

**REPORT OF THE DEPARTMENT OF COMMERCE
UNDER SECTION 3(c) OF THE AMERICAN
MANUFACTURING COMPETITIVENESS ACT OF 2016**

April 9, 2020



Overview

As required by section 3(c) of the American Manufacturing Competitiveness Act of 2016 (the Act), this report includes: (1) a determination of whether or not domestic production of the article that is the subject of the petition exists and, if so, whether a domestic producer of the article objects to the petition; and (2) any technical changes to the article description that are necessary for purposes of administration upon importation for those articles described in petitions for duty suspensions and reductions pending before the United States International Trade Commission (USITC) under section 3(b)(3)(A)(i) of the Act as of March 30, 2020.

Domestic Production Methodology

The Department of Commerce's (Commerce) International Trade Administration (ITA), in consultation with the Department of Agriculture's Foreign Agricultural Service (FAS), sought to identify whether "domestic production" of the article that is subject to each petition exists. "Domestic production" is defined in the Act to mean production of an article that is identical to, or like or directly competitive with, an article to which a petition for a duty suspension or reduction would apply, for which a domestic producer has demonstrated U.S. production, or imminent production. "Domestic producer" is defined in the Act as a person that demonstrates U.S. production, or imminent production, of an article that is identical to, or like or directly competitive with, an article to which a petition for a duty suspension or reduction would apply.

To identify potential domestic production, ITA and FAS utilized their own product-sector expertise, public and subscription-based database tools, and extensive industry contacts, as well as public responses to the Federal Register notice issued by the USITC under section 3(b)(3)(B) of the Act. ITA and FAS contacted those identified as potential producers in order to make a determination on the existence of domestic production, and further to determine whether a domestic producer objects to a particular petition. In conducting this analysis, ITA and FAS considered only domestic production of articles as published by the USITC as per section 3(b)(3)(A)(i) of the Act and listed as pending as of March 30, 2020. Due to the submission requirements set forth in the Act, the Commerce analysis is not able to consider subsequent modifications to the article descriptions, including any modifications that may be recommended by the USITC in its forthcoming preliminary report that will be issued pursuant to section 3(b)(3)(C)(ii) of the Act.

Appendix A reports the Commerce determination regarding whether or not domestic production of articles that are the subject of petitions exists and, if so, whether a domestic producer of the article objects to the petition. The information is in tabular format of four columns listing the USITC-assigned petition number ("Petition Number"), the petition article description ("Article Description"), the determination on whether domestic production exists ("Existence of Domestic Production"), and whether a domestic producer objected to the petition ("Objection from a Domestic Producer").

Importation Administrability Methodology

U.S. Customs and Border Protection (CBP) compiled information for Commerce on CBP's ability to administer temporary duty suspensions or duty reductions on imported articles, as published by the USITC under section 3(b)(3)(A)(i) of the Act and listed as pending as of March 30, 2020. Specifically, for each petition pending before the USITC, CBP has prepared comments concerning "any technical changes to the article description that are necessary for purposes of administration when articles are presented for importation."

For CBP to administer a temporary duty-suspension or duty-reduction provision when articles are presented for importation, a petition must contain: (1) an article description that enables CBP personnel to accurately identify the article covered by the proposed duty suspension or duty reduction provision; and (2) the correct Harmonized Tariff Schedule of the United States (HTSUS) 8-digit tariff classification subheading of the intended article.

Accordingly, CBP reviewed the petitions and prepared comments concerning whether each petition contains an administrable article description and 8-digit HTSUS tariff classification subheading. CBP utilized the commodity expertise of its National Import Specialists (National Commodity Specialist Division, Rulings and Regulations Directorate, Office of Trade) to determine whether the proposed duty suspension or duty reduction provision could be administered upon importation, and if not, whether technical changes to the article description could be made that would allow for the administration of the petition. In conducting this analysis, CBP considered only the information submitted by petitioners pursuant to section 3(b)(2) of the Act.

Appendix B sets forth CBP's views as to whether any technical changes to the article description are necessary for purposes of administration when articles are presented for importation. CBP's comments are presented in four columns, the first of which identifies the petition by the USITC-assigned "Petition Number." Column 2 ("Technical Changes Required") contains CBP's views as to whether or not technical changes to the petition article description are necessary for purposes of administration. Columns 3 and 4 ("CBP Comment Summary" and "CBP Technical Comment," respectively) contain CBP's summary and detailed comments concerning any technical changes to the article description that are necessary for CBP to administer the provision when the articles are presented for importation.