

# GENERAL AGREEMENT ON TARIFFS AND TRADE

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## CARIBBEAN BASIN ECONOMIC RECOVERY ACT

Decision of 15 February 1985<sup>1</sup>

Taking note of the request of the Government of the United States for a waiver from its obligations under paragraph 1 of Article I of the General Agreement, with respect to the establishment of duty-free treatment to imports of eligible articles into the United States from beneficiary Caribbean countries and territories, from 1 January 1984 until 30 September 1995, as provided in the Caribbean Basin Economic Recovery Act, P.L. No. 98-67 of 5 August 1983 (hereinafter referred to as "the Act");

Bearing in mind the 1979 Decision on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries;

Considering that the stated objective of the Act is 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;

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

Considering, moreover, that the duty-free treatment provided under the Act should not prejudice the interests of other contracting parties 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 articles eligible under the Act originating in contracting parties who are not beneficiary countries;

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

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<sup>1</sup>The Decision was adopted by postal ballot. There were 52 votes in favour, 2 against and 2 abstentions.

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

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

Having regard to the Guiding Principles to be followed in considering applications for waivers adopted on 1 November 1956;

The CONTRACTING PARTIES, acting pursuant to the provisions of paragraph 5 of Article XXV of the General Agreement,

Decide that:

1. Subject to the terms and conditions set out hereunder, the provisions of paragraph 1 of Article I of the General Agreement shall be waived, until 30 September 1995, to the extent necessary to permit the Government of the United States to provide duty-free treatment to eligible imports of Caribbean Basin countries benefitting from the provisions of the Act, without being required to extend the same duty-free treatment to like products of any other contracting party.
2. Such duty-free treatment shall be designed not to raise barriers or create undue difficulties for the trade of other contracting parties.
3. The Government of the United States shall promptly notify the CONTRACTING PARTIES of any trade-related measure taken under the Act, in particular any changes in the designation of beneficiary countries, as well as any modifications being considered in the list of eligible articles and the duty-free treatment thereof, and shall furnish them with all the information they may deem appropriate relating to such action. Pursuant to the provisions of paragraphs 5 and 6, the United States Government shall consult with regard to any modifications being considered in the list of eligible articles.

4. (i) The Government of the United States shall ensure that this waiver will not be used to contravene the principle of non-discriminatory allocation of sugar quotas.

(ii) The Government of the United States will promptly consult with any contracting party who believes that it would be adversely affected by any action concerning beneficiary country sugar imports which has been taken or is proposed to be taken pursuant to the CBERA. The purpose of these consultations will be to arrive at a mutually satisfactory resolution of the matter.

(iii) In the event the parties cannot reach an agreement during the consultations, the matter may be referred by either party to the CONTRACTING PARTIES for appropriate action including the termination of the waiver with respect to sugar imports of the beneficiary country or countries in question.

5. The Government of the United States will, upon request, promptly enter into consultations with any interested contracting party with respect to any difficulty or matter that may arise as a result of the implementation of the trade-related provisions of the Act; where a contracting party considers that any benefit accruing to it under the General Agreement may be or is being impaired unduly as a result of such implementation, such consultations shall examine the possibility of action for a satisfactory adjustment of the matter.

6. Any contracting party which considers that the trade-related provisions of the Act are being applied inconsistently with this waiver or that any benefit accruing to it under the General Agreement may be or is being impaired unduly as a result of the implementation of such trade-related provisions of the Act and that consultations have proved unsatisfactory, may bring the matter before the CONTRACTING PARTIES, which will examine it promptly and will formulate any recommendations that they judge appropriate.

7. The Government of the United States will submit to the CONTRACTING PARTIES an annual report on the implementation of the trade-related provisions of the Act. The CONTRACTING PARTIES will, two years from the date when this waiver comes into force and, biennially thereafter, review its operation and consider if in the circumstances then prevailing any modifications to or termination of the provisions of the present waiver are required.

8. This waiver shall not preclude the right of affected contracting parties to have recourse to Article XXIII of the General Agreement.