



OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket Number USTR-2021-0011]

Request for Comments on Operation of the Caribbean Basin Initiative

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

ACTION: Notice of initiation of review, public hearing, and request for comments.

SUMMARY: The U.S. Trade Representative has to submit a report to Congress regarding the operation of the Caribbean Basin Initiative (CBI) no later than December 31, 2021. The Trade Policy Staff Committee (TPSC) invites comments concerning the operation of the CBI, including the performance of each beneficiary country, to assist in preparing the report to Congress on the operation of the CBI.

DATES: The TPSC must receive your written comments by August 31, 2021.

ADDRESSES: The TPSC strongly prefers electronic submissions made through the Federal eRulemaking Portal: <https://www.regulations.gov> (Regulations.gov), using Docket Number USTR-2021-0011. Follow the instructions for submitting comments in ‘Requirements for Submissions’ below. For alternatives to on-line submissions, please contact Magaly Garcia, Director for Bolivia, Ecuador, and the Caribbean, at magaly.a.garcia@ustr.eop.gov or 202-395-9597.

FOR FURTHER INFORMATION CONTACT: Magaly Garcia, Director for Bolivia, Ecuador, and the Caribbean, at magaly.a.garcia@ustr.eop.gov or 202-395-9597.

SUPPLEMENTARY INFORMATION

I. Background

Together, the Caribbean Basin Economic Recovery Act (CBERA), as amended by the Caribbean Basin Trade Partnership Act (CBTPA) (19 U.S.C. 2701 *et seq.*) commonly are referred to as the Caribbean Basin Initiative or CBI. Section 212(f)(1) of the CBERA,

as amended (19 U.S.C. 2702(f)(1)), requires the U.S. 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, and Saint Vincent and the Grenadines currently receive benefits only under CBERA. For purposes of this report, the term ‘beneficiary country’ includes both the independent countries and dependent territories receiving benefits under CBTPA and/or CBERA.

As described in detail below, the TPSC seeks comments on any aspect of the CBI'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 the 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: [CBI_Report_2019.pdf \(ustr.gov\)](#).

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

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

A. CBERA Bases for Ineligibility

Under section 212(b) (19 U.S.C. 2702(b)), the President cannot designate a country as a CBI beneficiary country:

1. If it is a Communist country.

2. If it has expropriated or nationalized property owned by a U.S. citizen or by a corporation owned by U.S. citizens, unless the President determines that the country is taking steps to resolve the matter.
3. If it fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of a U.S. citizen or a corporation owned by U.S. citizens.
4. If it 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 this preferential treatment or that action will be taken to assure that there will be no significant adverse effect.
5. If a government-owned entity in the 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 it is a signatory to a treaty, convention, protocol, or other agreement regarding the extradition of U.S. citizens.
7. If it 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).

Paragraphs (1), (2), (3), (5) and (7) do not prevent the designation of any country as a CBI beneficiary country if the President determines that the designation will be in the national economic or security interest of the United States and reports that determination to Congress.

B. CBERA Factors Determining Designation

In determining whether to designate a country as a CBI beneficiary country, section 212(c) (19 U.S.C. 2702(c)), requires the President to take into account the following factors:

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 World Trade Organization (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 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

The TPSC must receive your comments by the August 31, 2021 deadline. You must make all submissions in English via [hRegulations.gov](https://www.regulations.gov), using Docket Number USTR-2021-0011. USTR will not accept hand-delivered submissions.

To make a submission using [Regulations.gov](https://www.regulations.gov), enter the appropriate docket number in the ‘search for’ field 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 by selecting ‘notice’ under ‘document type’ in the ‘filter results by’ section on the left side of the screen and click on the link entitled ‘comment now.’ You must identify on the first page of the submission the subject matter of the comment as the ‘CBI Report to Congress.’ [Regulations.gov](https://www.regulations.gov) offers the option of providing comments by filling in a ‘type comment’ field or by attaching a document using the ‘upload file(s)’ field. The TPSC prefers that you provide submissions in an attached document and note ‘see attached’ in the ‘type comment’ field on the online submission form.

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.

You will receive a tracking number upon completion of the submission procedure [Regulations.gov](https://www.regulations.gov). The tracking number is confirmation that [Regulations.gov](https://www.regulations.gov) received the

submission. Keep the confirmation for your records. The TPSC is not able to provide technical assistance for the website. The TPSC may not consider documents you do not submit in accordance with these instructions. If you are unable to provide submissions as requested, please contact Magaly Garcia, Director for Bolivia, Ecuador, and the Caribbean, at magaly.a.garcia@ustr.eop.gov or 202-395-9597 to arrange for an alternative method of transmission.

IV. Business Confidential Submissions

If you ask the TPSC to treat information you submitted as business confidential information (BCI), you must certify that the information is business confidential and that you would not customarily release it to the public. You must clearly designate BCI by marking the submission 'BUSINESS CONFIDENTIAL' at the top and bottom of the cover page and each succeeding page, and indicating, via brackets, the specific information that is BCI. Additionally, you must include 'Business Confidential' in the 'type comment' field. For any submission containing BCI, you separately must submit a non-confidential version (*i.e.*, an additional submission indicating where BCI has been redacted). The TPSC will post the non-confidential version in the docket and it will be open to public inspection.

V. Public Viewing of Review Submissions

The TPSC will post comments in the docket for public inspection, except business confidential information. You can view comments on Regulations.gov 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 Gresser,
Chair of the Trade Policy Staff Committee,
Office of the United States Trade Representative.

