

113TH CONGRESS
1ST SESSION

S. 432

To extend certain trade preferences to certain least-developed countries in Asia and the South Pacific, 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 extend certain trade preferences to certain least-developed countries in Asia and the South Pacific, 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 “Asia–South Pacific
5 Trade Preferences Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) It is in the mutual interest of the United
9 States and least-developed countries to promote sta-

1 ble and sustainable economic growth and develop-
2 ment.

3 (2) Trade and investment are powerful eco-
4 nomic tools and can be used to reduce poverty and
5 raise the standard of living in a country.

6 (3) A country that is open to trade may in-
7 crease its economic growth.

8 (4) Trade and investment often lead to employ-
9 ment opportunities and often help alleviate poverty.

10 (5) Least-developed countries have a particular
11 challenge in meeting the economic requirements of
12 and competitiveness necessary for globalization and
13 international markets.

14 (6) The United States has recognized the bene-
15 fits that international trade provides to least-devel-
16 oped countries by enacting the Generalized System
17 of Preferences under title V of the Trade Act of
18 1974 (19 U.S.C. 2461 et seq.) and trade benefits for
19 developing countries in the Caribbean, Andean, and
20 sub-Saharan African regions of the world.

21 (7) Enhanced trade with least-developed Mus-
22 lim countries, including Afghanistan and Ban-
23 gladesh, is consistent with other United States ob-
24 jectives of encouraging a strong private sector and
25 individual economic empowerment in those countries.

1 (8) Offering least-developed countries enhanced
2 trade preferences will encourage both higher levels of
3 trade and direct investment in support of positive
4 economic and political developments throughout the
5 world.

6 (9) Encouraging the reciprocal reduction of
7 trade and investment barriers will enhance the bene-
8 fits of trade and investment as well as enhance com-
9 mercial and political ties between the United States
10 and the countries designated for benefits under this
11 Act.

12 (10) Economic opportunity and engagement in
13 the global trading system together with support for
14 democratic institutions and a respect for human
15 rights are mutually reinforcing objectives and key
16 elements of a policy to confront and defeat global
17 terrorism.

18 **SEC. 3. DEFINITIONS.**

19 In this Act:

20 (1) ASIA OR SOUTH PACIFIC COUNTRY.—The
21 term “Asia or South Pacific country” means—

- 22 (A) Afghanistan;
- 23 (B) Bangladesh;
- 24 (C) Bhutan;
- 25 (D) Cambodia;

- 1 (E) Kiribati;
- 2 (F) Lao People’s Democratic Republic;
- 3 (G) Maldives;
- 4 (H) Nepal;
- 5 (I) Samoa;
- 6 (J) Solomon Islands;
- 7 (K) Timor-Leste (East Timor);
- 8 (L) Tuvalu;
- 9 (M) Vanuatu; or
- 10 (N) a successor political entity of a coun-
- 11 try specified in subparagraphs (A) through (M).

12 (2) BENEFICIARY ASIA OR SOUTH PACIFIC
 13 COUNTRY.—The term “beneficiary Asia or South
 14 Pacific country” means an Asia or South Pacific
 15 country that the President has designated as eligible
 16 for preferential treatment under this Act.

17 (3) FORMER BENEFICIARY ASIA OR SOUTH PA-
 18 CIFIC COUNTRY.—The term “former beneficiary Asia
 19 or South Pacific country” means a country that,
 20 after being designated as a beneficiary Asia or South
 21 Pacific country under this Act, ceased to be des-
 22 ignated as such a country by reason of its entering
 23 into a free trade agreement with the United States.

1 **SEC. 4. AUTHORITY TO DESIGNATE.**

2 (a) IN GENERAL.—The President is authorized to
3 designate an Asia or South Pacific country as a bene-
4 ficiary Asia or South Pacific country eligible for pref-
5 erential treatment under this Act if the President deter-
6 mines—

7 (1) that the country meets the requirements set
8 forth in paragraphs (1), (2), and (3) of section
9 104(a) of the African Growth and Opportunity Act
10 (19 U.S.C. 3703(a)); and

11 (2) after taking into account the factors set
12 forth in paragraphs (1) through (7) of subsection (c)
13 of section 502 of the Trade Act of 1974 (19 U.S.C.
14 2462), that the country meets the eligibility require-
15 ments of such section 502.

16 (b) WITHDRAWAL, SUSPENSION, OR LIMITATION OF
17 PREFERENTIAL TREATMENT; MANDATORY GRADUATION
18 OF COUNTRIES.—The provisions of subsections (d) and
19 (e) of section 502 of the Trade Act of 1974 (19 U.S.C.
20 2462) shall apply with respect to beneficiary Asia or South
21 Pacific countries to the same extent and in the same man-
22 ner as such provisions apply with respect to beneficiary
23 developing countries under title V of that Act (19 U.S.C.
24 2461 et seq.).

1 **SEC. 5. ELIGIBLE ARTICLES.**

2 (a) CERTAIN MANUFACTURED OR OTHER ARTI-
3 CLES.—

4 (1) DUTY-FREE TREATMENT.—An article de-
5 scribed in paragraph (2) may enter the customs ter-
6 ritory of the United States free of duty.

7 (2) ARTICLES DESCRIBED.—An article is de-
8 scribed in this paragraph if—

9 (A) the article is the growth, product, or
10 manufacture of a beneficiary Asia or South Pa-
11 cific country;

12 (B) the article is imported directly from
13 that country into the customs territory of the
14 United States;

15 (C) the article is described in subpara-
16 graphs (B) through (G) of section 503(b)(1) of
17 the Trade Act of 1974 (19 U.S.C. 2463(b)(1));

18 (D) the President determines, after receiv-
19 ing the advice of the International Trade Com-
20 mission in accordance with section 503(e) of the
21 Trade Act of 1974 (19 U.S.C. 2463(e)), that
22 the article is not import-sensitive in the context
23 of imports from beneficiary Asia or South Pa-
24 cific countries; and

25 (E) the article meets the requirements of
26 paragraph (3).

1 (3) RULES OF ORIGIN.—

2 (A) IN GENERAL.—Subject to subpara-
 3 graph (B), an article imported from a bene-
 4 ficiary Asia or South Pacific country meets the
 5 requirements of this paragraph if not less than
 6 35 percent of the appraised value of the article
 7 at the time it is entered is attributable to—

8 (i) the cost or value of the materials
 9 produced in one or more beneficiary Asia
 10 or South Pacific countries, one or more
 11 former beneficiary Asia or South Pacific
 12 countries, the customs territory of the
 13 United States, or any combination thereof;
 14 and

15 (ii) the direct costs of processing oper-
 16 ations performed in one or more bene-
 17 ficiary Asia or South Pacific countries, one
 18 or more former beneficiary Asia or South
 19 Pacific countries, or any combination
 20 thereof.

21 (B) LIMITATION ON UNITED STATES COST
 22 OR VALUE OF MATERIALS.—For purposes of
 23 subparagraph (A), the cost or value of mate-
 24 rials produced in, and the direct costs of proc-
 25 essing operations performed in, the customs ter-

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.

(4) EXCLUSIONS.—An article shall not be treated as the growth, product, or manufacture of a beneficiary Asia or South Pacific country for purposes of paragraph (2)(A) by virtue of having merely undergone—

(A) simple combining or packaging operations; or

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

(b) TEXTILE AND APPAREL ARTICLES.—

(1) DUTY-FREE TREATMENT.—A textile or apparel article may enter the customs territory of the United States free of duty if the article—

(A) is imported directly into the customs territory of the United States from a beneficiary Asia or South Pacific country; and

(B) is described in—

(i) paragraph (1), (2), (4), (5), or (7) of section 112(b) of the African Growth

and Opportunity Act (19 U.S.C. 3721(b)),
as applied and administered pursuant to
paragraph (2); or

(ii) paragraph (3) or (4).

(2) APPLICATION AND ADMINISTRATION OF
SECTION 112 OF THE AFRICAN GROWTH AND OPPOR-
TUNITY ACT.—Section 112 of the African Growth
and Opportunity Act (19 U.S.C. 3721) shall be ap-
plied and administered for purposes of this sub-
section—

(A) in subsection (a), by substituting “a
beneficiary Asia or South Pacific country (as
defined in section 3 of the Asia–South Pacific
Trade Preferences Act)” for “a beneficiary sub-
Saharan African country described in section
506A(c) of the Trade Act of 1974”; and

(B) in paragraphs (1), (2), (4), (5), and
(7) of subsection (b), by substituting “bene-
ficiary Asia or South Pacific country” and
“beneficiary Asia or South Pacific countries”
for “beneficiary sub-Saharan African country”
and “beneficiary sub-Saharan African coun-
tries”, respectively, each place such terms ap-
pear in the text and the paragraph headings.

1 (3) TEXTILE AND APPAREL ARTICLES ASSEM-
2 BLED FROM REGIONAL AND OTHER FABRIC.—

3 (A) IN GENERAL.—A textile or apparel ar-
4 ticle described in this paragraph is a textile or
5 apparel article wholly assembled in one or more
6 beneficiary Asia or South Pacific countries or
7 former beneficiary Asia or South Pacific coun-
8 tries, or both, from—

9 (i) fabric wholly formed in one or
10 more beneficiary Asia or South Pacific
11 countries or former beneficiary Asia or
12 South Pacific countries, or both, from yarn
13 originating either in the customs territory
14 of the United States or one or more bene-
15 ficiary Asia or South Pacific countries or
16 former beneficiary Asia or South Pacific
17 countries, or both; or

18 (ii) from fabric not formed from yarn,
19 if such fabric is classifiable under heading
20 5602 or 5603 of the Harmonized Tariff
21 Schedule of the United States and wholly
22 formed and cut in the customs territory of
23 the United States, in one or more bene-
24 ficiary Asia or South Pacific countries or

1 former beneficiary Asia or South Pacific
2 countries, or any combination thereof.

3 (B) EXCEPTION.—Textile and apparel arti-
4 cles described in this paragraph do not include
5 textile and apparel articles that are made exclu-
6 sively from any of the fabrics, fabric compo-
7 nents formed, or components knit-to-shape de-
8 scribed in paragraph (1) or (2) of section
9 112(b) of the African Growth and Opportunity
10 Act (19 U.S.C. 3721(b)), as applied and admin-
11 istered pursuant to paragraph (2).

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

14 (A) IN GENERAL.—A textile or apparel ar-
15 ticle is described in this paragraph if the textile
16 or apparel article is—

17 (i) a textile or apparel article of a
18 beneficiary Asia or South Pacific country
19 or countries;

20 (ii) certified as handloomed, hand-
21 made, folklore articles or ethnic printed
22 fabric by the competent authority of such
23 beneficiary country or countries; and

24 (iii) on a list of textile or apparel arti-
25 cles determined by the President, after

1 consultation with the government of the
 2 beneficiary Asia or South Pacific country
 3 or countries concerned, to be treated as
 4 being handloomed, handmade, or folklore
 5 articles or ethnic printed fabrics of such
 6 beneficiary Asia or South Pacific country
 7 or countries.

8 (B) ADDITIONAL REQUIREMENTS FOR
 9 ETHNIC PRINTED FABRIC.—For purposes of
 10 subparagraph (A), an ethnic printed fabric of a
 11 beneficiary Asia or South Pacific country or
 12 countries is—

13 (i) fabric containing a selvedge on
 14 both edges, having a width of less than 50
 15 inches, and classifiable under subheading
 16 5208.52.30 or 5208.52.40 of the Har-
 17 monized Tariff Schedule of the United
 18 States;

19 (ii) fabric of a type that contains de-
 20 signs, symbols, and other characteristics of
 21 Asian or South Pacific prints—

22 (I) normally produced for and
 23 sold in indigenous Asian or South Pa-
 24 cific markets; and

1 (II) normally sold in Asia or
 2 South Pacific countries by the piece
 3 as opposed to being tailored into gar-
 4 ments before being sold in indigenous
 5 Asian or South Pacific markets;

6 (iii) fabric printed, including waxed,
 7 in one or more beneficiary Asia or South
 8 Pacific countries; and

9 (iv) fabric formed in the customs ter-
 10 ritory of the United States, from yarn
 11 formed in the customs territory of the
 12 United States, or from fabric formed in
 13 one or more beneficiary Asia or South Pa-
 14 cific countries from yarn originating in ei-
 15 ther the customs territory of the United
 16 States or one or more beneficiary Asia or
 17 South Pacific countries.

18 (5) SPECIAL RULE.—

19 (A) IN GENERAL.—Preferential treatment
 20 under this subsection shall be extended through
 21 December 31, 2019, for textile and apparel ar-
 22 ticles that are wholly assembled in one or more
 23 beneficiary Asia or South Pacific countries or
 24 former beneficiary Asia or South Pacific coun-
 25 tries, or both, regardless of the country of ori-

1 gin of the yarn or fabric used to make such ar-
2 ticles.

3 (B) COUNTRY LIMITATIONS.—

4 (i) SMALL SUPPLIERS.—If, during a
5 calendar year, imports of textile and ap-
6 parel articles described in subparagraph
7 (A) from a beneficiary Asia or South Pa-
8 cific country are less than 1 percent of the
9 aggregate square meter equivalents of all
10 textile and apparel articles imported into
11 the customs territory of the United States
12 during that calendar year, such imports
13 from that country may be increased to an
14 amount that is equal to not more than 1.5
15 percent of the aggregate square meter
16 equivalents of all textile and apparel arti-
17 cles imported into the customs territory of
18 the United States during that calendar
19 year for the succeeding calendar year.

20 (ii) OTHER SUPPLIERS.—If, during a
21 calendar year, imports of textile and ap-
22 parel articles described in subparagraph
23 (A) from a beneficiary Asia or South Pa-
24 cific country are not less than 1 percent of
25 the aggregate square meter equivalents of

1 all textile and apparel articles imported
2 into the customs territory of the United
3 States during that calendar year, such im-
4 ports from that country may be increased
5 by an amount that is equal to not more
6 than $\frac{1}{3}$ of 1 percent of the aggregate
7 square meter equivalents of all textile and
8 apparel articles imported into the customs
9 territory of the United States during that
10 calendar year for the succeeding calendar
11 year.

12 (iii) AGGREGATE COUNTRY LIMIT.—In
13 no case may the aggregate quantity of tex-
14 tile and apparel articles described in sub-
15 paragraph (A) imported into the customs
16 territory of the United States during a cal-
17 endar year under this subsection exceed
18 the applicable percentage set forth in para-
19 graph (8)(B) for that calendar year.

20 (6) SURGE MECHANISM.—The provisions of
21 subparagraph (B) of section 112(b)(3) of the Afri-
22 can Growth and Opportunity Act (19 U.S.C.
23 3721(b)(3)) shall apply to textile and apparel arti-
24 cles imported from a beneficiary Asia or South Pa-
25 cific country to which preferential treatment is ex-

1 tended under this subsection to the same extent and
2 in the same manner that such provisions apply to
3 textile and apparel articles described in such section
4 112(b)(3) imported from a beneficiary sub-Saharan
5 African country.

6 (7) SPECIAL ELIGIBILITY RULES; PROTECTIONS
7 AGAINST TRANSSHIPMENT.—The provisions of sub-
8 section (e) of section 112 and section 113 of the Af-
9 rican Growth and Opportunity Act (19 U.S.C. 3721
10 and 3722) shall apply to textile and apparel articles
11 imported from a beneficiary Asia or South Pacific
12 country to which preferential treatment is extended
13 under this subsection to the same extent and in the
14 same manner that such provisions apply to textile
15 and apparel articles imported from beneficiary sub-
16 Saharan countries to which preferential treatment is
17 extended under such section 112.

18 (8) LIMITATIONS ON BENEFITS.—

19 (A) IN GENERAL.—Preferential treatment
20 under this subsection shall be extended in the
21 1-year period beginning January 1, 2014, and
22 in each of the 10 succeeding 1-year periods, to
23 imports of textile and apparel articles described
24 in this subsection in an amount not to exceed
25 the applicable percentage, as defined in sub-

1 paragraph (B), of the aggregate square meter
2 equivalents of all textile and apparel articles im-
3 ported into the customs territory of the United
4 States in the most recent 12-month period for
5 which data are available.

6 (B) APPLICABLE PERCENTAGE.—For pur-
7 poses of this paragraph, the term “applicable
8 percentage” means 11 percent for the 1-year
9 period beginning January 1, 2014, increased in
10 each of the 10 succeeding 1-year periods by
11 equal increments, so that for the period begin-
12 ning January 1, 2024, the applicable percent-
13 age does not exceed 14 percent.

14 (c) TECHNICAL AMENDMENT.—Section
15 6002(a)(2)(B) of the Africa Investment Incentive Act of
16 2006 (Public Law 109–432; 120 Stat. 3190) is amended
17 by inserting “in paragraph (3),” before “by striking”.

18 **SEC. 6. REPORTING REQUIREMENT.**

19 Not later than 1 year after the date of the enactment
20 of this Act, and annually thereafter, the President shall
21 report to Congress on the implementation of this Act and
22 on the trade and investment policy of the United States
23 with respect to the Asia or South Pacific countries.

1 **SEC. 7. TERMINATION OF PREFERENTIAL TREATMENT.**

2 No preferential treatment extended to a beneficiary
3 Asia or South Pacific country under this Act shall remain
4 in effect after December 31, 2024.

5 **SEC. 8. EFFECTIVE DATE.**

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

