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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Request for Comments on Operation of the Caribbean Basin Economic Recovery Act and the Caribbean Basin Trade Partnership Act

DOCKET NUMBER USTR-2017-0007

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and request for comments.

SUMMARY: The Trade Policy Staff Committee (TPSC) is seeking comments 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 United States Trade Representative 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, 2017. The TPSC invites written comments concerning the operation of the CBI, including 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. The TPSC will use this information to prepare the report to Congress on the operation of the program.

DATES: The TPSC must receive your written comment by September 15, 2017.

ADDRESSES: The TPSC strongly prefers electronic submissions made through the Federal eRulemaking Portal: <https://www.regulations.gov>. Follow the instructions for submitting comments in section III below. The docket number is USTR-2017-0007. For alternatives to on-line submissions, please contact Yvonne Jamison at (202) 395-3475.

FOR FURTHER INFORMATION CONTACT: For procedural questions concerning written comments, contact Yvonne Jamison at (202) 395-3475. Direct all other questions to Albert Pyott at (202) 395-9539.

SUPPLEMENTARY INFORMATION:

I. Background

Section 212(f)(1) of CBERA (19 U.S.C. 2702(f)(1)) requires the United States Trade Representative to report on the performance of each CBERA or CBTPA beneficiary country. Barbados, Belize, Curacao, 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, Dominica, Grenada, Montserrat, Saint Kitts and Nevis, Saint Vincent and the Grenadines currently receive benefits only under CBERA.

As described in more detail below, the TSPC seeks 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. You can access these criteria at <http://www.gpo.gov/fdsys/pkg/USCODE-2011-title19/html/USCODE-2011-title19-chap15.htm>. The report also will 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. You can access the most recent CBI report at <https://ustr.gov/sites/default/files/2015-CBI-Report-Final.pdf>.

II. Reporting Requirements on the Eligibility Criteria for all CBI Beneficiary Countries

The TSPC seeks comments on any aspect of the program's operation, including the performance of CBERA and CBTPA beneficiary countries using the following criteria:

A. CBERA "Mandatory" Criteria

Under section 212(b) (19 U.S.C. 2702(b)), unless the President determines that is in the national economic or security interest of the United States, s/he may not designate as a CBI beneficiary country any country that:

1. Is a Communist country.
2. Has expropriated or nationalized property of U.S. citizens, unless the President determines that the country is taking steps to resolve the citizen's claim.
3. Fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of U.S. citizens or corporations owned by U.S. citizens.
4. Affords preferential treatment to the products of a developed country other than the United States that has, or is likely to have, a significant adverse effect on U.S. commerce, unless the President has received satisfactory assurances that the country will eliminate the preferential treatment or acts to assure that there will be no significant adverse effect.
5. Allows the broadcast of copyrighted material, including films or television material belonging to United States copyright owners without their express consent.

6. Is not a signatory to a treaty, convention, protocol, or other agreement regarding the extradition of U.S. citizens.
7. Has not or is not taking steps to afford internationally recognized worker rights as defined in section 507(4) of the Trade Act of 1974, as amended (19 U.S.C. 2467(4)) to workers in the country (including any designated zone in that country).

B. CBERA “Discretionary” Factors

Under section 212(c) (19 U.S.C. 2702(c)), the President may consider the following factors in determining whether to designate any country as a CBI beneficiary country:

1. An expression of a country’s desire to be so designated.
2. The economic conditions and living standards in a country.
3. The extent to which a country has assured the United States that it will provide equitable and reasonable access to the markets and basic commodity resources of the country.
4. The degree to which the country follows the international trade rules of the WTO.
5. The degree to which a country uses export subsidies or imposes export performance requirements or local content requirements that distort international trade.
6. The degree to which the trade policies of a country as they relate to other beneficiary countries are contributing to the revitalization of the region.

7. The degree to which a country is undertaking self-help measures to promote its own economic development.
8. Whether or not a country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights.
9. The extent to which a country provides adequate and effective legal means for foreign nationals to secure, exercise, and enforce exclusive intellectual property rights.
10. The extent to which a country prohibits its nationals from broadcasting U.S. copyrighted materials, including film and television material, without their express consent.
11. The extent to which a country cooperates with the United States in the administration of CBI preferences.

C. CBTPA Eligibility Criteria

Under section 213(b)(5)(B) (19 U.S.C. 2703(b)(5)(B)), in considering the eligibility of the CBI countries and dependent territories that have expressed an interest in receiving the enhanced preferences of the CBTPA, the President must take into account the existing eligibility criteria of the CBERA, as well as several additional revised criteria elaborated in the CBTPA. These additional criteria are:

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: the right of association; the right to organize and bargain collectively; a prohibition on the use of any form of forced or compulsory labor; a minimum age for the employment of children; and 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 (19 U.S.C. 2467(6)).
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.

III. Requirements for Submissions

In order to ensure the timely receipt and consideration of comments, the TPSC strongly encourages on-line submissions, using the www.regulations.gov website. We must receive your electronic submission by the September 15, 2017 deadline. You must submit all comments in English and must identify on the first page of the submission the subject matter of the comment as the “CBI Report to Congress.”

To submit a comment via www.regulations.gov, enter docket number **USTR-2017-0007** on the home page and click “search.” The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice 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 “How to Use Regulations.gov” on the bottom of the home page. We will not accept hand-delivered submissions.

The www.regulations.gov website allows users to provide comments by filling in a “Type Comment” field, or by attaching a document using an “Upload File” field. The TPSC prefers that you provide submissions as an attached document. If you attach a document, please type “CBI Report to Congress” in the “Type Comment” field. The TPSC prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf) format. If the submission is in another file format, please indicate the name of the software application in the “Type Comment” field. File names should reflect the name of the person or entity submitting the comments. Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the comments themselves. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the comment itself, rather than

submitting them as separate files. Submissions should not exceed 30 single-spaced, standard letter-size pages in 12-point type, including attachments.

For any comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters “BC”. Any page containing business confidential information must be clearly marked “BUSINESS CONFIDENTIAL” on the top of that page and the submission should clearly indicate, via brackets, highlighting, or other means, the specific information that is business confidential. A submitter requesting business confidential treatment must certify that the information is business confidential and would not customarily be released to the public by the submitter. Additionally, the submitter should type “Business Confidential CBI Report to Congress” in the “Type Comment” field. If you file comments containing business confidential information, you also must separately submit a public version of the comments that we will place in the docket for public inspection. 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. Filers submitting comments containing no business confidential information should name their file using the name of the person or entity submitting the comments.

You will receive a submission tracking number upon completion of the submissions procedure at www.regulations.gov. The tracking number is your confirmation that the submission was received into www.regulations.gov. The TPSC is not able to provide technical assistance for the website. The TPSC may not consider documents that are not submitted in accordance with these instructions.

As noted, the TPSC strongly urges submitters to file comments through www.regulations.gov. You must make any alternative arrangements with Yvonne Jamison in advance of transmitting a comment. You can contact Ms. Jamison at (202) 395-3475.

We will post comments in the docket for public inspection, except business confidential information. You can view comments on the www.regulations.gov website by entering the relevant docket number in the search field on the home page. You can find general information about the Office of the United States Trade Representative on its website: <http://www.ustr.gov>.

Edward B. Gresser
Chair, Trade Policy Staff Committee
Office of the United States Trade Representative.

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