

114TH CONGRESS
2^D SESSION

H. R. 4923

IN THE SENATE OF THE UNITED STATES

APRIL 28, 2016

Received

AN ACT

To establish a process for the submission and consideration of petitions for temporary duty suspensions and reductions, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “American Manufac-
3 turing Competitiveness Act of 2016”.

4 **SEC. 2. SENSE OF CONGRESS ON THE NEED FOR A MIS-
5 CELLANEOUS TARIFF BILL.**

6 (a) FINDINGS.—Congress makes the following find-
7 ings:

8 (1) As of the date of the enactment of this Act,
9 the Harmonized Tariff Schedule of the United
10 States imposes duties on imported goods for which
11 there is no domestic availability or insufficient do-
12 mestic availability.

13 (2) The imposition of duties on such goods cre-
14 ates artificial distortions in the economy of the
15 United States that negatively affect United States
16 manufacturers and consumers.

17 (3) The manufacturing competitiveness of the
18 United States around the world will be enhanced if
19 Congress regularly and predictably updates the Har-
20 monized Tariff Schedule to suspend or reduce duties
21 on such goods.

22 (4) Creating and maintaining an open and
23 transparent process for consideration of petitions for
24 duty suspensions and reductions builds confidence
25 that the process is fair, open to all, and free of
26 abuse.

1 (5) Complying with the Rules of the House of
2 Representatives and the Senate, in particular with
3 clause 9 of rule XXI of the Rules of the House of
4 Representatives and rule XLIV of the Standing
5 Rules of the Senate, is essential to fostering and
6 maintaining confidence in the process for consid-
7 ering a miscellaneous tariff bill.

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

10 (A) congressional earmarks or limited tax
11 benefits within the meaning of clause 9 of rule
12 XXI of the Rules of the House of Representa-
13 tives; or

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

17 (7) Because any limited tariff benefits con-
18 tained in any miscellaneous tariff bill following the
19 process set forth by this Act will not have been the
20 subject of legislation introduced by an individual
21 Member of Congress and will be fully vetted through
22 a transparent and fair process free of abuse, it is ap-
23 propriate for Congress to consider limited tariff ben-
24 efits as part of that miscellaneous tariff bill as long
25 as—

1 (A) in the case of a miscellaneous tariff bill
2 considered in the House of Representatives,
3 consistent with the Rules of the House of Rep-
4 resentatives, a list of such limited tariff benefits
5 is published in the reports of the Committee on
6 Ways and Means of the House of Representa-
7 tives accompanying the miscellaneous tariff bill,
8 or in the Congressional Record; and

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

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

15 (ii) the information identified in
16 clause (i) has been available on a publicly
17 accessible congressional website in a
18 searchable format at least 48 hours before
19 the vote on the motion to proceed to the
20 miscellaneous tariff bill or the vote on the
21 adoption of a report of a committee of con-
22 ference in connection with the miscella-
23 neous tariff bill, as the case may be.

24 (8) When the process set forth under paragraph
25 (7) is followed, it is consistent with the letter and in-

1 tent of the Rules of the House of Representatives
2 and the Senate and other related guidance.

3 (b) SENSE OF CONGRESS.—It is the sense of Con-
4 gress that, to remove the competitive disadvantage to
5 United States manufacturers and consumers and to pro-
6 mote the competitiveness of United States manufacturers,
7 Congress should, not later than 90 days after the United
8 States International Trade Commission issues a final re-
9 port on petitions for duty suspensions and reductions
10 under section 3(b)(3)(E), consider a miscellaneous tariff
11 bill.

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

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

17 (b) REQUIREMENTS OF COMMISSION.—

18 (1) INITIATION.—Not later than October 15,
19 2016, and October 15, 2019, the Commission shall
20 publish in the Federal Register and on a publicly
21 available Internet website of the Commission a no-
22 tice requesting members of the public who can dem-
23 onstrate that they are likely beneficiaries of duty
24 suspensions or reductions to submit to the Commis-

1 sion during the 60-day period beginning on the date
2 of such publication—

3 (A) petitions for duty suspensions and re-
4 ductions; and

5 (B) Commission disclosure forms with re-
6 spect to such duty suspensions and reductions.

7 (2) CONTENT OF PETITIONS.—Each petition
8 for a duty suspension or reduction under paragraph
9 (1)(A) shall include the following information:

10 (A) The name and address of the peti-
11 tioner.

12 (B) A statement as to whether the petition
13 provides for an extension of an existing duty
14 suspension or reduction or provides for a new
15 duty suspension or reduction.

16 (C) A certification that the petitioner is a
17 likely beneficiary of the proposed duty suspen-
18 sion or reduction.

19 (D) An article description for the proposed
20 duty suspension or reduction to be included in
21 the amendment to subchapter II of chapter 99
22 of the Harmonized Tariff Schedule of the
23 United States.

24 (E) To the extent available—

1 (i) a classification of the article for
2 purposes of the amendment to subchapter
3 II of chapter 99 of the Harmonized Tariff
4 Schedule of the United States;

5 (ii) a classification ruling of U.S. Cus-
6 toms and Border Protection with respect
7 to the article; and

8 (iii) a copy of a U.S. Customs and
9 Border Protection entry summary indi-
10 cating where the article is classified in the
11 Harmonized Tariff Schedule of the United
12 States.

13 (F) A brief and general description of the
14 article.

15 (G) A brief description of the industry in
16 the United States that uses the article.

17 (H) An estimate of the total value, in
18 United States dollars, of imports of the article
19 for each of the 5 calendar years after the cal-
20 endar year in which the petition is filed, includ-
21 ing an estimate of the total value of such im-
22 ports by the person who submits the petition
23 and by any other importers, if available.

24 (I) The name of each person that imports
25 the article, if available.

1 (J) A description of any domestic produc-
2 tion of the article, if available.

3 (K) Such other information as the Com-
4 mission may require.

5 (3) REVIEW.—

6 (A) COMMISSION PUBLICATION AND PUB-
7 LIC AVAILABILITY.—As soon as practicable
8 after the expiration of the 60-day period speci-
9 fied in paragraph (1), but in any case not later
10 than 30 days after the expiration of such 60-
11 day period, the Commission shall publish on a
12 publicly available Internet website of the Com-
13 mission—

14 (i) the petitions for duty suspensions
15 and reductions submitted under paragraph
16 (1)(A) that contain the information re-
17 quired under paragraph (2); and

18 (ii) the Commission disclosure forms
19 with respect to such duty suspensions and
20 reductions submitted under paragraph
21 (1)(B).

22 (B) PUBLIC COMMENT.—

23 (i) IN GENERAL.—The Commission
24 shall publish in the Federal Register and
25 on a publicly available Internet website of

1 the Commission a notice requesting mem-
2 bers of the public to submit to the Com-
3 mission during the 45-day period begin-
4 ning on the date of publication described
5 in subparagraph (A) comments on—

6 (I) the petitions for duty suspen-
7 sions and reductions published by the
8 Commission under subparagraph
9 (A)(i); and

10 (II) the Commission disclosure
11 forms with respect to such duty sus-
12 pensions and reductions published by
13 the Commission under subparagraph
14 (A)(ii).

15 (ii) PUBLICATION OF COMMENTS.—

16 The Commission shall publish a notice in
17 the Federal Register directing members of
18 the public to a publicly available Internet
19 website of the Commission to view the
20 comments of the members of the public re-
21 ceived under clause (i).

22 (C) PRELIMINARY REPORT.—

23 (i) IN GENERAL.—As soon as prac-
24 ticable after the expiration of the 120-day
25 period beginning on the date of publication

1 described in subparagraph (A), but in any
2 case not later than 30 days after the expi-
3 ration of such 120-day period, the Com-
4 mission shall submit to the appropriate
5 congressional committees a preliminary re-
6 port on the petitions for duty suspensions
7 and reductions submitted under paragraph
8 (1)(A). The preliminary report shall con-
9 tain the following information with respect
10 to each petition for a duty suspension or
11 reduction:

12 (I) The heading or subheading of
13 the Harmonized Tariff Schedule of
14 the United States in which each arti-
15 cle that is the subject of the petition
16 for the duty suspension or reduction
17 is classified, as identified by docu-
18 mentation supplied to the Commis-
19 sion, and any supporting information
20 obtained by the Commission.

21 (II) A determination of whether
22 or not domestic production of the arti-
23 cle that is the subject of the petition
24 for the duty suspension or reduction
25 exists, taking into account the report

1 of the Secretary of Commerce under
2 subsection (c)(1), and, if such produc-
3 tion exists, whether or not a domestic
4 producer of the article objects to the
5 duty suspension or reduction.

6 (III) Any technical changes to
7 the article description of the article
8 that is the subject of the petition for
9 the duty suspension or reduction that
10 are necessary for purposes of adminis-
11 tration when the article is presented
12 for importation, taking into account
13 the report of the Secretary of Com-
14 merce under subsection (c)(2).

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

20 (V) A determination of whether
21 or not the duty suspension or reduc-
22 tion is available to any person that
23 imports the article that is the subject
24 of the duty suspension or reduction.

1 (VI) The likely beneficiaries of
2 each duty suspension or reduction, in-
3 cluding whether the petitioner is a
4 likely beneficiary.

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

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

13 (II) A list of petitions for duty
14 suspensions and reductions for which
15 the Commission recommends technical
16 corrections in order to meet the re-
17 quirements of this Act, with the cor-
18 rection specified.

19 (III) A list of petitions for duty
20 suspensions and reductions for which
21 the Commission recommends modi-
22 fications to the amount of the duty
23 suspension or reduction that is the
24 subject of the petition to comply with

1 the requirements of this Act, with the
2 modification specified.

3 (IV) A list of petitions for duty
4 suspensions and reductions for which
5 the Commission recommends modi-
6 fications to the scope of the articles
7 that are the subject of such petitions
8 to address objections by domestic pro-
9 ducers to such petitions, with the
10 modifications specified.

11 (V) A list of the following:

12 (aa) Petitions for duty sus-
13 pensions and reductions that the
14 Commission has determined do
15 not contain the information re-
16 quired under paragraph (2).

17 (bb) Petitions for duty sus-
18 pensions and reductions with re-
19 spect to which the Commission
20 has determined the petitioner is
21 not a likely beneficiary.

22 (VI) A list of petitions for duty
23 suspensions and reductions that the
24 Commission does not recommend for
25 inclusion in a miscellaneous tariff bill,

1 other than petitions specified in sub-
2 clause (V).

3 (D) ADDITIONAL INFORMATION.—The
4 Commission shall consider any information sub-
5 mitted by the appropriate congressional com-
6 mittees to the Commission relating to moving a
7 petition that is contained in the list referred to
8 in subclause (VI) of subparagraph (C)(ii) of the
9 preliminary report submitted under subpara-
10 graph (C) to a list referred to in subclause (I),
11 (II), (III), or (IV) of subparagraph (C)(ii).

12 (E) FINAL REPORT.—Not later than 60
13 days after the date on which the preliminary re-
14 port is submitted under subparagraph (C), the
15 Commission shall submit to the appropriate
16 congressional committees a final report on each
17 petition for a duty suspension or reduction
18 specified in the preliminary report. The final re-
19 port shall contain with respect to each such pe-
20 tition—

21 (i) the information required under
22 clauses (i) and (ii) of subparagraph (C)
23 and updated as appropriate under sub-
24 paragraph (D); and

1 (ii) a determination of the Commis-
2 sion whether—

3 (I) the duty suspension or reduc-
4 tion can likely be administered by
5 U.S. Customs and Border Protection;

6 (II) the estimated loss in revenue
7 to the United States from the duty
8 suspension or reduction does not ex-
9 ceed \$500,000 in a calendar year dur-
10 ing which the duty suspension or re-
11 duction would be in effect; and

12 (III) the duty suspension or re-
13 duction is available to any person im-
14 porting the article that is the subject
15 of the duty suspension or reduction.

16 (F) EXCLUSIONS.—The appropriate con-
17 gressional committees may exclude from a mis-
18 cellaneous tariff bill any petition for a duty sus-
19 pension or reduction that—

20 (i) is contained in any list referred to
21 in subclause (I), (II), (III), or (IV) of sub-
22 paragraph (C)(ii), as updated as appro-
23 priate under subparagraph (E)(i);

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

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

3 (G) ESTIMATES BY THE CONGRESSIONAL
4 BUDGET OFFICE.—For purposes of reflecting
5 the estimate of the Congressional Budget Of-
6 fice, the appropriate congressional committees
7 shall adjust the amount of a duty suspension or
8 reduction in a miscellaneous tariff bill only to
9 assure that the estimated loss in revenue to the
10 United States from that duty suspension or re-
11 duction, as estimated by the Congressional
12 Budget Office, does not exceed \$500,000 in a
13 calendar year during which the duty suspension
14 or reduction would be in effect.

15 (H) PROHIBITIONS.—Any petitions for
16 duty suspensions or reductions that are con-
17 tained in any list referred to in subclause (V)
18 or (VI) of subparagraph (C)(ii), as updated as
19 appropriate under subparagraph (E)(i), or have
20 not otherwise undergone the processes required
21 by this Act shall not be included in a miscella-
22 neous tariff bill.

23 (4) CONFIDENTIAL BUSINESS INFORMATION.—
24 The procedures concerning the release of confiden-
25 tial business information set forth in section 332(g)

1 of the Tariff Act of 1930 (19 U.S.C. 1332(g)) shall
2 apply with respect to information received by the
3 Commission in posting petitions on a publicly avail-
4 able website of the Commission and in preparing re-
5 ports under this subsection.

6 (5) PROCEDURES.—The Commission shall pre-
7 scribe and publish in the Federal Register and on a
8 publicly available Internet website of the Commis-
9 sion procedures to be complied with by members of
10 the public submitting petitions for duty suspensions
11 and reductions under subsection (b)(1)(A).

12 (c) DEPARTMENT OF COMMERCE REPORT.—Not
13 later than the end of the 90-day period beginning on the
14 date of publication of the petitions for duty suspensions
15 and reductions under subsection (b)(3)(A), the Secretary
16 of Commerce, in consultation with U.S. Customs and Bor-
17 der Protection and other relevant Federal agencies, shall
18 submit to the Commission and the appropriate congres-
19 sional committees a report on each petition for a duty sus-
20 pension or reduction submitted under subsection (b)(1)(A)
21 that includes the following information:

22 (1) A determination of whether or not domestic
23 production of the article that is the subject of the
24 petition for the duty suspension or reduction exists
25 and, if such production exists, whether or not a do-

1 mestic producer of the article objects to the petition
2 for the duty suspension or reduction.

3 (2) Any technical changes to the article descrip-
4 tion that are necessary for purposes of administra-
5 tion when articles are presented for importation.

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

8 (a) IN GENERAL.—Not later than 12 months after
9 the date of the enactment of a miscellaneous tariff bill,
10 the Commission shall submit to the appropriate congres-
11 sional committees a report on the effects on the United
12 States economy of duty suspensions and reductions en-
13 acted pursuant to this Act, including a broad assessment
14 of the economic effects of such duty suspensions and re-
15 ductions on producers, purchasers, and consumers in the
16 United States, using case studies describing such effects
17 on selected industries or by type of article as available
18 data permit.

19 (b) RECOMMENDATIONS.—The Commission shall also
20 solicit and append to the report required under subsection
21 (a) recommendations with respect to those domestic indus-
22 try sectors or specific domestic industries that might ben-
23 efit from permanent duty suspensions and reductions, ei-
24 ther through a unilateral action of the United States or
25 through negotiations for reciprocal tariff agreements, with

1 a particular focus on inequities created by tariff inver-
2 sions.

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

6 **SEC. 5. PUBLICATION OF LIMITED TARIFF BENEFITS IN**
7 **THE HOUSE OF REPRESENTATIVES AND THE**
8 **SENATE.**

9 (a) HOUSE OF REPRESENTATIVES.—

10 (1) IN GENERAL.—The chair of the Committee
11 on Ways and Means of the House of Representatives
12 shall include a list of limited tariff benefits con-
13 tained in a miscellaneous tariff bill in the report to
14 accompany such a bill or, in a case where a miscella-
15 neous tariff bill is not reported by the committee,
16 shall cause such a list to be printed in the appro-
17 priate section of the Congressional Record.

18 (2) LIMITED TARIFF BENEFIT DEFINED.—For
19 purposes of this subsection and consistent with
20 clause 9 of rule XXI of the Rules of the House of
21 Representatives, as in effect during the One Hun-
22 dred Fourteenth Congress, the term “limited tariff
23 benefit” means a provision modifying the Har-
24 monized Tariff Schedule of the United States in a
25 manner that benefits 10 or fewer entities.

1 (b) SENATE.—

2 (1) IN GENERAL.—The chairman of the Com-
3 mittee on Finance of the Senate, the Majority Lead-
4 er of the Senate, or the designee of the Majority
5 Leader of the Senate, shall provide for the publica-
6 tion in the Congressional Record of a certification
7 that—

8 (A) each limited tariff benefit contained in
9 a miscellaneous tariff bill considered in the Sen-
10 ate has been identified through lists, charts, or
11 other similar means; and

12 (B) the information identified in subpara-
13 graph (A) has been available on a publicly ac-
14 cessible congressional website in a searchable
15 format at least 48 hours before the vote on the
16 motion to proceed to the miscellaneous tariff
17 bill or the vote on the adoption of a report of
18 a committee of conference in connection with
19 the miscellaneous tariff bill, as the case may be.

20 (2) SATISFACTION OF SENATE RULES.—Publi-
21 cation of a certification in the Congressional Record
22 under paragraph (1) satisfies the certification re-
23 quirements of paragraphs 1(a), 2(a), and 3(a) of
24 rule XLIV of the Standing Rules of the Senate.

1 (3) LIMITED TARIFF BENEFIT DEFINED.—For
2 purposes of this subsection and consistent with rule
3 XLIV of the Standing Rules of the Senate, as in ef-
4 fect during the One Hundred Fourteenth Congress,
5 the term “limited tariff benefit” means a provision
6 modifying the Harmonized Tariff Schedule of the
7 United States in a manner that benefits 10 or fewer
8 entities.

9 (c) ENACTMENT AS EXERCISE OF RULEMAKING
10 POWER OF HOUSE OF REPRESENTATIVES AND SEN-
11 ATE.—This section is enacted by Congress—

12 (1) as an exercise of the rulemaking power of
13 the House of Representatives and the Senate, re-
14 spectively, and as such are deemed a part of the
15 rules of each House, respectively, and such proce-
16 dures supersede other rules only to the extent that
17 they are inconsistent with such other rules; and

18 (2) with full recognition of the constitutional
19 right of either House to change the rules (so far as
20 relating to the procedure of that House) at any time,
21 in the same manner, and to the same extent as in
22 the case of any other rule of that House.

23 **SEC. 6. JUDICIAL REVIEW PRECLUDED.**

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

1 **SEC. 7. DEFINITIONS.**

2 In this Act:

3 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**
4 **TEES.**—The term “appropriate congressional com-
5 mittees” means the Committee on Ways and Means
6 of the House of Representatives and the Committee
7 on Finance of the Senate.

8 (2) **COMMISSION.**—The term “Commission”
9 means the United States International Trade Com-
10 mission.

11 (3) **COMMISSION DISCLOSURE FORM.**—The
12 term “Commission disclosure form” means, with re-
13 spect to a petition for a duty suspension or reduc-
14 tion, a document submitted by a petitioner to the
15 Commission that contains the following:

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

19 (B) A certification by the petitioner that
20 the proposed duty suspension or reduction is
21 available to any person importing the article to
22 which the proposed duty suspension or reduc-
23 tion would apply.

24 (C) A certification that the petitioner is a
25 likely beneficiary of the proposed duty suspen-
26 sion or reduction.

1 (4) DOMESTIC PRODUCER.—The term “domes-
2 tic producer” means a person that demonstrates
3 production, or imminent production, in the United
4 States of an article that is identical to, or like or di-
5 rectly competitive with, an article to which a petition
6 for a duty suspension or reduction would apply.

7 (5) DOMESTIC PRODUCTION.—The term “do-
8 mestic production” means the production of an arti-
9 cle that is identical to, or like or directly competitive
10 with, an article to which a petition for a duty sus-
11 pension or reduction would apply, for which a do-
12 mestic producer has demonstrated production, or im-
13 minent production, in the United States.

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

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

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

1 (7) LIKELY BENEFICIARY.—The term “likely
2 beneficiary” means an individual or entity likely to
3 utilize, or benefit directly from the utilization of, an
4 article that is the subject of a petition for a duty
5 suspension or reduction.

6 (8) MEMBER OF CONGRESS.—The term “Mem-
7 ber of Congress” means a Senator or Representative
8 in, or Delegate or Resident Commissioner to, Con-
9 gress.

10 (9) MISCELLANEOUS TARIFF BILL.—The term
11 “miscellaneous tariff bill” means a bill of either
12 House of Congress that contains only duty suspen-
13 sions and reductions and related technical correc-
14 tions that—

15 (A) are included in the final report of the
16 Commission submitted to the appropriate con-
17 gressional committees under section 3(b)(3)(E),
18 except for—

19 (i) petitions for duty suspensions or
20 reductions that the Commission has deter-
21 mined do not contain the information re-
22 quired under section 3(b)(2);

23 (ii) petitions for duty suspensions and
24 reductions with respect to which the Com-

1 mission has determined the petitioner is
2 not a likely beneficiary; and

3 (iii) petitions for duty suspensions and
4 reductions that the Commission does not
5 recommend for inclusion in the miscella-
6 neous tariff bill;

7 (B) are not excluded under section
8 3(b)(3)(F); and

9 (C) otherwise meet the applicable require-
10 ments of this Act.

Passed the House of Representatives April 27, 2016.

Attest:

KAREN L. HAAS,

Clerk.