

§ 4453. Report on compliance with prohibition on importation of goods made with convict, forced, or indentured labor

Not later than 180 days after February 24, 2016, and annually thereafter, the Commissioner shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on compliance with section 1307 of this title that includes the following:

- (1) The number of instances in which merchandise was denied entry pursuant to that section during the 1-year period preceding the submission of the report.
(2) A description of the merchandise denied entry pursuant to that section.
(3) Such other information as the Commissioner considers appropriate with respect to monitoring and enforcing compliance with that section.

(Pub. L. 114-125, title IX, §910(b), Feb. 24, 2016, 130 Stat. 239.)

§ 4454. Trade preferences for Nepal

(a) Findings

Congress makes the following findings:

- (1) Nepal is among the least developed countries in the world, with a per capita gross national income of \$730 in 2014.
(2) Nepal suffered a devastating earthquake in April 2015, with subsequent aftershocks. More than 9,000 people died and approximately 23,000 people were injured.

(b) Eligibility requirements

(1) In general

The President may authorize the provision of preferential treatment under this section to articles that are imported directly from Nepal into the customs territory of the United States pursuant to subsection (c) if the President determines—

- (A) that Nepal meets the requirements set forth in paragraphs (1), (2), and (3) of section 3703(a)<sup>1</sup> of this title; and
(B) after taking into account the factors set forth in paragraphs (1) through (7) of subsection (c) of section 502 of the Trade Act of 1974 (19 U.S.C. 2462), that Nepal meets the eligibility requirements of such section 502.

(2) Withdrawal, suspension, or limitation of preferential treatment; mandatory graduation

The provisions of subsections (d) and (e) of section 502 of the Trade Act of 1974 (19 U.S.C. 2462) shall apply with respect to Nepal to the same extent and in the same manner as such provisions apply with respect to beneficiary developing countries under title V of that Act (19 U.S.C. 2461 et seq.).

(c) Eligible articles

(1) In general

An article described in paragraph (2) may enter the customs territory of the United States free of duty.

<sup>1</sup> See References in Text note below.

(2) Articles described

(A) In general

An article is described in this paragraph if—

- (i)(I) the article is the growth, product, or manufacture of Nepal; and
(II) in the case of a textile or apparel article, Nepal is the country of origin of the article, as determined under section 102.21 of title 19, Code of Federal Regulations (as in effect on the day before February 24, 2016);
(ii) the article is imported directly from Nepal into the customs territory of the United States;
(iii) the article is classified under any of the following subheadings of the Harmonized Tariff Schedule of the United States (as in effect on the day before February 24, 2016):

Table with 3 columns of tariff subheadings: 4202.11.00, 4202.12.20, 4202.12.40, 4202.12.60, 4202.12.80, 4202.21.60, 4202.21.90, 4202.22.15, 4202.22.40, 4202.22.45, 5701.10.90, 5702.31.20, 5702.49.20, 5702.50.40, 5702.50.59, 6117.10.60, 6117.80.85, 6214.10.10, 6214.10.20, 6504.00.90, 6505.00.08, 6505.00.15, 6505.00.20, 6505.00.25, 6214.22.60, 6214.22.70, 6214.22.80, 6214.29.50, 6214.29.90, 6214.31.60, 6214.32.40, 6214.32.80, 6214.32.95, 6214.91.00, 6214.20.00, 6214.40.00, 6214.90.00, 6216.00.80, 6505.00.30, 6505.00.40, 6505.00.50, 6505.00.60, 6505.00.80, 6217.10.85, 6301.90.00, 6308.00.00, 6505.00.90, 6506.99.30, 6506.99.60.

- (iv) the President determines, after receiving the advice of the United States International Trade Commission in accordance with section 503(e) of the Trade Act of 1974 (19 U.S.C. 2463(e)), that the article is not import-sensitive in the context of imports from Nepal; and
(v) subject to subparagraph (C), the sum of the cost or value of the materials produced in, and the direct costs of processing operations performed in, Nepal or the customs territory of the United States is not less than 35 percent of the appraised value of the article at the time it is entered.

(B) Exclusions

An article shall not be treated as the growth, product, or manufacture of Nepal for purposes of subparagraph (A)(i)(I) by virtue of having merely undergone—

- (i) simple combining or packaging operations; or

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

**(C) Limitation on United States cost**

For purposes of subparagraph (A)(v), the cost or value of materials produced in, and the direct costs of processing operations performed in, the customs territory of the United States and attributed to the 35-percent requirement under that subparagraph may not exceed 15 percent of the appraised value of the article at the time it is entered.

**(3) Verification with respect to transshipment for textile and apparel articles**

**(A) In general**

Not later than January 1, April 1, July 1, and October 1 of each calendar year, the Commissioner shall verify that textile and apparel articles imported from Nepal to which preferential treatment is extended under this section are not being unlawfully transshipped into the United States.

**(B) Report to President**

If the Commissioner determines under subparagraph (A) that textile and apparel articles imported from Nepal to which preferential treatment is extended under this section are being unlawfully transshipped into the United States, the Commissioner shall report that determination to the President.

**(d) Trade facilitation and capacity building**

**(1) Findings**

Congress makes the following findings:

(A) As a land-locked least-developed country, Nepal has severe challenges reaching markets and developing capacity to export goods. As of 2015, exports from Nepal are approximately \$800,000,000 per year, with India the major market at \$450,000,000 annually. The United States imports about \$80,000,000 worth of goods from Nepal, or 10 percent of the total goods exported from Nepal.

(B) The World Bank has found evidence that the overall export competitiveness of Nepal has been declining since 2005. Indices compiled by the World Bank and the Organization for Economic Co-operation and Development found that export costs in Nepal are high with respect to both air cargo and container shipments relative to other low-income countries. Such indices also identify particular weaknesses in Nepal with respect to automation of customs and other trade functions, involvement of local exporters and importers in preparing regulations and trade rules, and export finance.

(C) Implementation by Nepal of the Agreement on Trade Facilitation of the World Trade Organization could directly address some of the weaknesses described in subparagraph (B).

**(2) Establishment of trade facilitation and capacity building program**

Not later than 180 days after February 24, 2016, the President shall, in consultation with

the Government of Nepal, establish a trade facilitation and capacity building program for Nepal—

(A) to enhance the central export promotion agency of Nepal to support successful exporters and to build awareness among potential exporters in Nepal about opportunities abroad and ways to manage trade documentation and regulations in the United States and other countries;

(B) to provide export finance training for financial institutions in Nepal and the Government of Nepal;

(C) to assist the Government of Nepal in maintaining publication on the Internet of all trade regulations, forms for exporters and importers, tax and tariff rates, and other documentation relating to exporting goods and developing a robust public-private dialogue, through its National Trade Facilitation Committee, for Nepal to identify timelines for implementation of key reforms and solutions, as provided for under the Agreement on Trade Facilitation of the World Trade Organization; and

(D) to increase access to guides for importers and exporters, through publication of such guides on the Internet, including rules and documentation for United States tariff preference programs.

**(e) Reporting requirement**

Not later than one year after February 24, 2016, and annually thereafter, the President shall monitor, review, and report to Congress on the implementation of this section, the compliance of Nepal with subsection (b)(1), and the trade and investment policy of the United States with respect to Nepal.

**(f) Termination of preferential treatment**

No preferential treatment extended under this section shall remain in effect after December 31, 2025.

**(g) Effective date**

The provisions of this section shall take effect on the date that is 30 days after February 24, 2016.

(Pub. L. 114-125, title IX, §915, Feb. 24, 2016, 130 Stat. 276.)

**Editorial Notes**

REFERENCES IN TEXT

Section 3703(a) of this title, referred to in subsec. (b)(1)(A), was amended and the subsection (a) designation struck out by Pub. L. 114-27, title I, §111, June 29, 2015, 129 Stat. 370.

The Trade Act of 1974, referred to in subsec. (b)(2), is Pub. L. 93-618, Jan. 3, 1975, 88 Stat. 1978. Title V of the Act is classified generally to subchapter V (§2461 et seq.) of chapter 12 of this title. For complete classification of this Act to the Code, see section 2101 of this title and Tables.

The Harmonized Tariff Schedule of the United States, referred to in subsec. (c)(2)(A)(iii), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

**Executive Documents**

DELEGATION OF FUNCTIONS

Functions of President under subsec. (d) of this section assigned to the Administrator of the United States

Agency for International Development, in consultation with the Secretary of State and the United States Trade Representative, and under subsec. (e) of this section assigned to the United States Trade Representative, in consultation with the Secretary of State, see Ex. Ord. No. 13733, §1(c), (d), July 22, 2016, 81 F.R. 49515, set out as a note under section 4421 of this title.

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**§ 4501. Purpose**

The purpose of this Act is to approve and implement the Agreement between the United