

clude negotiation of a Free Trade Area of the Americas (in this title referred to as ‘FTAA’) by the year 2005.

“(6) The economic security of the countries in the Caribbean Basin will be enhanced by the completion of the FTAA.

“(7) Offering temporary benefits to Caribbean Basin countries will preserve the United States commitment to Caribbean Basin beneficiary countries, promote the growth of free enterprise and economic opportunity in these neighboring countries, and thereby enhance the national security interests of the United States.

“(8) Given the greater propensity of countries located in the Western Hemisphere to use United States components and to purchase United States products compared to other countries, increased trade and economic activity between the United States and countries in the Western Hemisphere will create new jobs in the United States as a result of expanding export opportunities.

“(b) POLICY.—It is the policy of the United States—

“(1) to offer Caribbean Basin beneficiary countries willing to prepare to become a party to the FTAA or another free trade agreement, tariff treatment essentially equivalent to that accorded to products of NAFTA countries for certain products not currently eligible for duty-free treatment under the CBERA; and

“(2) to seek the participation of Caribbean Basin beneficiary countries in the FTAA or another free trade agreement at the earliest possible date, with the goal of achieving full participation in such agreement not later than 2005.”

MEETINGS OF TRADE MINISTERS AND USTR

Pub. L. 106-200, title II, §213, May 18, 2000, 114 Stat. 288, provided that:

“(a) SCHEDULE OF MEETINGS.—The President shall take the necessary steps to convene a meeting with the trade ministers of the CBTPA beneficiary countries in order to establish a schedule of regular meetings, to commence as soon as is practicable, of the trade ministers and the Trade Representative, for the purpose set forth in subsection (b).

“(b) PURPOSE.—The purpose of the meetings scheduled under subsection (a) is to reach agreement between the United States and CBTPA beneficiary countries on the likely timing and procedures for initiating negotiations for CBTPA beneficiary countries to enter into mutually advantageous free trade agreements with the United States that contain provisions comparable to those in the NAFTA and would make substantial progress in achieving the negotiating objectives set forth in section 108(b)(5) of Public Law 103-182 (19 U.S.C. 3317(b)(5)).

“(c) DEFINITION.—In this section, the term ‘CBTPA beneficiary country’ has the meaning given that term in section 213(b)(5)(B) of the Caribbean Basin Economic Recovery Act [19 U.S.C. 2703(b)(5)(B)].”

CONGRESSIONAL FINDINGS

Pub. L. 101-382, title II, §202, Aug. 20, 1990, 104 Stat. 655, provided that: “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 [this chapter] 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.”

DEFINITIONS

Pub. L. 106-200, title II, §203, May 18, 2000, 114 Stat. 276, provided that: “In this title [see Short Title of 2000 Amendment note above]:

“(1) NAFTA.—The term ‘NAFTA’ means the North American Free Trade Agreement entered into between the United States, Mexico, and Canada on December 17, 1992.

“(2) NAFTA COUNTRY.—The term ‘NAFTA country’ means any country with respect to which the NAFTA is in force.

“(3) WTO AND WTO MEMBER.—The terms ‘WTO’ and ‘WTO member’ have the meanings given those terms in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501).”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2703 of this title.

§ 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.

(D) The term “NAFTA” means the North American Free Trade Agreement entered into between the United States, Mexico, and Canada on December 17, 1992.

(E) The terms “WTO” and “WTO member” have the meanings given those terms in section 3501 of this title.

(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

¹ So in original. The period probably should be a semicolon.

(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)(A) The President may, after the requirements of subsection (a)(2) of this section and paragraph (2) have been met—

(i) withdraw or suspend the designation of any country as a beneficiary country, or

(ii) 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.

(B) The President may, after the requirements of subsection (a)(2) of this section and paragraph (2) have been met—

(i) withdraw or suspend the designation of any country as a CBTPA beneficiary country; or

(ii) withdraw, suspend, or limit the application of preferential treatment under section 2703(b)(2) and (3) of this title to any article of any country,

if, after such designation, the President determines that, as a result of changed circumstances, the performance of such country is not satisfactory under the criteria set forth in section 2703(b)(5)(B) of this title.

(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.

(3) If preferential treatment under section 2703(b)(2) and (3) of this title is withdrawn, suspended, or limited with respect to a CBTPA beneficiary country, such country shall not be

deemed to be a “party” for the purposes of applying section 2703(b)(5)(C) of this title to imports of articles for which preferential treatment has been withdrawn, suspended, or limited with respect to such country.

(f) Reporting requirements

(1) In general

Not later than December 31, 2001, and every 2 years thereafter during the period this chapter is in effect, the United States Trade Representative shall submit to Congress a report regarding the operation of this chapter, including—

(A) with respect to subsections (b) and (c) of this section, the results of a general review of beneficiary countries based on the considerations described in such subsections; and

(B) the performance of each beneficiary country or CBTPA beneficiary country, as the case may be, under the criteria set forth in section 2703(b)(5)(B) of this title.

(2) Public comment

Before submitting the report described in paragraph (1), the United States Trade Representative shall publish a notice in the Federal Register requesting public comments on whether beneficiary countries are meeting the criteria listed in section 2703(b)(5)(B) of this title.

(Pub. L. 98-67, title II, §212, Aug. 5, 1983, 97 Stat. 384; Pub. L. 99-570, title IX, §9002(b), Oct. 27, 1986, 100 Stat. 3207-166; Pub. L. 100-418, title I, §§1214(q)(1), 1909(c), Aug. 23, 1988, 102 Stat. 1159, 1318; Pub. L. 101-382, title II, §§213, 214, Aug. 20, 1990, 104 Stat. 656; Pub. L. 103-465, title VI, §621(a)(2), Dec. 8, 1994, 108 Stat. 4992; Pub. L. 104-188, title I, §1954(a)(3), Aug. 20, 1996, 110 Stat. 1927; Pub. L. 106-200, title II, §211(b), (c)(1), (e)(2), May 18, 2000, 114 Stat. 286, 287.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) to (c) and (f), was in the original “this title”, meaning title II of Pub. L. 98-67, Aug. 5, 1983, 97 Stat. 384, which is classified principally to this chapter.

The Harmonized Tariff Schedule of the United States, referred to in subsec. (a)(1)(C), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

This Act, referred to in provisions following subsec. (b)(6), probably should be “this title” meaning title II of Pub. L. 98-67, Aug. 5, 1983, 97 Stat. 384, which is classified principally to this chapter. For complete classification of title II to the Code, see Short Title note set out under section 2701 of this title and Tables.

This chapter, referred to in subsec. (e)(1)(B), was in the original “this subtitle”, meaning subtitle A (§§211-218) of title II of Pub. L. 98-67 which enacted this chapter, amended section 1202 of this title, repealed section 2582 of this title, and enacted provisions set out as notes under sections 1202, 1319, 2251, and 2703 of this title and section 1311 of Title 33, Navigation and Navigable Waters. For complete classification of subtitle A to the Code, see Tables.

CODIFICATION

Subsec. (d) of this section amended general headnote 3(a) of the Tariff Schedules of the United States. The Tariff Schedules were replaced by the Harmonized Tariff Schedule of the United States. See References in Text note above.

AMENDMENTS

2000—Subsec. (a)(1)(D), (E). Pub. L. 106-200, § 211(e)(2), added subpars. (D) and (E).

Subsec. (e)(1). Pub. L. 106-200, § 211(b)(1), designated existing provisions as subpar. (A), redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, of subpar. (A), and added subpar. (B).

Subsec. (e)(3). Pub. L. 106-200, § 211(b)(2), added par. (3).

Subsec. (f). Pub. L. 106-200, § 211(c)(1), inserted heading and amended text generally. Prior to amendment, text read as follows: “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.”

1996—Subsec. (b)(7). Pub. L. 104-188 substituted “2467(4)” for “2462(a)(4)”.

1994—Subsec. (c)(4). Pub. L. 103-465 substituted “WTO Agreement and the multilateral trade agreements (as such terms are defined in paragraphs (9) and (4), respectively, of section 3501 of this title)” for “General Agreement on Tariffs and Trade, as well as applicable trade agreements approved under section 2503(a) of this title”.

1990—Subsec. (b). Pub. L. 101-382, § 213(1)–(4), added par. (7) and in concluding provisions substituted “(5), and (7)” for “and (5)”.

Subsec. (c)(8). Pub. L. 101-382, § 213(5), amended par. (8) generally. Prior to amendment, par. (8) read as follows: “the degree to which workers in such country are afforded reasonable workplace conditions and enjoy the right to organize and bargain collectively”.

Subsec. (f). Pub. L. 101-382, § 214, added subsec. (f).

1988—Subsec. (a)(1)(C). Pub. L. 100-418, § 1214(q)(1), substituted “HTS” and “Harmonized Tariff Schedule of the United States” for “TSUS” and “Tariff Schedules of the United States”, respectively.

Subsec. (e). Pub. L. 100-418, § 1909(c), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: “The President shall, after complying with the requirements of subsection (a)(2) of this section, withdraw or suspend the designation of any country as a beneficiary country if, after such designation, he determines that as the result of changed circumstances such country would be barred from designation as a beneficiary country under subsection (b) of this section.”

1986—Subsec. (b)(6), (7). Pub. L. 99-570 redesignated par. (7) as (6) and struck out former par. (6) which provided that the President shall not designate a country as a beneficiary country under this chapter if the country does not take adequate steps to cooperate with the United States to prevent narcotic drugs and other controlled substances produced, processed, or transported in the country from entering the United States unlawfully.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-188 applicable to articles entered on or after Oct. 1, 1996, with provisions relating to retroactive application, see section 1953 of Pub. L. 104-188, set out as an Effective Date note under section 2461 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective on the date on which the WTO Agreement enters into force with respect to the United States [Jan. 1, 1995], see section 621(b) of Pub. L. 103-465, set out as a note under section 1677k of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1214(q)(1) of Pub. L. 100-418 effective Jan. 1, 1989, and applicable with respect to articles entered on or after such date, see section 1217(b)(1) of Pub. L. 100-418, set out as an Effective Date note under section 3001 of this title.

CARIBBEAN BASIN INITIATIVE

Section 1909(a), (b) of Pub. L. 100-418 provided that:

“(a) FINDINGS.—The Congress finds that—

“(1) Caribbean and Central American countries historically have had close economic, political, and cultural ties to the United States;

“(2) promoting economic and political stability in the Caribbean and Central America is in the national security interests of the United States;

“(3) the economic and political stability of the nations of the Caribbean and Central America can be strengthened significantly by the attraction of foreign and domestic investment specifically devoted to employment generation; and

“(4) the diversification of the economies and expansion of exports, particularly those of a non-traditional nature, of the nations of the Caribbean and Central America is linked directly to fair access to the markets of the United States.

“(b) INTENT OF THE CONGRESS.—The Congress hereby expresses its intention to ensure that—

“(1) the trade elements of the Caribbean Basin Initiative be strengthened in a manner consistent with the promotion of economic and political stability in the Caribbean and Central America;

“(2) to the extent that Congress imposes changes that are intended to improve the competitive environment for United States industry and workers, such changes do not unduly affect the unilateral duty-free trade system available to the beneficiary countries designated under the Caribbean Basin Economic Recovery Act [19 U.S.C. 2701 et seq.]; and

“(3) generic changes in the trade laws of the United States do not discriminate against imports from designated beneficiary countries in relation to imports from other United States trading partners.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1202, 2191, 2194, 2411, 2703, 2707 of this title; title 26 sections 274, 936.

§ 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, and except as provided in subsection (b)(2) and (3) of this section, 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