



United States
International Trade Commission

American Manufacturing Competitiveness Act of 2016: Preliminary Report

June 2017

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United States International Trade Commission

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Table of Contents

Abbreviations and Acronyms	2
Introduction	3
Submission of petitions and comments to the Commission	4
Commission analysis and review process	6
<i>Table 1.</i> Number of Petitions, by category	12
<i>Table 2.</i> Preliminary Report, explanation of fields	12
<i>Table 3.</i> List of Appendices	14



Abbreviations and Acronyms

Acronym	Term
AMCA or the Act	American Manufacturing Competitiveness Act of 2016
CAS	Chemical Abstracts Service
CBP	United States Customs and Border Protection
USDOC or Commerce	United States Department of Commerce
HTS	Harmonized Tariff Schedule
MTBPS	Miscellaneous Tariff Bill Petition System



Introduction

The American Manufacturing Competitiveness Act (the AMCA or the Act), enacted on May 20, 2016, established a new process for “the submission and consideration of petitions for temporary duty suspensions and reductions.”¹ Under the new process, petitions for duty suspensions and reductions are filed with the U.S. International Trade Commission (the Commission or USITC), and the Commission, with input from other federal agencies, reviews each petition and submits preliminary and final reports to the House Committee on Ways and Means and the Senate Committee on Finance. The Committees compile a miscellaneous tariff bill after receiving the Commission’s final report.

The Commission’s reports to the Committees include certain information and determinations with respect to each petition and also categorize each petition based on whether it meets the requirements of the Act without modification, meets the requirements of the Act with certain types of modifications, or does not meet the requirements of the Act. As part of its reports, the Commission must determine –

- Whether there is domestic production of an article that is identical to, like, or directly competitive with the article that is the subject of a petition and whether a domestic producer of the article objects to the duty suspension or reduction;
- Whether the duty suspension or reduction is available to any person that imports the article;
- Whether the duty suspension or reduction can likely be administered by U.S. Customs and Border Protection; and
- Whether 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 it would be in effect.²

The discussion below describes the steps the Commission has taken to carry out these tasks.

¹ American Manufacturing Competitiveness Act of 2016, Pub. L. No. 114-159, § 3(a), 130 Stat. 397 (2016) (“AMCA”).

² AMCA, § 3(b)(3)(C) and (E). The last two determinations are included only in the final report.



Submission of petitions and comments to the Commission

As required by the statute, on October 14, 2016, the Commission published a [notice](#) in the *Federal Register* that the period for submitting petitions had begun. The notice stated that members of the public could submit petitions to the Commission through its online Miscellaneous Tariff Bill Petition System (MTBPS) for a 60-day period, ending December 12, 2016.³

The MTBPS guided petitioners in providing the information specified by the Act and the Commission's rules.⁴ The Commission received a total of 3,162 petitions during the petition submission period.⁵ As of June 7, 2017, 626 of petitions received had been withdrawn by petitioner,⁶ leaving a net of 2,536 petitions on which the Commission is providing recommendations.⁷ The following is a breakdown of the petitions that have not been withdrawn, based on product category:

Product group	Number of petitions	Percent of total
Chemicals	1,473	58.1
Machinery and equipment	457	18.0
Textiles, apparel, and footwear	459	18.1
Agriculture and fisheries	36	1.4
Other	111	4.4

As required by the Act,⁸ the Commission published a [notice](#) in the *Federal Register* on January 11, 2017 (i.e., 30 days after the close of the petition submission period) stating that it had posted all of the submitted petitions on the Commission's public website. The notice stated that the public could file comments on the petitions through the MTBPS;⁹ withdrawn petitions were not, however,

³ USITC, *Requests for Duty Suspensions and Reductions*, 81 Fed. Reg. 71114 (October 14, 2016).

⁴ 81 Fed. Reg. at 71115. The information required in the petitions was specified in section 3(b)(2) of the AMCA and sections 220.5 and 220.6 of the Commission's rules. AMCA, § 3(b)(2); 19 C.F.R. §§ 220.5 & 220.6 (81 Fed. Reg. 67144)(Sept. 30, 2016).

⁵ This does not include petitions filed by Commission staff to test the system.

⁶ Petitioners were not allowed to modify petitions once they were submitted; in order to make changes, a petition needed to be withdrawn and a new petition refiled before the December 12, 2016 deadline.

⁷ Of this total, 161 petitions were consolidated with other petition(s) because they were duplicate or overlapping (see discussion below). A single recommendation was provided for consolidated petitions.

⁸ AMCA, § 3(b)(3)(A) & (B).

⁹ USITC, *Notice of Publication of Petitions for Duty Suspensions and Reductions and Opportunity to Comment on Petitions*, 82 Fed. Reg. 3357 (Jan. 11, 2017). The Commission published the petitions on a rolling basis after they were received and checked to ensure that no confidential data would be made public.



open for comment. The comment period was open for 45 days, closing on February 24, 2017.¹⁰ The Commission received 1,844 comments on 863 petitions; 59 of the comments were later withdrawn. The following is a breakdown of the comments that were not withdrawn, based on commenter type and comment reason.¹¹

Commenter Type	Number of comments objecting to petitions	Number of comments in support of petitions	Number of comments taking no position/ providing other comment
Trade association or group	133	400	62
U.S. importer	23	245	22
U.S producer	644	12	2
Government entity or other	42	102	98

The Act also required that the U.S. Department of Commerce, in consultation with U.S. Customs and Border Protection and other relevant Federal agencies, submit a report to the Commission and the Committees on each petition filed.¹² Commerce submitted its report (available [here](#)) on April 10, 2017. The Commerce report provided the following information for each petition:

- Determination of whether or not domestic production of the article of trade that is the subject of the petition exists, and if such production exists, a determination whether or not a domestic producer of the article objects to the petition.
- Any technical changes to the article description that are necessary for purposes of administration when articles are presented to CBP for importation.

As discussed below, when evaluating the petitions in this report, the Commission took into account the information contained in the USDOC report.

¹⁰ 82 Fed. Reg. at 3358.

¹¹ The Commission received a number of comments from trade associations containing objections to submitted petitions. These objections are posted in the portal with the specific petition(s) on which they were filed. However, based on the statutory language, the Commission did not consider objections by trade associations to be objections made *by* domestic producers of a like, or directly competitive, product because the associations are not themselves “domestic producers.”

¹² AMCA, § 3(c).



Commission analysis and review process

The Commission's staff reviewed the petitions submitted to the Commission to ensure that they provided all of the information required by the statute and the Commission's published rules. As needed, and to the extent permitted by the statute, the Commission made technical corrections to any petitions that would not otherwise have complied with the statutory requirements. The corrections included making minor modifications to the language of the article description; correcting the classification listed for an article in the Harmonized Tariff Schedule of the United States (HTS); and, in the case of petitions involving chemicals, adding to the name of the article its Chemical Abstracts Service (CAS) number or nonproprietary chemical name. However, the Commission did not attempt to correct deficiencies in petitions unless the specific and necessary information appeared elsewhere in the petition, or in attachments to the petition that were provided at the time the petition was submitted to the Commission via the MTBPS. Where the Commission made such changes, it has described them in the technical comments for each such petition in this preliminary report.

When determining the category in which each petition belonged, the Commission considered information in the petition, comments received from the public through the MTBPS, and the information in the USDOC report, including information and analysis from CBP.¹³

Duplicate Petitions. In some cases, two or more petitioners submitted petitions for duty suspensions or reductions for the same product. In these instances, the Commission consolidated the petitions under a single "master" petition and the Commission analyzed that petition. Master petitions are listed in this report along with any petitions which were consolidated under that master.

Overlapping Petitions. The Commission also received a number of petitions with article descriptions which, although not identical, were overlapping.¹⁴ In order for a petition to be administrable, a petition must cover a distinct article of commerce. If multiple petitioners filed petitions that overlapped in coverage, the Commission either consolidated those petitions or, in the case of overlapping petitions that were not amenable to consolidation, made technical corrections to the petitions that eliminated the area of product overlap between them.¹⁵ To make these

¹³ The Commission received the USDOC report on April 10, 2017.

¹⁴ For example, an article description that covered all sizes of an article as compared to an article description that covered only certain sizes of the same article.

¹⁵ 19 C.F.R. § 220.8.



corrections, the Commission first analyzed the article descriptions of the petitions concerned for which no objections were received, and then suggested only such language as was necessary to ensure that each product would properly fall in only one provision of HTS chapter 99, should all such overlapping provisions be recommended.

In certain cases, the same petitioner filed multiple petitions for articles that were identical or overlapping in article coverage. In these situations (and assuming that the petitioner had not withdrawn earlier filed petitions), the Commission generally considered the earliest filed petition to be the petition of record, as provided in Commission rule 220.7.¹⁶

Estimated Revenue Loss. Under the Act, the Commission is directed to estimate the amount of revenue that would no longer be collected if the duty suspension or tariff reduction were to take effect.¹⁷ The Commission calculated the annual revenue loss for each petition by multiplying the proposed reduction in tariff rate, in percent ad valorem,¹⁸ by the estimated total U.S. dutiable import value attributable to the product. The estimated value of dutiable imports includes imports by all firms, not only the petitioner. Petitioners were asked to provide data for the total value of imports by all firms; if such data were not available, petitioners were permitted to provide data for only their own firm's imports. Commission staff conducted research to estimate the total value of dutiable imports by all companies covered under the proposed article description, and used this value to estimate the revenue loss. In some cases, Commission staff was not able to identify importers other than the petitioner. In those cases, the Commission based its revenue loss estimates on data provided by the petitioner for itself.

In instances where the petitioner requested a duty reduction or suspension that would have resulted in an annual estimated revenue loss of more than \$500,000, Commission staff adjusted the requested duty reduction so that the estimated revenue loss would not exceed \$500,000, as provided for by the statute.¹⁹ The Commission reported estimated revenue loss for the four-year period 2018–21; however, any adjustment to the duty rate was based on the three-year period 2018–20, as that is the period of time each duty suspension or reduction is likely to be in effect. No effort was made to subdivide a product into multiple products so as to reduce the revenue loss, as that type of analysis was not contemplated in the Act.

Determination of Domestic Production. For each article that is the subject of a petition for a duty suspension or reduction, the Act requires the Commission to determine whether domestic

¹⁶ 19 C.F.R. § 220.7.

¹⁷ AMCA, § 3(b)(3)(C)(i)(IV).

¹⁸ That is, a rate of duty expressed as a percentage of the appraised customs value of an imported good.

¹⁹ AMCA, § 3(b)(3)(C)(ii)(III). These petitions were placed in category III, provided they otherwise met the statutory requirements. Please see the discussion of *Category Recommendations* below.



production of the article exists. The Act defines domestic production to mean an article that is “identical to, or directly competitive product with” an article to which the petition would apply.²⁰ The Commission made this determination based on information in the petition, information available from public sources, comments submitted to the Commission, and information contained in the report of the USDOC.

If petitions contained names of domestic producers, the Commission contacted each firm directly and asked them to confirm in writing that they produced such a product domestically. If the Commission was unable to affirmatively confirm that domestic production of an identical or like or directly competitive product existed, taking into account the report from the USDOC, the Commission reported “no” for domestic production in this preliminary report. In some cases, petitioners were also domestic producers of the product that was the subject of the petition. For these petitions, the Commission did not provide an affirmative determination of domestic production unless other domestic producers were identified.

Domestic Producer Objection. If the Commission determined that domestic production exists, the Act requires the Commission to determine whether or not a domestic producer of the article objects to the proposed duty suspension or reduction.²¹ In making that determination, the Commission took into account the report from the USDOC and comments filed by firms that claimed to be domestic producers.

Availability of Duty Reduction or Suspension. Under the Act, the Commission must determine whether the duty suspension or reduction would be available to any person who imports the article that is the subject of the duty suspension or reduction.²² When making this determination, the Commission relied on the language of the article description as specified in the petition and, where applicable, as modified by the Commission. In some cases, petitioners reported that the product was subject to a patent or other importer restriction. The Commission determined in each instance that the existence of a patent did not disqualify a provision from being considered available to any importer because a patent would not preclude other companies from procuring the product if the patent holder chose to sell or license patent rights to other firms.

Likely Beneficiaries. Under the Act and the Commission’s regulations, petitioners were required to certify that they were a likely beneficiary of the proposed duty suspension or reduction and to report the names of any known likely beneficiaries of the suspension or reduction.²³ In this

²⁰ AMCA, § 3(b)(3)(C)(i)(II) & § 7(5).

²¹ AMCA, § 3(b)(3)(C)(i)(II).

²² AMCA, §3(B)(3)(C)(i)(V) and § 3(b)(3)(E)(ii)(III).

²³ AMCA, § 3(b)(2)(C) & § 7(3)(C); 19 C.F.R. §220.5(I).



preliminary report, the Commission has reported all likely beneficiaries listed in the petition, unless the likely beneficiary indicated in writing to the Commission that it did not wish to be included. The Commission added other likely beneficiaries to its preliminary report as warranted by public comments or staff research. Members of trade associations are reported as likely beneficiaries if listed in the petition or if the association specifically indicated in writing to the Commission that at least one of its members would benefit from the petition.

Category Recommendations. The Act directs the Commission to place each petition into one of six categories depending upon whether the petition meets the requirements of the Act without modification (category I), meets the requirements of the Act with certain modifications (categories II-IV), or does not meet the requirements of the Act (categories V and VI).²⁴ More specifically, the statute defines the categories as follows:

Category I. Petitions that met the requirements of the Act without modification.²⁵

Category II. Petitions for which the Commission recommended technical corrections in order to meet the requirements of the Act.²⁶ For these petitions, the Commission has noted the correction made and only suggested changes aimed at clarity and administrability based on the information contained in the petition, the permanent HTS provisions, and input from CBP.

Category III. Petitions for which the Commission recommended a modification to the amount of the requested duty suspension or reduction in order to comply with the requirements of the Act.²⁷ For these petitions, the Commission has indicated the modification made. The Commission may also have recommended technical corrections to petitions in this category.

Category IV. Petitions for which the Commission recommended a modification to the scope of the articles covered by the petitions to address objections from domestic producers.²⁸ For these petitions, the Commission has specified the modifications made. The Commission notes that information supplied in the public comments filed with the Commission generally was not specific enough to enable the Commission to suggest such modifications.

Category V(aa). Petitions which did not contain the information required under the Act.²⁹ The Commission also placed in this category any petitions subject to the provisions of Commission Rule 220.7(b), which provides that when a petitioner files a petition that is identical to or overlapping in

²⁴ AMCA, § 3(b)(3)(C)(ii)(I-VI).

²⁵ AMCA, § 3(b)(3)(C)(ii)(I).

²⁶ AMCA, § 3(b)(3)(C)(ii)(II).

²⁷ AMCA, § 3(b)(3)(C)(ii)(III).

²⁸ AMCA, § 3(b)(3)(C)(ii)(IV).

²⁹ AMCA, § 3(b)(3)(C)(ii)(V)(aa).



article coverage with one or more earlier filed petition(s) and the petitioner does not withdraw the earlier filed petition(s), the Commission will regard the earliest filed petition as the petition of record.³⁰ In this situation, the Commission placed the later-filed, overlapping petitions in category V(aa). The Commission did not make technical corrections or estimate revenue loss for petitions placed in category V(aa).

Category V(bb). Petitions for which the Commission determined that the petitioner was not a likely beneficiary.³¹ The only petitions for which the Commission made this determination are those for which the covered articles may already enter free of duty.³² The relevant basis is specified in the technical comments for petitions in category V(bb) and reflected in the estimated revenue loss, which is equal to zero in each year reported. The Commission did not make technical corrections for category V(bb) petitions.

Category VI. Petitions which the Commission does not otherwise recommend for inclusion in a miscellaneous tariff bill.³³ The Commission placed the following types of petitions in category VI:

1. Petitions for which the Commission determined the article description could not be administered, taking into account the findings of the USDOC report. The Commission did not make technical corrections or estimate revenue loss for these petitions.
2. Petitions for which the Commission could not discern which article of commerce the petitioner intended to cover, which meant that the Commission could not estimate dutiable imports and revenue loss.³⁴ The Commission did not make technical corrections or estimate revenue loss for these petitions.
3. Petitions to which a domestic producer objected, based on information contained in USDOC's report or in public comments submitted to the Commission. The Commission did not make technical corrections to these petitions. For these petitions, the Commission

³⁰ 19 C.F.R. § 220.7(b).

³¹ AMCA, § 3(b)(3)(C)(ii)(V)(bb).

³² In some cases the permanent HTS subheading that covers the requested merchandise contains a general duty rate of "free." In other cases, that subheading contains a special duty rate for which the requested merchandise is already eligible upon proper importer claim on Customs entry documents, under the Agreement on Trade in Pharmaceutical Products or the Uruguay Round concessions on intermediate chemicals for dyes.

³³ AMCA, § 3(b)(3)(C)(ii)(VI).

³⁴ The Commission analyzed all petitions for which CBP reported that technical corrections were needed. If a petition contained the specific information needed to address the suggested technical corrections from CBP in the petition or in attachments to the petition, the Commission made the necessary technical corrections and placed the petition in the appropriate category. Petitions that did not contain the necessary information to make a technical correction were not recommended by the Commission for inclusion in a miscellaneous tariff bill and were placed in category VI.



estimated an annual revenue loss, but did not adjust the requested rate of duty. Therefore, estimated revenue loss may be over \$500,000 in the reported years for at least some of these petitions.

4. Petitions for which the estimated U.S. Customs revenue loss exceeded \$500,000, even for a duty reduction of only 0.1 percent.³⁵

³⁵ Proposed rates are rounded to the nearest one-tenth of a percent. The Commission did not suggest modifications to the duty rate that would result in a reduction of less than one-tenth of a percent.



Table 1. Number of Petitions, by category

	Number of Petitions
Category I	149
Category II	1,203
Category III	365
Category IV	1
Category V(aa)	28
Category V(bb)	26
Category VI	764
Withdrawn petitions	626
Total	3,162

Table 2. Preliminary Report, explanation of fields

Field Name	Explanation
Overview	
Preliminary Category	The category in which the Commission has placed the petition. The categories (I-VI) are defined in the Act.
Petitioner	Name of the petitioner, as provided in the original petition.
Petitioner Location	City, state, and zip-code of the petitioner, as provided in the original petition.
Product Name	The short version of the technical language used to describe the product in the article description, as provided in the original petition, with certain corrections.
HTS Number	The HTS 8-digit subheading that covers the product(s) that are the subject of the petition. In most cases, this is the HTS number provided by the petitioner. In some cases, the Commission recommended a different classification, taking into account information provided by U.S. Customs and Border Protection (CBP). In such cases, the change is reflected in a technical comment on the petition.
Chapter 99 Number	If an expired HTS chapter 99 heading from a previous Miscellaneous Tariff Bill would likely apply to a product being covered by the article description, it is included in this field.
CAS Number	If the subject product of a petition is a chemical, petitioners were asked to provide the Chemical Abstracts Service (CAS) Registry Number for identification purposes. The CAS number provides a unique identifier for chemical substances. CAS numbers can be used to find information on chemical substances such as chemical names and molecular structures.
Article Description	The article description is the language that describes the subject product as it would appear in HTS chapter 99, all applicable HTS subheading number(s), and any standard identification numbers or names (e.g., CAS number(s) for chemicals) This is the language that CBP would use to administer the reduced or suspended duty rate for provisions enacted by Congress.
Technical Comments	For petitions where the Commission made technical changes to clarify



Preliminary Report

June 9, 2017

Field Name	Explanation
	the article description, the Commission added technical comments explaining those changes. For petitions that the Commission does not recommend, the technical comments explain the reasons.
USITC Petition Findings and Determinations Summary	
<i>Petition Findings</i>	
Proposed Duty Rate	The duty rate proposed by the Commission for the product described in each petition being recommended by the Commission.
Estimated Revenue Loss	The Commission's estimate of the revenue loss to the U.S. Treasury from the reduction in the duty rate recommended by the Commission on the product(s) described in the petition.
Likely Beneficiaries	A list of entities, aside from the original petitioner, that are likely to benefit from the duty suspension or reduction. This list may include entities listed by the original petitioner and/or entities that were identified through public comments to the Commission or through Commission research; the list is not necessarily comprehensive.
<i>Petition Determinations</i>	
Domestic Production	The Commission's determination as to whether there is domestic production of the article described in the petition.
Domestic Producer Objection	The Commission's determination as to whether any domestic producer objects to the petition.
Relief Sought Is Available to Any Importer	The Commission's determination as to whether the proposed duty suspension or reduction is available to any person importing the article. Under the Act, petitioners must certify that the duty relief sought is available to any importer.
Petitioner Is A Likely Beneficiary	The Commission's determination as to whether petitioner is a likely beneficiary of the proposed duty suspension or reduction. Under the Act, petitioners must certify that they are a likely beneficiary of the requested tariff reduction.
Department of Commerce Report Summary	
Commerce Domestic Production Determination	The Department of Commerce's determination as to whether domestic production exists for the article described in the petition.
Commerce Producer Objection Determination	The Department of Commerce's determination as to whether any domestic producer objects to the petition.
CBP Technical Changes Required	An indication of whether CBP found that any technical changes to the article description were necessary for purposes of administration.



Table 3. List of Appendices

Appendix A. All Petitions
Appendix B. Category I Petitions
Appendix C. Category II Petitions
Appendix D. Category III Petitions
Appendix E. Category IV Petitions
Appendix F. Category V(aa) Petitions
Appendix G. Category V(bb) Petitions
Appendix H. Category VI Petitions