

# H.R.1594

## Customs and Trade Act of 1990 (Enrolled Bill (Sent to President))

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### TITLE II--CARIBBEAN BASIN ECONOMIC RECOVERY

#### Subtitle A--Short Title and Findings

#### SEC. 201. SHORT TITLE.

This title may be cited as the 'Caribbean Basin Economic Recovery Expansion Act of 1990'.

#### SEC. 202. CONGRESSIONAL FINDINGS.

The Congress finds that--

- (1) a stable political and economic climate in the Caribbean region is necessary for the development of the countries in that region and for the security and economic interests of the United States;
- (2) the Caribbean Basin Economic Recovery Act was enacted in 1983 to assist in the achievement of such a climate by stimulating the development of the export potential of the region; and
- (3) the commitment of the United States to the successful development of the region, as evidenced by the enactment of the Caribbean Basin Economic Recovery Act, should be reaffirmed, and further strengthened, by amending that Act to improve its operation.

#### Subtitle B--Amendments to the Caribbean Basin Economic Recovery Act and Related Provisions

### ***PART 1--AMENDMENTS TO CARIBBEAN BASIN ECONOMIC RECOVERY ACT***

#### SEC. 211. REPEAL OF TERMINATION DATE ON DUTY-FREE TREATMENT UNDER THE ACT.

Section 218 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2706(b)) is repealed.

#### SEC. 212. DUTY REDUCTION FOR CERTAIN LEATHER-RELATED PRODUCTS.

(a) IN GENERAL- Section 213 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703) is amended by adding at the end thereof the following new subsection:

“(h)(1) Subject to paragraph (2), the President shall proclaim reductions in the rates of duty on handbags, luggage, flat goods, work gloves, and leather wearing apparel that--

“(A) are the product of any beneficiary country; and

“(B) were not designated on August 5, 1983, as eligible articles for purposes of the generalized system of preferences under title V of the Trade Act of 1974.

`(2) The reduction required under paragraph (1) in the rate of duty on any article shall--

`(A) result in a rate that is equal to 80 percent of the rate of duty that applies to the article on December 31, 1991, except that, subject to the limitations in paragraph (3), the reduction may not exceed 2.5 percent ad valorem; and

`(B) be implemented in 5 equal annual stages with the first one-fifth of the aggregate reduction in the rate of duty being applied to entries, or withdrawals from warehouse for consumption, of the article on or after January 1, 1992.

`(3) The reduction required under this subsection with respect to the rate of duty on any article is in addition to any reduction in the rate of duty on that article that may be proclaimed by the President as being required or appropriate to carry out any trade agreement entered into under the Uruguay Round of trade negotiations; except that if the reduction so proclaimed--

`(A) is less than 1.5 percent ad valorem, the aggregate of such proclaimed reduction and the reduction under this subsection may not exceed 3.5 percent ad valorem, or

`(B) is 1.5 percent ad valorem or greater, the aggregate of such proclaimed reduction and the reduction under this subsection may not exceed the proclaimed reduction plus 1 percent ad valorem.'.

(b) CONFORMING AMENDMENTS- Subsection (b) of section 213 is amended--

(1) by striking out `, handbags, luggage, flat goods, work gloves, and leather wearing apparel' in paragraph (2);

(2) by striking `or' at the end of paragraph (4);

(3) by striking out the period at the end of paragraph (5) and inserting `; or'; and

(4) by adding at the end thereof the following new paragraph:

`(6) articles to which reduced rates of duty apply under subsection (h).'

## **SEC. 213. WORKER RIGHTS.**

Section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702) is amended--

(1) by striking out `and' after the semicolon at the end of subsection (b)(5);

(2) by striking out the period at the end of subsection (b)(6) and inserting `; and';

(3) by adding at the end of subsection (b) the following new paragraph:

`(7) if such country has not or is not taking steps to afford internationally recognized worker rights (as defined in section 502(a)(4) of the Trade Act of 1974) to workers in the country (including any designated zone in that country).'

(4) by amending the last sentence in subsection (b) by striking out `and (5)' and inserting `(5), and (7)'; and

(5) by amending subsection (c)(8) to read as follows:

`(8) whether or not such 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.'

## **SEC. 214. REPORTS.**

Section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702) is amended by adding at the end thereof the following new subsection:

`(f) On or before October 1, 1993, and the close of each 3-year period thereafter, the President shall submit to the Congress a complete report regarding the operation of this title, including the results of a general review of beneficiary countries based on the considerations described in subsections (b) and (c).'

## **SEC. 215. TREATMENT OF ARTICLES GROWN, PRODUCED, OR MANUFACTURED IN PUERTO RICO.**

(a) IN GENERAL- Section 213(a) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(a)) is amended by adding at the end thereof the following new paragraph:

`(5) The duty-free treatment provided under this chapter shall apply to an article (other than an article listed in subsection (b)) which is the growth, product, or manufacture of the Commonwealth of Puerto Rico if--

`(A) the article is imported directly from the beneficiary country into the customs territory of the United States,

`(B) the article was by any means advanced in value or improved in condition in a beneficiary country, and

`(C) if any materials are added to the article in a beneficiary country, such materials are a product of a beneficiary country or the United States.'

(b) Effective Dates-

(1) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after October 1, 1990.

(2) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer after September 30, 1990, and before April 1, 1991, any entry, or withdrawal from warehouse--

(A) which was made after August 5, 1983, and before October 1, 1990, and with respect to which liquidation has not occurred before October 1, 1990, and

(B) with respect to which there would have been no duty, or a lesser duty, if the amendment made by subsection (a) applied,

shall be liquidated as though such amendment applied to such entry or withdrawal.

## **SEC. 216. APPLICATION OF ACT IN EASTERN CARIBBEAN AREA.**

It is the sense of the Congress that there should be undertaken special efforts in order to improve the ability of the Organization of Eastern Caribbean States countries and Belize to



(b) EFFECTIVE DATE- The amendments made by subsection (a) apply with respect to residents of the United States who depart from the United States on or after the 15th day after the date of the enactment of this Act.

**SEC. 222. DUTY-FREE TREATMENT FOR ARTICLES ASSEMBLED IN BENEFICIARY COUNTRIES FROM COMPONENTS PRODUCED IN THE UNITED STATES.**

(a) IN GENERAL- U.S. Note 2 of subchapter II of chapter 98 of the Harmonized Tariff Schedule of the United States is amended--

(1) by striking out `2. Any' and inserting `2. (a) Except as provided in paragraph (b), any'; and

(2) by adding at the end thereof the following new paragraph:

`(b) No article (except a textile article, apparel article, or petroleum, or any product derived from petroleum, provided for in heading 2709 or 2710) may be treated as a foreign article, or as subject to duty, if--

`(i) the article is--

`(A) assembled or processed in whole of fabricated components that are a product of the United States, or

`(B) processed in whole of ingredients (other than water) that are a product of the United States,

in a beneficiary country; and

`(ii) neither the fabricated components, materials or ingredients, after exportation from the United States, nor the article itself, before importation into the United States, enters the commerce of any foreign country other than a beneficiary country.

As used in this paragraph, the term `beneficiary country' means a country listed in general note 3(c)(v)(A).'

(b) EFFECTIVE DATE- The amendments made by subsection (a) applies with respect to goods assembled or processed abroad that are entered on or after October 1, 1990.

**SEC. 223. RULES OF ORIGIN FOR PRODUCTS OF BENEFICIARY COUNTRIES.**

(a) ITC INVESTIGATION-

(1) The United States International Trade Commission shall immediately undertake, pursuant to section 332(g) of the Tariff Act of 1930, an investigation for the purpose of assessing whether revised rules of origin for products of countries designated as beneficiary countries under the Caribbean Basin Economic Recovery Act are appropriate. If the Commission makes an affirmative assessment, it shall develop recommended revised rules of origin.

(2) The Commission shall submit a report on the results of the investigation under paragraph (1), together with the text of recommended rules, if any, to the President and the Congress no later than 9 months after the date of the enactment of this Act.

(b) LEGISLATIVE RECOMMENDATIONS- If the President considers that the

implementation of revised rules of origin for products of beneficiary countries would be appropriate, the President shall transmit to the Congress suggested legislation containing such rules of origin. In formulating such suggested legislation, the President shall--

(1) take into account the report and recommended rules submitted under subsection (a); and

(2) obtain the advice of--

(A) the appropriate advisory committees established under section 135 of the Trade Act of 1974,

(B) the governments of the beneficiary countries,

(C) the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, and

(D) other interested parties.

## **SEC. 224. CUMULATION INVOLVING BENEFICIARY COUNTRY PRODUCTS UNDER THE COUNTERVAILING AND ANTIDUMPING DUTY LAWS.**

(a) MATERIAL INJURY- Section 771(7)(C)(iv) of the Tariff Act of 1930 (19 U.S.C. 1677(7)(C)(iv)) is amended to read as follows:

    (iv) CUMULATION-

        (I) IN GENERAL- For purposes of clauses (i) and (ii) and subject to subclause (II), the Commission shall cumulatively assess the volume and effect of imports from two or more countries of like products subject to investigation if such imports compete with each other and with like products of the domestic industry in the United States market.

        (II) CBI EXCEPTION- Solely for purposes of determining material injury, or the threat thereof, by reason of imports which are products of a country designated as a beneficiary country under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.), the volume and effect of imports from such country may only be cumulatively assessed with imports of like products from one or more other countries designated as beneficiary countries.'

(b) THREAT OF MATERIAL INJURY- Section 771(7)(F)(iv) of the Tariff Act of 1930 (19 U.S.C. 1677(7)(F)(iv)) is amended by striking out '(C)(v),' and inserting '(C)(iv)(II) and (v),'

(c) EFFECTIVE DATE- The amendments made by subsections (a) and (b) apply with respect to investigations (including investigations regarding products of Canadian origin) initiated under section 702 or 732 of the Tariff Act of 1930 on or after the date of the enactment of this Act.

## **SEC. 225. ETHYL ALCOHOL.**

Section 7(b) of the Steel Trade Liberalization Program Implementation Act (19 U.S.C. 2703 note) is amended by striking out 'calendar years 1990 and 1991.' and inserting 'calendar

years after 1989.'

## **SEC. 226. CONFORMING AMENDMENT.**

Section 503(b) of the Trade Act of 1974 (19 U.S.C. 2463(b)) is amended to read as follows:

`(b)(1) The duty-free treatment provided under section 501 shall apply to any eligible article which is the growth, product, or manufacture of a beneficiary developing country if--

`(A) that article is imported directly from a beneficiary developing country into the customs territory of the United States; and

`(B) the sum of (i) the cost or value of the materials produced in the beneficiary developing country or any 2 or more countries which are members of the same association of countries which is treated as one country under section 502(a)(3), plus (ii) the direct costs of processing operations performed in such beneficiary developing country or such member countries is not less than 35 percent of the appraised value of such article at the time of its entry into the customs territory of the United States.

`(2) The Secretary of the Treasury, after consulting with the United States Trade Representative, shall prescribe such regulations as may be necessary to carry out this subsection, including, but not limited to, regulations providing that, in order to be eligible for duty-free treatment under this title, an article must be wholly the growth, product, or manufacture of a beneficiary developing country, or must be a new or different article of commerce which has been grown, produced, or manufactured in the beneficiary developing country; but no article or material of a beneficiary developing country shall be eligible for such treatment by virtue of having merely undergone--

`(A) simple combining or packaging operations, or

`(B) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.'

## **SEC. 227. REQUIREMENT FOR INVESTMENT OF SECTION 936 FUNDS IN CARIBBEAN BASIN COUNTRIES.**

(a) GENERAL RULE- Paragraph (4) of section 936(d) of the Internal Revenue Code of 1986 (relating to investment in Caribbean Basin countries) is amended by adding at the end thereof the following new subparagraph:

`(D) Requirement for investment in caribbean basin countries-

`(i) IN GENERAL- For each calendar year, the government of Puerto Rico shall take such steps as may be necessary to ensure that at least \$100,000,000 of qualified Caribbean Basin country investments are made during such calendar year.

`(ii) QUALIFIED CARIBBEAN BASIN COUNTRY INVESTMENT- For purposes of clause (i), the term `qualified Caribbean Basin country investment' means any investment if--

`(I) the income from such investment is treated as qualified possession source investment income by reason of subparagraph (A), and

`(II) such investment is not (directly or indirectly) a refinancing of a

prior investment (whether or not such prior investment was a qualified Caribbean Basin country investment).'

(b) EFFECTIVE DATE- The amendment made by subsection (a) shall apply to calendar years after 1989.

### **Subtitle C--Scholarship Assistance and Tourism Promotion**

#### **SEC.-231.-COOPERATIVE PUBLIC AND PRIVATE SECTOR PROGRAM FOR PROVIDING SCHOLARSHIPS TO STUDENTS FROM THE CARIBBEAN AND CENTRAL AMERICA.**

(a) STATEMENT OF PURPOSE- It is the purpose of this section to encourage the establishment of partnerships between State governments, universities, community colleges, and businesses to support scholarships for talented socially and economically disadvantaged students from eligible countries in the Caribbean and Central America to study in the United States in order to--

- (1) improve the diversity and quality of educational opportunities for such students;
- (2) assist the development efforts of eligible countries by providing training and educational assistance to persons who can help address the social and economic needs of these countries;
- (3) expand opportunities for cross-cultural studies and exchanges and improve the exchange of understanding and principles of democracy;
- (4) promote positive and productive relationships between the United States and its neighbor countries in the Caribbean and Central American regions;
- (5) give added visibility and focus to the 'scholarship diplomacy' efforts of the United States Government by leveraging the monies available for this purpose through the development of partnerships among Federal, State, and local governments and the business and academic communities; and
- (6) promote community involvement with the scholarship program as a tool for broadening and strengthening the 'American experience' for foreign students.

(b) ESTABLISHMENT OF SCHOLARSHIP PROGRAM- The Administrator of the Agency for International Development shall establish and administer a program of scholarship assistance, in cooperation with State governments, universities, community colleges, and businesses, to provide scholarships to enable socially and economically disadvantaged students from eligible countries in the Caribbean and Central America to study in the United States.

(c) GRANTS TO STATES- In carrying out this section, the Administrator may make grants to States to provide scholarship assistance for undergraduate degree programs and for training programs of one year or longer in study areas related to the critical development needs of the students' respective countries.

(d) AGREEMENT WITH STATES- The Administrator and each participating State shall agree on a program regarding the educational opportunities available within the State, the selection and assignment of scholarship recipients, and related issues. To the maximum extent practicable, each State shall be given flexibility in designing its program.

(e) FEDERAL SHARE- The Federal share for each year for which a State receives payments under this section shall be not less than 50 percent.

(f) NON-FEDERAL SHARE- The non-Federal share of payments under this section may be in cash, including the waiver of tuition or the offering of in-State tuition or housing waivers or subsidies, or in-kind fairly evaluated, including the provision of books or supplies.

(g) FORGIVENESS OF SCHOLARSHIP ASSISTANCE- The obligation of any recipient to reimburse any entity for any or all scholarship assistance provided under this section shall be forgiven upon the recipient's prompt return to his or her country of domicile for a period which is at least one year longer than the period spent studying in the United States with scholarship assistance.

(h) PRIVATE SECTOR PARTICIPATION- To the maximum extent practicable, each participating State shall enlist the assistance of the private sector to enable the State to meet the non-Federal share of payments under this section. Wherever appropriate, each participating State shall encourage the private sector to offer internships or other opportunities consistent with the purposes of this section to students receiving scholarships under this section.

(i) FUNDING- Any funds used in carrying out this section shall be derived from funds allocated for Latin American and Caribbean regional programs under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund).

(j) DEFINITIONS- As used in this section--

(1) The term `eligible country' means any country--

(A) which is receiving assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance) or chapter 4 of part II of that Act (22 U.S.C. 2346 and following; relating to the economic support fund); and

(B) which is designated by the President as a beneficiary country pursuant to the Caribbean Basin Economic Recovery Act.

(2) The term `State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

## **SEC. 232. PROMOTION OF TOURISM.**

(a) CONGRESSIONAL FINDING- The Congress finds that the tourism industry must be recognized as a central element in the economic development and political stability of the Caribbean Basin region because of the potential that the industry has for increasing employment and foreign exchange earnings, establishing important linkages with other related sectors, and having a positive complementary effect on trade with the United States.

(b) FEDERAL AGENCY PRIORITY- It is the sense of the Congress that increased tourism and related activities should be developed in the Caribbean Basin region as a central part of the Caribbean Basin Initiative program and, to that end, the appropriate agencies of the United States Government should assign a high priority to projects that promote the tourism

industry in the Caribbean Basin.

(c) **STUDY-** The Secretary of Commerce shall complete the study begun in 1986 regarding tourism development strategies for the Caribbean Basin region. The study shall include--

(1) information on the mutual benefits received by the United States and the Caribbean Basin economies as a result of tourist activity in the area; and

(2) proposals for developing increased linkages between the tourism industry and local industries in the region such as the agrobusiness.

### **SEC. 233. PILOT PRECLEARANCE PROGRAM.**

(a) **ESTABLISHMENT OF PROGRAM-** Subject to subsection (b), the Commissioner of Customs shall carry out, during fiscal years 1991 and 1992, preclearance operations at a facility of the United States Customs Service in a country within the Caribbean Basin which the Commissioner of Customs considers appropriate for testing the extent to which the availability of preclearance operations can assist in the development of tourism.

(b) **RESTRICTIONS REGARDING PROGRAM-**

(1) The Commissioner of Customs may not consider a country within the Caribbean Basin to be appropriate for the testing referred to in subsection (a) if preclearance operations are currently carried out by the United States Customs Service in that country.

(2) Preclearance operations may not be commenced in the country selected for testing under subsection (a) unless the Commissioner of Customs and the Commissioner of Immigration and Naturalization jointly certify that--

(A) there exists a bilateral agreement between the United States Government and the government of such country which protects the interests of the United States and affords diplomatic protection to United States employees working at the preclearance location;

(B) the facilities at the preclearance location conform to Federal Inspection Services standards and are suitable for the duties to be performed therein;

(C) there is adequate security around the structure used for the reception of international arrivals;

(D) the government of such country grants the United States Customs Service and the United States Immigration and Naturalization Service appropriate search, seizure, and arrest authority; and

(E) United States employees and their families will not be subject to fear of reprisal, acts of terrorism, and threats of intimidation.

(3) In determining the country in which to establish the operation described in paragraph (1), the Commissioner of Customs and the Commissioner of Immigration and Naturalization shall first determine the viability of establishing such operations in either Aruba or Jamaica. If the Commissioners determine, after full consultation with the governments of such countries, that it is not viable to establish pre-clearance operations in either Aruba or Jamaica, they shall so report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of

Representatives, including an explanation of how this determination was reached. Such report shall be submitted to those Committees within six months after the date of the enactment of this Act. Following the submission of such a report, the Commissioners shall take all necessary steps, consistent with the requirements of this section, to establish such operations in another country.

#### **Subtitle D--Miscellaneous Provisions**

### **SEC. 241. TRADE BENEFITS FOR NICARAGUA.**

Notwithstanding any other provision of law, the President is authorized to designate Nicaragua as a beneficiary developing country for the purposes of title V of the Trade Act of 1974, as amended, and as a beneficiary country under the Caribbean Basin Economic Recovery Act, and any such designation may remain effective for the duration of the calendar year 1990.

### **SEC. 242. AGRICULTURAL INFRASTRUCTURE SUPPORT.**

It is the sense of Congress that in order to facilitate trade with, and the economic development of, the countries designated as beneficiary countries under the Caribbean Basin Economic Recovery Act, the Secretary of Agriculture should, in consultation with the Agribusiness Promotion Council, coordinate with the Agency for International Development the development of programs to encourage improvements in the transportation and cargo handling infrastructure in these countries for the purpose of improving agricultural trade between these countries and the United States. Such programs should focus on improving distribution of agricultural commodities and products in these countries, and the phytosanitary institutions, quarantine capabilities, and pesticide regulations of these countries regarding agricultural commodities and products.

### **SEC. 243. EXTENSION OF TRADE BENEFITS TO THE ANDEAN REGION.**

(a) FINDINGS- The Congress finds that:

- (1) United States antinarcotics policy places a high priority on assisting the nations of the Andean region of South America, the source of 100 percent of the world's supply of cocaine.
- (2) The President and Congress have recognized that United States trade and economic policies play an important role in the overall United States antidrug strategy in the Andes.
- (3) The extension of special trade preferences for articles from the Andean region would help revitalize the national economies of the Andes and further United States antinarcotics policy in the region.

(b) SENSE OF CONGRESS- The Congress urges the President to--

- (1) review the merits of extending the benefits provided under the Caribbean Basin Economic Recovery Act to the Andean region; and
- (2) continue to explore additional mechanisms to expand trade opportunities for the Andean region, and report to Congress in a regular and timely fashion on the result of this review.

# CARIBBEAN BASIN ECONOMIC RECOVERY ACT

## Sec. 2701. Authority to grant duty-free treatment

The President may proclaim duty-free treatment for all eligible articles from any beneficiary country in accordance with the provisions of this chapter.

## Sec. 2702. Beneficiary country

- (a) Definitions; termination of designation
  - (1) For purposes of this chapter -
    - (A) The term "beneficiary country" means any country listed in subsection (b) of this section with respect to which there is in effect a proclamation by the President designating such country as a beneficiary country for purposes of this chapter. Before the President designates any country as a beneficiary country for purposes of this chapter, he shall notify the House of Representatives and the Senate of his intention to make such designation, together with the considerations entering into such decision.
    - (B) The term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.
    - (C) The term "HTS" means Harmonized Tariff Schedule of the United States.
  - (2) If the President has designated any country as a beneficiary country for purposes of this chapter, he shall not terminate such designation (either by issuing a proclamation for that purpose or by issuing a proclamation which has the effect of terminating such designation) unless, at least sixty days before such termination, he has notified the House of Representatives and the Senate and has notified such country of his intention to terminate such designation, together with the considerations entering into such decision.
- (b) Countries eligible for designation as beneficiary countries; conditions  
In designating countries as "beneficiary countries" under this chapter the President shall consider only the following countries and territories or successor political entities:  
Anguilla Jamaica  
Antigua and Barbuda Nicaragua

Bahamas, The Panama  
Barbados Saint Lucia  
Belize Saint Vincent and the  
Costa Rica Grenadines  
Dominica Suriname  
Dominican Republic Trinidad and Tobago  
El Salvador Cayman Islands  
Grenada Montserrat  
Guatemala Netherlands Antilles  
Guyana Saint Christopher-Nevis  
Haiti Turks and Caicos Islands  
Honduras Virgin Islands, British In addition, the President shall not designate any country a beneficiary country under this chapter -

- (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). Paragraphs (1), (2), (3), (5), and (7) shall not prevent the designation of any country as a beneficiary country under this Act if the President determines that such designation will be in the national economic or security interest of the United States and reports such determination to the Congress with his reasons therefor.
- (c) Factors determining designation  
In determining whether to designate any country a beneficiary country under this chapter, the President shall take into account –

- (1) an expression by such country of its desire to be so designated;
  - (2) the economic conditions in such country, the living standards of its inhabitants, and any other economic factors which he deems appropriate;
  - (3) the extent to which such country has assured the United States it will provide equitable and reasonable access to the markets and basic commodity resources of such country;
  - (4) the degree to which such country follows the accepted rules of international trade provided for under the WTO Agreement and the multilateral trade agreements (as such terms are defined in paragraphs (9) and (4), respectively, of section [3501](#) of this title);
  - (5) the degree to which such country uses export subsidies or imposes export performance requirements or local content requirements which distort international trade;
  - (6) the degree to which the trade policies of such country as they relate to other beneficiary countries are contributing to the revitalization of the region;
  - (7) the degree to which such country is undertaking self-help measures to promote its own economic development;
  - (8) whether or not such 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. [\[1\]](#)
  - (9) the extent to which such country provides under its law adequate and effective means for foreign nationals to secure, exercise, and enforce exclusive rights in intellectual property, including patent, trademark, and copyright rights;
  - (10) the extent to which such country prohibits its nationals from engaging in the broadcast of copyrighted material, including films or television material, belonging to United States copyright owners without their express consent; and
  - (11) the extent to which such country is prepared to cooperate with the United States in the administration of the provisions of this chapter.
- (d) Omitted
  - (e) Withdrawal or suspension of duty-free treatment to specific articles
    - (1) The President may, after the requirements of subsection (a)(2) of this section and paragraph (2) have been met -

- (A) withdraw or suspend the designation of any country as a beneficiary country, or
  - (B) withdraw, suspend, or limit the application of duty-free treatment under this chapter to any article of any country, if, after such designation, the President determines that as a result of changed circumstances such country would be barred from designation as a beneficiary country under subsection (b) of this section.
- (2)
    - (A) The President shall publish in the Federal Register notice of the action the President proposes to take under paragraph (1) at least 30 days prior to taking such action.
    - (B) The United States Trade Representative shall, within the 30-day period beginning on the date on which the President publishes under subparagraph (A) notice of proposed action -
      - (i) accept written comments from the public regarding such proposed action,
      - (ii) hold a public hearing on such proposed action, and
      - (iii) publish in the Federal Register -
    - (I) notice of the time and place of such hearing prior to the hearing, and
    - (II) the time and place at which such written comments will be accepted.
  - (f) Reporting requirements  
 On or before October 1, 1993, and the close of each 3-year period thereafter, the President shall submit to the Congress a complete report regarding the operation of this chapter, including the results of a general review of beneficiary countries based on the considerations described in subsections (b) and (c) of this section.

### **Sec. 2703. Eligible articles**

- (a) Growth, product, or manufacture of beneficiary countries
- (1) Unless otherwise excluded from eligibility by this chapter, and subject to section 423 of the Tax Reform Act of 1986, the duty-free treatment provided under this chapter shall apply to any article which is the growth, product, or manufacture of a beneficiary country if -
  - (A) that article is imported directly from a beneficiary country into the customs territory of the United States; and

- (B) the sum of (i) the cost or value of the materials produced in a beneficiary country or two or more beneficiary countries, plus (ii) the direct costs of processing operations performed in a beneficiary country or countries is not less than 35 per centum of the appraised value of such article at the time it is entered. For purposes of determining the percentage referred to in subparagraph (B), the term "beneficiary country" includes the Commonwealth of Puerto Rico and the United States Virgin Islands. If the cost or value of materials produced in the customs territory of the United States (other than the Commonwealth of Puerto Rico) is included with respect to an article to which this paragraph applies, an amount not to exceed 15 per centum of the appraised value of the article at the time it is entered that is attributed to such United States cost or value may be applied toward determining the percentage referred to in subparagraph (B).
- (2) The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out this subsection including, but not limited to, regulations providing that, in order to be eligible for duty-free treatment under this chapter, an article must be wholly the growth, product, or manufacture of a beneficiary country, or must be a new or different article of commerce which has been grown, produced, or manufactured in the beneficiary country; but no article or material of a beneficiary country shall be eligible for such treatment by virtue of having merely undergone -
  - (A) simple combining or packaging operations, or
  - (B) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.
- (3) As used in this subsection, the phrase "direct costs of processing operations" includes, but is not limited to -
  - (A) all actual labor costs involved in the growth, production, manufacture, or assembly of the specific merchandise, including fringe benefits, on-the-job training and the cost of engineering, supervisory, quality control, and similar personnel; and
  - (B) dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise. Such phrase does not include costs which are not directly attributable to the merchandise concerned or are not costs of manufacturing the product, such as (i) profit, and (ii) general expenses of doing business which are either not allocable to the specific merchandise or are not related to the growth, production, manufacture, or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions or expenses.
- (4) Notwithstanding section [1311](#) of this title, the products of a beneficiary country which are imported directly from any beneficiary country into Puerto Rico may be entered under bond for processing or use in manufacturing in Puerto Rico. No duty shall be imposed on the withdrawal from warehouse of the product of such processing or manufacturing if, at the time of such withdrawal, such product meets the requirements of paragraph (1)(B).

- (5) The duty-free treatment provided under this chapter shall apply to an article (other than an article listed in subsection (b) of this section) which is the growth, product, or manufacture of the Commonwealth of Puerto Rico if -
  - (A) the article is imported directly from the beneficiary country into the customs territory of the United States,
  - (B) the article was by any means advanced in value or improved in condition in a beneficiary country, and
  - (C) if any materials are added to the article in a beneficiary country, such materials are a product of a beneficiary country or the United States.
- (b) Articles to which duty-free treatment does not apply  
The duty-free treatment provided under this chapter shall not apply to -
  - (1) textile and apparel articles which are subject to textile agreements;
  - (2) footwear not designated at the time of the effective date of this chapter (Aug. 5, 1983) as eligible articles for the purpose of the generalized system of preferences under title V of the Trade Act of 1974 (19 U.S.C. 2461 et seq.);
  - (3) tuna, prepared or preserved in any manner, in airtight containers;
  - (4) petroleum, or any product derived from petroleum, provided for in headings 2709 and 2710 of the Harmonized Tariff Schedule of the United States;
  - (5) watches and watch parts (including cases, bracelets and straps), of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which HTS column 2 rates of duty apply; or
  - (6) articles to which reduced rates of duty apply under subsection (h) of this section.
- (c) Sugar and beef products; stable food production plan; suspension of duty-free treatment; monitoring
  - (1) As used in this subsection -
    - (A) The term "sugar and beef products" means -
      - (i) sugars, sirups, and molasses provided for in subheadings 1701.11.00, 1701.12.00, 1701.91.20, 1701.99.00, 1702.90.30, 1806.10.40, and 2106.90.10 of the Harmonized Tariff Schedule of the United States, and

- (ii) articles of beef or veal, however provided for in chapters [2](#) and 16 of the Harmonized Tariff Schedule of the United States.
- (B) The term "Plan" means a stable food production plan that consists of measures and proposals designed to ensure that the present level of food production in, and the nutritional level of the population of, a beneficiary country will not be adversely affected by changes in land use and land ownership that will result if increased production of sugar and beef products is undertaken in response to the duty-free treatment extended under this chapter to such products. A Plan must specify such facts regarding, and such proposed actions by, a beneficiary country as the President deems necessary for purposes of carrying out this subsection, including but not limited to -
  - (i) the current levels of food production and nutritional health of the population;
  - (ii) current level of production and export of sugar and beef products;
  - (iii) expected increases in production and export of sugar and beef products as a result of the duty-free access to the United States market provided under this chapter;
  - (iv) measures to be taken to ensure that the expanded production of those products because of such duty-free access will not occur at the expense of stable food production; and
  - (v) proposals for a system to monitor the impact of such duty-free access on stable food production and land use and land ownership patterns.
- (2) Duty-free treatment extended under this chapter to sugar and beef products that are the product of a beneficiary country shall be suspended by the President under this subsection if -
  - (A) the beneficiary country, within the ninety-day period beginning on the date of its designation as such a country under section [2702](#) of this title, does not submit a Plan to the President for evaluation;
  - (B) on the basis of his evaluation, the President determines that the Plan of a beneficiary country does not meet the criteria set forth in paragraph (1)(B); or
  - (C) as a result of the monitoring of the operation of the Plan under paragraph (5), the President determines that a beneficiary country is not making a good faith effort to implement its Plan, or that the measures and proposals in the Plan, although being implemented, are not achieving their purposes.
- (3) Before the President suspends duty-free treatment by reason of paragraph

(2)(A), (B), or (C) to the sugar and beef products of a beneficiary country, he must offer to enter into consultation with the beneficiary country for purposes of formulating appropriate remedial action which may be taken by that country to avoid such suspension. If the beneficiary country thereafter enters into consultation within a reasonable time and undertakes to formulate remedial action in good faith, the President shall withhold the suspension of duty-free treatment on the condition that the remedial action agreed upon be appropriately implemented by that country.

- (4) The President shall monitor on a biennial basis the operation of the Plans implemented by beneficiary countries, and shall submit a written report to Congress by March 15 following the close of each biennium, that -
  - (A) specifies the extent to which each Plan, and remedial actions, if any, agreed upon under paragraph (4), have been implemented; and
  - (B) evaluates the results of such implementation.
- (5) The President shall terminate any suspension of duty-free treatment imposed under this subsection if he determines that the beneficiary country has taken appropriate action to remedy the factors on which the suspension was based.
- (d) Tariff-rate quotas  
No quantity of an agricultural product subject to a tariff-rate quota that exceeds the in-quota quantity shall be eligible for duty-free treatment under this chapter.
- (e) Proclamations suspending duty-free treatment
  - (1) The President may by proclamation suspend the duty-free treatment provided by this chapter with respect to any eligible article and may proclaim a duty rate for such article if such action is provided under chapter [1](#) of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.) or section [1862](#) of this title.
  - (2) In any report by the International Trade Commission to the President under section 202(f) of the Trade Act of 1974 (19 U.S.C. 2252(f)) regarding any article for which duty-free treatment has been proclaimed by the President pursuant to this chapter, the Commission shall state whether and to what extent its findings and recommendations apply to such article when imported from beneficiary countries.
  - (3) For purposes of subsections <sup>[1]</sup> section 203 of the Trade Act of 1974 (19 U.S.C. 2253(a), (c)), the suspension of the duty-free treatment provided by this chapter shall be treated as an increase in duty.  
<sup>[1]</sup> So in original.
  - (4) No proclamation which provides solely for a suspension referred to in paragraph (3) of this subsection with respect to any article shall be taken under section 203 of the Trade Act of 1974 (19 U.S.C. 2253) unless the United States International Trade Commission, in addition to making an affirmative determination with respect to such article under section 202(b) of the Trade Act of 1974 (19 U.S.C. 2252(b)), determines in the course of its investigation under such section that the serious injury (or threat thereof) substantially caused by

imports to the domestic industry producing a like or directly competitive article results from the duty-free treatment provided by this chapter.

- (5)
- (A) Any action taken under section 203 of the Trade Act of 1974 (19 U.S.C. 2253) that is in effect when duty-free treatment pursuant to section [2701](#) <sup>[2]</sup> of this title is proclaimed shall remain in effect until modified or terminated.
- (B) If any article is subject to any such action at the time duty-free treatment is proclaimed pursuant to section [2701](#) of this title, the President may reduce or terminate the application of such action to the importation of such article from beneficiary countries prior to the otherwise scheduled date on which such reduction or termination would occur pursuant to the criteria and procedures of section 203 of the Trade Act of 1974 (19 U.S.C. 2253).
- (f) Petitions to International Trade Commission
- (1) If a petition is filed with the International Trade Commission pursuant to the provisions of section 201 of the Trade Act of 1974 (19 U.S.C. 2251) regarding a perishable product and alleging injury from imports from beneficiary countries, then the petition may also be filed with the Secretary of Agriculture with a request that emergency relief be granted pursuant to paragraph (3) of this subsection with respect to such article.
- (2) Within fourteen days after the filing of a petition under paragraph (1) of this subsection -
- (A) if the Secretary of Agriculture has reason to believe that a perishable product from a beneficiary country is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing a perishable product like or directly competitive with the imported product and that emergency action is warranted, he shall advise the President and recommend that the President take emergency action; or
- (B) the Secretary of Agriculture shall publish a notice of his determination not to recommend the imposition of emergency action and so advise the petitioner.
- (3) Within seven days after the President receives a recommendation from the Secretary of Agriculture to take emergency action pursuant to paragraph (2) of this subsection, he shall issue a proclamation withdrawing the duty-free treatment provided by this chapter or publish a notice of his determination not to take emergency action.
- (4) The emergency action provided by paragraph (3) of this subsection shall cease to apply -
- (A) upon the taking of action under section 203 of the Trade Act of 1974 (19 U.S.C. 2253),

- (B) on the day a determination by the President not to take action [\(1\)](#) under section 203 of such Act (19 U.S.C. 2253) not to take action [\(1\)](#) becomes final,
- (C) in the event of a report of the United States International Trade Commission containing a negative finding, on the day the Commission's report is submitted to the President, or
- (D) whenever the President determines that because of changed circumstances such relief is no longer warranted.
- (5) For purposes of this subsection, the term "perishable product" means -
- (A) live plants and fresh cut flowers provided for in chapter [6](#) of the HTS;
- (B) fresh or chilled vegetables provided for in headings 0701 through 0709 (except subheading 0709.52.00) and heading 0714 of the HTS;
- (C) fresh fruit provided for in subheadings 0804.20 through 0810.90 (except citrons of subheading 0805.90.00, tamarinds and kiwi fruit of subheading 0810.90.20, and cashew apples, mameyes colorados, sapodillas, soursops and sweetsops of subheading 0810.90.40) of the HTS; and
- (D) concentrated citrus fruit juice provided for in subheadings 2009.11.00, 2009.19.40, 2009.20.40, 2009.30.20, and 2009.30.60 of the HTS.
- (g) Fees not affected by proclamation  
No proclamation issued pursuant to this chapter shall affect fees imposed pursuant to section [624](#) of title 7.
- (h) Duty reduction for certain leather-related products
- (1) Subject to paragraph (2), the President shall proclaim reductions in the rates of duty on handbags, luggage, flat goods, work gloves, and leather wearing apparel that -
- (A) are the product of any beneficiary country; and
- (B) were not designated on August 5, 1983, as eligible articles for purposes of the generalized system of preferences under title V of the Trade Act of 1974 (19 U.S.C. 2461 et seq.).
- (2) The reduction required under paragraph (1) in the rate of duty on any article shall -
- (A) result in a rate that is equal to 80 percent of the rate of duty that applies to the article on December 31, 1991, except that, subject to the limitations in paragraph (3), the reduction may not exceed 2.5 percent ad valorem; and

- (B) be implemented in 5 equal annual stages with the first one-fifth of the aggregate reduction in the rate of duty being applied to entries, or withdrawals from warehouse for consumption, of the article on or after January 1, 1992.
- (3) The reduction required under this subsection with respect to the rate of duty on any article is in addition to any reduction in the rate of duty on that article that may be proclaimed by the President as being required or appropriate to carry out any trade agreement entered into under the Uruguay Round of trade negotiations; except that if the reduction so proclaimed -
- (A) is less than 1.5 percent ad valorem, the aggregate of such proclaimed reduction and the reduction under this subsection may not exceed 3.5 percent ad valorem, or
- (B) is 1.5 percent ad valorem or greater, the aggregate of such proclaimed reduction and the reduction under this subsection may not exceed the proclaimed reduction plus 1 percent ad valorem.

#### **Sec. 2704. International Trade Commission reports on impact of Caribbean Basin Economic Recovery Program**

- (a) Reporting requirement  
The United States International Trade Commission (hereinafter in this section referred to as the "Commission") shall prepare, and submit to the Congress and to the President, a report regarding the economic impact of this Act on United States industries and consumers during -
- (1) the twenty-four-month period beginning with August 5, 1983; and
- (2) each calendar year occurring thereafter until duty-free treatment under this chapter is terminated under section [2706\(b\)](#) <sup>[1]</sup> of this title.
- (b) Requisite areas of Commission assessment
- (1) Each report required under subsection (a) of this section shall include, but not be limited to, an assessment by the Commission regarding -
- (A) the actual effect, during the period covered by the report, of this Act on the United States economy generally as well as on those specific domestic industries which produce articles that are like, or directly competitive with, articles being imported into the United States from beneficiary countries; and
- (B) the probable future effect which this Act will have on the United States economy generally, as well as on such domestic industries, before the provisions of this Act terminate.

- (2) In preparing the assessments required under paragraph (1), the Commission shall, to the extent practicable -
- (A) analyze the production, trade and consumption of United States products affected by this Act, taking into consideration employment, profit levels, and use of productive facilities with respect to the domestic industries concerned, and such other economic factors in such industries as it considers relevant, including prices, wages, sales, inventories, patterns of demand, capital investment, obsolescence of equipment, and diversification of production; and
- (B) describe the nature and extent of any significant change in employment, profit levels, and use of productive facilities, and such other conditions as it deems relevant in the domestic industries concerned, which it believes are attributable to this Act.
- (c) Time of submission of reports; public participation
- (1) Each report required under subsection (a) of this section shall be submitted to the Congress and to the President before the close of the nine-month period beginning on the day after the last day of the period covered by the report.
- (2) The Commission shall provide opportunity for the submission by the public, either orally or in writing, or both, of information relating to matters that will be addressed in the reports.

### **Sec. 2705. Impact study by Secretary of Labor**

The Secretary of Labor, in consultation<sup>1</sup> with other appropriate Federal agencies, shall undertake a continuing review and analysis of the impact which the implementation of the provisions of this chapter have with respect to United States labor; and shall make an annual written report to Congress on the results of such review and analysis.

### **Sec. 2706. Effective date**

- (a) This chapter shall take effect on August 5, 1983.
- (b) Repealed. Pub. L. 101-382, title II, Sec. 211, Aug. 20, 1990, 104 Stat. 655.

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<sup>1</sup> So in original. Probably should be "consultation".

## **Sec. 2707. Center for the Study of Western Hemispheric Trade**

- (a) Establishment  
The Commissioner of Customs, after consultation with appropriate officials in the State of Texas, is authorized and directed to make grants to an institution (or a consortium of such institutions) to assist such institution in planning, establishing, and operating a Center for the Study of Western Hemispheric Trade (hereafter in this section referred to as the "Center"). The Commissioner of Customs shall make the first grant not later than December 1, 1994, and the Center shall be established not later than February 1, 1995.
- (b) Scope of Center  
The Center shall be a year-round program operated by an institution located in the State of Texas (or a consortium of such institutions), the purpose of which is to promote and study trade between and among Western Hemisphere countries. The Center shall conduct activities designed to examine -
  - (1) the impact of the NAFTA on the economies in, and trade within, the Western Hemisphere;
  - (2) the negotiation of any future free trade agreements, including possible accessions to the NAFTA; and
  - (3) adjusting tariffs, reducing nontariff barriers, improving relations among customs officials, and promoting economic relations among countries in the Western Hemisphere.
- (c) Consultation; selection criteria  
The Commissioner of Customs shall consult with appropriate officials of the State of Texas and private sector authorities with respect to selecting, planning, and establishing the Center. In selecting the appropriate institution, the Commissioner of Customs shall give consideration to -
  - (1) the institution's ability to carry out the programs and activities described in this section; and
  - (2) any resources the institution can provide the Center in addition to Federal funds provided under this program.
- (d) Programs and activities  
The Center shall conduct the following activities:
  - (1) Provide forums for international discussion and debate for representatives from countries in the Western Hemisphere regarding issues which affect trade and other economic relations within the hemisphere, including the impact of the NAFTA on individual economies and the desirability and feasibility of possible accessions to the NAFTA by such countries.
  - (2) Conduct studies and research projects on subjects which affect Western Hemisphere trade, including tariffs, customs, regional and national economics, business development and

finance, production and personnel management, manufacturing, agriculture, engineering, transportation, immigration, telecommunications, medicine, science, urban studies, border demographics, social anthropology, and population.

- (3) Publish materials, disseminate information, and conduct seminars and conferences to support and educate representatives from countries in the Western Hemisphere who seek to do business with or invest in other Western Hemisphere countries.
- (4) Provide grants, fellowships, endowed chairs, and financial assistance to outstanding scholars and authorities from Western Hemisphere countries.
- (5) Provide grants, fellowships, and other financial assistance to qualified graduate students, from Western Hemisphere countries, to study at the Center.
- (6) Implement academic exchange programs and other cooperative research and instructional agreements with the complementary North/South Center at the University of Miami at Coral Gables.
- (e) Definitions  
For purposes of this section -
  - (1) NAFTA  
The term "NAFTA" means the North American Free Trade Agreement.
  - (2) Western Hemisphere countries  
The terms "Western Hemisphere countries", "countries in the Western Hemisphere", and "Western Hemisphere" mean Canada, the United States, Mexico, countries located in South America, beneficiary countries (as defined by section [2702](#) of this title), the Commonwealth of Puerto Rico, and the United States Virgin Islands.
- (f) Fees for seminars and publications  
Notwithstanding any other provision of law, a grant made under this section may provide that the Center may charge a reasonable fee for attendance at seminars and conferences and for copies of publications, studies, reports, and other documents the Center publishes. The Center may waive such fees in any case in which it determines imposing a fee would impose a financial hardship and the purposes of the Center would be served by granting such a waiver.
- (g) Duration of grant  
The Commissioner of Customs is directed to make grants to any institution or institutions selected as the Center for fiscal years 1994, 1995, 1996, and 1997.
- (h) Report  
The Commissioner of Customs shall, no later than July 1, 1994, and annually thereafter for years for which grants are made, submit a written report to the Committee on Finance of the Senate and the Committee on Ways and Means of

the House of Representatives. The first report shall include -

- (1) a statement identifying the institution or institutions selected as the Center;
- (2) the reasons for selecting the institution or institutions as the Center; and
- (3) the plan of such institution or institutions for operating the Center. Each subsequent report shall include information with respect to the operations of the Center, the collaboration of the Center with, and dissemination of information to, Government policymakers and the business community with respect to the study of Western Hemispheric trade by the Center, and the plan and efforts of the Center to continue operations after grants under this section have expired.