U.S. leverage in trade negotiations.

Effective date

The provision is effective upon enactment.

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

Present law

No provision.

Explanation of provision

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.

Reason for change

Consistent with House Rules, the House may consider LTBs if no Member has introduced them and the Chairman of the Ways and Means Committee publishes a list of these LTBs in the committee report or Congressional Record. This section requires such publication, making this process consistent with House Rules.

Effective date

The provision is effective upon enactment.

SECTION 6: JUDICIAL REVIEW PRECLUDED

Present law

No provision.

Explanation of provision

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

Reason for change

The exercise of functions under this Act are not appropriate for judicial review.

Effective date

The provision is effective upon enactment.

SECTION 7: DEFINITIONS

Present law

No provision.

Explanation of provision

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.

Reason for change

This section ensures that the terms used in this bill have the meaning intended by Congress.

Effective date

The provision is effective upon enactment.

III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means in its consideration of H.R. 4923, the American Manufacturing Competitiveness Act of 2016, on April 20, 2016.

The bill, H.R. 4923 was ordered favorably reported to the House of Representatives as amended by a voice vote (with a quorum being present).

IV. BUDGET EFFECTS OF THE BILL

With respect to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, an estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 was not submitted to the Committee before the filing of the report.

With respect to clause 3(d) of rule XIII of the Rules of the House of Representatives, the committee estimates that H.R. 4923 will result in no direct spending and will have no revenue impact.

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee advises that it was as a result of the Committee's review of the provisions of H.R. 4923 that the Committee concluded that it is appropriate to report the bill, as amended, favorably to the House of Representatives with the recommendation that the bill do pass.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill contains no measure that authorizes funding, so no statement of general performance goals and objectives for which any measure authorizes funding is required.

C. INFORMATION RELATING TO UNFUNDED MANDATES

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act (UMRA) of 1995 (Pub. L. No. 104-4).

The Committee states that there are no provisions that would impose a private sector mandate, as defined by UMRA, intergovernmental mandates or costs on state, local, or tribal governments.

D. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not

contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

E. DUPLICATION OF FEDERAL PROGRAMS

In compliance with Sec. 3(g)(2) of H. Res. 5 (114th Congress), the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Pub. L. No. 95-220, as amended by Pub. L. No. 98-169).

F. DISCLOSURE OF DIRECTED RULE MAKINGS

In compliance with Sec. 3(i) of H. Res. 5 (114th Congress), the following statement is made concerning directed rule makings: The Committee estimates that the bill requires no directed rule makings within the meaning of such section.

VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e)(1) of rule XIII of the Rules of the House of Representatives, the committee advises that H.R. 4923 does not propose to repeal or amend any statute or part thereof.

VII. EXCHANGES OF LETTERS WITH ADDITIONAL COMMITTEES OF REFERRAL

PETE SESSIONS, TEXAS
CHAIRMAN
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TOM COLE, OKLAHOMA
ROSE WOODALL, GEORGIA
MICHAEL C. BURGESS, TEXAS
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April 20, 2016

The Honorable Kevin Brady, Chair
Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 2015

Dear Chairman Brady:

On April 19, 2016, the Committee on Ways and Means ordered reported H.R. 4923, the American Manufacturing Competitiveness Act of 2016. As you know, the Committee on Rules was granted an additional referral upon the bill's introduction pursuant to the Committee's jurisdiction under rule X of the Rules of the House of Representatives over the rules of the House and special orders of business.

Because of your willingness to consult with my committee regarding this matter, I will waive consideration of the bill by the Rules Committee. By agreeing to waive its consideration of the bill, the Rules Committee does not waive its jurisdiction over H.R. 4923. In addition, the Committee on Rules reserves its authority to seek conferees on any provisions of the bill that are within its jurisdiction during any House-Senate conference that may be convened on this legislation. I ask your commitment to support any request by the Committee on Rules for conferees on H.R. 4923 or related legislation.

I request that you include this letter and your response as part of your committee's report on the bill and the Congressional Record during consideration of the legislation on the House floor.

Thank you for your attention to these matters.

Sincerely,

Pete Sessions

COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

April 21, 2016

The Honorable Pete Sessions
Chairman
Committee on Rules
H-312 The Capitol
Washington, D.C. 20515

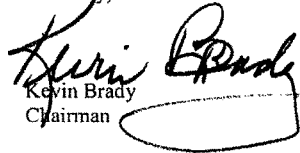
Dear Chairman Sessions,

Thank you for your letter regarding H.R. 4923, the "American Manufacturing Competitiveness Act of 2016." As you noted, the Committee on Rules was granted an additional referral of the bill.

I am most appreciative of your decision to waive consideration of H.R. 4923 so that it may proceed expeditiously to the House floor. I acknowledge that although you waived formal consideration of the bill, the Committee on Rules is in no way waiving its jurisdiction over the subject matter contained in those provisions of the bill that fall within your Rule X jurisdiction. I would support your effort to seek appointment of an appropriate number of conferees on any House-Senate conference involving this legislation.

I will include a copy of our letters in our Committee's report on H.R. 4923, as well as the Congressional Record during consideration of this legislation on the House floor.

Sincerely,


Kevin Brady
Chairman