

**GENERAL AGREEMENT ON
TARIFFS AND TRADE**

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CARIBBEAN BASIN ECONOMIC RECOVERY ACT

Questions and Replies

Addendum

The contracting parties were invited (GATT/AIR/1972) to communicate to the secretariat any questions they might wish to put to the United States in connection with the examination in the Working Party of the United States request for a waiver relating to the Caribbean Basin Economic Recovery Act. In response to this request, a number of questions were received and were transmitted to the United States. Replies to these questions were circulated in L/5620. The following replies to additional questions submitted by contracting parties have been received from the United States.

The 1984 Tariff Schedules of the United States are available in the secretariat (Development Division, Room 2010) for consultation by delegations.

As indicated in GATT/AIR/1990, the Working Party is scheduled to meet on 10-11 April 1984.

Addendum to U.S. Replies to Questions Submitted
by the Contracting Parties on the U.S. Request for a
Waiver Under Article XXV:5 Pertaining to Implementation of
the Caribbean Basin Economic Recovery Act

General Questions

1. Article XXV states that "in exceptional circumstances" not provided for in the General Agreement, the CONTRACTING PARTIES may waive an obligation imposed by the Agreement. What in the view of the United States authorities, are the "exceptional circumstances", which justify the request for a waiver from the GATT obligations?

Footnote 2 to paragraph 2 of the 1979 Decision on Differential and More Favorable Treatment specifically states that it "would remain open for the CONTRACTING PARTIES to consider on an ad hoc basis under the GATT provisions for joint action any proposal for differential and more favorable treatment" not specifically provided for in paragraph 2. It is clear that, in considering a proposal as envisioned by this footnote, the CONTRACTING PARTIES are expected to give particular consideration to proposals which are not specifically provided for in paragraph 2, such as the GSP Program, but which are intended to promote the basic purposes of the 1979 Decision and of Part IV of the GATT to assist developing countries. The CBERA promotes these purposes because it responds to the development and trade needs of the financially strained economies of the nations in the Caribbean Basin. Additionally, the duty-free treatment provisions of the CBERA will promote the trade of the Caribbean Basin countries without creating undue difficulties for the trade of other contracting parties or impeding the reduction or elimination of trade restrictive measures.

Beneficiary countries

2. Section 212 of the Act, provides that the President shall not designate, from the countries listed paragraph 2(b) of that section any country as a beneficiary country which "affords preferential treatment to the products of a developed country, other than the United States". Do any of the countries listed in paragraph 2(b) extend preferential treatment, in tariffs and in other areas to imports from the United States?

See answer to Question 24 in L/5620.

If not, is it the intention of the United States to negotiate for such treatment in these countries?

See answer to Question 26(d) in L/5620.

Eligible articles

3. The rules of origin as stated in Section 213 of the Act provide that a product shall be eligible for duty free treatment in the United States market if "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 the beneficiary country or countries is not less than 35 per centum of the appraised value of such article at the time it is entered". It is further provided that the 35 per cent of the appraised value could also include 15 per cent of "the cost or value of materials produced in the United States". Will not these provisions, which aim at inducing processing and other industries in the beneficiary countries to purchase materials or parts produced in the United States lead to trade diversion?

See answer to Question 28(a) in L/5620.

4. What effects will the provisions in the Act providing for duty free treatment to imports of sugar from the beneficiary countries have on the trade of other sugar exporting countries?

See answer to Question 40 in L/5620.

Will the preferential treatment of the beneficiary countries in the area of tariffs be extended to cover, directly or indirectly, other measures applicable to imports into the United States, like quotas and import fees?

No, the authority to grant preferential treatment is limited solely to the authority to proclaim duty-free treatment pursuant to Section 211 of the CBERA. Furthermore, Section 213(g) of the Act shall in no way affect the imposition of fees on sugar imports imposed pursuant to Section 22 of the Agricultural Adjustment Act.

5. What measures does the United States propose to safeguard the trade interests of sugar exporting countries, which consider that unrestricted duty-free access to imports from the beneficiary countries would gradually lead to displacement of their exports to the United States market? Would it not be possible for the United States to ensure that the interests of these countries are at least partly safeguarded by undertaking that the "competitive country criterion" provided for in the United States Generalized System of Preferences, shall not be applied to imports of sugar and that imports from all developing countries would be admitted in the United States market on a duty-free basis?

The sugar imports of beneficiary countries do not have unrestricted duty-free access to the U.S. market. Under the CBERA sugar imports of all beneficiary nations, with the exception of the imports of the Dominican Republic, Panama and Guatemala, which are subject to a quota established by statute remain subject to the competitive need limitations imposed under the GSP Program. The United States believes that because the sugar imports of beneficiary countries are restricted either by virtue of the competitive need limitations or the quotas established by statute, the exports of non-beneficiary sugar producing nations are not threatened by the preferential tariff regime on sugar.