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CARIBBEAN BASIN INITIATIVE

Legislative and Agency Actions Relating to the CBI

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The Honorable J. J. Pickle
Chairman, Subcommittee on Oversight
Committee on Ways and Means
House of Representatives

Dear Mr. Chairman:

On November 5, 1986, you requested that we provide you with information on legislation enacted by the 99th Congress as well as rules, regulations, and decisions of U.S. agencies which could constrain the effectiveness of the Caribbean Basin Initiative (CBI) legislation enacted in 1983. Because you needed this information in early December, we did not conduct fieldwork in CBI countries, contact all potentially involved U.S. agencies, or assess the validity of potential constraints to the CBI identified by agency officials. As part of our future work, we intend to review factors constraining the effectiveness of the CBI in more depth.

BACKGROUND

The Caribbean Basin Economic Recovery Act (19 U.S.C. 2701) was enacted in August 1983 to permit eligible products from designated countries in Central America and the Caribbean to be imported into the United States duty free. This duty-free treatment was the centerpiece of the CBI proposed by the administration in 1982 to promote economic and political stability by attracting foreign and domestic investment in these countries, thereby diversifying the economies and expanding exports, particularly of non-traditional products.

In addition to the trade benefits, U.S. agencies, such as the Department of Commerce and the Agency for International Development (AID), fund various programs to facilitate business investments in CBI countries and assist the CBI countries to export their products. AID and Commerce officials emphasized that increased U.S. investment in Central America and the Caribbean and increased U.S. purchases of products from the region are essential to achieving CBI goals. The administration has established a CBI Task Force under the direction of the U.S. Trade Representative to coordinate overall U.S. CBI programs. Emphasizing the importance of the CBI, the President has directed all administration officials to provide "personal attention and the institutional support needed for success" to U.S. CBI programs.

LEGISLATIVE CONSTRAINTS

When enacted in August 1983, the Caribbean Basin Economic Recovery Act was to have provided duty-free treatment for 12 years for most Caribbean and Central American products entering the United States. Specific products, such as petroleum, textiles, and certain leather goods, were not granted duty-free treatment because of their import sensitivity. Section 423 of the Tax Reform Act of 1986 amended the 1983 CBI legislation by restricting duty-free imports of ethanol from CBI countries. According to Commerce and private sector officials, this provision threatens ethanol investments made under the CBI valued at more than $30 million and discourages new ethanol investments in the Caribbean Basin.

Officials from AID, the Departments of State and Commerce, and the Office of the U.S. Trade Representative expressed concern that new trade legislation to be considered by the 100th Congress may place further restrictions on the duty-free access under the CBI as well as restricting imports, such as textiles, which, although not eligible for duty-free treatment under the CBI, are significant export products from Central America and the Caribbean.

In addition to the amendment restricting ethanol imports, U.S. officials from the principal agencies responsible for CBI programs cited several legislative provisions, included in the Continuing Resolution for fiscal year 1987 appropriations (Public Law 99-591), which may restrict U.S. programs and activities that support the CBI. These include:

1. Section 101(b), which appropriates funds to the Department of Commerce. Language in this section bars the International Trade Administration from funding activities such as trade shows and seminars which convey the advantages of relocating U.S.

businesses overseas. It also directs the United States Travel and Tourism Administration to promote travel only to the United States and its possessions. This precludes the agency from funding policy studies or technical assistance which could benefit the tourism industry in the Caribbean Basin.

2. Section 101(f) which appropriates funds for foreign assistance and related programs. Language in this section restricts AID funding of activities involving foreign agricultural exports which could compete with U.S. production. It also restricts AID-funded activities to promote the export of certain manufactured items in direct competition with U.S. production.

These officials expressed concern that these provisions, together with the fiscal year 1987 funding decreases in AID's private sector programs, the AID and the Overseas Private Investment Corporation policies affecting citrus projects, the expected reduction of U.S. sugar quotas, and certain trade rulings affecting CBI country exports, may discourage effective CBI programs and convey the perception of a decreased U.S. commitment to the CBI.

Appendix I contains further information on legislative restrictions and agency views on their potential impact and summarizes information on U.S. government actions concerning these matters. As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this fact sheet until 7 days from the date of issue. At that time, we will send copies to cognizant congressional committees and other interested parties and make copies available to others upon request. If we can be of further assistance in this matter, please call me on 275-5790.

Sincerely yours,

Joseph E. Kelley

Joseph E. Kelley
Associate Director

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ABBREVIATIONS

AID	Agency for International Development
CBI	Caribbean Basin Initiative
OPIC	Overseas Private Investment Corporation
USTTA	United States Travel and Tourism Administration

LEGISLATIVE AND AGENCY ACTIONS RELATING TO THE CARIBBEAN BASIN INITIATIVE

BACKGROUND

The Caribbean Basin Economic Recovery Act (19 U.S.C. 2701) permits eligible products from designated countries in Central America and the Caribbean to be imported into the United States duty free. The CBI duty-free treatment was implemented in January 1984. Recent reports by the Department of Labor and the International Trade Commission indicate that the impact of the trade provisions on U.S. industries, consumers, and labor have been minimal. Furthermore, available data shows that CBI country exports to the United States have not grown as expected and actually decreased by 19 percent from 1984 to 1985. According to the Department of State, this drop occurred largely because of depressed prices and decreased demand for traditional CBI exports such as petroleum, sugar, and bauxite; however, increased levels of non-traditional exports, a primary goal of the CBI, have occurred in products such as fruit juices, diamonds, precious metals, and ethanol.

Because the CBI is a long-term program, Commerce, State, and AID officials cautioned against using existing trade data to measure its effectiveness. These officials acknowledge that the CBI has not met expectations, and, according to the Deputy Administrator of AID, results have been disappointing.

RESTRICTIONS ON THE CBI

Various executive branch officials identified trade and other legislative provisions which could restrict the CBI. These include an amendment affecting CBI trade legislation and language in the fiscal year 1987 Continuing Resolution (Public Law 99-591) which appears to restrict CBI-related programs of the Department of Commerce and AID. Further, because of fiscal year 1987 appropriation levels, AID said that its projects to encourage private sector activity in the CBI countries will have to be reduced.

Trade Restrictions

The Caribbean Basin Economic Recovery Act authorized duty-free treatment for most products imported into the United States from designated Caribbean Basin countries but imposed significant restrictions on other types of products; for example, petroleum, virtually all textiles, and certain leather products were not eligible for duty-free treatment. In addition, the legislation required that at least 35 percent of the product value stem from materials and/or labor from eligible CBI countries.

Because of the potential adverse impact on U.S. ethanol producers, an amendment was added to restrict duty-free imports of ethanol from CBI countries. This amendment, included in section 423 of the Tax Reform Act of 1986, requires that to receive duty-free entry into the United States after January 1, 1987, ethanol from CBI countries must be wholly fermented and dehydrated in a CBI country or the local content used in the dehydration process must be gradually increased to 75 percent over a 3-year period. According to Commerce and private sector officials, this amendment threatens existing ethanol investments in CBI countries valued at more than $30 million and discourages new ethanol investment from taking place. The ethanol industry in the Caribbean Basin currently dehydrates alcohol, much of which has been imported from outside the region. Performing the fermentation process in the region as required by the amendment will, according to Commerce officials, substantially increase costs.

U.S. and private sector officials told us that a degree of certainty regarding access to U.S. markets was crucial to business investment decisions in the Caribbean Basin. For this reason, they believe that the symbolic effect of amending the CBI duty-free provisions may also be damaging. According to executive branch officials, this amendment could be interpreted as a retreat from the U.S. commitment to the CBI and may serve as precedent for future legislation which might again modify "the rules of the game."

Officials from AID, State, Commerce, and the Office of the U.S. Trade Representative pointed out that some trade-related bills were introduced in the 99th Congress (but not enacted) to help reduce U.S. trade deficits by restricting imports. For example, Congress passed a bill entitled the "Textile and Apparel Trade Enforcement Act of 1985" which would have established ceilings on U.S. textile imports from the CBI countries and other developing countries. This bill was vetoed by the President and the Congress did not override the President's veto. Although not provided duty-free treatment under the CBI legislation, textile products, according to AID and Commerce officials, are important exports from the Caribbean Basin, totaling $663 million in 1985, and have substantial growth potential.

Department of Commerce

Commerce's International Trade Administration sponsors seminars, trade shows, and other activities to disseminate information on CBI trade opportunities and to promote U.S. investment in the CBI region. According to Commerce officials, these activities may be restricted by Section 101(b) of the Continuing Resolution. Language in this section prohibits the International Trade Administration from using fiscal year 1987 appropriated funds for

> "activities associated with conferences, trade shows, expositions, and/or seminars which feature or convey the advantages of relocating U.S. industries, manufacturing and/or assembly plants, or companies, in a foreign country."

In clarifying this provision, the conferees stated that they opposed "any government support of projects designed to attract U.S. companies to relocate outside the United States."

Officials of the International Trade Administration told us they were not certain how this new provision will affect their CBI-related activities, but that it could limit their funding of and participation in some promotional activities.

Commerce officials also cited language in Section 101(b) of the Continuing Resolution regarding tourism promotion as another example of a legislative constraint to the CBI. The U.S. Travel and Tourism Administration (USTTA) within the Department of Commerce promotes travel and tourism within the United States. A USTTA official told us that at the request of the CBI Task Force, USTTA recently completed a study which suggested ways for the CBI countries to derive more economic benefit from tourism. According to USTTA, congressional concern over this study resulted in fiscal year 1987 appropriations legislation specifying that USTTA activities are to be directed to promoting travel only to the United States and its possessions. Explanatory language accompanying the legislation states that "...funding available to USTTA is not to be used for policy studies or technical assistance to promote travel to any destination other than the United States and its possessions." According to Commerce and AID officials, this prohibition is significant because (1) tourism incentives were included in the CBI legislation, and (2) tourism offers CBI countries potential for increased foreign exchange earnings.

Agency for International Development

According to AID, its role in the CBI is to (1) promote economic and financial stability and an environment conducive to private investment in CBI countries, (2) encourage production, trade, and investment in non-traditional exports, and (3) enhance management and marketing capacities of host-country business communities. AID indicated that it had funded over 75 projects in Central America and the Caribbean in support of CBI objectives from fiscal years 1983 to 1985. These projects have a planned cost of over $652 million, including $342 million to promote industrial and agricultural investments and exports.

AID officials told us that two portions of Section 101(f) of the Continuing Resolution may constrain AID funding of certain CBI-related activities. Section 558 of the general provisions applying to AID's fiscal year 1987 appropriations restricts AID from funding activities "in connection with the growth or production in a foreign country of an agricultural commodity for export which would compete with a similar commodity grown or produced in the United States."[1]

Funding of research activities which benefit American producers is permitted along with activities designed to increase food security in developing countries provided they will not have a significant impact on U.S. agricultural exports. According to AID, the limitation on AID activities was meant to apply to agricultural exports that would directly compete with U.S. exports or that could reasonably be expected to cause substantial injury to U.S. exports.

In September 1986, AID directed its field missions to examine proposed projects for increasing production of particular commodities for export to determine if that increase would have a significant impact on U.S. exports. Further, AID said that in considering new project proposals, it "will regard the agricultural export dimension of all projects as an important policy issue" and that it "does not intend to support production of agricultural commodities for export that are likely to have a significant impact on competing U.S. exports."

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[1]Section 209 of the Urgent Supplemental Appropriations Act (Public Law 99-349), enacted in July 1986, contained identical language, and is commonly referred to as the Bumpers amendment.

A second amendment, Section 559 of the general provisions on AID's fiscal year 1987 appropriation (generally referred to as the Lautenberg amendment), prohibits AID from providing funds to

> "(1) procure directly feasibility studies or prefeasibility studies for, or project profiles of potential investment in, the manufacture, for export to the United States or to third country markets in direct competition with the United States exports, of import-sensitive articles...; or (2) to assist directly in the establishment of facilities designed for the manufacture, for export to the United States or to third country markets in direct competition with United States exports of import-sensitive articles...."

As of late November 1986, AID was studying the ramifications of the Lautenberg amendment. According to AID, the main products considered import-sensitive are textiles, apparel, footwear, handbags, luggage, and certain leather goods. AID told us that it had identified two projects in CBI countries which could be perceived as providing support for exports to the United States of import-sensitive products.

AID officials told us in November 1986 that the impact of the Bumpers and Lautenberg amendments on AID programs in support of the CBI was uncertain, but they feared that the symbolic impact may be substantial. AID staff told us that, in view of these amendments, they would be much more cautious in designing and implementing projects. They viewed the amendments as potential constraints to the success of their private sector programs in the Caribbean Basin region. Furthermore, they maintained that the passage of these amendments may raise questions in the region about U.S. commitment to the CBI and could discourage potential business activity in CBI countries.

In addition to the recent Bumpers and Lautenberg amendments, AID explained that a long-standing agency policy affects its CBI-related activities. In 1978, AID determined that because of potential injury to U.S. producers, AID should examine all proposed projects involving the production, processing, or marketing of sugar, palm oil or citrus for export and should finance such projects only when "their development rationale is strong and their likely impact on U.S. producers is low." As a result of this policy, AID indicated it has not funded projects for these types of exports.

In addition to legislative actions and internal policies, AID officials told us that reductions in the agency's fiscal year

1987 funding levels may also constrain CBI-related programs. As of late November 1986, AID had not reported how it would allocate its overall assistance resources. However, AID emphasized that the fiscal year 1987 appropriation for the "Special Development Account," from which most private-sector development projects are funded, was 35 percent less than requested and 15 percent less than in fiscal year 1986. According to AID's Deputy Administrator, overall funding reductions, particularly in the private sector programs, will necessitate reducing CBI-related programs. For example, fiscal year 1987 funds available for private sector activities in the Caribbean could be as much as 50 percent less than fiscal year 1986 levels. AID is currently identifying proposed projects in the CBI region that will be deferred or cancelled as a result of the budget reductions.

Overseas Private Investment Corporation

The Overseas Private Investment Corporation (OPIC) is a U.S. government agency established to encourage and facilitate private U.S. investment in developing countries by providing loans and political risk and loan guaranty insurance. AID and Commerce officials identified legislation introduced in the 99th Congress as having affected an OPIC decision involving citrus investments in the Caribbean Basin. According to AID and Commerce, certain CBI countries have the potential to expand citrus exports to the United States. OPIC has historically not assisted citrus projects because of their potential impact on the U.S. citrus industry. However, OPIC decided in early 1986 to consider support to projects involving U.S. imports of frozen orange juice after conducting a 5-year study showing U.S. producers' interest in making investments in CBI countries and that assisting such investments would not adversely affect the domestic industry. In March 1986, OPIC reversed its decision to assist citrus projects after legislation was introduced in both the House and Senate to prohibit OPIC from providing such assistance. An official from a U.S. citrus company with an investment in the Caribbean told us that without OPIC insurance, U.S. businesses planning citrus projects may be discouraged from investing.

OTHER AGENCY ACTIONS AND RULINGS

Officials we interviewed pointed out that certain U.S. agency actions can conflict with the CBI goal of increasing U.S. imports from beneficiary countries. At a recent conference on CBI issues, government officials from the Dominican Republic and Costa Rica emphasized two specific U.S. government actions, affecting sugar and cut flowers, which they believe will constrain Caribbean exports to the United States. AID and Department of State officials also told us that these actions, summarized below, could have significant impacts on the affected countries.

Anticipated reduction in 1987 U.S. sugar quotas

According to State, new quotas for U.S. sugar imports for 1987, to be announced by the Department of Agriculture in December 1986, may be reduced substantially. The President of the Dominican Republic said in November 1986 that Dominican sugar sales to the United States have accounted for more than 30 percent of the country's foreign exchange earnings and that a reduction in allowable sugar exports to the United States could cause economic hardship as well as social and political instability.

Preliminary determinations that Costa Rica is violating U.S. trade laws in exporting certain cut flowers to the United States

In October 1986, the International Trade Administration issued two preliminary rulings finding that Costa Rica is subsidizing exports of certain cut flowers and is selling them to the United States at less than fair value. Commerce officials told us that final rulings, scheduled for January 1987, may result in Costa Rican flower exporters having to pay a duty of 25 percent or more on these exports to the United States, which are currently duty free under the CBI. Costa Rica's Minister of Foreign Commerce indicated that export incentives are part of Costa Rica's overall plan to increase exports to the United States under the CBI. The Minister of Foreign Commerce added that the rulings have created uncertainty about the duty-free status of all Costa Rica's non-traditional exports. AID officials told us that these rulings may discourage investments in export ventures in the country. The International Trade Commission noted that the future of the cut flower industry in the CBI region which had been promising was now uncertain because of these pending cases.

SCOPE AND METHODOLOGY

We met with representatives of the principal U.S. agencies responsible for CBI-related programs including the Office of the U.S. Trade Representative; the Departments of State, Commerce, and Labor; AID; the Trade and Development Program; OPIC; and the International Trade Commission and reviewed documents pertaining to their CBI-related programs. We also used information obtained as part of our September 8, 1986 report to you on Department of

Commerce data on CBI-related business activity.[2] In addition, we obtained the publicly expressed views of public and private sector officials from the United States and the Caribbean Basin. Because of time constraints, we did not perform fieldwork in CBI countries, contact all potentially affected U.S. agencies, or request agency comments on this fact sheet. We conducted our work in accordance with generally accepted government auditing standards.

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[2] Caribbean Basin Initiative: Need for More Reliable Data on Business Activity Resulting From the Initiative (GAO/NSIAD-86-201BR).

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