

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 4923
OFFERED BY MR. BRADY OF TEXAS

Strike all after the enacting clause and insert the
following:

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

1 Congress regularly and predictably updates the Har-
2 monized Tariff Schedule to suspend or reduce duties
3 on such goods.

4 (4) Creating and maintaining an open and
5 transparent process for consideration of petitions for
6 duty suspensions and reductions builds confidence
7 that the process is fair, open to all, and free of
8 abuse.

9 (5) Complying with the Rules of the House of
10 Representatives and the Senate, in particular with
11 clause 9 of rule XXI of the Rules of the House of
12 Representatives and rule XLIV of the Standing
13 Rules of the Senate, is essential to fostering and
14 maintaining confidence in the process for consid-
15 ering a miscellaneous tariff bill.

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

18 (A) congressional earmarks or limited tax
19 benefits within the meaning of clause 9 of rule
20 XXI of the Rules of the House of Representa-
21 tives; or

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

1 (7) Because any limited tariff benefits con-
2 tained in any miscellaneous tariff bill following the
3 process set forth by this Act will not have been the
4 subject of legislation introduced by an individual
5 Member of Congress and will be fully vetted through
6 a transparent and fair process free of abuse, it is ap-
7 propriate for Congress to consider limited tariff ben-
8 efits as part of that miscellaneous tariff bill as long
9 as—

10 (A) in the case of a miscellaneous tariff bill
11 considered in the House of Representatives,
12 consistent with the Rules of the House of Rep-
13 resentatives, a list of such limited tariff benefits
14 is published in the reports of the Committee on
15 Ways and Means of the House of Representa-
16 tives accompanying the miscellaneous tariff bill,
17 or in the Congressional Record; and

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

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

24 (ii) the information identified in
25 clause (i) has been available on a publicly

1 accessible congressional website in a
2 searchable format at least 48 hours before
3 the vote on the motion to proceed to the
4 miscellaneous tariff bill or the vote on the
5 adoption of a report of a committee of con-
6 ference in connection with the miscella-
7 neous tariff bill, as the case may be.

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

12 (b) SENSE OF CONGRESS.—It is the sense of Con-
13 gress that, to remove the competitive disadvantage to
14 United States manufacturers and consumers and to pro-
15 mote the competitiveness of United States manufacturers,
16 Congress should, not later than 90 days after the United
17 States International Trade Commission issues a final re-
18 port on petitions for duty suspensions and reductions
19 under section 3(b)(3)(E), consider a miscellaneous tariff
20 bill.

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

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

1 (b) REQUIREMENTS OF COMMISSION.—

2 (1) INITIATION.—Not later than October 15,
3 2016, and October 15, 2019, the Commission shall
4 publish in the Federal Register and on a publicly
5 available Internet website of the Commission a no-
6 tice requesting members of the public who can dem-
7 onstrate that they are likely beneficiaries of duty
8 suspensions or reductions to submit to the Commis-
9 sion during the 60-day period beginning on the date
10 of such publication—

11 (A) petitions for duty suspensions and re-
12 ductions; and

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

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

18 (A) The name and address of the peti-
19 tioner.

20 (B) A statement as to whether the petition
21 provides for an extension of an existing duty
22 suspension or reduction or provides for a new
23 duty suspension or reduction.

1 (C) A certification that the petitioner is a
2 likely beneficiary of the proposed duty suspen-
3 sion or reduction.

4 (D) An article description for the proposed
5 duty suspension or reduction to be included in
6 the amendment to subchapter II of chapter 99
7 of the Harmonized Tariff Schedule of the
8 United States.

9 (E) To the extent available—

10 (i) a classification of the article for
11 purposes of the amendment to subchapter
12 II of chapter 99 of the Harmonized Tariff
13 Schedule of the United States;

14 (ii) a classification ruling of U.S. Cus-
15 toms and Border Protection with respect
16 to the article; and

17 (iii) a copy of a U.S. Customs and
18 Border Protection entry summary indi-
19 cating where the article is classified in the
20 Harmonized Tariff Schedule of the United
21 States.

22 (F) A brief and general description of the
23 article.

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

1 (H) An estimate of the total value, in
2 United States dollars, of imports of the article
3 for each of the 5 calendar years after the cal-
4 endar year in which the petition is filed, includ-
5 ing an estimate of the total value of such im-
6 ports by the person who submits the petition
7 and by any other importers, if available.

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

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

12 (K) Such other information as the Com-
13 mission may require.

14 (3) REVIEW.—

15 (A) COMMISSION PUBLICATION AND PUB-
16 LIC AVAILABILITY.—As soon as practicable
17 after the expiration of the 60-day period speci-
18 fied in paragraph (1), but in any case not later
19 than 30 days after the expiration of such 60-
20 day period, the Commission shall publish on a
21 publicly available Internet website of the Com-
22 mission—

23 (i) the petitions for duty suspensions
24 and reductions submitted under paragraph

1 (1)(A) that contain the information re-
2 quired under paragraph (2); and

3 (ii) the Commission disclosure forms
4 with respect to such duty suspensions and
5 reductions submitted under paragraph
6 (1)(B).

7 (B) PUBLIC COMMENT.—

8 (i) IN GENERAL.—The Commission
9 shall publish in the Federal Register and
10 on a publicly available Internet website of
11 the Commission a notice requesting mem-
12 bers of the public to submit to the Com-
13 mission during the 45-day period begin-
14 ning on the date of publication described
15 in subparagraph (A) comments on—

16 (I) the petitions for duty suspen-
17 sions and reductions published by the
18 Commission under subparagraph
19 (A)(i); and

20 (II) the Commission disclosure
21 forms with respect to such duty sus-
22 pensions and reductions published by
23 the Commission under subparagraph
24 (A)(ii).

1 (ii) PUBLICATION OF COMMENTS.—

2 The Commission shall publish a notice in
3 the Federal Register directing members of
4 the public to a publicly available Internet
5 website of the Commission to view the
6 comments of the members of the public re-
7 ceived under clause (i).

8 (C) PRELIMINARY REPORT.—

9 (i) IN GENERAL.—As soon as prac-
10 ticable after the expiration of the 120-day
11 period beginning on the date of publication
12 described in subparagraph (A), but in any
13 case not later than 30 days after the expi-
14 ration of such 120-day period, the Com-
15 mission shall submit to the appropriate
16 congressional committees a preliminary re-
17 port on the petitions for duty suspensions
18 and reductions submitted under paragraph
19 (1)(A). The preliminary report shall con-
20 tain the following information with respect
21 to each petition for a duty suspension or
22 reduction:

23 (I) The heading or subheading of
24 the Harmonized Tariff Schedule of
25 the United States in which each arti-

1 cle that is the subject of the petition
2 for the duty suspension or reduction
3 is classified, as identified by docu-
4 mentation supplied to the Commis-
5 sion, and any supporting information
6 obtained by the Commission.

7 (II) A determination of whether
8 or not domestic production of the arti-
9 cle that is the subject of the petition
10 for the duty suspension or reduction
11 exists, taking into account the report
12 of the Secretary of Commerce under
13 subsection (c)(1), and, if such produc-
14 tion exists, whether or not a domestic
15 producer of the article objects to the
16 duty suspension or reduction.

17 (III) Any technical changes to
18 the article description of the article
19 that is the subject of the petition for
20 the duty suspension or reduction that
21 are necessary for purposes of adminis-
22 tration when the article is presented
23 for importation, taking into account
24 the report of the Secretary of Com-
25 merce under subsection (c)(2).

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

6 (V) A determination of whether
7 or not the duty suspension or reduc-
8 tion is available to any person that
9 imports the article that is the subject
10 of the duty suspension or reduction.

11 (VI) The likely beneficiaries of
12 each duty suspension or reduction, in-
13 cluding whether the petitioner is a
14 likely beneficiary.

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

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

23 (II) A list of petitions for duty
24 suspensions and reductions for which
25 the Commission recommends technical

1 corrections in order to meet the re-
2 quirements of this Act, with the cor-
3 rection specified.

4 (III) A list of petitions for duty
5 suspensions and reductions for which
6 the Commission recommends modi-
7 fications to the amount of the duty
8 suspension or reduction that is the
9 subject of the petition to comply with
10 the requirements of this Act, with the
11 modification specified.

12 (IV) A list of petitions for duty
13 suspensions and reductions for which
14 the Commission recommends modi-
15 fications to the scope of the articles
16 that are the subject of such petitions
17 to address objections by domestic pro-
18 ducers to such petitions, with the
19 modifications specified.

20 (V) A list of the following:

21 (aa) Petitions for duty sus-
22 pensions and reductions that the
23 Commission has determined do
24 not contain the information re-
25 quired under paragraph (2).

1 (bb) Petitions for duty sus-
2 pensions and reductions with re-
3 spect to which the Commission
4 has determined the petitioner is
5 not a likely beneficiary.

6 (VI) A list of petitions for duty
7 suspensions and reductions that the
8 Commission does not recommend for
9 inclusion in a miscellaneous tariff bill,
10 other than petitions specified in sub-
11 clause (V).

12 (D) ADDITIONAL INFORMATION.—The
13 Commission shall consider any information sub-
14 mitted by the appropriate congressional com-
15 mittees to the Commission relating to moving a
16 petition that is contained in the list referred to
17 in subclause (VI) of subparagraph (C)(ii) of the
18 preliminary report submitted under subpara-
19 graph (C) to a list referred to in subclause (I),
20 (II), (III), or (IV) of subparagraph (C)(ii).

21 (E) FINAL REPORT.—Not later than 60
22 days after the date on which the preliminary re-
23 port is submitted under subparagraph (C), the
24 Commission shall submit to the appropriate
25 congressional committees a final report on each

1 petition for a duty suspension or reduction
2 specified in the preliminary report. The final re-
3 port shall contain with respect to each such pe-
4 tition—

5 (i) the information required under
6 clauses (i) and (ii) of subparagraph (C)
7 and updated as appropriate under sub-
8 paragraph (D); and

9 (ii) a determination of the Commis-
10 sion whether—

11 (I) the duty suspension or reduc-
12 tion can likely be administered by
13 U.S. Customs and Border Protection;

14 (II) the estimated loss in revenue
15 to the United States from the duty
16 suspension or reduction does not ex-
17 ceed \$500,000 in a calendar year dur-
18 ing which the duty suspension or re-
19 duction would be in effect; and

20 (III) the duty suspension or re-
21 duction is available to any person im-
22 porting the article that is the subject
23 of the duty suspension or reduction.

24 (F) EXCLUSIONS.—The appropriate con-
25 gressional committees may exclude from a mis-

1 cellaneous tariff bill any petition for a duty sus-
2 pension or reduction that—

3 (i) is contained in any list referred to
4 in subclause (I), (II), (III), or (IV) of sub-
5 paragraph (C)(ii), as updated as appro-
6 priate under subparagraph (E)(i);

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

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

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

23 (H) PROHIBITIONS.—Any petitions for
24 duty suspensions or reductions that are con-
25 tained in any list referred to in subclause (V)

1 or (VI) of subparagraph (C)(ii), as updated as
2 appropriate under subparagraph (E)(i), or have
3 not otherwise undergone the processes required
4 by this Act shall not be included in a miscella-
5 neous tariff bill.

6 (4) CONFIDENTIAL BUSINESS INFORMATION.—

7 The procedures concerning the release of confiden-
8 tial business information set forth in section 332(g)
9 of the Tariff Act of 1930 (19 U.S.C. 1332(g)) shall
10 apply with respect to information received by the
11 Commission in posting petitions on a publicly avail-
12 able website of the Commission and in preparing re-
13 ports under this subsection.

14 (5) PROCEDURES.—The Commission shall pre-
15 scribe and publish in the Federal Register and on a
16 publicly available Internet website of the Commis-
17 sion procedures to be complied with by members of
18 the public submitting petitions for duty suspensions
19 and reductions under subsection (b)(1)(A).

20 (c) DEPARTMENT OF COMMERCE REPORT.—Not
21 later than the end of the 90-day period beginning on the
22 date of publication of the petitions for duty suspensions
23 and reductions under subsection (b)(3)(A), the Secretary
24 of Commerce, in consultation with U.S. Customs and Bor-
25 der Protection and other relevant Federal agencies, shall

1 submit to the Commission and the appropriate congres-
2 sional committees a report on each petition for a duty sus-
3 pension or reduction submitted under subsection (b)(1)(A)
4 that includes the following information:

5 (1) A determination of whether or not domestic
6 production of the article that is the subject of the
7 petition for the duty suspension or reduction exists
8 and, if such production exists, whether or not a do-
9 mestic producer of the article objects to the petition
10 for the duty suspension or reduction.

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

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

16 (a) IN GENERAL.—Not later than 12 months after
17 the date of the enactment of a miscellaneous tariff bill,
18 the Commission shall submit to the appropriate congres-
19 sional committees a report on the effects on the United
20 States economy of duty suspensions and reductions en-
21 acted pursuant to this Act, including a broad assessment
22 of the economic effects of such duty suspensions and re-
23 ductions on producers, purchasers, and consumers in the
24 United States, using case studies describing such effects

1 on selected industries or by type of article as available
2 data permit.

3 (b) RECOMMENDATIONS.—The Commission shall also
4 solicit and append to the report required under subsection
5 (a) recommendations with respect to those domestic indus-
6 try sectors or specific domestic industries that might ben-
7 efit from permanent duty suspensions and reductions, ei-
8 ther through a unilateral action of the United States or
9 though negotiations for reciprocal tariff agreements, with
10 a particular focus on inequities created by tariff inver-
11 sions.

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

15 **SEC. 5. PUBLICATION OF LIMITED TARIFF BENEFITS IN**
16 **THE HOUSE OF REPRESENTATIVES AND THE**
17 **SENATE.**

18 (a) HOUSE OF REPRESENTATIVES.—

19 (1) IN GENERAL.—The chair of the Committee
20 on Ways and Means of the House of Representatives
21 shall include a list of limited tariff benefits con-
22 tained in a miscellaneous tariff bill in the report to
23 accompany such a bill or, in a case where a miscella-
24 neous tariff bill is not reported by the committee,

1 shall cause such a list to be printed in the appro-
2 priate section of the Congressional Record.

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

11 (b) SENATE.—

12 (1) IN GENERAL.—The chairman of the Com-
13 mittee on Finance of the Senate, the Majority Lead-
14 er of the Senate, or the designee of the Majority
15 Leader of the Senate, shall provide for the publica-
16 tion in the Congressional Record of a certification
17 that—

18 (A) each limited tariff benefit contained in
19 a miscellaneous tariff bill considered in the Sen-
20 ate has been identified through lists, charts, or
21 other similar means; and

22 (B) the information identified in subpara-
23 graph (A) has been available on a publicly ac-
24 cessible congressional website in a searchable
25 format at least 48 hours before the vote on the

1 motion to proceed to the miscellaneous tariff
2 bill or the vote on the adoption of a report of
3 a committee of conference in connection with
4 the miscellaneous tariff bill, as the case may be.

5 (2) SATISFACTION OF SENATE RULES.—Publi-
6 cation of a certification in the Congressional Record
7 under paragraph (1) satisfies the certification re-
8 quirements of paragraphs 1(a), 2(a), and 3(a) of
9 rule XLIV of the Standing Rules of the Senate.

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

18 (c) ENACTMENT AS EXERCISE OF RULEMAKING
19 POWER OF HOUSE OF REPRESENTATIVES AND SEN-
20 ATE.—This section is enacted by Congress—

21 (1) as an exercise of the rulemaking power of
22 the House of Representatives and the Senate, re-
23 spectively, and as such are deemed a part of the
24 rules of each House, respectively, and such proce-

1 dures supersede other rules only to the extent that
2 they are inconsistent with such other rules; and

3 (2) with full recognition of the constitutional
4 right of either House to change the rules (so far as
5 relating to the procedure of that House) at any time,
6 in the same manner, and to the same extent as in
7 the case of any other rule of that House.

8 **SEC. 6. JUDICIAL REVIEW PRECLUDED.**

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

11 **SEC. 7. DEFINITIONS.**

12 In this Act:

13 (1) APPROPRIATE CONGRESSIONAL COMMIT-
14 TEES.—The term “appropriate congressional com-
15 mittees” means the Committee on Ways and Means
16 of the House of Representatives and the Committee
17 on Finance of the Senate.

18 (2) COMMISSION.—The term “Commission”
19 means the United States International Trade Com-
20 mission.

21 (3) COMMISSION DISCLOSURE FORM.—The
22 term “Commission disclosure form” means, with re-
23 spect to a petition for a duty suspension or reduc-
24 tion, a document submitted by a petitioner to the
25 Commission that contains the following:

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

4 (B) A certification by the petitioner that
5 the proposed duty suspension or reduction is
6 available to any person importing the article to
7 which the proposed duty suspension or reduc-
8 tion would apply.

9 (C) A certification that the petitioner is a
10 likely beneficiary of the proposed duty suspen-
11 sion or reduction.

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

18 (5) DOMESTIC PRODUCTION.—The term “do-
19 mestic production” means the production of an arti-
20 cle that is identical to, or like or directly competitive
21 with, an article to which a petition for a duty sus-
22 pension or reduction would apply, for which a do-
23 mestic producer has demonstrated production, or im-
24 minent production, in the United States.

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

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

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

12 (7) LIKELY BENEFICIARY.—The term “likely
13 beneficiary” means an individual or entity likely to
14 utilize, or benefit directly from the utilization of, an
15 article that is the subject of a petition for a duty
16 suspension or reduction.

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

21 (9) MISCELLANEOUS TARIFF BILL.—The term
22 “miscellaneous tariff bill” means a bill of either
23 House of Congress that contains only duty suspen-
24 sions and reductions and related technical correc-
25 tions that—

1 (A) are included in the final report of the
2 Commission submitted to the appropriate con-
3 gressional committees under section 3(b)(3)(E),
4 except for—

5 (i) petitions for duty suspensions or
6 reductions that the Commission has deter-
7 mined do not contain the information re-
8 quired under section 3(b)(2);

9 (ii) petitions for duty suspensions and
10 reductions with respect to which the Com-
11 mission has determined the petitioner is
12 not a likely beneficiary; and

13 (iii) petitions for duty suspensions and
14 reductions that the Commission does not
15 recommend for inclusion in the miscella-
16 neous tariff bill;

17 (B) are not excluded under section
18 3(b)(3)(F); and

19 (C) otherwise meet the applicable require-
20 ments of this Act.

