



## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket Number USTR-2023-0006]

### Request for Comments on Operation of the Caribbean Basin Initiative

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

**ACTION:** Notice 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) on or before December 31, 2023. 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 program.

**DATES:** The deadline for the submission of written comments is 11:59 EDT on

**[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].**

**ADDRESSES:** You should submit written comments through the Federal eRulemaking Portal: <https://www.regulations.gov> (regulations.gov), using docket number USTR-2023-0006. Follow the instructions for submissions in parts III and IV below.

**FOR FURTHER INFORMATION CONTACT:** For procedural questions concerning written comments and for alternatives to online submissions, please contact Katherine Stubblefield, Office of the Western Hemisphere, at [Katherine.E.Stubblefield@ustr.eop.gov](mailto:Katherine.E.Stubblefield@ustr.eop.gov) or (202) 395-7528 in advance of the deadline and before transmitting a comment.

### **SUPPLEMENTARY INFORMATION:**

#### **I. Background**

Together, the Caribbean Basin Economic Recovery Act (CBERA), and 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 the purposes of this report, the term ‘beneficiary country’ includes both the independent countries and dependent territories receiving benefits under CBTPA or CBERA.

As described in more detail below, the TPSC seeks comments on any aspect of the CBI 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 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 <https://ustr.gov/sites/default/files/files/reports/2021/2021CBIRReport.pdf>.

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

The TPSC seeks comments on any aspect of the CBI 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 it is in the national economic or security interest of the United States, they 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 a country follows the international trade rules of the World Trade Organization and multilateral trade agreements.
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 under its law adequate and effective 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 on or ahead of schedule and participate in negotiations toward the completion of the Free Trade Area of the Americas 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**

To be assured of consideration, submit your written comments by the [INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION] 11:59 p.m. EDT deadline. All submissions must be in English. TPSC strongly encourages submissions via regulations.gov, using Docket Number USTR-2023-0006. The TPSC will not accept hand-delivered submissions.

To make a submission via regulations.gov, enter Docket Number USTR-2023-0006 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 ‘refine documents results’ section on the left side of the screen and click on the link entitled ‘comment.’

Regulations.gov allows users to make submissions by filling in a ‘type comment’ field or by attaching a document using the ‘upload file’ field. The TPSC prefers that you provide submissions in an attached document and note ‘see attached’ in the ‘comment’ field on the online submission form.

The TPSC prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If you use an application other than those two, please indicate the name of the application in the ‘type comment’ field.

You must identify on the first page of the submission the subject matter of the comment as the “CBI Report to Congress.” File names should reflect the name of the person or entity submitting the comments. Please do not attach separate cover letters, exhibits, annexes, or other attachments to electronic submissions. Instead, to the extent possible, please include these 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 at Regulations.gov. The tracking number is confirmation that Regulations.gov received your submission. Keep the confirmation for your records.

The TPSC is not able to provide technical assistance for Regulations.gov. For further information on using Regulations.gov, please consult the resources provided on the website by clicking on 'How to Use Regulations.gov' on the bottom of the home page. The TPSC may not consider submissions that you do not make in accordance with these instructions.

If you are unable to provide submissions as requested, please contact Katherine Stubblefield, Office of the Western Hemisphere, at Katherine.E.Stubblefield@ustr.eop.gov or (202) 395-7528, to arrange for an alternative method of transmission.

General information concerning USTR is available at [www.ustr.gov](http://www.ustr.gov).

#### **IV. Business Confidential Information (BCI) Submissions**

If you ask the TPSC to treat information you submit as BCI, you must certify that the information is business confidential and you would not customarily release it to the public. For any comments submitted electronically containing BCI, the file name of the business confidential version should begin with the characters 'BCI.' You must clearly mark any page containing BCI with 'BUSINESS CONFIDENTIAL' at the top of that page. Additionally, you must include 'Business Confidential' in the 'type comment' field. Filers of submissions containing BCI also must submit a public version of their submission that will be placed in the docket for public inspection. The file name of the public version should begin with the character 'P.' 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 written submissions in the docket for public inspection, except properly designated BCI. You can view submissions at regulations.gov by entering Docket Number USTR-2023-0006 in the search field on the home page.

**William Shpiece,**

*Chair of the Trade Policy Staff Committee,*

*Office of the United States Trade Representative.*

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