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CARIBBEAN BASIN ECONOMIC RECOVERY ACT

Request for Renewal of Waiver

The following communication, dated 13 September 1995, has been received from the delegation of the United States.

By action of the CONTRACTING PARTIES of the GATT 1947 on 15 February 1985 (L/5779, BISD 31S/20), the United States was granted a waiver of its obligations under paragraph 1 of Article 1 of the GATT 1947, for the provision of duty-free treatment to eligible products of beneficiary Caribbean Basin countries and territories, under the Caribbean Basin Economic Recovery Act (CBERA). This waiver was granted for the period 1 January 1984 until 30 September 1995.

CBERA authorizes the President to provide certain trade and tax benefits to countries located in the Caribbean Basin. The Caribbean Basin Initiative (CBI) established under the CBERA promotes the trade and economic stability of countries located in the Caribbean Basin through a number of measures: provision of increased foreign assistance, provision of duty-free treatment to imports, and extension of the applicability of the U.S. convention expense tax deduction to conventions held in the region to encourage greater tourism and investment. In 1990, Congress amended the CBI to make the program a permanent part of U.S. law and to provide a modest increase in access to the U.S. market for products of eligible Caribbean Basin countries.

The United States requests that Members renew the 1985 waiver for ten years, in order to enable the United States to provide duty-free access for imports of eligible articles into the United States from beneficiary Caribbean countries and territories, as provided in the Caribbean Basin Economic Recovery Act (Public Law 98-67 of August 5, 1983), as amended by the Caribbean Basin Economic Recovery Expansion Act of 1990 (Public Law 101-418).

A waiver of paragraph 1 of Article I of the GATT 1994 is necessary so that the United States can provide such duty-free treatment.¹ This request is made in accordance with the Guiding Principles to be followed in considering applications for waivers adopted on 1 November 1956; the Understanding in Respect of Waivers of Obligations under the General Agreement on Tariffs and Trade 1994; and

¹The final list of MFN exceptions submitted by the United States under the General Agreement on Trade in Services in document GATS/EL/90 includes an exception taken with respect to "benefits available under the U.S. Internal Revenue Code with respect to Caribbean Basin Initiative (CBI) beneficiary countries".

paragraphs 3 and 4 of Article IX of the Marrakesh Agreement Establishing the World Trade Organization. The policy objectives of CBERA and the exceptional circumstances justifying a waiver are described below.

Discussion

The Caribbean Basin Economic Recovery Act (CBERA) was enacted on 5 August 1983 effective until 30 September 1995 (P.L. 98-67). Congress then amended the CBERA in Title II of the Customs and Trade Act of 1990 (P.L. 101-418), the Caribbean Basin Economic Recovery Expansion Act of 1990, commonly known as “CBI II”. CBI II improved the CBERA’s trade and tax benefits and made them permanent.² Trade improvements included a 20 percent tariff reduction on certain leather products, phased in over five years beginning in 1992, but limited to a total reduction of 2.5 percent *ad valorem*; duty-free treatment for Puerto Rican products imported from CBI countries; and duty-free treatment for imports of products of beneficiary countries products made from 100 percent U.S. components, with certain exceptions. CBI II also expanded duty-free treatment to include twenty-eight additional tariff categories.

A. Purpose and Scope

The Caribbean Basin Initiative, or CBI, was designed as a development program using trade, tax and assistance measures to facilitate the economic development and export diversification of the economies in the Caribbean Basin. These small economies had been seriously affected by declining prices for their major commodity exports. CBI helps these countries and territories solve their problems by opening new markets for CBI exports, encouraging investment and growth of productive capacity in the CBI area, and assisting tourism and other service sectors.

The United States seeks to continue the centerpiece of the CBI: non-reciprocal, duty-free access for imports into the territory of the United States from eligible Caribbean countries and territories. Duty-free access is provided for all products with the exception of textiles and apparel, footwear, petroleum, leather apparel, watches and canned tuna. The program places a ceiling on duty-free entry for sugar, as long as the United States maintains a domestic sugar price support program mandated by Congress. The program provides duty-free access for some CBI exports not presently covered under the U.S. Generalized System of Preferences (GSP) program. Such preferential duty-free access cannot be provided consistent with paragraph 1 of Article I of the GATT 1994; for this reason the United States seeks an extension of the waiver granted in 1985 by the CONTRACTING PARTIES of the GATT 1947.

The CBERA statute provides that 27 countries or territories are eligible for designation as CBI beneficiaries. The attachment to the present waiver request lists those countries and lists the countries actually designated as beneficiaries.

B. Effect of the Caribbean Basin Initiative on other Members

The duty-free treatment accorded CBI beneficiary countries has not created new barriers or otherwise impeded the trade of Members because these countries account for a small portion of U.S. imports and the program is limited in scope. In 1994 the U.S. imported \$11.5 billion of manufactured and agricultural goods from CBI beneficiary countries -- 1.7 percent of total U.S. imports. Of the \$11.5 billion, 18.5 percent or \$2.1 billion entered under CBI. Hence, only 0.3 percent of total U.S.

²A discussion of these changes appears in the November 1993 U.S. report on the CBI waiver, L/7304.

imports in 1994 entered under the CBI program. The trade figures provided in the reports by the United States on the use made of the 1985 waiver demonstrate that the preference given to CBI imports has not resulted in displacement of like products from non-CBI sources.

C. *Effect on MFN treatment and GSP*

The CBI program is a completely autonomous program which has never involved the binding of margins of preference. The program did not impede U.S. tariff negotiations in the Uruguay Round, in which a major objective was the zero-for-zero initiative for elimination of tariffs on a most-favoured-nation basis. The CBI program is also independent of the U.S. GSP program as a matter of statute and a matter of policy.

Although the statutory authorization for the U.S. GSP program expired on 31 July 1995, legislation to reauthorize GSP program is now pending in Congress. Provision of CBI benefits will not negatively affect GSP benefits.

D. *Conclusion*

The United States requests that the Members of the WTO give its application for a waiver renewal expeditious consideration. The United States will cooperate fully in providing additional information about the CBI and discussing the specific terms of the waiver.

ANNEX

1. Countries and territories statutorily eligible for designation as CBI beneficiary countries

Anguilla	Grenada	St. Kitts and Nevis
Antigua and Barbuda	Guatemala	St. Lucia
Bahamas, The	Guyana	St. Vincent and the
Barbados	Haiti	Grenadines
Belize	Honduras	Suriname
Cayman Islands	Jamaica	Trinidad and Tobago
Costa Rica	Montserrat	Turks and Caicos Islands
Dominica	Netherlands Antilles	Virgin Islands, British
Dominican Republic	Nicaragua	
El Salvador	Panama	

(Source: CBERA §212)

2. Countries or territories designated as beneficiary countries for purposes of the CBERA

Antigua and Barbuda	Grenada	Nicaragua
Aruba	Guatemala	Panama
Bahamas	Guyana	St. Kitts and Nevis
Barbados	Haiti	St. Lucia
Belize	Honduras	St. Vincent and the
Costa Rica	Jamaica	Grenadines
Dominica	Montserrat	Trinidad and Tobago
Dominican Republic	Netherlands Antilles	Virgin Islands, British
El Salvador		

(Source: General Note 7, Harmonized Tariff Schedule of the United States)