

105TH CONGRESS
1ST SESSION

S. 646

To ensure the competitiveness of the United States textile and apparel industry.

IN THE SENATE OF THE UNITED STATES

APRIL 24, 1997

Mr. FORD (for himself, Mr. HOLLINGS, Mr. HELMS, Mr. FAIRCLOTH, Mr. THURMOND, Mr. COCHRAN, Mr. ROBB, Mr. SESSIONS, Mr. WARNER, Mr. BYRD, Mr. BREAUX, Ms. COLLINS, Ms. LANDRIEU, Mr. MCCONNELL, and Mr. SHELBY) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To ensure the competitiveness of the United States textile and apparel industry.

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 “Customs Enforcement
5 and Market Access Act of 1997”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

8 (1) the textile and apparel industry is a key
9 part of the United States manufacturing base and

1 the third largest manufacturing complex in the Unit-
2 ed States economy;

3 (2) textile and apparel facilities are often lo-
4 cated in economically sensitive regions;

5 (3) the industry has demonstrated an ability to
6 compete in the global economy where market access
7 is available;

8 (4) the domestic textile and apparel industry
9 has committed significant resources to be competi-
10 tive and productive;

11 (5) workers in the industry make the highest
12 quality textile and apparel goods in the world and
13 are the world's most productive;

14 (6) the industry is preparing to compete in the
15 world market without the protection of import
16 quotas authorized by the Multifiber Arrangement;

17 (7) United States trade policy should be ori-
18 ented toward expanding exports and ensuring that
19 United States trade laws are vigorously enforced;
20 and

21 (8) the Committee for the Implementation of
22 Textile Agreements, the Office of Textiles, Apparel,
23 and Consumer Goods of the Department of Com-
24 merce, and the Ambassador for Textiles and Apparel

1 in the Office of the United States Trade Representa-
2 tive—

3 (A) play central and indispensable roles in
4 administering the laws governing trade in tex-
5 tile and apparel goods;

6 (B) have diligently carried out laws en-
7 acted by the Congress and under powers dele-
8 gated to them by the President; and

9 (C) have acted in accordance with United
10 States and international law.

11 **SEC. 3. MARKET ACCESS FOR UNITED STATES TEXTILE AND**
12 **APPAREL PRODUCTS.**

13 (a) **ACCESSION PROTOCOLS.**—In any case in which
14 the United States negotiates a protocol for accession of
15 a country to the World Trade Organization, the Trade
16 Representative shall negotiate for inclusion in that proto-
17 col, in addition to any other provisions, the following:

18 (1) Provisions for effective market access to
19 that country's domestic markets for textile and ap-
20 parel products of the United States.

21 (2) Provisions allowing the suspension or rev-
22 ocation of the provisions of paragraph 14 (relating
23 to increasing import levels based on growth rates) of
24 the Agreement on Textiles and Clothing if the Unit-

1 ed States determines that the country has failed to
2 enforce the provisions referred to in paragraph (1).

3 (b) BILATERAL AGREEMENTS WITH COUNTRIES
4 THAT ARE NOT WTO MEMBERS.—In any case in which
5 the United States negotiates a textile agreement with a
6 country that is not a WTO member, including any agree-
7 ment negotiated pursuant to section 5 of this Act, the
8 Trade Representative shall negotiate for inclusion in that
9 textile agreement, in addition to any other provisions, the
10 following:

11 (1) Provisions for effective market access to
12 that country's domestic markets for textile and ap-
13 parel products of the United States.

14 (2) Provisions that recognize the right of the
15 United States to pursue remedies under United
16 States law, including section 301 of the Trade Act
17 of 1974, to respond to the denial of market access
18 described in paragraph (1).

19 (c) REVIEW OF TEXTILE AGREEMENTS.—The Trade
20 Representative shall take into account the compliance of
21 countries with the provisions negotiated under subsections
22 (a) and (b) in identifying countries for purposes of section
23 183 of the Trade Act of 1974, as added by subsection
24 (d) of this section.

25 (d) PRIORITY FOREIGN COUNTRIES.—

1 (1) IN GENERAL.—Chapter 8 of title I of the
2 Trade Act of 1974 (19 U.S.C. 2241 and following)
3 is amended by adding at the end the following new
4 section:

5 **“SEC. 183. IDENTIFICATION OF COUNTRIES THAT DENY**
6 **MARKET ACCESS FOR TEXTILE AND APPAREL**
7 **PRODUCTS.**

8 “(a) IN GENERAL.—Not later than the date that is
9 30 days after the date on which the annual report is sub-
10 mitted to congressional committees under section 181(b),
11 the United States Trade Representative (hereafter re-
12 ferred to as the ‘Trade Representative’) shall identify—

13 “(1) those foreign countries that deny fair and
14 equitable market access to United States persons
15 that produce or sell textile or apparel products, and

16 “(2) those foreign countries identified under
17 paragraph (1) that are determined by the Trade
18 Representative to be priority foreign countries.

19 “(b) SPECIAL RULES FOR IDENTIFICATIONS.—In
20 identifying priority foreign countries under subsection (a),
21 the following shall apply:

22 “(1) In identifying priority foreign countries
23 under subsection (a)(2), the Trade Representative
24 shall identify only those foreign countries—

1 “(A) that have the most onerous or egre-
2 rious acts, policies, or practices that deny fair
3 and equitable market access to United States
4 persons that sell or produce textile or apparel
5 products,

6 “(B) whose acts, policies, or practices de-
7 scribed in subparagraph (A) have the greatest
8 adverse impact (actual or potential) on the rel-
9 evant United States products, and

10 “(C) that are not—

11 “(i) entering into good faith negotia-
12 tions, or

13 “(ii) making significant progress in
14 bilateral or multilateral negotiations,

15 to provide adequate and effective market access
16 for textile and apparel products of the United
17 States.

18 “(2) In identifying foreign countries under sub-
19 section (a)(2), the Trade Representative shall—

20 “(A) consult with the Chair of the Com-
21 mittee for the Implementation of Textile Agree-
22 ments and other appropriate officers of the
23 Federal Government, and

24 “(B) take into account information from
25 such sources as may be available to the Trade

1 Representative and such information as may be
2 submitted to the Trade Representative in re-
3 ports submitted under section 181(b) and peti-
4 tions submitted under section 302.

5 “(3) The Trade Representative may identify a
6 foreign country under subsection (a)(1) only if the
7 Trade Representative finds that there is a factual
8 basis for the denial of fair and equitable market ac-
9 cess as a result of the violation of international law
10 or an international agreement, or the existence of
11 barriers referred to in subsection (d)(1).

12 “(4) In identifying foreign countries under
13 paragraphs (1) and (2) of subsection (a), the Trade
14 Representative shall take into account—

15 “(A) the history of market access laws and
16 practices of the foreign country, including any
17 previous identification under subsection (a)(2);
18 and

19 “(B) the history of efforts of the United
20 States, and the response of the foreign country,
21 to achieve fair and equitable market access for
22 textile and apparel products.

23 “(c) REVOCATIONS AND ADDITIONAL IDENTIFICA-
24 TIONS.—

1 “(1) IN GENERAL.—The Trade Representative
2 may at any time—

3 “(A) revoke the identification of any for-
4 foreign country as a priority foreign country under
5 this section, or

6 “(B) identify a foreign country as a prior-
7 ity foreign country under this section,
8 if information available to the Trade Representative
9 indicates that such action is appropriate.

10 “(2) REPORTS TO CONGRESS.—The Trade Rep-
11 representative shall include in the semiannual report
12 submitted to the Congress under section 309(3) a
13 detailed explanation of the identification of any for-
14 foreign country as a priority foreign country under this
15 section.

16 “(d) DEFINITIONS.—For the purposes of this sec-
17 tion—

18 “(1) a foreign country denies fair and equitable
19 market access if the foreign country effectively de-
20 nies access for textile or apparel products of the
21 United States through the use of laws, procedures,
22 practices, or regulations which—

23 “(A) violate provisions of international law
24 or international agreements to which both the

1 United States and the foreign country are par-
2 ties, or

3 “(B) constitute discriminatory nontariff
4 trade barriers;

5 “(2) a foreign country may be determined to
6 deny fair and equitable market access for textile or
7 apparel products, notwithstanding the fact that the
8 foreign country may be in compliance with the spe-
9 cific obligations of the Agreement on Textiles and
10 Clothing referred to in section 101(d)(4) of the Uru-
11 guay Round Agreements Act; and

12 “(3) fair and equitable market access is not
13 demonstrated only by access for those textile and ap-
14 parel products that are subsequently reexported to
15 the United States as finished textile or apparel prod-
16 ucts.

17 In determining whether a foreign country denies fair and
18 equitable market access, the Trade Representative shall
19 consider whether the foreign country has enacted and is
20 enforcing laws which prevent and punish the manufacture,
21 sale, or exportation of counterfeit textile and apparel
22 goods.

23 “(e) PUBLICATION.—The Trade Representative shall
24 publish in the Federal Register a list of foreign countries
25 identified under subsection (a) and shall make such revi-

1 sions to the list as may be required by reason of action
2 under subsection (c).”.

3 (2) CONFORMING AMENDMENT.—The table of
4 contents for the Trade Act of 1974 is amended by
5 inserting after the item relating to section 182 the
6 following new item:

“Sec. 183. Identification of countries that deny market access for textile and
apparel products.”.

7 (3) TITLE III ACTION.—Section 302(b)(2)(A) of
8 the Trade Act of 1974 (19 U.S.C. 2412(b)(2)(A)) is
9 amended by inserting “or section 183(a)(2)” after
10 “182(a)(2)”.

11 **SEC. 4. TEXTILE GLOBAL COMPETITIVENESS RESEARCH**
12 **FUND.**

13 (a) ESTABLISHMENT.—There is established in the
14 United States Treasury a Textile Global Competitiveness
15 Research Fund (hereafter in this Act referred to as the
16 “Fund”).

17 (b) USE OF FUND.—Amounts in the Fund shall be
18 available, as provided in appropriations Acts, in accord-
19 ance with subsection (c)—

20 (1) for programs aimed at enhancing the inter-
21 national competitiveness of the United States textile
22 and apparel manufacturers; and

23 (2) to the Customs Service for the enforcement
24 of laws governing trade in textile and apparel goods.

1 (c) FUNDING.—

2 (1) DEPOSITS.—There shall be deposited in the
3 Fund in each fiscal year the amount, if any, by
4 which—

5 (A) the amount collected in fines by virtue
6 of the amendments made by section 9 exceed

7 (B) the total amount collected for viola-
8 tions involving textile and apparel goods during
9 fiscal year 1997 under section 592 of the Tariff
10 Act of 1930, as in effect on the day before the
11 date of the enactment of this Act, adjusted in
12 accordance with paragraph (2).

13 (2) ADJUSTMENT.—(A) The amount referred to
14 in paragraph (1)(B) shall be increased in each fiscal
15 year beginning in fiscal year 1999 by an amount
16 equal to the amount described in paragraph (1)(B)
17 multiplied by the cost-of-living adjustment.

18 (B) For purposes of subparagraph (A), the
19 cost-of-living adjustment for any fiscal year is the
20 percentage (if any) by which—

21 (i) the CPI for the preceding fiscal year,
22 exceeds

23 (ii) the CPI for the fiscal year 1997.

24 (C) For purposes of subparagraph (B), the CPI
25 for any fiscal year is the average of the Consumer

1 Price Index as of the close of the 12-month period
2 ending on August 31 of such fiscal year.

3 (D) For purposes of subparagraph (C), the
4 term “Consumer Price Index” means the last
5 Consumer Price Index for all-urban consumers pub-
6 lished by the Department of Labor.

7 (E) If any increase determined under this para-
8 graph is not a multiple of \$100, such increase shall
9 be rounded to the nearest multiple of \$100.

10 (3) ALLOCATIONS.—(A) 25 percent of the
11 amounts deposited in the Fund in each fiscal year
12 shall be made available to the Customs Service
13 under subsection (b)(2).

14 (B) 75 percent of the amounts deposited in the
15 Fund in each fiscal year shall be made available for
16 programs designated pursuant to subsection (b)(1).

17 (d) ANNUAL REPORT TO CONGRESS.—The Secretary
18 of Commerce shall submit to the Congress, not later than
19 April 1 of each year, a report on the contribution to the
20 United States economy of the domestic textile and apparel
21 industry.

22 **SEC. 5. TEXTILE AND APPAREL QUOTA LEVELS.**

23 (a) FOR COUNTRIES THAT ARE NOT WTO MEM-
24 BERS AND DO NOT HAVE TEXTILE AGREEMENTS WITH
25 THE UNITED STATES.—

1 (1) IF EXPORTS TO THE UNITED STATES EX-
2 CEED \$100,000,000 ANNUALLY OR ARE CREATING SE-
3 RIOUS DAMAGE OR ACTUAL THREAT THEREOF.—The
4 Trade Representative shall take the necessary steps
5 to negotiate an agreement, in accordance with para-
6 graph (2), between the United States and any coun-
7 try that—

8 (A) is not a WTO member and is not a
9 country to which section 3(a) applies,

10 (B) is not a party to a textile agreement
11 with the United States, and

12 (C) whose exports to the United States of
13 textile and apparel goods—

14 (i) are valued at more than
15 \$100,000,000 in the most recent 12-month
16 period ending on the last day of the pre-
17 ceding month; or

18 (ii) are creating serious damage or ac-
19 tual threat thereof to the domestic indus-
20 try in the United States in any textile cat-
21 egory established by CITA.

22 (2) CONTENTS OF AGREEMENTS.—It is the
23 sense of the Congress that an agreement negotiated
24 with a country under paragraph (1) should establish
25 maximum amounts of textile and apparel products of

1 that country that may be imported into the United
2 States that do not exceed—

3 (A) in the first 12-month period that the
4 agreement is in effect, an increase of more than
5 8 percent of the total volume in square meter
6 equivalents of all textile and apparel products of
7 that country imported in the 12-month period
8 ending on the date the negotiations began; and

9 (B) in each subsequent 12-month period
10 that the agreement is in effect, an increase of
11 not more than the percentage of growth in the
12 domestic market in the United States for all
13 textile and apparel products in the preceding
14 12-month period.

15 (3) INCLUSION OF OTHER PROVISIONS.—Those
16 provisions required to be included in an agreement
17 under section 3(b) may be included in the agreement
18 negotiated under this subsection.

19 (4) DETERMINATIONS OF SERIOUS DAMAGE OR
20 ACTUAL THREAT THEREOF.—CITA shall make the
21 determinations of serious damage or actual threat
22 thereof referred to in paragraph (2), using the cri-
23 teria set forth in paragraph 3 of Article 6 of the
24 Agreement on Textiles and Clothing.

1 (b) FOR COUNTRIES THAT ARE NOT WTO MEM-
2 BERS AND HAVE TEXTILE AGREEMENTS WITH THE
3 UNITED STATES.—

4 (1) IN GENERAL.—In the case of a country that
5 is not a WTO member but is a party to a textile
6 agreement with the United States, the Trade Rep-
7 resentative shall take the necessary steps to nego-
8 tiate a textile agreement to go into effect when the
9 current agreement expires.

10 (2) SENSE OF CONGRESS.—It is the sense of
11 Congress that an agreement negotiated under para-
12 graph (1) should permit imports of textile and ap-
13 parel products of that country, during each 12-
14 month period that the agreement is in effect, to in-
15 crease by not more than the percentage of growth in
16 the domestic market in the United States for all tex-
17 tile and apparel products in the preceding 12-month
18 period.

19 (c) FOR COUNTRIES THAT ARE ACCEDING TO THE
20 WTO.—In any case in which the United States negotiates
21 a protocol for accession to the WTO under section 3(a),
22 the Trade Representative shall negotiate for inclusion in
23 that protocol provisions that require that the 10-year pe-
24 riod provided in the Agreement on Textiles and Clothing
25 for phasing out of quotas under that Agreement begin,

1 with respect to that country, on the day on which that
2 country accedes to the WTO.

3 **SEC. 6. CIRCUMVENTION OF TEXTILE AGREEMENTS.**

4 (a) POLICY FOR COUNTRIES THAT ARE NOT WTO
5 MEMBERS.—In the case of any country that is not a WTO
6 member and—

7 (1) is negotiating a protocol with the United
8 States for that country's accession to the World
9 Trade Organization,

10 (2) is a party to a bilateral agreement with the
11 United States that governs imports into the United
12 States of textile and apparel products of that coun-
13 try, or

14 (3) is a country with which the United States
15 is negotiating an agreement under section 5(a),

16 the Trade Representative shall ensure that the protocol
17 under paragraph (1), a subsequent agreement to replace
18 the agreement under paragraph (2) when it expires, or
19 the agreement described in paragraph (3), as the case may
20 be, provides for a reduction in the quantity of textile and
21 apparel goods of that country that may be imported into
22 the United States if CITA determines that the agreement
23 is being circumvented and that no, or inadequate meas-
24 ures, are being applied by that country to take action
25 against such circumvention. Any determination by CITA

1 under the preceding sentence shall be made in accordance
2 with the standards set forth in section 8.

3 (b) DEFINITIONS.—For purposes of this section, a
4 reduction in a country’s textile and apparel quotas is a
5 reduction in quantitative limitations otherwise applicable
6 to imports into the United States of that country’s textile
7 and apparel products that is equal to—

8 (1) the quantity of the goods involved in the
9 circumvention if the circumvention is the first within
10 the most recent 36-month period;

11 (2) twice the quantity of goods involved in the
12 circumvention if the circumvention is the second in
13 the most recent 36-month period; or

14 (3) three times the quantity of goods involved
15 in the circumvention if the circumvention is the
16 third or more in the most recent 36-month period.

17 (c) POLICY FOR WTO MEMBERS.—In any case in
18 which a WTO member is found by CITA to have cir-
19 cumvented the Agreement on Textiles and Clothing or any
20 other textile agreement, CITA shall pursue the maximum
21 penalty consistent with the WTO.

22 **SEC. 7. CUSTOMS ENFORCEMENT ACTION.**

23 (a) SHARING OF CUSTOMS INFORMATION WITH
24 CITA.—The Customs Service shall, upon initiating an in-
25 vestigation relating to a violation of the laws of the United

1 States governing international trade in textile and apparel
2 goods, inform the Chairman of CITA of the investigation
3 in any case in which the alleged violation, if true, would
4 constitute a circumvention of any textile agreement. In
5 any such case, the Customs Service shall provide to the
6 Chairman of CITA—

7 (1) all information the Chairman of CITA re-
8 quests that is relevant to the alleged violation and
9 required in order for CITA to pursue a charge
10 against the quotas on imports of textile and apparel
11 products of that country as a result of the violation;
12 and

13 (2) notification, at least every 30 days until the
14 investigation is referred to the Department of Jus-
15 tice or the Customs Service closes the investigation,
16 of the progress of the investigation.

17 (b) FACTORS IN PROCEEDING WITH CHARGES
18 AGAINST QUOTAS.—In deciding whether to pursue a
19 charge described in subsection (a) as a result of an alleged
20 violation described in subsection (a), CITA, in addition to
21 any other relevant factors which CITA may consider, shall
22 weigh the impact of proceeding with such charge on poten-
23 tial prosecutions or civil penalties and future enforcement
24 of textile agreements, and shall consider the amount of
25 the alleged violation, the probability of successful criminal

1 prosecution, the degree of compliance by the true country
2 of origin with textile agreements, and the damage the al-
3 leged violation would inflict on the domestic textile and
4 apparel industry.

5 (c) DECISION NOT TO PURSUE A CHARGE.—In any
6 case in which CITA decides under subsection (b) not to
7 pursue a charge, the Customs Service shall, as long as
8 that decision is in effect, report to the Chairman of CITA,
9 in lieu of the reports under subsection (a)(2)—

10 (1) at least once every 6 months from the date
11 on which the Customs Service initiated the case, on
12 the status of the investigation; and

13 (2) within 10 business days after the Customs
14 Service obtains new information or evidence materi-
15 ally relevant to the alleged violation.

16 (d) STANDING NOT PROVIDED.—Nothing in this Act
17 shall be construed to provide standing in any court or ad-
18 ministrative proceeding for legal action against the United
19 States arising from actions taken in carrying out the laws
20 governing trade in textile or apparel goods.

21 (e) REFERRAL OF CASES TO DEPARTMENT OF JUS-
22 TICE.—In any case in which—

23 (1) the Customs Service refers an alleged viola-
24 tion described in subsection (a) to the Department
25 of Justice for prosecution, and

1 (2) no indictment has been brought in the case
2 within 6 months after the referral,
3 the Attorney General shall provide to the Chairman of
4 CITA all information relevant to imposing a charge
5 against the quotas on imports of textile and apparel prod-
6 ucts of the country concerned as a result of the violation.
7 The Chairman of CITA may extend the 6-month period
8 referred to in paragraph (2) if requested to do so by the
9 Attorney General.

10 (f) DISCLOSURE OF CERTAIN CONFIDENTIAL INFOR-
11 MATION NOT REQUIRED.—Nothing in this section shall
12 be construed to require the disclosure by the Customs
13 Service or the Department of Justice of confidential infor-
14 mation relevant to possible imposition of criminal or civil
15 penalties when that information is not relevant to the im-
16 position of a charge by CITA against the quotas on im-
17 ports of textile and apparel products of a country.

18 (g) INITIATION OF INVESTIGATIONS.—

19 (1) BASIS FOR INITIATION.—Subject to para-
20 graph (2), whenever the Customs Service receives
21 credible evidence that circumvention of a textile
22 agreement has occurred, the Customs Service shall
23 initiate an investigation, to which a customs officer
24 shall be assigned, to determine if such circumvention
25 has occurred, unless such evidence is directly related

1 to an open investigation commenced prior to the re-
2 ceipt of such evidence.

3 (2) WAIVER.—The head of the Division of Tex-
4 tile Enforcement established under section 10 may
5 determine not to initiate an investigation under
6 paragraph (1) if he or she transmits to CITA a re-
7 port setting forth the reasons for that determination.

8 **SEC. 8. STANDARDS OF PROOF.**

9 (a) IN GENERAL.—CITA may determine that a coun-
10 try has circumvented a textile agreement if CITA deter-
11 mines, after consultations with the country concerned,
12 that there is a substantial likelihood that the circumven-
13 tion occurred.

14 (b) FAILURE OF COUNTRY TO COOPERATE.—

15 (1) RELIANCE ON BEST AVAILABLE INFORMA-
16 TION.—If a country fails to cooperate with CITA in
17 an investigation to determine if a textile agreement
18 has been circumvented, CITA shall base its deter-
19 mination on the best available information.

20 (2) ACTS CONSTITUTING FAILURE TO COOPER-
21 ATE.—Acts indicating failure of a country to cooper-
22 ate under paragraph (1) include, but are not limited
23 to—

24 (A) denying or unreasonably delaying entry
25 of officials of the Customs Service to investigate

1 violations of, or promote compliance with, any
2 textile agreement;

3 (B) providing appropriate United States
4 officials with inaccurate or incomplete informa-
5 tion, including information demonstrating com-
6 pliance with United States rules of origin for
7 textile and apparel products; and

8 (C) denying appropriate United States offi-
9 cials access to information or documentation re-
10 lating to production capacity of, and outward
11 processing done by, manufacturers within the
12 country.

13 **SEC. 9. PENALTIES FOR VIOLATIONS OF CUSTOMS LAWS IN-**
14 **VOLVING TEXTILE AND APPAREL GOODS.**

15 (a) PENALTIES.—Section 592 of the Tariff Act of
16 1930 (19 U.S.C. 1592) is amended by adding at the end
17 the following:

18 “(g) PENALTIES INVOLVING TEXTILE AND APPAREL
19 GOODS.—

20 “(1) FRAUD.—Notwithstanding subsection (c),
21 the civil penalty for a fraudulent violation of sub-
22 section (a) involving textile and apparel goods—

23 “(A) shall, subject to subparagraph (B), be
24 double the amount that would otherwise apply
25 under subsection (c)(1); and

1 “(B) shall be an amount not to exceed 300
2 percent of the declared value in the United
3 States of the merchandise if the violation has
4 the effect of circumventing any quota on textile
5 and apparel goods.

6 “(2) GROSS NEGLIGENCE.—Notwithstanding
7 subsection (c), the civil penalty for a grossly neg-
8 ligent violation of subsection (a) involving textile and
9 apparel goods—

10 “(A) shall, subject to subparagraphs (B)
11 and (C), be double the amount that would oth-
12 erwise apply under subsection (c)(2);

13 “(B) shall, if the violation has the effect of
14 circumventing any quota of the United States
15 on textile and apparel goods, and subject to
16 subparagraph (C), be 200 percent of the de-
17 clared value of the merchandise; and

18 “(C) shall, if the violation is a third or
19 subsequent offense occurring within 3 years, be
20 the penalty for a fraudulent violation under
21 paragraph (1) (A) or (B), whichever is applica-
22 ble.

23 “(3) NEGLIGENCE.—Notwithstanding sub-
24 section (c), the civil penalty for a negligent violation

1 of subsection (a) involving textile and apparel
2 goods—

3 “(A) shall, subject to subparagraphs (B)
4 and (C), be double the amount that would oth-
5 erwise apply under subsection (a)(3);

6 “(B) shall, if the violation has the effect of
7 circumventing any quota of the United States
8 on textile and apparel goods, and subject to
9 subparagraph (C), be 100 percent of the de-
10 clared value of the merchandise; and

11 “(C) shall, if the violation is a third or
12 subsequent offense occurring within 3 years, be
13 the penalty for a grossly negligent violation
14 under paragraph (2) (A) or (B), whichever is
15 applicable.”.

16 (b) MITIGATION.—Section 618 of the Tariff Act of
17 1930 (19 U.S.C. 1618) is amended—

18 (1) by striking “Whenever” and inserting “(a)
19 IN GENERAL.—Whenever”, and

20 (2) by adding at the end the following new sub-
21 section:

22 “(b) MITIGATION RULES RELATING TO TEXTILE
23 AND APPAREL GOODS.—

24 “(1) GENERAL RULE.—Notwithstanding any
25 other provision of law, the Secretary of the Treasury

1 may remit or mitigate any fine or penalty imposed
2 pursuant to section 592 involving textile or apparel
3 goods only if—

4 “(A) in the case of a first offense, the vio-
5 lation is due to either negligence or gross neg-
6 ligence; and

7 “(B) in the case of a second or subsequent
8 offense, prior disclosure (as defined in section
9 592(c)(4)) is made within 180 days after the
10 entry of the goods.

11 “(2) SPECIAL RULE FOR PRIOR DISCLOSURES
12 AFTER 180 DAYS.—In the case of a second or subse-
13 quent offense where prior disclosure (as defined in
14 section 592(c)(4)) is made after 180 days after the
15 entry of the goods, the Secretary of the Treasury
16 may remit or mitigate not more than 50 percent of
17 such fines or penalties.”.

18 (c) SEIZURE AND FORFEITURE.—Section 596(c)(2)
19 of the Tariff Act of 1930 (19 U.S.C. 1595a(c)(2)) is
20 amended—

21 (1) in subparagraph (E), by striking “or” after
22 the semicolon;

23 (2) in subparagraph (F), by striking the period
24 and inserting “; or”; and

1 (3) by inserting after subparagraph (F) the fol-
2 lowing:

3 “(G) consists of textile or apparel goods in-
4 troduced into the United States for entry, tran-
5 sit, or exportation, and

6 “(i) the merchandise or its container
7 bears false or fraudulent markings with re-
8 spect to the country of origin, unless the
9 importer of the merchandise demonstrates
10 that the markings were made in order to
11 comply with the rules of origin of the coun-
12 try that is the final destination of the mer-
13 chandise; or

14 “(ii) the merchandise or its container
15 is introduced or attempted to be intro-
16 duced into the United States by means of,
17 or such introduction or attempt is aided or
18 facilitated by means of, a material false
19 statement, act, or omission with the inten-
20 tion or effect of—

21 “(I) circumventing any quota
22 that applies to the merchandise, or

23 “(II) undervaluing the merchan-
24 dise.”.

1 (d) CERTIFICATES OF ORIGIN.—Notwithstanding
2 any other provision of law, all importations of textile and
3 apparel goods shall be accompanied by—

4 (1)(A) the name and address of the manufac-
5 turer or producer of the goods, and any other infor-
6 mation with respect to the manufacturer or producer
7 that the Customs Service may require; and

8 (B) if there is more than one manufacturer or
9 producer, or there is a contractor or subcontractor
10 of the manufacturer or producer with respect to the
11 manufacture or production of the goods, the infor-
12 mation required under subparagraph (A) with re-
13 spect to each such manufacturer, producer, contrac-
14 tor, or subcontractor, including a description of the
15 process performed by each such entity;

16 (2) a certification by the importer that the im-
17 porter has exercised reasonable care to ascertain the
18 true country of origin of the textile and apparel
19 goods and the accuracy of all other information pro-
20 vided on the documentation accompanying the im-
21 ported goods, as well as a certification of the specific
22 action taken by the importer to ensure reasonable
23 care for purposes of this paragraph; and

1 (3) a certification by the importer that the
2 goods being entered do not violate applicable trade-
3 mark, copyright, and patent laws.

4 Information provided under this subsection shall be suffi-
5 cient to demonstrate compliance with the United States
6 rules of origin for textile and apparel goods.

7 **SEC. 10. DIVISION ON TEXTILE ENFORCEMENT.**

8 (a) ESTABLISHMENT.—The Commissioner of Cus-
9 toms shall, not later than 6 months after the date of the
10 enactment of this Act, establish in the Customs Service
11 a Division on Textile Enforcement (hereafter in this sec-
12 tion referred to as the “DTE”), using existing resources
13 available to the Customs Service. The head of the DTE
14 shall be an officer of the Customs Service in a position
15 at the level of an Assistant Commissioner of Customs.

16 (b) FUNCTIONS.—The DTE shall be responsible for
17 enforcing all laws of the United States, and all bilateral
18 and multilateral treaties and agreements, governing the
19 importation of textile and apparel goods, that the Customs
20 Service is responsible for enforcing.

21 (c) PERSONNEL.—The Commissioner of Customs
22 shall assign personnel to the DTE who have expertise in
23 textile and apparel goods, including, but not limited to,
24 import specialists, investigators, attorneys, accountants,

1 laboratory technicians, and members of the textile produc-
2 tion verification teams.

3 (d) SUBDIVISIONS.—The DTE shall establish a sepa-
4 rate subdivision for each geographic region which is a
5 major source of textile and apparel goods imported into
6 the United States, including a subdivision for each of the
7 following:

8 (1) The Far East.

9 (2) South Asia.

10 (3) South America.

11 (4) Central America and the Caribbean.

12 (5) The Middle East and Africa.

13 (e) ASSIGNMENTS ABROAD.—

14 (1) TO CERTAIN COUNTRIES.—If permitted by
15 the host country, at least 1 customs officer shall be
16 assigned in each country, other than Canada or
17 Mexico, whose annual exports to the United States
18 of textile and apparel goods equal or exceed
19 500,000,000 square meter equivalents. Each such
20 customs officer shall be responsible only for matters
21 relating to exports to the United States of textile
22 and apparel goods.

23 (2) RESPONSIBILITY OF SECRETARY OF
24 STATE.—The Secretary of State shall take the nec-
25 essary steps to facilitate the assignment abroad of

1 customs officers under paragraph (1), by seeking to
2 obtain the approval of the foreign governments con-
3 cerned for such assignments.

4 (f) REPORTS.—

5 (1) REPORTS BY CUSTOMS OFFICERS.—Each
6 customs officer assigned under subsection (e)(1)
7 shall prepare and submit to the Commissioner of
8 Customs, at least monthly, reports summarizing his
9 or her activities, assessing the compliance with appli-
10 cable textile agreements by the country concerned,
11 and assessing the intellectual property protection
12 provided to textile and apparel goods in that coun-
13 try.

14 (2) REPORTS BY DTE.—The DTE shall prepare
15 and submit to the Commissioner an annual report—

16 (A) evaluating the extent of circumvention
17 of textile agreements with the United States,
18 the extent of compliance with the rules of origin
19 of the United States relating to textile and ap-
20 parel goods, the extent to which countries act in
21 compliance with Article XX of the GATT 1994
22 (as defined in section 2 of the Uruguay Round
23 Agreements Act (19 U.S.C. 3501)) with respect
24 to textile and apparel goods, and the adequacy

1 of intellectual property protection provided to
2 textile and apparel goods; and

3 (B) recommending new methods, if nec-
4 essary, to address the matters evaluated under
5 subparagraph (A).

6 (3) SPECIAL REPORT.—Not later than 180 days
7 after the date of enactment of this Act, the DTE
8 shall prepare and submit a report to the Commis-
9 sioner detailing compliance with the rules of origin
10 for textile and apparel goods entering the United
11 States through the Northern Mariana Islands.

12 (4) AVAILABILITY OF REPORTS.—Each report
13 submitted under this subsection shall be made avail-
14 able to appropriate agencies of the executive branch,
15 including the Office of Textiles, Apparel, and
16 Consumer Goods of the Department of Commerce.

17 **SEC. 11. WITHDRAWAL OF UNILATERAL TRADE CONCES-**
18 **SIONS.**

19 (a) WITHDRAWAL OF CONCESSIONS.—In any case in
20 which—

21 (1) CITA determines that a country—

22 (A) has demonstrated a consistent pattern
23 of circumventing textile agreements with the
24 United States,

1 (B) refuses to cooperate with investigations
2 by the United States of any such alleged cir-
3 cumvention, or

4 (C) fails to provide fair and equitable mar-
5 ket access for textile and apparel products of
6 the United States,

7 (2) the United States Trade Representative, in
8 consultation with CITA, determines that a country
9 fails to provide adequate enforcement of intellectual
10 property rights with respect to textile and apparel
11 goods, and

12 (3) the United States extends to the products
13 of that country preferential tariff or quota treatment
14 other than pursuant to a bilateral or multilateral
15 agreement,

16 then such preferential treatment shall be withdrawn from
17 the textile and apparel goods that are products of that
18 country for such period as shall be determined by the
19 Trade Representative, in consultation with CITA.

20 (b) NATIONAL INTEREST WAIVER.—The President
21 may waive the application of subsection (a) with respect
22 to a country if the President determines that the waiver
23 will allow the United States to secure effective commit-
24 ments from that country to prevent future circumvention
25 of textile agreements with the United States, or is other-

1 wise in the national interest. The President shall publish
2 any such waiver, and the reasons for the waiver, in the
3 Federal Register.

4 **SEC. 12. DEFINITIONS.**

5 As used in this Act:

6 (1) AGREEMENT ON TEXTILES AND CLOTH-
7 ING.—The term “Agreement on Textiles and Cloth-
8 ing” means the Agreement on Textiles and Clothing
9 referred to in section 101(d)(4) of the Uruguay
10 Round Agreements Act (19 U.S.C. 3511(d)(4)).

11 (2) CIRCUMVENT AND CIRCUMVENTION.—The
12 terms “circumvent” and “circumvention” refer to a
13 situation in which a country—

14 (A) takes no, or inadequate measures to
15 prevent illegal transshipment of goods that is
16 carried out by rerouting, false declaration con-
17 cerning country or place of origin, falsification
18 of official documents, evasion of United States
19 rules of origin for textile and apparel goods, or
20 any other means; or

21 (B) takes no or inadequate measures to
22 prevent being used as a transit point for the
23 shipment of goods in violation of an applicable
24 textile agreement.

1 (3) CITA.—The term “CITA” means the Com-
2 mittee for the Implementation of Textile Agreements
3 established under Executive Order 11651 of March
4 3, 1972 (7 U.S.C. 1854 note), or any successor en-
5 tity or officer performing functions of that commit-
6 tee after the date of the enactment of this Act.

7 (4) COUNTRY.—The term “country” includes a
8 separate customs territory, within the meaning of
9 Article XII of the WTO Agreement or other applica-
10 ble international agreement.

11 (5) CUSTOMS SERVICE.—The term “Customs
12 Service” means the United States Customs Service.

13 (6) MULTIFIBER ARRANGEMENT.—The term
14 “Multifiber Arrangement” means the Arrangement
15 Regarding International Trade in Textiles referred
16 to in Article 1(3) of the Agreement on Textiles and
17 Clothing.

18 (7) TEXTILE AGREEMENT; TEXTILE AGREE-
19 MENT WITH THE UNITED STATES.—The terms “tex-
20 tile agreement” and “textile agreement with the
21 United States” mean an agreement relating to tex-
22 tile and apparel goods that is negotiated under sec-
23 tion 204 of the Agricultural Act of 1956 (7 U.S.C.
24 1854), including the Agreement on Textiles and
25 Clothing.

1 (8) TRADE REPRESENTATIVE.—The term
2 “Trade Representative” means the United States
3 Trade Representative.

4 (9) WORLD TRADE ORGANIZATION AND WTO.—
5 The terms “World Trade Organization” and
6 “WTO” mean the organization established pursuant
7 to the WTO Agreement.

8 (10) WTO AGREEMENT.—The term “WTO
9 Agreement” means the Agreement Establishing the
10 World Trade Organization entered into on April 15,
11 1994.

12 (11) WTO MEMBER.—The term “WTO mem-
13 ber” means a state, or separate customs territory
14 within the meaning of Article XII of the WTO
15 Agreement.

16 **SEC. 13. EFFECTIVE DATE.**

17 This Act and the amendments made by this Act shall
18 take effect on October 1, 1997.

○