

CARIBBEAN BASIN ECONOMIC RECOVERY ACT

Renewal of Waiver

Decision of 15 November 1995¹

Taking note of the request of the Government of the United States for a renewal of the waiver from its obligations under paragraph 1 of Article I of the General Agreement which was granted by the CONTRACTING PARTIES of the GATT 1947 on 15 February 1985 for the period from 1 January 1984 until 30 September 1995, for provision of duty-free treatment for imports of eligible products originating in beneficiary Caribbean countries and territories as provided for in the Caribbean Basin Economic Recovery Act (hereinafter referred to as "CBERA");

Bearing in mind the 1979 Decision on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries and the 1994 Decision on Measures in Favour of Least-Developed Countries;

Considering the exceptional situation of the developing countries and territories of the Caribbean Basin, and the stated objective of CBERA to assist the trade and economic development of beneficiary developing countries and territories situated in the Caribbean Basin by encouraging the expansion of productive capacity in response to more liberal access and to new trading opportunities for Caribbean countries and territories;

Considering also that the duty-free treatment provided under CBERA is designed to promote the expansion of trade and economic development of beneficiaries in a manner consistent with the objectives of the GATT 1994 and with the trade, financial and development needs of the beneficiary countries and territories, and not to raise barriers or to create difficulties for trade of other Members;

Considering, moreover, that the duty-free treatment provided under CBERA should not prejudice the interests of other Members not benefitting from such treatment, and that it is expected that the extension of such duty-free treatment will not cause a significant diversion of United States imports of products eligible under CBERA originating in Members who are not beneficiary countries;

Having regard to the assurances that the United States Government does not envisage any action in pursuance of CBERA which might cause adverse effects on the sugar trade of Members who are not beneficiary countries;

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¹ Adopted in accordance with the Procedures on WTO Decision-Making under Articles IX and XII of the WTO Agreement agreed by the General Council (WT/L/93).

Considering that the duty-free treatment provided under CBERA by the United States Government shall not constitute an impediment to the reduction or elimination of tariffs and other restrictions to trade on a most-favoured-nation basis;

Considering, furthermore, that the duty-free treatment provided under CBERA by the United States Government shall not adversely affect the maintenance, operation and improvement of the United States' Generalized System of Preferences;

Noting, furthermore, the assurances given by the United States Government that it will, upon request, promptly enter into consultations with any interested Member with respect to any difficulty or matter that may arise as a result of the implementation of the trade-related provisions of CBERA;

Having regard to the Guiding Principles to be followed in considering applications for waivers adopted on 1 November 1956, the Understanding in Respect of Waivers of Obligations under the General Agreement on Tariffs and Trade 1994, and paragraphs 3 and 4 of Article IX of the Marrakesh Agreement Establishing the World Trade Organization (hereinafter "WTO Agreement");

Members, acting pursuant to the provisions of paragraph 3 of Article IX of the WTO Agreement,

Decide that:

1. Subject to the terms and conditions set out hereunder, the provisions of paragraph 1 of Article I of the GATT 1994 shall be waived until 31 December 2005, to the extent necessary to permit the United States Government to provide duty-free treatment to eligible products of the Caribbean Basin countries as authorized by the provisions of CBERA as amended, up to the date of this Decision, without being required to extend the same duty-free treatment to like products of any other Member.
2. Such duty-free treatment shall be designed not to raise barriers or create undue difficulties for the trade of other Members. This Decision in no way affects the obligation of the Government of the United States to administer its tariff rate quotas applied to sugar imports in a manner consistent with Article XIII of the GATT 1994.
3. The Government of the United States will submit to the General Council an annual report on the implementation of the trade-related provisions of the CBERA with a view to facilitating the annual review provided for in paragraph 4 of Article IX of the WTO Agreement. The United States Government shall promptly notify the General Council of any trade-related measure taken under CBERA, in particular, any changes in the designation of beneficiary countries, as well as any modification being considered in the list of eligible products and the duty-free treatment thereof, and shall furnish them with all the information they may deem appropriate relating to such action. The United States Government shall consult with regard to any modification being considered in the list of eligible products.
4. The United States Government will, upon request, promptly enter into consultations with any interested Member with respect to any difficulty or matter that may arise as a result of the implementation of the trade-related provisions of CBERA; where a Member considers that any benefit accruing to it under the GATT 1994 may be or is being impaired unduly as a result of such implementation, such consultation shall examine the possibility of action for a satisfactory adjustment of the matter. This Decision does not affect Members' rights as set forth in the Understanding in Respect of Waivers of Obligations under the GATT 1994.