

113TH CONGRESS
1ST SESSION

S. 431

To authorize preferential treatment for certain imports from Nepal, and
for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 28, 2013

Mrs. FEINSTEIN introduced the following bill; which was read twice and
referred to the Committee on Finance

A BILL

To authorize preferential treatment for certain imports from
Nepal, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Nepal Trade Pref-
5 erences Act”.

6 **SEC. 2. ELIGIBILITY REQUIREMENTS.**

7 (a) IN GENERAL.—The President may authorize the
8 provision of preferential treatment under this Act to arti-
9 cles that are imported directly from Nepal into the cus-

1 toms territory of the United States pursuant to section
2 3 if the President determines—

3 (1) that Nepal meets the requirements set forth
4 in paragraphs (1), (2), and (3) of section 104(a) of
5 the African Growth and Opportunity Act (19 U.S.C.
6 3703(a)); and

7 (2) after taking into account the factors set
8 forth in paragraphs (1) through (7) of subsection (c)
9 of section 502 of the Trade Act of 1974 (19 U.S.C.
10 2462), that Nepal meets the eligibility requirements
11 of such section 502.

12 (b) WITHDRAWAL, SUSPENSION, OR LIMITATION OF
13 PREFERENTIAL TREATMENT; MANDATORY GRADUA-
14 TION.—The provisions of subsections (d) and (e) of sec-
15 tion 502 of the Trade Act of 1974 (19 U.S.C. 2462) shall
16 apply with respect to Nepal to the same extent and in the
17 same manner as such provisions apply with respect to ben-
18 eficiary developing countries under title V of that Act (19
19 U.S.C. 2461 et seq.).

20 **SEC. 3. ELIGIBLE ARTICLES.**

21 (a) CERTAIN MANUFACTURED AND OTHER ARTI-
22 CLES.—

23 (1) IN GENERAL.—An article described in para-
24 graph (2) may enter the customs territory of the
25 United States free of duty.

1 (2) ARTICLES DESCRIBED.—

2 (A) IN GENERAL.—An article is described
3 in this paragraph if—

4 (i) the article is the growth, product,
5 or manufacture of Nepal;

6 (ii) the article is imported directly
7 from Nepal into the customs territory of
8 the United States;

9 (iii) the article is described in sub-
10 paragraphs (B) through (G) of subsection
11 (b)(1) of section 503 of the Trade Act of
12 1974 (19 U.S.C. 2463);

13 (iv) the President determines, after
14 receiving the advice of the United States
15 International Trade Commission in accord-
16 ance with subsection (e) of that section,
17 that the article is not import-sensitive in
18 the context of imports from Nepal; and

19 (v) subject to subparagraph (C), the
20 sum of the cost or value of the materials
21 produced in, and the direct costs of proc-
22 essing operations performed in, Nepal or
23 the customs territory of the United States
24 is not less than 35 percent of the ap-

1 praised value of the article at the time it
2 is entered.

3 (B) EXCLUSIONS.—An article shall not be
4 treated as the growth, product, or manufacture
5 of Nepal for purposes of subparagraph (A)(i) by
6 virtue of having merely undergone—

7 (i) simple combining or packaging op-
8 erations; or

9 (ii) mere dilution with water or mere
10 dilution with another substance that does
11 not materially alter the characteristics of
12 the article.

13 (C) LIMITATION ON UNITED STATES
14 COST.—For purposes of subparagraph (A)(v),
15 the cost or value of materials produced in, and
16 the direct costs of processing operations per-
17 formed in, the customs territory of the United
18 States and attributed to the 35-percent require-
19 ment under that subparagraph may not exceed
20 15 percent of the appraised value of the article
21 at the time it is entered.

22 (b) TEXTILE AND APPAREL ARTICLES.—

23 (1) IN GENERAL.—A textile or apparel article
24 described in paragraph (2) or (3) may enter the cus-
25 toms territory of the United States free of duty.

(2) TEXTILE AND APPAREL ARTICLES WHOLLY
ASSEMBLED IN NEPAL.—

(A) IN GENERAL.—A textile or apparel article is described in this paragraph if the textile or apparel article is—

(i) wholly assembled in Nepal, without regard to the country of origin of the yarn or fabric used to make the articles; and

(ii) imported directly from Nepal into the customs territory of the United States.

(B) LIMITATIONS.—

(i) LOW VOLUME OF IMPORTS.—If, during a calendar year, imports of textile and apparel articles described in subparagraph (A) from Nepal are less than 1 percent of the aggregate square meter equivalents of all textile and apparel articles imported into the customs territory of the United States during that calendar year, such imports from Nepal may be increased to an amount that is equal to not more than 1.5 percent of the aggregate square meter equivalents of all textile and apparel articles imported into the customs territory

1 of the United States during that calendar
2 year for the succeeding calendar year.

3 (ii) HIGHER VOLUME OF IMPORTS.—

4 If, during a calendar year, imports of tex-
5 tile and apparel articles described in sub-
6 paragraph (A) from Nepal are at least 1
7 percent of the aggregate square meter
8 equivalents of all textile and apparel arti-
9 cles imported into the customs territory of
10 the United States during that calendar
11 year, such imports from Nepal may be in-
12 creased by an amount that is equal to not
13 more than $\frac{1}{3}$ of 1 percent of the aggregate
14 square meter equivalents of all textile and
15 apparel articles imported into the customs
16 territory of the United States during that
17 calendar year for the succeeding calendar
18 year.

19 (iii) AGGREGATE COUNTRY LIMIT.—In

20 no case may the aggregate quantity of tex-
21 tile and apparel articles described in sub-
22 paragraph (A) imported into the customs
23 territory of the United States from Nepal
24 during a calendar year under this sub-
25 section exceed the applicable percentage

1 set forth in paragraph (4)(B) for that cal-
 2 endar year.

3 (3) HANDLOOMED, HANDMADE, FOLKLORE AR-
 4 TICLES AND ETHNIC PRINTED FABRICS.—

5 (A) IN GENERAL.—A textile or apparel ar-
 6 ticle is described in this paragraph if the textile
 7 or apparel article is—

8 (i) imported directly from Nepal into
 9 the customs territory of the United States;

10 (ii) on a list of textile and apparel ar-
 11 ticles determined by the President, after
 12 consultation with the Government of
 13 Nepal, to be handloomed, handmade, folk-
 14 lore articles or ethnic printed fabrics of
 15 Nepal; and

16 (iii) certified as a handloomed, hand-
 17 made, folklore article or an ethnic printed
 18 fabric of Nepal by the competent authority
 19 of Nepal.

20 (B) ETHNIC PRINTED FABRIC.—For pur-
 21 poses of subparagraph (A), an ethnic printed
 22 fabric of Nepal is—

23 (i) fabric containing a selvedge on
 24 both edges, having a width of less than 50
 25 inches, and classifiable under subheading

1 5208.52.30 or 5208.52.40 of the Har-
 2 monized Tariff Schedule of the United
 3 States;

4 (ii) fabric of a type that contains de-
 5 signs, symbols, and other characteristics of
 6 Nepal—

7 (I) normally produced for and
 8 sold in indigenous markets in Nepal;
 9 and

10 (II) normally sold in Nepal by
 11 the piece as opposed to being tailored
 12 into garments before being sold in in-
 13 digenous markets in Nepal;

14 (iii) printed, including waxed, in
 15 Nepal; and

16 (iv) fabric formed in the United
 17 States from yarns formed in the United
 18 States or from fabric formed in Nepal
 19 from yarns originating in either the United
 20 States or Nepal.

21 (4) LIMITATIONS ON BENEFITS.—

22 (A) IN GENERAL.—Preferential treatment
 23 under this subsection shall be extended in the
 24 1-year period beginning January 1, 2014, and
 25 in each of the succeeding 10 1-year periods, to

1 imports of textile and apparel articles from
2 Nepal under this subsection in an amount not
3 to exceed the applicable percentage of the ag-
4 gregate square meter equivalents of all textile
5 and apparel articles imported into the customs
6 territory of the United States in the most re-
7 cent 12-month period for which data are avail-
8 able.

9 (B) APPLICABLE PERCENTAGE.—For pur-
10 poses of this paragraph, the term “applicable
11 percentage” means 1.5 percent for the 1-year
12 period beginning January 1, 2014, increased in
13 each of the 10 succeeding 1-year periods by
14 equal increments, so that for the period begin-
15 ning January 1, 2023, the applicable percent-
16 age does not exceed 3.5 percent.

17 (5) SURGE MECHANISM.—The provisions of
18 subparagraph (B) of section 112(b)(3) of the Afri-
19 can Growth and Opportunity Act (19 U.S.C.
20 3721(b)(3)) shall apply to textile and apparel arti-
21 cles imported from Nepal to which preferential treat-
22 ment is extended under this subsection to the same
23 extent and in the same manner that such provisions
24 apply to textile and apparel articles described in

1 such section 112(b)(3) imported from a beneficiary
2 sub-Saharan African country.

3 (6) SPECIAL ELIGIBILITY RULES; PROTECTIONS
4 AGAINST TRANSSHIPMENT.—The provisions of sub-
5 section (e) of section 112 and section 113 of the Af-
6 rican Growth and Opportunity Act (19 U.S.C. 3721
7 and 3722) shall apply to textile and apparel articles
8 imported from Nepal to which preferential treatment
9 is extended under this subsection to the same extent
10 and in the same manner that such provisions apply
11 to textile and apparel articles imported from bene-
12 ficiary sub-Saharan countries to which preferential
13 treatment is extended under such section 112.

14 **SEC. 4. REPORTING REQUIREMENT.**

15 The President shall monitor, review, and report to
16 Congress, not later than one year after the date of the
17 enactment of this Act, and annually thereafter, on the im-
18 plementation of this Act and on the trade and investment
19 policy of the United States with respect to Nepal.

20 **SEC. 5. TERMINATION OF PREFERENTIAL TREATMENT.**

21 No preferential treatment extended under this Act
22 shall remain in effect after December 31, 2023.

1 **SEC. 6. EFFECTIVE DATE.**

2 The provisions of this Act shall take effect on Janu-
3 ary 1, 2014.

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