

112TH CONGRESS
1ST SESSION

S. 1443

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

JULY 28, 2011

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 and trade benefits for developing
18 countries in the Caribbean, Andean, and sub-Saha-
19 ran African regions of the world.

20 (7) Enhanced trade with least-developed Mus-
21 lim countries, including Yemen, Afghanistan, and
22 Bangladesh, is consistent with other United States
23 objectives of encouraging a strong private sector and
24 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 a coun-
22 try listed in section 4(b).

23 (2) BENEFICIARY ASIA OR SOUTH PACIFIC
24 COUNTRY.—The term “beneficiary Asia or South
25 Pacific country” means an Asia or South Pacific

1 country that the President has determined is eligible
2 for preferential treatment under this Act.

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

10 **SEC. 4. AUTHORITY TO DESIGNATE; ELIGIBILITY REQUIRE-**
11 **MENTS.**

12 (a) AUTHORITY TO DESIGNATE.—

13 (1) IN GENERAL.—Notwithstanding any other
14 provision of law, the President is authorized to des-
15 ignate an Asia or South Pacific country as a bene-
16 ficiary Asia or South Pacific country eligible for
17 preferential treatment under this Act—

18 (A) if the President determines that the
19 country meets the requirements set forth in sec-
20 tion 104 of the African Growth and Oppor-
21 tunity Act (19 U.S.C. 3703); and

22 (B) subject to the authority granted to the
23 President under subsections (a), (d), and (e) of
24 section 502 of the Trade Act of 1974 (19
25 U.S.C. 2462), if the country otherwise meets

1 the eligibility criteria set forth in such section
2 502.

3 (2) APPLICATION OF SECTION 104.—Section
4 104 of the African Growth and Opportunity Act
5 shall be applied for purposes of paragraph (1) by
6 substituting “Asia or South Pacific country” for
7 “sub-Saharan African country” each place it ap-
8 pears.

9 (b) COUNTRIES ELIGIBLE FOR DESIGNATION.—For
10 purposes of this Act, the term “Asia or South Pacific
11 country” refers to the following or their successor political
12 entities:

- 13 (1) Afghanistan.
- 14 (2) Bangladesh.
- 15 (3) Bhutan.
- 16 (4) Cambodia.
- 17 (5) Kiribati.
- 18 (6) Lao People’s Democratic Republic.
- 19 (7) Maldives.
- 20 (8) Nepal.
- 21 (9) Samoa.
- 22 (10) Solomon Islands.
- 23 (11) Timor-Leste (East Timor).
- 24 (12) Tuvalu.
- 25 (13) Vanuatu.

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

2 (a) IN GENERAL.—Unless otherwise excluded from
3 eligibility (or otherwise provided for in this Act), pref-
4 erential treatment shall apply in accordance with sub-
5 sections (b), (c), and (d).

6 (b) CERTAIN ARTICLES.—

7 (1) IN GENERAL.—The President may provide
8 duty-free treatment to any article described in sub-
9 paragraphs (B) through (G) of section 503(b)(1) of
10 the Trade Act of 1974 (19 U.S.C. 2463(b)(1)) if—

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

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

21 (2) RULES OF ORIGIN.—The duty-free treat-
22 ment provided under paragraph (1) shall apply to
23 any article described in that paragraph that meets
24 the requirements of section 503(a)(2) of the Trade
25 Act of 1974 (19 U.S.C. 2463(a)(2)), except that for
26 purposes of determining if the article meets the 35-

1 percent requirement under subparagraph (A)(ii) of
2 such section—

3 (A) if the cost or value of materials pro-
4 duced in the customs territory of the United
5 States is included with respect to that article,
6 an amount not to exceed 15 percent of the ap-
7 praised value of the article at the time it is en-
8 tered that is attributed to such United States
9 cost or value may be applied toward meeting
10 the 35-percent requirement; and

11 (B) the cost or value of the materials in-
12 cluded with respect to that article that are pro-
13 duced in one or more beneficiary Asia or South
14 Pacific countries or former beneficiary Asia or
15 South Pacific countries shall be applied toward
16 meeting the 35-percent requirement.

17 (c) TEXTILE AND APPAREL ARTICLES.—

18 (1) IN GENERAL.—The preferential treatment
19 described in subsection (a) of section 112 of the Af-
20 rican Growth and Opportunity Act (19 U.S.C.
21 3721(a)) shall apply with respect to textile and ap-
22 parel articles described in paragraphs (1), (2), (4),
23 (5), (7), and (8) of subsection (b) of such section
24 and paragraphs (2) and (3) of this subsection that
25 are imported directly into the customs territory of

1 the United States from a beneficiary Asia or South
 2 Pacific country except that such section 112 shall be
 3 applied and administered with respect to such arti-
 4 cles—

5 (A) in subsection (a), by substituting “a
 6 beneficiary Asia or South Pacific country (as
 7 defined in section 3 of the Asia–South Pacific
 8 Trade Preferences Act)” for “a beneficiary sub-
 9 Saharan African country described in section
 10 506A(e) of the Trade Act of 1974”; and

11 (B) in paragraphs (1), (2), (4), (5), (7),
 12 and (8) of subsection (b), by substituting “ben-
 13 efitary Asia or South Pacific country” and
 14 “beneficiary Asia or South Pacific countries”
 15 for “beneficiary sub-Saharan African country”
 16 and “beneficiary sub-Saharan African coun-
 17 tries”, respectively, each place such terms ap-
 18 pear.

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

21 (A) IN GENERAL.—Textile and apparel ar-
 22 ticles described in this paragraph are textile
 23 and apparel articles wholly assembled in one or
 24 more beneficiary Asia or South Pacific coun-
 25 tries or former beneficiary Asia or South Pa-

1 cific countries, or both, from fabric wholly
2 formed in one or more beneficiary Asia or
3 South Pacific countries or former beneficiary
4 Asia or South Pacific countries, or both, from
5 yarn originating either in the United States or
6 one or more beneficiary Asia or South Pacific
7 countries or former beneficiary Asia or South
8 Pacific countries, or both (including fabrics not
9 formed from yarns, if such fabrics are classifi-
10 able under heading 5602 or 5603 of the Har-
11 monized Tariff Schedule of the United States
12 and are wholly formed and cut in the United
13 States, in one or more beneficiary Asia or
14 South Pacific countries or former beneficiary
15 Asia or South Pacific countries, or any com-
16 bination thereof), whether or not the textile and
17 apparel articles are also made from any of the
18 fabrics, fabric components formed, or compo-
19 nents knit-to-shape described in paragraph (1)
20 or (2) of section 112(b) of the African Growth
21 and Opportunity Act (19 U.S.C. 3721(b)) (un-
22 less the apparel articles are made exclusively
23 from any of the fabrics, fabric components
24 formed, or components knit-to-shape described
25 in paragraph (1) or (2) of such section 112(b)).

1 (B) LIMITATIONS ON BENEFITS.—

2 (i) IN GENERAL.—Preferential treat-
3 ment under this subsection shall be ex-
4 tended in the 1-year period beginning Jan-
5 uary 1, 2012, and in each of the suc-
6 ceeding 10 1-year periods, to imports of
7 textile and apparel articles described in
8 subparagraph (A) in an amount not to ex-
9 ceed the applicable percentage of the ag-
10 gregate square meter equivalents of all tex-
11 tile and apparel articles imported into the
12 United States in the most recent 12-month
13 period for which data are available.

14 (ii) APPLICABLE PERCENTAGE.—For
15 purposes of this subparagraph, the term
16 “applicable percentage” means 11 percent
17 for the 1-year period beginning January 1,
18 2012, increased in each of the 10 suc-
19 ceeding 1-year periods by equal incre-
20 ments, so that for the period beginning
21 January 1, 2022, the applicable percentage
22 does not exceed 14 percent.

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

1 (A) IN GENERAL.—A textile or apparel ar-
2 ticle described in this paragraph is a
3 handloomed, handmade, folklore article or an
4 ethnic printed fabric of a beneficiary Asia or
5 South Pacific country or countries that is cer-
6 tified as such by the competent authority of
7 such beneficiary country or countries. For pur-
8 poses of this subsection, the President, after
9 consultation with the beneficiary Asia or South
10 Pacific country or countries concerned, shall de-
11 termine which, if any, particular textile and ap-
12 parel goods of the country or countries shall be
13 treated as being handloomed, handmade, or
14 folklore articles or an ethnic printed fabric.

15 (B) REQUIREMENTS FOR ETHNIC PRINTED
16 FABRIC.—Ethnic printed fabrics qualified under
17 this paragraph are—

18 (i) fabrics containing a selvedge on
19 both edges, having a width of less than 50
20 inches, classifiable under subheading
21 5208.52.30 or 5208.52.40 of the Har-
22 monized Tariff Schedule of the United
23 States;

1 (ii) of the type that contains designs,
2 symbols, and other characteristics of Asian
3 or South Pacific prints—

4 (I) normally produced for and
5 sold on the indigenous Asian or South
6 Pacific market; and

7 (II) normally sold in Asia or
8 South Pacific countries by the piece
9 as opposed to being tailored into gar-
10 ments before being sold in indigenous
11 Asian or South Pacific markets;

12 (iii) printed, including waxed, in one
13 or more beneficiary Asia or South Pacific
14 countries; and

15 (iv) fabrics formed in the United
16 States, from yarns formed in the United
17 States, or from fabric formed in one or
18 more beneficiary Asia or South Pacific
19 countries from yarn originating in either
20 the United States or one or more bene-
21 ficiary Asia or South Pacific countries.

22 (4) SPECIAL RULE.—

23 (A) IN GENERAL.—Preferential treatment
24 under this subsection shall be extended through
25 December 31, 2019, for textile and apparel ar-

1 articles that are wholly assembled in one or more
2 beneficiary Asia or South Pacific countries or
3 former beneficiary Asia or South Pacific coun-
4 tries, or both, regardless of the country of ori-
5 gin of the yarn or fabric used to make such ar-
6 ticles.

7 (B) COUNTRY LIMITATIONS.—

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

23 (ii) OTHER SUPPLIERS.—If, during a
24 calendar year, imports of textile and ap-
25 parel articles described in subparagraph

1 (A) from a beneficiary Asia or South Pa-
2 cific country are at least 1 percent of the
3 aggregate square meter equivalents of all
4 textile and apparel articles imported into
5 the United States during that calendar
6 year, such imports may be increased by an
7 amount that is equal to not more than $\frac{1}{3}$
8 of 1 percent of the aggregate square meter
9 equivalents of all textile and apparel arti-
10 cles imported into the United States dur-
11 ing that calendar year for the succeeding
12 calendar year.

13 (iii) AGGREGATE COUNTRY LIMIT.—In
14 no case may the aggregate quantity of tex-
15 tile and apparel articles described in sub-
16 paragraph (A) imported into the United
17 States during a calendar year under this
18 subsection exceed the applicable percentage
19 set forth in paragraph (2)(B)(ii) for that
20 calendar year.

21 (d) OTHER RESTRICTIONS.—The provisions of sub-
22 sections (b)(3)(B) and (e) of section 112 and section 113
23 of the African Growth and Opportunity Act (19 U.S.C.
24 3721 and 3722) shall apply with respect to the pref-
25 erential treatment extended under this section to a bene-

1 beneficiary Asia or South Pacific country by substituting “ben-
 2 eficiary Asia or South Pacific country” for “beneficiary
 3 sub-Saharan African country” and “beneficiary Asia or
 4 South Pacific countries” and “former beneficiary Asia or
 5 South Pacific countries” for “beneficiary sub-Saharan Af-
 6 rican countries” and “former sub-Saharan African coun-
 7 tries”, respectively, as appropriate.

8 (e) TECHNICAL AMENDMENT.—Section
 9 6002(a)(2)(B) of the Africa Investment Incentive Act of
 10 2006 (Public Law 109–432) is amended by inserting be-
 11 fore “by striking” the following: “in paragraph (3),”.

12 **SEC. 6. REPORTING REQUIREMENT.**

13 The President shall monitor, review, and report to
 14 Congress, not later than 1 year after the date of the enact-
 15 ment of this Act, and annually thereafter, on the imple-
 16 mentation of this Act and on the trade and investment
 17 policy of the United States with respect to the Asia or
 18 South Pacific countries.

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

20 No duty-free treatment or other preferential treat-
 21 ment extended to a beneficiary Asia or South Pacific coun-
 22 try under this Act shall remain in effect after December
 23 31, 2022.

1 **SEC. 8. EFFECTIVE DATE.**

2 The provisions of this Act shall take effect on Janu-
3 ary 1, 2012.

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