



United States
International Trade Commission

American Manufacturing Competitiveness Act: 2020 Preliminary Report

June 2020

Publication Number: 5067

United States International Trade Commission

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Abbreviations

Abbreviations	Term
AMCA or the Act	American Manufacturing Competitiveness Act of 2016
CAS	Chemical Abstracts Service
CBP or Customs	U.S. Customs and Border Protection
Commerce	U.S. Department of Commerce
HTS	Harmonized Tariff Schedule of the United States
MTB	Miscellaneous Tariff bill
MTBPS	Miscellaneous Tariff Bill Petition System
USITC or Commission	U.S. International Trade Commission



Introduction

The American Manufacturing Competitiveness Act of 2016 (the AMCA or the Act)¹ sets forth a process for “the submission and consideration of petitions for temporary duty suspensions and reductions.”² Under that process, those seeking duty suspensions and reductions file petitions with the U.S. International Trade Commission (the Commission). With input from other federal agencies, the Commission reviews each petition and submits its recommendations in preliminary and final reports to the House Committee on Ways and Means and the Senate Committee on Finance (the Committees), which develop a miscellaneous tariff bill (MTB).

The Commission’s reports to the Committees include certain information and determinations with respect to each petition; the reports 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 (CBP or Customs); 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.³

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

¹ Codified at 19 U.S.C. § 1332 note.

² AMCA, § 3(a).

³ AMCA, § 3(b)(3)(C) & (E). The last two determinations appear only in the final report.



Submission of petitions and comments to the Commission

As required by the Act, on October 11, 2019, the Commission published a notice in the *Federal Register* announcing that the period for submitting petitions had begun. The notice stated that members of the public could begin submitting petitions to the Commission through its online Miscellaneous Tariff Bill Petition System (MTBPS) for a 60-day period, ending on December 10, 2019.⁴

The MTBPS guided petitioners in providing the information specified for submission by the Act and the Commission's Rules of Practice and Procedure.⁵ The Commission received a total of 4,086 petitions during the petition submission period. As of June 5, 2020, petitioners had withdrawn 607 of the petitions received,⁶ leaving a net total of 3,479 petitions on which the Commission is providing recommendations.⁷ The following is a breakdown of those petitions, by product category:

Product group	Number of petitions	Percent of total
Chemicals	1,857	53.4
Machinery and equipment	715	20.5
Textiles, apparel, and footwear	581	16.7
Natural resources and agriculture	326	9.4
Total	3,479	100.0

As required by the Act,⁸ within 30 days of the close of the petition submission period, the Commission published a notice in the *Federal Register* on January 10, 2020, announcing that it had posted all the submitted petitions to its public website. The notice further stated that the

⁴ USITC, *Request for Petitions for Duty Suspensions and Reductions*, 84 Fed. Reg. 54924 (October 11, 2019).

⁵ 84 Fed. Reg. at 54925. Section 3(b)(2) of the AMCA and Commission Rules 220.5 and 220.6 specify the information that petitioners must include in their petitions. AMCA, § 3(b)(2); 19 C.F.R. §§ 220.5, 220.6 (81 Fed. Reg. 67149 (Sept. 30, 2016), as amended by 84 Fed. Reg. 44692 (Aug. 27, 2019)).

⁶ The Commission did not permit petitioners to modify petitions after submission; in order to make changes, petitioners had to withdraw their petition and file a new one by the December 10, 2019 deadline.

⁷ Of this total, the Commission consolidated 219 petitions with other petition(s) that were duplicate or overlapping (see discussion below). The Commission provides a single recommendation for consolidated petitions.

⁸ AMCA, § 3(b)(3)(A) & (B).



public could file comments on the petitions through the MTBPS.⁹ The comment period was open for 45 days, and it closed on February 24, 2020.¹⁰ The Commission received 1,611 comments on 900 petitions; commenters later withdrew 30 of those comments. The following is a breakdown of the 1,581 remaining comments, based on commenter type and comment reason.

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	6	291	0
U.S. importer	46	157	4
U.S producer	672	4	6
Government entity or other	21	350	24
Total	745	802	34

The Act also requires that the U.S. Department of Commerce (Commerce), in consultation with CBP and other relevant Federal agencies, submit a report to the Commission and to the Committees on each petition filed.¹¹ Commerce submitted its report (available [here](#)) on April 9, 2020. The Commerce report provides the following information for each petition:

- A determination whether domestic production of the article that is the subject of the petition exists,¹² and, if such production exists, a determination whether 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.

⁹ USITC, *Notice of Publication of Petitions for Duty Suspensions and Reductions and Related Disclosure Forms, and Notice of Request for Comments on Those Petitions and Disclosure Forms*, 85 Fed. Reg. 1327 (Jan. 10, 2020). The Commission published the petitions on a rolling basis as it received them and ensured that no confidential data would be made public before posting them.

¹⁰ 85 Fed. Reg. at 1328.

¹¹ AMCA, § 3(c).

¹² “Domestic production” is defined in the Act to include production of an article that is identical to, or like or directly competitive with, the article that is the subject of the petition. AMCA, §§ 3(b)(3)(C)(i)(II), 7(5).



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

Commission analysis and review process

The Commission's staff first reviewed the petitions submitted to the Commission to ensure that they provided all the information required by the Act and the Commission's Rules of Practice and Procedure. The Commission's staff then reviewed the information in the petitions; comments received from the public through the MTBPS; and the information in the Commerce report, including information and analysis from CBP, to make the determinations and recommendations required by the Act.

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, III, and IV), or does not meet the requirements of the Act (Categories V and VI).¹³ More specifically, the Act defines the categories as follows:

Category I. Petitions that the Commission finds meet the requirements of the Act without modification.¹⁴

Category II. Petitions for which the Commission recommends technical corrections in order to meet the requirements of the Act.¹⁵ As further described below, for these petitions, the Commission has noted the correction made and suggested changes only to improve clarity and administrability based on the information contained in the petition, the permanent U.S. Harmonized Tariff Schedule (HTS) provisions, and input from CBP.

Category III. Petitions for which the Commission recommends a modification to the amount of the requested duty suspension or reduction in order to comply with the requirements of the Act.¹⁶ For these petitions, the Commission has indicated the recommended modification. The Commission may also recommend technical corrections to petitions in this category.

¹³ AMCA, § 3(b)(3)(C)(ii)(I-VI).

¹⁴ AMCA, § 3(b)(3)(C)(ii)(I).

¹⁵ AMCA, § 3(b)(3)(C)(ii)(II).

¹⁶ AMCA, § 3(b)(3)(C)(ii)(III).



Category IV. Petitions for which the Commission recommends a modification to the scope of the articles covered by the petitions to address objections from domestic producers.¹⁷ For these petitions, the Commission has specified the proposed modifications. 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 that the Commission finds do not contain the information required under the Act.¹⁸ 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 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.¹⁹ In such situations, the Commission placed the later-filed, overlapping petitions in Category V(aa). The Commission did not make technical corrections, adjust the requested rate of duty, or estimate revenue loss for petitions placed in Category V(aa).

Category V(bb). Petitions for which the Commission has determined that the petitioner is not a likely beneficiary.²⁰ Generally, petitions for which the Commission made this determination are those for which the covered articles may already enter free of duty under its permanent tariff provision.²¹ The technical comments for petitions in Category V(bb) specify the relevant basis for placement in this category and reflect the estimated revenue loss, which is equal to zero in each year reported. The Commission did not make technical corrections or adjust the requested rate of duty for Category V(bb) petitions.

¹⁷ AMCA, § 3(b)(3)(C)(ii)(IV).

¹⁸ AMCA, § 3(b)(3)(C)(ii)(V)(aa).

¹⁹ 19 C.F.R. § 220.7(b).

²⁰ AMCA, § 3(b)(3)(C)(ii)(V)(bb).

²¹ In some instances, the permanent HTS subheading that covers the requested merchandise contains a general duty rate of “free.” In other instances, 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. Petitioners may have filed petitions on products covered by a permanent subheading with a general duty rate of “free” because they were seeking to suspend or reduce *additional* duties on those products. Under current law, MTBs will not relieve importers of additional duties imposed under Chapter 99 of the HTS, including products of China subject to duties under Section 301 of the Trade Act of 1974 (Trade Act) and steel and aluminum products subject to duties under Section 232 of the Trade Act.



Category VI. Petitions that the Commission does not otherwise recommend for inclusion in a miscellaneous tariff bill (MTB).²² The Commission placed the following types of petitions in Category VI:

1. Petitions for which the Commission determined that the article description could not be administered, taking into account the findings of the Commerce report. The Commission did not make technical corrections, adjust the requested rate of duty, or estimate revenue loss for these petitions.
2. Petitions to which a domestic producer objected, based on information contained in the Commerce report or in public comments submitted to the Commission. The Commission did not make technical corrections to these petitions. For these petitions, the Commission 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.
3. Petitions for which the estimated Customs revenue loss exceeded \$500,000, even with a potential duty reduction of only 0.1 percentage point.²³

Duplicate Petitions. In some instances, two or more petitioners submitted petitions for duty suspensions or reductions for the same article. In these instances, the Commission consolidated the petitions under a single “master” petition, and the Commission analyzed and provides a single recommendation on that master consolidated petition. This report lists master petitions and notes any petitions that the Commission consolidated under that master.

Overlapping Petitions. The Commission also received a number of petitions with article descriptions that, although not identical, were overlapping.²⁴ To facilitate the administrability and accuracy of import estimations, petitions must cover distinct articles of commerce. If multiple petitioners filed petitions that overlap 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.²⁵ To make these corrections, the Commission first analyzed the article

²² AMCA, § 3(b)(3)(C)(ii)(VI).

²³ 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 percentage point.

²⁴ For example, an article description that covers all sizes of an article as compared to an article description that covers only certain sizes of the same article.

²⁵ 19 C.F.R. § 220.8.



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 for inclusion in an MTB.

In certain instances, 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 220.7.²⁶

Chapter 99 Number. The Commission supplied a Chapter 99 number for petitions requesting renewal of an existing provision that, with or without modification, do not propose a substantive change to the existing article description.²⁷ The Commission may have recommended a proposed rate of duty for these petitions that is different from what is currently in Chapter 99 of the HTS.²⁸

Technical Corrections. As needed, and to the extent permitted by the Act, the Commission made technical corrections to any petitions that would not otherwise have complied with the statutory requirements. The corrections include making minor modifications to the language of the article description; correcting the classification listed for an article in the 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 provided at the time of the petition's submission to the Commission through the MTBPS. Where the Commission made such changes, it has described them in the technical comments for each such petition in this preliminary report. For some petitions, comments from Customs sought technical corrections to facilitate administration of proposed provisions, such as the deletion of criteria requiring compliance with specific industry standards. Such deletions would effectively broaden the scope of the descriptions, and the Commission could not recommend doing so without

²⁶ 19 C.F.R. § 220.7.

²⁷ Miscellaneous Tariff Bill Act of 2018, Pub. L. No. 115-239.

²⁸ The Commission may have supplied an existing Chapter 99 number and made minor typographical corrections to the existing provision (e.g., adding or removing a space, correcting capitalization).



jeopardizing the integrity of the public comment period and domestic production analysis conducted by Commerce.

Estimated Revenue Loss. Under the Act, the Commission is to estimate the amount of revenue that the United States would no longer collect if the duty suspension or tariff reduction were to take effect.²⁹ The Commission has calculated the annual revenue loss for each petition by multiplying the proposed reduction in tariff rate, in percent ad valorem,³⁰ 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 to provide data for the total value of imports by all firms; if such data were not available, petitioners were to provide data for only their own firm's imports. The Commission's staff conducted research to estimate the total value of dutiable imports by all companies likely to import the product covered under the proposed article description, and they used this value to estimate the revenue loss. In some instances, the Commission's staff was not able to identify importers other than the petitioner. In those instances, the Commission generally based its revenue loss estimates solely on data provided by the petitioner about its own firm.

Where the petitioner requested a duty reduction or suspension that would have resulted in an annual estimated revenue loss of more than \$500,000, the Commission's staff adjusted the requested duty reduction in increments of 0.1 percentage point so that the estimated revenue loss would not exceed \$500,000, as provided for by the statute.³¹ The Commission reported estimated revenue loss for the four-year period 2021 to 2024; however, any adjustment to the duty rate is based on the three-year period 2021 to 2023, as that is the period of time that each duty suspension or reduction is likely to be in effect.

In some instances, petitioners filed a number of petitions for similar articles, with each petition distinguished by narrowly crafted sets of attributes. These minor differences may have had the effect of limiting the revenue loss for each petition, where the broader set of such petitions combined would exceed the revenue loss limit.

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

²⁹ AMCA, § 3(b)(3)(C)(i)(IV).

³⁰ That is, a rate of duty expressed as a percentage of the appraised Customs value of an imported good.

³¹ AMCA, § 3(b)(3)(C)(ii)(III). The Commission placed these petitions in Category III, provided that they otherwise met the statutory requirements. Please see the discussion of *Category Recommendations*.



production of the article exists. The Act defines domestic production to mean the production of an article that is “identical to, or directly competitive product with” an article to which the petition would apply.³² 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 Commerce report.

If petitions contained the names of domestic producers, or the Commission’s staff identified domestic producers through research, the Commission’s staff contacted each firm directly and asked for confirmation in writing that the firm 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 Commerce report, the Commission reported “no” for domestic production in this preliminary report. Firms that indicated planned production were required to indicate the year in which they expected production to begin, as well as provide additional information supporting their claim. For firms that produce goods made to order, the Commission considered whether the firm made the item in the past and/or demonstrated they were capable of making a like or directly competitive item. In some instances, 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 the Commission’s staff identified other domestic producers.

Domestic Producer Objection. If the Commission determines that domestic production exists, the Act requires it to determine whether a domestic producer of the article objects to the proposed duty suspension or reduction.³³ In making that determination, the Commission took into account the Commerce report and comments filed by firms that claimed to be domestic producers, as well as research conducted by Commission staff. In some instances, the Commission determined that objections were from domestic producers of articles that are upstream or downstream from the articles in the petition, and therefore did not place such petitions in Category VI based on the objection(s).

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.³⁴ When making this

³² AMCA, §§ 3(b)(3)(C)(i)(II), 7(5).

³³ AMCA, § 3(b)(3)(C)(i)(II).

³⁴ AMCA, §§ 3(b)(3)(C)(i)(V), 3(b)(3)(E)(ii)(III).



determination, the Commission relied on the language of the article description provided in the petition and, where applicable, as modified by the Commission.

In some instances, petitioners reported that the product was subject to a patent or other restriction (*e.g.*, EPA data exclusivity). The Commission determined in each such instance that the existence of a patent did not disqualify a product from being considered available to any importer because a patent would not preclude other companies from procuring the product, either domestically or for importation, as a patent holder could choose to sell or license those patent rights to other firms or individuals.

Where multiple petitioners filed petitions for the same type of article, the Commission examined descriptions as a group, as discussed in the section on “Overlapping Petitions,” to accommodate the widest range of goods possible under the Act. The article descriptions in petitions that the Commission recommends for inclusion in an MTB do not, by their terms, restrict use of the duty suspensions or reductions to particular firms.

Likely Beneficiaries. Under the Act and the Commission’s Rules, petitioners had to certify that they are 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.³⁵ In this 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.³⁶ Members of trade associations are reported as likely beneficiaries if they are 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.

³⁵ AMCA, §§ 3(b)(2)(C), 7(3)(C); 19 C.F.R. §220.5(l).

³⁶ Where the Commission consolidated duplicate or overlapping petitions, the petitioner(s) and likely beneficiaries listed in the consolidated petitions were listed as likely beneficiaries in the master petition, unless those entities indicated in writing that they did not wish to be listed.



Table 1. Number of Petitions, by category

	Number of Petitions
Category I	874
Category II	1,229
Category III	526
Category IV	3
Category V(aa)	16
Category V(bb)	26
Category VI	805
Withdrawn petitions	607
Total	4,086

Table 2. Explanation of fields

Field Name	Explanation
<i>Overview</i>	
Preliminary Category	The category in which the Commission has placed the petition. The Act defines Categories I-VI.
Petitioner	Name of the petitioner, as provided in the original petition.
Petitioner Location	City, state, and zip-code of the petitioner.
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. For example, the Commission removed trademarked or proprietary terms from the product name field.
HTS Number	The HTS 8-digit subheading that covers the product(s) that are the subject of the petition. In most instances, this is the HTS number provided by the petitioner. In some instances, the Commission recommends a different classification, taking into account information provided by Customs. In such instances, the change is reflected in a technical comment on the petition.
Chapter 99 Number	The HTS Chapter 99 heading for petitions requesting renewal of an existing provision. The Commission included a Chapter 99 number in this field where the article description requested did not propose a substantive change to the existing article description.
CAS Number	If the product in a petition is a chemical, petitioners had to provide the 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. In its preliminary report the Commission listed only the primary CAS number, which is often the first CAS number listed in the article description.



Field Name	Explanation
Article Description	The article description is the language that describes the product in the petition 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 Customs would use to administer the reduced or suspended duty rate for provisions enacted by Congress.
Technical Comments	Explanatory notes that describe either: (1) the technical changes that the Commission made to petitions to clarify the article description; or (2) the Commission's reasons for not recommending a petition for inclusion in an MTB.
<i>USITC Petition Findings and Determinations Summary</i>	
<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 for inclusion in an MTB.
Estimated Revenue Loss	The Commission's estimate of the revenue loss to the United States from the suspension or 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 or entities 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 whether there is domestic production of the article described in the petition.
Domestic Producer Objection	The Commission's determination whether any domestic producer objects to the petition.
Relief Sought Is Available to Any Importer	The Commission's determination 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 whether the 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.
<i>Comments Received</i>	
Object	The number of comments received during the public comment period for which the commenter indicated an objection to the proposed duty suspension or reduction. This number may include comments received from U.S. producers, U.S. importers, trade associations, government officials or entities, or commenters who identified as "Other."
Support	The number of comments received during the public comment period for which the commenter indicated support for the proposed duty suspension or reduction. This number may include



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Field Name	Explanation
	comments received from U.S. producers, U.S. importers, trade associations, government officials or entities, or commenters who identified as "Other."
Other/No Position	The number of comments received during the public comment period for which the commenter took no position with respect to the proposed duty suspension or reduction, or provided additional information that is neither an objection nor support. This number may include comments received from U.S. producers, U.S. importers, trade associations, government officials or entities, or commenters who identified as "Other."
<i>Commerce Report Summary</i>	
Commerce Domestic Production Determination	Commerce's determination whether domestic production exists for the article described in the petition.
Commerce Producer Objection Determination	Commerce's determination whether any domestic producer objects to the petition.
CBP Technical Changes Required	CBP's determination whether any technical changes to the article description are 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
Addendum. Additional Information