



Billing Code 3290-F5

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Request for Public Comments on the Caribbean Basin Economic Recovery Act and the Caribbean Basin Trade Partnership Act: Report to Congress

AGENCY: Office of the United States Trade Representative (USTR).

ACTION: Notice and request for public comment.

SUMMARY: The Trade Policy Staff Committee (TPSC) is seeking the views of interested parties on the operation of the Caribbean Basin Economic Recovery Act (CBERA), as amended by the Caribbean Basin Trade Partnership Act (CBTPA) (19 U.S.C. § 2701 et seq.). Section 212(f) of the CBERA, as amended, requires the President to submit a report to Congress regarding the operation of the CBERA and CBTPA (together commonly referred to as the Caribbean Basin Initiative, or CBI) on or before December 31, 2001, and every two years thereafter. The TPSC invites written comments concerning the operation of the CBI, including comments on the performance of each CBERA and CBTPA beneficiary country under the criteria described in sections 212(b), 212(c), and 213(b)(5)(B) of CBERA, as amended. This

information will be used in the preparation of the report to Congress on the operation of the program.

DATES: Public comments are due at USTR no later than 5 p.m., October 5, 2015.

ADDRESSES: USTR strongly prefers electronic submissions made at <http://www.regulations.gov>, docket number USTR-2015-0008 (see “Requirements for Submission” below). If you are unable to make a submission at www.regulations.gov, please contact Yvonne Jamison at (202) 395-9603 to make other arrangements.

FOR FURTHER INFORMATION CONTACT: For procedural questions concerning written comments, contact Yvonne Jamison, Office of the United States Trade Representative, at (202) 395-9666. All other questions should be directed to Duncan Walker, Office of the Western Hemisphere, Office of the United States Trade Representative, 600 17th Street, NW, Room 523, Washington, DC 20508. The telephone number is (202) 395-6135.

SUPPLEMENTARY INFORMATION: Interested parties are invited to submit comments on any aspect of the program’s operation, including the performance of CBERA and CBTPA beneficiary countries under the criteria described in sections 212(b), 212(c), and 213(b)(5)(B) of the CBERA, as amended. Those criteria may be accessed at <http://www.gpo.gov/fdsys/pkg/USCODE-2011-title19/html/USCODE-2011-title19-chap15.htm> and are listed below. This report will also examine the CBI’s effect on the volume and composition of trade and investment between the United States and the CBI beneficiary

countries and on advancing U.S. trade policy goals as set forth in the CBTPA. Barbados, Belize, Guyana, Haiti, Jamaica, Saint Lucia, and Trinidad and Tobago receive benefits under both CBERA and CBTPA. Antigua and Barbuda, Aruba, the Bahamas, British Virgin Islands, Curacao, Dominica, Grenada, Montserrat, Saint Kitts and Nevis, Saint Vincent and the Grenadines currently receive benefits only under CBERA. A copy of the 2013 CBI report is available at <https://ustr.gov/sites/default/files/CBERA%20Report%20Final.pdf>.

Reporting Requirements on the Eligibility Criteria for all CBI Beneficiary Countries

Section 212(f)(1) of CBERA requires USTR to report the performance of each beneficiary country or CBTPA beneficiary country under the criteria of section 213(b)(5)(B) which includes, *inter alia*, the following:

- (1) Whether the beneficiary country has demonstrated a commitment to undertake its obligations under the World Trade Organization (WTO) on or ahead of schedule and participate in negotiations toward the completion of the Free Trade Area of the Americas (FTAA) or another free trade agreement.
- (2) The extent to which the country provides protection of intellectual property rights consistent with or greater than the protection afforded under the Agreement on Trade-Related Aspects of Intellectual Property Rights.
- (3) The extent to which the country provides internationally recognized worker rights including—
 - (I) The right of association;
 - (II) The right to organize and bargain collectively;
 - (III) A prohibition on the use of any form of forced or compulsory labor;

(IV) A minimum age for the employment of children; and

(V) Acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

(4) Whether the country has implemented its commitments to eliminate the worst forms of child labor, as defined in Section 507(6) of the Trade Act of 1974, as amended.

(5) The extent to which the country has met U.S. counter-narcotics certification criteria under the Foreign Assistance Act of 1961.

(6) The extent to which the country has taken steps to become a party to and implement the Inter-American Convention Against Corruption.

(7) The extent to which the country applies transparent, nondiscriminatory and competitive procedures in government procurement, and contributes to efforts in international fora to develop and implement rules on transparency in government procurement.

Section 212(f)(1), also requires the USTR to report the results of the general review of the beneficiary countries under sections 212(b) and (c) of CBERA. Pursuant to Section 212(b), of the CBERA, the President may not designate any country a CBI beneficiary country in the following circumstances:

(1) if such country is a Communist country;

(2) if such country—

(A) has nationalized, expropriated or otherwise seized ownership or control of property owned by a United States citizen or by a corporation, partnership, or association which is 50 per centum or more beneficially owned by United States citizens,

(B) has taken steps to repudiate or nullify—

(i) any existing contract or agreement with, or

(ii) any patent, trademark, or other intellectual property of, a United States citizen or a corporation, partnership, or association which is 50 per centum or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property so owned, or

(C) has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property, unless the President determines that—

(i) prompt, adequate, and effective compensation has been or is being made to such citizen, corporation, partnership, or association,

(ii) good-faith negotiations to provide prompt, adequate, and effective compensation under the applicable provisions of international law are in progress, or such country is otherwise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or

(iii) a dispute involving such citizen, corporation, partnership, or association, over compensation for such a seizure has been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or in another mutually agreed upon forum, and promptly furnishes a copy of such determination to the Senate and House of Representatives;

(3) if such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership or association which is 50 per centum or more beneficially owned by United States citizens, which have been made by

arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute;

(4) if such country affords preferential treatment to the products of a developed country, other than the United States, which has, or is likely to have, a significant adverse effect on United States commerce, unless the President has received assurances satisfactory to him that such preferential treatment will be eliminated or that action will be taken to assure that there will be no such significant adverse effect, and he reports those assurances to the Congress;

(5) if a government-owned entity in such country engages in the broadcast of copyrighted material, including films or television material, belonging to United States copyright owners without their express consent;

(6) unless such country is a signatory to a treaty, convention, protocol, or other agreement regarding the extradition of United States citizens; and

(7) if such country has not or is not taking steps to afford internationally recognized worker rights (as defined in section 2467(4) of this title) to workers in the country (including any designated zone in that country).

Section 212(c) of CBERA requires the President to take into account, *inter alia*, the following factors:

(1) Whether the beneficiary country has demonstrated a commitment to undertake its obligations under the World Trade Organization (WTO) on or ahead of schedule and participate in negotiations toward the completion of the Free Trade Area of the Americas (FTAA) or another free trade agreement.

(2) The extent to which the country provides protection of intellectual property rights consistent with or greater than the protection afforded under the Agreement on Trade-Related Aspects of Intellectual Property Rights.

(3) The extent to which the country provides internationally recognized worker rights including—

(I) The right of association;

(II) The right to organize and bargain collectively;

(III) A prohibition on the use of any form of forced or compulsory labor;

(IV) A minimum age for the employment of children; and

(V) Acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

(4) Whether the country has implemented its commitments to eliminate the worst forms of child labor, as defined in Section 507(6) of the Trade Act of 1974, as amended.

(5) The extent to which the country has met U.S. counter-narcotics certification criteria under the Foreign Assistance Act of 1961.

(6) The extent to which the country has taken steps to become a party to and implement the Inter-American Convention Against Corruption.

(7) The extent to which the country applies transparent, nondiscriminatory and competitive procedures in government procurement, and contributes to efforts in international fora to develop and implement rules on transparency in government procurement.

Requirements for Submissions. All comments must be submitted in English and must identify (on the first page of the submission) the subject matter of the comment as the “CBI

Report to Congress.” In order to be assured of consideration, comments should be submitted by October 5, 2015.

In order to ensure the timely receipt and consideration of comments, USTR strongly encourages commenters to make on-line submissions via <http://www.regulations.gov> . To submit comments via [this web site](#), enter the docket: USTR-2015-0008 on the home page and click “go.” The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice on the search-results page, and click on the link entitled “Comment Now!” (For further information on using the www.regulations.gov website, please consult the resources provided on the website by clicking on the “How to Use This Site”.)

The website offers the option of providing comments by filling in a “Type Comment” field or by attaching a document using the “Upload file(s)” field. We expect that most submissions will be provided in an attached document. If a document is attached, it is sufficient to type “See attached” in the “Type Comment” field.

Submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf) are preferred. If an application other than those two is used, please identify in your submission the specific application used. For any comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters “BC” and must be submitted separately from the public version. Any page containing business confidential information must be clearly marked “BUSINESS CONFIDENTIAL” on the top of that page. If you file comments containing business confidential information you must also submit a public version of the comments under a separate submission. The file name of the public version should begin with the character “P”. The “BC” and “P” should be followed by the name of the person or entity submitting the comments. If you submit comments that contain no

business confidential information, the file name should begin with the name of the person or entity submitting the comments. Electronic submissions should not attach separate cover letters; rather, information that might appear in a cover letter should be included in the comments you submit. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments to a submission in the same file as the submission itself and not as separate files.

We strongly urge submitters to use electronic filing. If an on-line submission is impossible, alternative arrangements must be made with Ms. Jamison prior to delivery for the receipt of such submissions. Ms. Jamison may be contacted at (202) 395-9666. General information concerning the Office of the United States Trade Representative may be obtained by accessing its website: <http://www.ustr.gov>.

John Melle

Assistant United States Trade Representative for the Western Hemisphere

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