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Interaction of the Caribbean Basin Initiative and U.S. Domestic Sugar Price Support: A Political Contradiction

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I. Introduction

President Reagan announced the Caribbean Basin Economic Recovery Act[1] (also referred to as the Caribbean Basin Initiative or "CBI") on February 24, 1982, as an incentive to help ameliorate severe economic difficulties and political unrest in Caribbean Basin countries.[2] CBI was introduced as an unprecedented program of trade development, economic assistance and tax measures intended to promote economic growth in the Caribbean through inter-regional investment and trade.[3] One of the most attractive features of CBI from the perspective of many Caribbean nations is the duty-free[4] treatment of sugar.[5] Sugar exports constitute an important source of foreign exchange receipts for many of these nations.[6] However, this provision of CBI is considerably weakened by the Presidential enactment of safeguards designed to prevent injury to the U.S. domestic sugar industry.[7]

A U.S. sugar policy is diametrically opposed to the CBI program. The policy protects the domestic sugar industry by stabilizing sugar prices during periods of radical price fluctuation.[8] This policy resulted in severe curbs on U.S. sugar imports from Caribbean nations during the two-year period after the 1983 enactment of CBI.[9] During this period total CBI sugar imports declined more than forty percent, and the Caribbean nations' export earnings declined forty-three percent.[10] This import crisis has continued to worsen, as the 1988 sugar

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1. 19 U.S.C. §§ 2701-2706 (Supp. IV 1986).
2. Remarks on the Caribbean Basin Initiative to the Permanent Council of the Organization of American States, 1 (PUB. PAPERS) 210, 211 (Feb. 24, 1982) [hereinafter PUB. PAPERS].
3. U.S. AND FOREIGN COMMERCIAL SERV., INT'L TRADE ADMIN., U.S. DEP'T OF COMMERCE, 1987 GUIDEBOOK CARIBBEAN BASIN INITIATIVE 1 (Oct. 1986) [hereinafter GUIDEBOOK].
4. A duty is a tax on imports. WEBSTER'S NEW COLLEGIATE DICTIONARY 355 (1973).
5. 19 U.S.C. § 2703(a)-(b) (Supp. IV 1986).
6. *Infra* notes 34 and 35.
7. 19 U.S.C. § 2703(c)-(g) (Supp. IV 1986).
8. ECONOMIC RESEARCH SERV., U.S. DEP'T OF AGRIC., SUGAR BACKGROUND FOR 1985 FARM LEGISLATION, AGRICULTURAL INFORMATION BULLETIN, No. 478, 1 (1984).
9. *Review of the Impact and Effectiveness of the Caribbean Basin Initiative: Hearings Before the Subcomm. on Oversight of the House Comm. on Ways and Means*, 99th Cong., 2d Sess. 163 (1986) (statement of Thomas O. Kay, Administrator Foreign Agric. Serv., U.S. Dep't of Agric.).
10. *Id.*

quota allocations for twelve CBI countries reached only 25% of the 1983 sugar quota allocations for the same countries.[11] As the export crisis for the Caribbean continues, the U.S. sugar industry is expanding production and achieving higher prices.

II. PURPOSE

The objective of this comment is to examine the controversial role of sugar export and import policies in the formation and progression of CBI. A brief discussion of CBI in general is followed by an analysis of the U.S. sugar support system and its part in CBI's development. The progress of CBI to date is reviewed in conjunction with currently proposed amendments meant to alleviate problems blamed on the U.S. sugar policy. Finally, a proposed system designed to accommodate both the U.S. domestic sugar policy and CBI is presented.

A. The Caribbean Basin Initiative

1. Introduction

CBI's framework consists of rules for beneficiary country designations,[12] requirements for eligible products,[13] safeguards to protect U.S. domestic industries,[14] reporting procedures for periodic review of CBI's effect,[15] and several tax incentive measures.[16] The chief benefit of CBI is the elimination of duties on eligible products[17] from Caribbean nations designated as beneficiary coun-

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11. Calculations were based upon U.S. Sugar Import Charts appearing in: ECONOMIC RESEARCH SERV., U.S. DEP'T OF AGRIC., SUGAR AND SWEETENER SITUATION AND OUTLOOK YEARBOOK 31 (1986) & ECONOMIC RESEARCH SERV., U.S. DEP'T OF AGRIC., SUGAR AND SWEETENERS SITUATION AND OUTLOOK REPORT 13 (1988).

The twelve CBI countries included are Barbados, Belize, Costa Rica, Dominican Republic, El Salvador, Guatemala, Haiti, Honduras, Jamaica, Panama, St. Christopher-Nevis and Trinidad-Tobago. *Id.*

12. 19 U.S.C. § 2702(b) (Supp. IV 1986).

13. 19 U.S.C. § 2703(a) (Supp. IV 1986).

14. 19 U.S.C. § 2703(c)-(f) (Supp. IV 1986).

15. 19 U.S.C. §§ 2704-2705 (Supp. IV 1986).

16. 26 U.S.C. § 274 (1982).

17. GUIDEBOOK, *supra* note 3, at 5.

Articles not eligible include: textiles and apparel subject to the Multifiber Agreement; canned tuna; petroleum and petroleum products; footwear; certain leather, rubber and plastic gloves; luggage, handbags, and flat goods; certain leather wearing apparel. Watches and watch parts being excluded if any material utilized in their manufacture was derived from a communist country. *Id.*

At the time CBI was enacted, eighty-seven percent of Caribbean Basin products entered the U.S. duty free; however, CBI provides for a wider variety of potential products. PUB. PAPERS, *supra* note 2, at 212.

tries.[18] The President must consider six criteria in designating a country as a beneficiary.[19] A country is ineligible for beneficiary status if the conditions of any one of the criteria are met;[20] however, four of these criteria may be waived by the President in order to promote a national economic or security interest of the United States.[21] In addition to the mandatory conditions are eleven discretionary criteria the President must also consider in beneficiary designation.[22]

Eligible products must meet "rules-of-origin" requirements which ensure that all benefits are bestowed only upon beneficiary countries.[23] Five categories of products are specifically excluded from CBI duty-free treatment.[24] Safeguards are built into CBI to protect U.S. domestic industry, labor or agriculture from injury generated by increased imports.[25] For example, the President is autho-

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18. GUIDEBOOK, *supra* note 3, at 3-4.

19 U.S.C. § 2702(b)-(e) (Supp. IV 1986) sets forth the criteria to be considered by the President in designating a beneficiary country.

Presently, twenty-two countries are beneficiary countries including: Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Costa Rica, Dominica, Dominican Republic, El Salvador, Grenada, Guatemala, Haiti, Honduras, Jamaica, Montserrat, Netherland Antilles, Panama, St. Christopher-Nevis, Saint Lucia, Saint Vincent and the Grenadines, Trinidad and Tobago and the British Virgin Islands. GUIDEBOOK, *supra* note 3, at iv.

19. 19 U.S.C. § 2702(b) (Supp. IV 1986).

The President shall not designate any country a beneficiary country: (1) if such country is a communist country; (2) if such country fails to meet certain criteria regarding expropriation of U.S. property; (3) if such country fails to recognize as binding arbitral awards to U.S. citizens; (4) if such country provides preferential treatment to the products of another developed country which adversely affects United States commerce; (5) if such country engages in the broadcast of U.S. copyrighted material without the consent of the owner; or (6) unless such country has entered into an extradition treaty with the United States. *Id.*

20. *Id.*

21. *Id.* The four criteria that may be waived by the President include: (1) if such country is a communist country; (2) if such country fails to meet certain criteria regarding expropriation of U.S. property; (3) if such country fails to recognize as binding arbitral awards to U.S. citizens; and (4) if such country engages in the broadcast of U.S. copyrighted material without the consent of the owner. *Id.*

22. 19 U.S.C. § 2702(c) (Supp. IV 1986).

The eleven discretionary criteria include: (1) an expression by such country of its desire to be designated; (2) the economic conditions in such country; (3) the extent to which the country is prepared to provide equitable and reasonable access to its markets and basic commodity resources; (4) the extent to which such country adheres to the accepted rules of international trade; (5) the extent to which such country uses export subsidies, or imposes export performance requirements and local content requirements, which distort international trade; (6) the extent to which the trade policies of such country as they relate to other CBI countries are contributing to the revitalization of the region; (7) the extent to which such country is undertaking self-help measures to promote its own economic development; (8) the extent to which workers in such country are afforded reasonable workplace conditions and enjoy the right to organize and bargain collectively; (9) the extent to which such country protects the intellectual property rights, including patents and trademarks, of foreign nationals; (10) the degree to which such country prohibits its nationals from engaging in the broadcast of copyrighted material belonging to U.S. copyright owners without their express consent; and (11) the degree to which such country is prepared to cooperate with the United States in the administration of the provisions of this chapter. *Id.*

23. GUIDEBOOK, *supra* note 3, at 5-6.

The rules-of-origin requirements include: (1) an article must be grown, produced, or manufactured in a beneficiary country; (2) the cost or value of the article must consist of at least 35% direct cost of processing in one or more beneficiary countries (Puerto Rico and the U.S. Virgin Islands are included as beneficiary countries for the purpose of determining this percentage, and U.S.-made components may comprise 15% of the 35%); and (3) any product made with foreign materials must be substantially transformed (a new and different article of commerce). *Id.*

24. *Id. See also supra* note 17.

25. GUIDEBOOK, *supra* note 3, at 6.

rized to suspend CBI duty-free treatment with respect to any eligible article and to establish a duty rate for the article[26] if injury or threat of injury to the domestic industry results.[27] Such proclamations remain in effect until modified or terminated.[28] Also, the International Trade Commission[29] is required to submit periodic reports to the President detailing the impact of CBI on U.S. industries and consumers,[30] and the Secretary of Labor is required to evaluate the effects of CBI on U.S. labor.[31]

In addition, CBI tax provisions allow tax deductions for business convention expenses incurred by Americans in a beneficiary country on the condition that the beneficiary country exchanges tax information with the U.S.[32] Expiration of CBI's twelve-year term is set for September 30, 1995.[33]

2. The Caribbean Basin's Sugar Dependence and CBI Safeguard Provisions

Achieving a balance between the importance of U.S. sugar supports to the domestic economy and the dependency on sugar exports of many Caribbean nations required much debate. Historically, the economies of many Caribbean nations have been profoundly dependent on sugar.[34] In 1986 alone, sugar ex-

26. 19 U.S.C. § 2703(e)(1) (Supp. IV 1986).

27. GUIDEBOOK, *supra* note 3, at 6 (Oct. 1986).

28. 19 U.S.C. § 2703(e)(5)(A) (Supp. IV 1986).

29. The United States International Trade Commission ("the Commission") is composed of six members who are appointed by the President with the advice and consent of the Senate. 19 U.S.C. § 1330(a) (1982). The Commission has a duty to investigate and report matters concerning the customs laws of the United States. 19 U.S.C. § 1332(a) (1982). The Commission is authorized to adopt such rules and regulations necessary to carry out its duties. 19 U.S.C. § 1335 (1982). In addition, the Commission has the duty to investigate unfair trade practices and to determine if a violation of such practices has occurred. 19 U.S.C. § 1337(b)-(c) (Supp. IV 1986). To expedite its investigations, the Commission can conduct preliminary investigations and determine the scope and manner of its proceedings. 19 U.S.C. § 2482(a) (1982).

30. 19 U.S.C. § 2704 (Supp. IV 1986).

31. 19 U.S.C. § 2705 (Supp. IV 1986).

32. GUIDEBOOK, *supra* note 3, at 6-7.

33. 19 U.S.C. § 2706 (Supp. IV 1986). Also included in CBI are special provisions to benefit Puerto Rico and the U.S. Virgin Islands. GUIDEBOOK, *supra* note 3, at 6-7. *See* Foote, *The Caribbean Basin Initiative: Development, Implementation and Application of the Rules of Origin and Related Aspects Duty-Free Treatment*, 19 GEO. WASH. J. INT'L L. & ECON. 245 (1985) for an excellent discussion of the rules and specifications of CBI.

34. *Caribbean and Central America: Joint Hearings Before the Subcomm. on Inter-American Affairs of the Comm. on Foreign Affairs and the Subcomm. on Department Operations, Research and Foreign Agriculture of the House Comm. on Agriculture*, 97th Cong., 2d Sess. 97-98 (1982) (statement of Robert A. Pastor, School of Public Affairs, University of Maryland, College Park, Maryland).

Caribbean Basin Dependence on Sugar, Selected Countries, 1980.

	Sugar Shipped to U.S. as % of all Exports to U.S.	Total Sugar Exports as a % of total Exports
Dominican Republic	52	32.5
Panama	35	15.9
Guatemala	29	4.5
Barbados	42	24.4
Costa Rica	13.4	4.0
Belize	65	37.8

Id. at 103.

ports accounted for sixty-five percent of St. Kitts' and thirty-five percent of the Dominican Republic's foreign exchange receipts.[35] During the development of CBI, however, special rules limiting the amount of a beneficiary country's sugar that would be eligible for duty-free status, were adopted to provide protection for the U.S. sugar producers.[36] All beneficiary countries, with the exception of the Dominican Republic, Guatemala and Panama, are allowed duty-free treatment for sugar.[37] However, the President may suspend or expand this treatment in accordance with its effect on the U.S. price support system.[38] The President has exercised his authority by reducing the 1988 sugar quota allocations for twelve CBI countries to a level equal to only 25% of the 1983 quota allocations for the same countries.[39] Such action has caused significant injury to the economies of these countries. The Dominican Republic, Guatemala and Panama are allowed statutory quotas of sugar exports to the U.S., based upon one hundred ten percent of each country's exports to the U.S. in the three years prior to 1983.[40] However, because of the Presidential imposition of sugar quota allocations since CBI's enactment, these countries have consistently experienced quotas less than those provided for by statute.[41] Further protective measures for the U.S. price support authorize the President, upon the Secretary of Agriculture's recommendation, to suspend duty-free treatment of all or a portion of the quantity of sugar permitted to enter the U.S.[42] This power waits in the wings of the Caribbean economic scene as an indication of the limitations imposed on the success of programs such as CBI due to U.S. self-protectionist fears.

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35. *Review of the Impact and Effectiveness of the Caribbean Basin Initiative: Hearings Before the Subcomm. on Oversight of the House Comm. on Ways and Means*, 99th Cong., 2d Sess. 346, 1059 (1986) (statement of Ambassador Eulegio Santaella of the Dominican Republic and Erstein M. Edwards, Deputy Chief of Mission, St. Christopher (St. Kitts) and Nevis).

36. Foote, *supra* note 33, at 294-95.

37. *Id.* This treatment is consistent with the Generalized System of Preferences ("GSP") provisions. *Id.* GSP allows over 2800 products from developing countries all over the world to enter the U.S. duty-free. The program will be in effect at least through 1993. GSP differs from CBI in various ways. GSP's scope is worldwide, while CBI focuses upon the Caribbean Basin. The product coverage of GSP is not as expansive as CBI's. Currently, GSP's planned period of operation is two years shorter then CBI's (with CBI not expiring until 1995). GSP requires that all 35% of added value come from one beneficiary country, while CBI allows value from several countries to be accumulated in reaching the 35% level. Additionally, CBI allows 15% of the value to be from U.S. source materials, and value added in U.S. insular possessions may account for beneficiary country input. GUIDEBOOK, *supra* note 3, at 7-8.

38. 19 U.S.C. § 2703(e)(4) (Supp. IV 1986).

39. *See supra* note 11.

40. Foote, *supra* note 33, at 295. Dominican Republic - 780,000 metric tons; Guatemala - 210,000 metric tons; Panama - 160,000 metric tons. *Id.*

41. ECONOMIC RESEARCH SERV., U.S. DEP'T OF AGRIC., SUGAR AND SWEETENER SITUATION AND OUTLOOK YEARBOOK 31 (1986), ECONOMIC RESEARCH SERV., U.S. DEP'T OF AGRIC., SUGAR AND SWEETENERS SITUATION AND OUTLOOK REPORT 13 (1988).

42. Foote, *supra* note 33, at 296-97.

B. The U.S. Domestic Sugar Policy

Sugar has long been subject to a variety of fees and quotas, and to a complex price support system imposed by the U.S.[43] Prior to 1977, the U.S. government supported the domestic sugar industry by imposing tariffs and quotas on imports.[44] A plan of loans and purchases was instituted on September 29, 1977, ("the Agriculture Act of 1977") which provided that the 1977 and 1978 crops of sugar beets and sugar cane would be supported at a level between 52.5% and 65% of parity,[45] but in no event was that level to result in a price less than thirteen and one-half cents per pound for raw sugar.[46] Loans at this level were effected by the pledging of sugar as collateral for a Commodity Credit Corporation loan. The Agriculture Act of 1977 further instructed the Secretary of Agriculture to establish minimum wage rates for agricultural employees engaged in the production of sugar.[47] This loan-subsidy program continued to exist through the 1979 crop year.[48] With no support system available for sugar producers, prices fluctuated from less than twenty cents per pound to above forty cents per pound.[49]

On October 1, 1982, the government introduced a sugar industry support program which authorized commodity loans for domestically produced sugar for the 1982 through 1985 crop years (the "Food Act of 1981").[50] The Food Act of 1981 provided for a non-recourse loan program, initially setting the loan rate at seventeen cents per pound, and elevating that rate to eighteen and three-quarter cents for the 1985 crop year.[51] Sugar was to be pledged as collateral

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43. ECONOMIC RESEARCH SERV., U.S. DEP'T OF AGRIC., SUGAR BACKGROUND FOR 1985 FARM LEGISLATION, AGRICULTURAL INFORMATION BULLETIN, No. 478, iii (1984).

44. H.R. REP. No. 271, 99th Cong., 1st Sess., pt. 2, at 202, *reprinted in* 1985 U.S. CODE CONG. & ADMIN. NEWS 1660, 1868.

45. Parity is defined as a level for farm-product prices maintained by governmental support and intended to give farmers the same purchasing power they had during a chosen base period. THE AMERICAN HERITAGE DICTIONARY OF THE ENGLISH LANGUAGE 953 (1979).

46. H.R. REP. No. 271, 99th Cong., 1st Sess., pt. 2, at 203, *reprinted in* 1985 U.S. CODE CONG. & ADMIN. NEWS 1660, 1869.

47. *Id.*

48. *Id.*

49. H.R. REP. No. 271, 99th Cong., 1st Sess., pt. 1, at 11, *reprinted in* 1985 U.S. CODE CONG. & ADMIN. NEWS 1103, 1115.

50. H.R. REP. No. 271, 99th Cong., 1st Sess., pt. 2, at 203, *reprinted in* 1985 U.S. CODE CONG. & ADMIN. NEWS 1660, 1869.

"During the short period between enactment of the law and the availability of the loans, the U.S. Department of Agriculture was directed to operate a 'direct purchase program' providing sugar producers the alternative of selling sugar to the government for 16.75 cents per pound if they could not get more in the market place." *Id.*

In opening remarks before the Subcommittee on Cotton, Rice and Sugar on March 17, 1981, Mississippi Representative David R. Bowen stated that "[t]he United States is the only sugar producing nation in the world which has no sugar program of any kind, no farm program, no protection of any kind." *General Farm Bill of 1981 (Cotton, Rice, and Sugar Program): Hearings Before the Subcomm. on Cotton, Rice, and Sugar of the House Comm. on Agriculture*, 97th Cong., 1st Sess. 35 (1981) (statement of David R. Bowen, Congressional Representative from Mississippi).

51. H.R. REP. No. 271, 99th Cong., 1st Sess., pt. 1, at 12, *reprinted in* 1985 U.S. CODE CONG. & ADMIN. NEWS 1103, 1115.

and Senate Agriculture Committees prior to any public announcement of the loan rate.[63]

C. Debates Over CBI's Adoption Involving Sugar

Realizing the critical dependence of CBI nation economies on sugar exportation, much debate over CBI provisions during the creation of the program centered upon the U.S. sugar price support policy. These debates resulted in three diverse views on the question of CBI's enactment, one in opposition and two in favor of the program. Daniel K. Akaka, Congressional Representative from Hawaii, was vehemently opposed to the CBI program due to the conceivably detrimental effect which increased duty-free sugar imports would have on the domestic sugar market.[64] Richard A. Smith, Administrator of the Foreign Agricultural Service, stressed the need for assistance to the Basin nations and emphasized the adequacy of safeguard provisions within CBI to protect the U.S. sugar policy.[65] Robert A. Pastor, a second proponent, asserted that the very existence of a U.S. sugar policy negated any benefit CBI could potentially provide because of the limitations on sugar imports to the U.S.[66]

Those in favor of CBI urged a need for a broad restructuring and diversification of Basin economies in addition to agricultural revitalization.[67] The many difficult aspects of diversification faced by countries which predominantly produce sugar, namely the Dominican Republic and Barbados, were compounded by their soil's unsuitableness for any other crop.[68] Because agriculture was totally neglected in CBI, it was predicted that the number of agricultural jobs lost through

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63. *Id.*

64. *Caribbean Basin Initiative: Hearings Before the Subcomm. on Trade of the House Comm. on Ways and Means*, 97th Cong., 2d Sess. 384 (1982) (statement of Daniel K. Akaka, Congressional Representative from Hawaii).

65. *Caribbean Basin Initiative: Hearings Before the Subcomm. on Trade of the House Comm. on Ways and Means*, 97th Cong., 2d Sess. 23 (1982) (statement of Richard A. Smith, Administrator, Foreign Agric. Serv., Dep't of Agric.).

66. *Caribbean and Central America: Joint Hearings Before the Subcomm. on Inter-American Affairs of the Comm. on Foreign Affairs and the Subcomm. on Department Operations, Research and Foreign Agriculture of the House Comm. on Agriculture*, 97th Cong., 2d Sess. 97 (1982) (statement of Robert A. Pastor, School of Public Affairs, University of Maryland).

67. *Caribbean and Central America: Joint Hearings Before the Subcomm. on Inter-American Affairs of the Comm. on Foreign Affairs and the Subcomm. on Department Operations, Research and Foreign Agriculture of the House Comm. on Agriculture*, 97th Cong., 2d Sess. 11 (1982) (statement of Sally A. Shelton, Vice President, International Business-Government Counsellors, Inc.).

68. *Id.* It was stated that sugar cane produces ten times the income and employment that could be achieved from the use of the land in cattle production. *Caribbean Basin Initiative: Hearings Before the Subcomm. on Trade of the House Comm. on Ways and Means*, 97th Cong., 2d Sess. 482 (1982) (statement of Felipe J. Vicini, Chairman, Vicini Group of Sugar Manufacturing Companies). *But see Caribbean Basin Initiative: Hearings Before the Subcomm. on Trade of the House Comm. on Ways and Means*, 97th Cong., 2d Sess. 430 (1982) (statement of Cecil Heftel, Congressional Representative from Hawaii) (In opposing CBI, Mr. Heftel stated that the soil of Hawaii had similar characteristics to that of the Caribbean in that no alternate crop or use could be found to replace sugar).

the program would be twice the number of manufacturing jobs generated.[69] Also, the encouragement of assembly operations in which firms would import virtually all raw materials from the U.S. and export all products to the U.S. would create no incentive to link these firms to the local Basin communities.[70]

The importance of sugar to the Caribbean was demonstrated by the fact that sugar exports from these countries were valued at over one billion dollars in 1981, with sixty percent of that total entering the U.S.[71] Several proponents of CBI expressed concern that the Food Act of 1981 would eliminate much of the accruing benefit to most Caribbean sugar producers through CBI.[72] Predictions estimated that the volume of sugar exported from the Caribbean Basin would decrease from 1.3 million metric tons in 1981 to less than 1.1 million metric tons in 1982 due to the constriction of sugar quotas.[73] The significant impact of sugar quotas on the Dominican Republic was especially revealing, because the Dominican Republic had been the leading and most stable supplier of sugar to the U.S. for the twenty years prior to 1982.[74] Statistics document that the Dominican Republic relied on the sugar industry as its largest employer and as its main source of export earnings, comprising one-third of these earnings in 1980 and one-half in 1981.[75] Ninety-eight percent of the Dominican Republic's sugar had traditionally been exported to the U.S., and in 1982 alone

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69. *Caribbean and Central America: Joint Hearings Before the Subcomm. on Inter-American Affairs of the Comm. on Foreign Affairs and the Subcomm. on Department Operations, Research and Foreign Agriculture of the House Comm. on Agriculture*, 97th Cong., 2d Sess. 91 (1982) (statement of Robert A. Pastor, School of Public Affairs, University of Maryland).

70. *Id.*

71. *Review of CBI Sugar Provisions: Hearing Before the Subcomm. On Cotton, Rice, and Sugar of the House Comm. on Agriculture*, 97th Cong., 2d Sess. 12 (1982) (statement of Donald M. Nelson, Assistant U.S. Trade Representative for Agricultural Affairs and Commodity Policy).

72. *Caribbean and Central America: Joint Hearings Before the Subcomm. on Inter-American Affairs of the Comm. on Foreign Affairs and the Subcomm. on Department Operations, Research and Foreign Agriculture of the House Comm. on Agriculture*, 97th Cong., 2d Sess. 13 (1982) (statement of Sally A. Shelton, Vice President, International Business Government Counsellors, Inc.).

73. *Caribbean and Central America: Joint Hearings Before the Subcomm. on Inter-American Affairs of the Comm. on Foreign Affairs and the Subcomm. on Department Operations, Research and Foreign Agriculture of the House Comm. on Agriculture*, 97th Cong., 2d Sess. 98 (1982) (statement of Robert A. Pastor, School of Public Affairs, University of Maryland).

Actual U.S. sugar imports from Caribbean Basin nations under quotas for the period from October 1, 1982 through September 25, 1983 were 1.08 million metric tons. ECONOMIC RESEARCH SERVICE, U.S. DEP'T OF AGRIC., SUGAR AND SWEETENER SITUATION AND OUTLOOK YEARBOOK 31 (1986).

74. *Caribbean Basin Initiative: Hearings Before the Subcomm. on Trade of the House Comm. on Ways and Means*, 97th Cong., 2d Sess. 482 (1982) (statement of Felipe J. Vicini, Chairman, Vicini Group of Sugar Manufacturing Companies).

75. *Caribbean and Central America: Joint Hearings Before the Subcomm. on Inter-American Affairs of the Comm. on Foreign Affairs and the Subcomm. on Department Operations, Research and Foreign Agriculture of the House Comm. on Agriculture*, 97th Cong., 2d Sess. 97 (1982) (statement of Robert A. Pastor, School of Public Affairs, University of Maryland).

for a Commodity Credit Corporation loan, with interest calculated at a rate which covered the government's cost of money.[52] All loans were to have terms of six months, provided however, that a loan term could not extend beyond the fiscal year in which the loan was made.[53] Congress' main objective was to coordinate the program in such a fashion that no sugar would be forfeited to the Commodity Credit Corporation.[54] To achieve this purpose, Congress directed the Department of Agriculture to establish a market stabilization price (MSP) considered to be the minimum market price at which sugar sales would be encouraged and sugar forfeitures would be discouraged.[55] The MSP was to be maintained through a system of import duties, fees, and quotas established by Presidential proclamations.[56] Section 22 of the Agricultural Adjustment Act of 1933, as amended, authorized special import fees or quotas on foreign commodity imports contingent upon a determination that the imports are potentially injurious to the successful maintenance of the domestic price support system.[57]

The sugar loan program enacted in 1981 was extended for each of the 1986 through 1990 crops of sugar beets and sugar cane ("the Food Security Act of 1985") at a level of eighteen cents per pound.[58] In stressing the need for the continuation of a domestic sugar program, the congressional committees pointed to the wide price fluctuations triggered by the volatile world sugar market.[59] The committees stated that approximately sixty percent of exported sugar was traded under preferential arrangements, leaving a small residual amount for the world sugar market.[60] These fluctuating amounts of exported sugar dumped into the world market have created patterns of overproduction, followed by cutbacks in production resulting finally in cycles of plummeting, succeeded by spiraling, prices.[61]

Additional provisions of the Food Security Act of 1985 direct the Secretary of Agriculture to adjust the annual loan rate upon consideration of inflation, costs of production and other circumstances adversely affecting domestic sugar production.[62] In the event the Secretary does not make such adjustments, he is directed to submit such findings, decisions and supporting data to the House

52. H.R. REP. No. 271, 99th Cong., 1st Sess., pt. 2, at 204, *reprinted in* 1985 U.S. CODE CONG. & ADMIN. NEWS 1660, 1870.

53. *Id.*

54. *Id.*

55. *Id.*

56. H.R. REP. No. 271, 99th Cong., 1st Sess., pt. 1, at 12, *reprinted in* 1985 U.S. CODE CONG. & ADMIN. NEWS 1103, 1115.

57. H.R. REP. No. 271, 99th Cong., 1st Sess., pt. 2, at 204, *reprinted in* 1985 U.S. CODE CONG. & ADMIN. NEWS 1660, 1870.

58. 7 U.S.C. § 1446(j)(1) (Supp. IV 1986).

59. H.R. REP. No. 271, 99th Cong., 1st Sess., pt. 1, at 12, *reprinted in* 1985 U.S. CODE CONG. & ADMIN. NEWS 1103, 1116.

60. *Id.*

61. *Id.*

62. H.R. REP. No. 271, 99th Cong., 1st Sess., pt. 1, at 14, *reprinted in* 1985 U.S. CODE CONG. & ADMIN. NEWS 1103, 1118.

the U.S. sugar program was predicted to preclude one-third of such sugar exports.[76]

Estimates were presented to demonstrate the impact of expected sugar quotas on other CBI nations, for example: Honduras sugar exports were predicted to decrease from eighty thousand tons in 1981 to fifty thousand tons in 1982,[77] and Belize sugar exports to the U.S. were expected to decrease ten thousand tons (one-third of its capacity) from 1981 to 1982.[78]

Supporters of CBI argued that if these Caribbean countries were to go bankrupt economically or politically, the costs would be more to the U.S. as a nation than if U.S. sugar beet and cane farmers filed bankruptcy.[79] This political motivation for CBI was evident in a message delivered by Secretary of State George Schultz:

> Nearly half our trade, three-quarters of our imported oil, and over half our imported strategic minerals pass through the Panama Canal or the Gulf of Mexico. If this region should become prey to social and economic upheaval, and dominated by regimes hostile to us, the consequences for our security would be immediate and far reaching.[80]

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76. *Id.*

Actual U.S. sugar imports from the Dominican Republic for the period from October 1, 1982 to September 25, 1983 were 507,423 tons resulting in a 24% decline from the Dominican Republic's 1981 sugar exports to the U.S. ECONOMIC RESEARCH SERV., U.S. DEP'T OF AGRIC., SUGAR AND SWEETENER SITUATION AND OUTLOOK YEARBOOK 31 (1986) and *Caribbean and Central America: Joint Hearings Before the Subcomm. on Inter-American Affairs of the Comm. on Foreign Affairs and the Subcomm. on Department Operations, Research and Foreign Agriculture of the House Comm. on Agriculture*, 97th Cong., 2d Sess. 104 (1982) (Table 3. The Impact of the U.S. Sugar Quota Program on the Caribbean Basin, 1980).

77. *Caribbean and Central America: Joint Hearings Before the Subcomm. on Inter-American Affairs of the Comm. on Foreign Affairs and the Subcomm. on Department Operations, Research and Foreign Agriculture of the House Comm. on Agriculture*, 97th Cong., 2d Sess. 90 (1982) (statement of Robert A. Pastor, School of Public Affairs, University of Maryland).

Honduras' actual sugar exports to the U.S. for the period from October 1, 1982 to September 25, 1983 were 28,000 tons. ECONOMIC RESEARCH SERV., U.S. DEP'T OF AGRIC., SUGAR AND SWEETENER SITUATION AND OUTLOOK YEARBOOK 31 (1986). *Caribbean and Central America: Joint Hearings Before the Subcomm. on Inter-American Affairs of the Comm. on Foreign Affairs and the Subcomm. on Department Operations, Research and Foreign Agriculture of the House Comm. on Agriculture*, 97th Cong., 2d Sess. 104 (1982) (Table 3. The Impact of the U.S. Sugar Quota on the Caribbean Basin, 1980).

78. *Caribbean and Central America: Joint Hearings Before the Subcomm. on Inter-American Affairs of the Comm. on Foreign Affairs and the Subcomm. on Department Operations, Research and Foreign Agriculture of the House Comm. on Agriculture*, 97th Cong., 2d Sess. 98 (1982) (statement of Robert A. Pastor, School of Public Affairs, University of Maryland).

Belize's actual sugar exports to the U.S. for the period from October 1, 1982 through September 25, 1983 were 31,378 tons reflecting a decrease of over 11,000 tons from 1981. ECONOMIC RESEARCH SERVICE, U.S. DEP'T OF AGRIC., SUGAR AND SWEETENER SITUATION AND OUTLOOK YEARBOOK 31 (1986) and *Caribbean and Central America: Joint Hearings Before the Subcomm. on Inter-American Affairs of the Comm. on Foreign Affairs and the Subcomm. on Department Operations, Research and Foreign Agriculture of the House Comm. on Agriculture*, 97th Cong., 2d Sess. 104 (1982) (Table 3. The Impact of the U.S. Sugar Quota Program on the Caribbean Basin, 1980).

79. *Caribbean and Central America: Joint Hearings Before the Subcomm. on Inter-American Affairs of the Comm. on Foreign Affairs and the Subcomm. on Department Operations, Research and Foreign Agriculture of the House Comm. on Agriculture*, 97th Cong., 2d Sess. 100 (1982) (statement of Robert A. Pastor, School of Public Affairs, University of Maryland).

80. BUREAU OF PUBLIC AFFAIRS, U.S. DEP'T OF STATE, CARIBBEAN BASIN ECONOMIC RECOVERY ACT (April 13, 1983) (statement by Secretary Schultz before the Senate Fin. Comm.).

Objectors of CBI stated that the Food Act of 1981's seventeen cent per pound loan program for the 1982 sugar crop would only provide protection for sugar producers against catastrophic losses, since the average cost of production per pound for sugar cane at that time exceeded twenty-two and one-half cents.[81] They noted that total sugar import needs declined in 1982 and that duty-free sugar imports would increase under CBI. Because the U.S. domestic price for sugar is protected through duties and fees on imported sugar, as the volume of duty sugar imports declines and the volume of duty-free sugar imports increases, a point would be reached at which the domestic sugar price would no longer have the fee and duty protection.[82] The ultimate end would be government purchases of sugar, the precise result the Food Act of 1981 was designed to eliminate.[83] Another suggested result was that the additional quantity of sugar that would be available for duty-free status under CBI could force the administration to expand and increase its fee structure, causing higher import fees to be paid by all producers (including CBI sugar producers).[84] This series of hypothetical events suggests that CBI could be self-defeating or could exert a negative impact on the Basin economies.[85] Also, duties and fees tend to depress the world market price of sugar causing a spiraling effect; i.e., if higher fees were required under CBI, the world price of sugar would decline resulting in still higher fees.[86]

Several CBI opponents suggested a rebate approach similar to that involving the excise tax on rum rebated to Puerto Rico and the U.S. Virgin Islands.[87] This rebate program would impose duties on sugar from a beneficiary with the duty collected being rebated to the government of the beneficiary country.[88] Proposed benefits of this program included: (1) the bestowal of money on those who needed it (not the multi-national corporations that owned the sugar industry); (2) the support of CBI's objective of diversification away from sugar;[89] (3) the provision of more governmental control over economic development;

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81. *Caribbean Basin Initiative: Hearings Before the Subcomm. on Trade of the House Comm. on Ways and Means*, 97th Cong., 2d Sess. 383-84 (1982) (statement of Daniel K. Akaka, Congressional Representative from Hawaii).

82. *Id.*

83. *Id.*

84. *Caribbean Basin Initiative: Hearings Before the Subcomm. on Trade of the House Comm. on Ways and Means*, 97th Cong., 2d Sess. 472-73 (1982) (statement of Nicholas Kominus, President, United States Cane Sugar Refiners' Association).

85. *Id.*

86. *Id.*

87. *Id.*

The rebate to Puerto Rico and the U.S. Virgin Islands of excise taxes collected by the U.S. on rum imported from these two Islands was adopted to protect their rum economies from declines caused by the duty free treatment of rum under CBI. *See* I.R.C. § 7652(a)(3) & (b) (1982).

88. *Caribbean Basin Initiative: Hearings Before the Subcomm. on Trade of the House Comm. on Ways and Means*, 97th Cong., 2d Sess. 384-85 (1982) (statement of Daniel K. Akaka, Congressional Representative from Hawaii).

89. *Id.*

(4) the insurance of the full benefit of duty-free status; (5) the lessening of the need for higher import fees on sugar; (6) the reduction of U.S. government sugar acquisitions through loan forfeitures; and (7) the reduction of the need for the U.S. government to engage in even more restrictive programs on imported sugar to protect the price support.[90]

Congress rejected the rebate approach because of the possibility that beneficiary governments would encourage sugar production.[91] The primary objective of CBI was to diversify beneficiary economies into nontraditional areas. Additionally, the rebate approach was not adopted because it would require maintaining an itemized summary of expenditures, and the Treasury was reluctant to specifically mark funds.[92]

The transshipment of sugar from a non-beneficiary country to a beneficiary where it could be sold to the U.S. duty free was another area of debate.[93] The committee was assured that this practice amounted to customs fraud and that no one could continue to practice fraud on the custom service successfully.[94]

Congress resolved these debates by enacting sugar provisions of CBI to provide for duty-free treatment of sugar from all CBI nations except for the Dominican Republic, Guatemala and Panama.[95] These three countries are allowed specified quotas of sugar exports.[96] Congress considered the safeguard provisions, which allow the President to suspend duty-free treatment on sugar, adequate to protect the U.S. domestic sugar industry.

Since the enactment of CBI, the President has continuously exercised his authority to protect the domestic sugar industry. Such actions have resulted in drastic reductions in the sugar quota allocations for all CBI nations.[97]

D. Review of CBI's Impact and Effectiveness

In February, 1986, congressional subcommittees conducted a series of hearings in which they reviewed the impact and effectiveness of CBI. The topic capturing most of the attention at the hearings was a more than forty percent decline in U.S. sugar imports since 1984 from the Caribbean countries which had su-

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90. *Caribbean Basin Initiative: Hearings Before the Subcomm. on Trade of the House Comm. on Ways and Means*, 97th Cong., 2d Sess. 471-72 (1982) (statement of Nicholas Kominus, President, United States Cane Sugar Refiners' Association).

91. *Id.* at 481.

92. *Id.*

93. *Caribbean Basin Initiative: Hearings and Markup Before the House Comm. on Foreign Affairs and Its Subcomm. on Int'l Economic Policy and Trade and on Inter-American Affairs*, 97th Cong., 2d Sess. 131 (1982) (statement of Tom Greer, Commodity/Industry Analyst, U.S. Int'l Trade Comm'n).

94. *Id.* A more realistic problem suggested would be in a situation where a beneficiary exported all of its sugar to the U.S. and supplied its domestic needs with nonbeneficiary sugar. Historically, if a country's exports were above imports, its quota was usually cut. *Id.*

95. Foote, *supra* note 33, at 245.

96. *Id.*

97. ECONOMIC RESEARCH SERV., U.S. DEP'T OF AGRIC., SUGAR AND SWEETENER SITUATION AND OUTLOOK YEARBOOK 31 (1986), ECONOMIC RESEARCH SERV., U.S. DEP'T. OF AGRIC., SUGAR AND SWEETENERS SITUATION AND OUTLOOK REPORT 13 (1988).

gar import quotas.[98] As of 1986, this decline in U.S. sugar imports had resulted in a corresponding decline of one hundred seventy-five million dollars or forty-three percent in export earnings of these Caribbean nations.[99]

The Ambassador from Barbados, Peter Laurie, reported that since its initiation, CBI had exercised only a marginal impact on that country's economy.[100] Exports from Barbados to the U.S. in 1985 declined by fifty percent compared to 1984 levels.[101] The abandonment of operations by sixteen companies resulted in the termination of seventeen hundred jobs in 1985 alone.[102] Unemployment rose by five percent in the period from 1983 to 1985, resulting in an eventual twenty percent unemployment rate.[103]

Ambassador Laurie identified several reasons for CBI's ineffectiveness.[104] First, products in which Caribbean economies had the best potential for immediate growth, such as garments, had been excluded from the eligible articles list.[105] Increased quota limitations had been placed on sugar. This frustrated the principle that economic growth and stability had to depend primarily on continued reliance on traditional commodities.[106] Second, Caribbean entrepreneurs had experienced difficulty in successfully penetrating the U.S. market.[107] The need to comply with the complex regulatory requirements of the U.S. market had exacerbated this problem.[108] Finally, [due to the lack of investment incentives in CBI and the absence of knowledge on the part of U.S. investors], new American investment had not materialized in sufficiently large amounts.[109]

Barbados made earnest attempts to promote the success of CBI. The government encouraged foreign private investment by adopting policies guaranteeing investment security.[110] Barbados also entered a tax treaty and a Tax Informa-

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98. *Review of the Impact and Effectiveness of the Caribbean Basin Initiative: Hearings Before the Subcomm. on Oversight of the House Comm. on Ways and Means*, 99th Cong., 2d Sess. 168 (1986) (statement of Thomas O. Kay, Administrator, Foreign Agricultural Service).

The countries included in the foregoing analysis are Barbados, Belize, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Haiti, Honduras, Jamaica, Panama, St. Christopher-Nevis, and Trinidad and Tobago. *Id.*

99. *Id.*

100. *Review of the Impact and Effectiveness of the Caribbean Basin Initiative: Hearings Before the Subcomm. on Oversight of the House Comm. on Ways and Means*, 99th Cong., 2d Sess. 304 (1986) (statement of his Excellency Peter Laurie, Ambassador of Barbados).

101. *Id.*

102. *Id.*

103. *Id.*

104. *Id.*

105. *Id.*

106. *Id.*

107. *Id.*

108. *Id.*

109. *Id.*

110. *Id.*

tion Exchange Agreement with the U.S. to promote the tax incentive of convention benefits.[111]

Suggestions proposed by Ambassador Laurie to enhance CBI included: (1) revision of the CBI sugar import quotas to 1984 levels; (2) exemption for textile products; (3) implementation of provisions to permit twin plants; (4) technical assistance to strengthen management, marketing and institutional capacity of Caribbean Basin governments; (5) exporter education in U.S. regulatory requirements; (6) investigation and implementation of ways of lowering the freight rates in the Caribbean; and (7) the allowance of marketing expenses of Caribbean businesses to be counted toward the thirty-five percent rules-of-origin requirement.[112]

St. Lucia's Ambassador, Dr. Joseph E. Edmunds, reported that CBI was so uniformly applied that it was injurious to less developed microisland states such as St. Lucia.[113] He recommended that provisions be implemented to specifically focus upon countries of St. Lucia's size.[114] Ambassador Edmunds stated that St. Lucia could never pose a threat to the U.S. economy; therefore, items should be included on the CBI eligible articles lists which could positively impact the Caribbean Basin economies.[115]

A report was also presented by Ambassador Eulegio Santaella of the Dominican Republic, which is the largest of the Caribbean Islands.[116] Ambassador Santaella noted that the decline in exports of sugar had been an obstacle to CBI's progress.[117] While the Dominican Republic had made significant efforts to diversify its economy, sugar revenues constituted the primary source of finance for business growth.[118] With increased U.S. restrictions on sugar imports from the Dominican Republic, most hope for business growth had been quashed.[119] Sugar exports provided thirty-five percent of the nation's foreign exchange receipts, making those receipts essential in obtaining imported products.[120]

The Dominican government had entered into ventures to promote diversification into new industries.[121] Sugar cane land was being utilized for citrus, pineapple and African palm projects.[122] Tourism had opened new areas of diver-

111. *Id.*
112. *Id.*
113. *Review of the Impact and Effectiveness of the Caribbean Basin Initiative: Hearings Before the Subcomm. on Oversight of the House Comm. on Ways and Means*, 99th Cong., 2d Sess. 328 (1986) (statement of his Excellency Dr. Joseph E. Edmunds, Ambassador of St. Lucia).
114. *Id.*
115. *Id.*
116. *Review of the Impact and Effectiveness of the Caribbean Basin Initiative: Hearings Before the Subcomm. on Oversight of the House Comm. on Ways and Means*, 99th Cong., 2d Sess. 343 (1986) (statement of Ambassador Eulegio Santaella of the Dominican Republic).
117. *Id.*
118. *Id.*
119. *Id.*
120. *Id.*
121. *Id.*
122. *Id.*

sification with an expansion from ninety thousand visitors in 1970 to eight hundred thousand in 1985.[123]

Although the Dominican Republic had obtained higher prices on its sugar sales to the U.S. as a result of the quota and CBI duty suspension, this higher price advantage had been displaced significantly by the decrease in sugar volume. The Dominican Republic's sugar volume had decreased from four hundred ninety-three thousand short tons in 1983 to two hundred ninety thousand short tons in 1985.[124] 1986 was expected to bring a further twenty-five percent quota reduction.[125]

Ambassador Santaella explained that diversification was an evolutionary process which made it necessary for the government to balance the loss in foreign exchange earnings and jobs against long-term advantages.[126] A suggested solution for the sugar dilemma was to permit CBI sugar producers to export raw sugar refined into liquid sugar for the industrial syrup market.[127]

A letter to Secretary of State George Schultz from the Ambassadors of the Dominican Republic, Guatemala, Panama and St. Christopher-Nevis dated July 10, 1985, emphasized the importance of allowing no further reductions in sugar quotas and of creating a compensatory quota.[128] This compensatory quota would permit exporting to the U.S. of raw sugar converted into liquid sugar.[129] The outline of the proposed plan to alleviate the sugar quota reduction crisis included: (1) overall import quotas to be set for CBI nations at a level equal to one hundred five percent of traditional export volumes; and (2) sugar exportation categories as follows: (a) raw sugar in accordance with regulations of the Department of Agriculture; and (b) the balance for refining into sugar syrup.[130] It was emphasized that this proposal would frustrate neither prices received by U.S. cane or beet farmers nor the U.S. price support system.[131]

St. Kitts reported that the base of its economy was being eroded by sugar quota reductions.[132] With forty-five percent of its population employed in the sugar industry and sixty-five percent of its foreign exchange coming from sugar exports, continued quota reductions would devastate its economy.[133] Total returns from sugar exports for the period from January to August of 1984, as compared to those from January to August of 1985, evidenced a net loss of two

123. *Id.*
124. *Id.*
125. *Id.*
126. *Id.*
127. *Id.*
128. *Id.*
129. *Id.*
130. *Id.*
131. *Id.*
132. *Review of the Impact and Effectiveness of the Caribbean Basin Initiative: Hearings Before the Subcomm. on Oversight of the House Comm. on Ways and Means*, 99th Cong., 2d Sess. 1059 (1986) (statement of Erstein M. Edwards, Deputy Chief of Mission, St. Christopher (St. Kitts) and Nevis).
133. *Id.*

and one-half million dollars. This is quite a loss for a country of one hundred four square miles and a population of forty-four thousand.[134]

In January, 1987, a second impact study was conducted by a congressional delegation from the Committee on Ways and Means involving visits to five countries in the Caribbean and Central America regions.[135] The primary concerns and recommendations of the five countries concerning CBI included: the impact of the reduction in sugar quotas, U.S. protectionism and the fear of further legislative action, inability to penetrate U.S. markets, extending CBI for twelve years, and expanding product coverage.[136] Positive results were noted on CBI's effect in the Dominican Republic. The Dominican Republic has developed new industries through its effort to take advantage of CBI, resulting in a seventy percent increase of nontraditional exports from 1983 to 1986.[137] Loss of jobs in the sugar industry because of quota reductions more than counteracted with the gain of jobs in new industries.[138]

In an attempt to accommodate the needs of the Caribbean Basin countries and to improve the effectiveness of CBI, new CBI legislation was introduced on August 5, 1987.

III. Proposed Amendments – The Caribbean Basin Economic Recovery Expansion Act of 1987

The Caribbean Basin Economic Recovery Expansion Act of 1987 ("CBI II") was announced by Rep. Sam M. Gibbons, Chairman of the Ways and Means Trade Subcommittee, on August 5, 1987, with key provisions designed to: (1) restore sugar quotas of Caribbean nations to the original levels which prevailed when CBI took effect on January 1, 1984; (2) allow unlimited duty-free treatment for articles manufactured, assembled, or processed from materials, components and other products that are one hundred percent U.S. made (would allow CBI garments wholly of U.S. textiles to enter the U.S. both duty and quota free); (3) change the value-added requirement for duty-free imports from small island nations of the eastern Caribbean, permitting increases from 15% to 25% in the value of U.S. components which may be counted toward the 35% minimum value-added requirement; (4) allow limited duty-free treatment for articles exempt under current law, provided that the International Trade Commission issues a finding and the President determines that the articles are either not produced in the U.S. or are in short supply; (5) create a "tariff-rate quota"

134. *Id.* at 1062.

135. Subcomm. on Oversight of the Comm. on Ways and Means U.S. House of Representatives, 100th Cong., 1st Sess., Report on the Comm. Delegation Mission to the Caribbean Basin and Recommendations to Improve the Effectiveness of the Caribbean Basin Initiative 7 (Comm. Print 1987).

136. *Id.* at 12.

137. *Id.* at 23.

138. *Id.* at 24.

allowing a specific volume of goods in each product category that are currently taxable under CBI to enter duty-free; (6) extend duty-free treatment for eligible imports for an additional twelve years - from September 30, 1995 through September 30, 2007; (7) increase the duty-free allowance for U.S. citizens returning from CBI beneficiary countries and U.S. insular possessions by $200 (on return from a CBI beneficiary, the exemption would be $600, while on return from a U.S. insular possession the exemption would be $1000); (8) require a separate injury determination for CBI beneficiary nations in countervailing duty and anti-dumping cases (this would cumulate imports from CBI countries as a group in determining whether an unfair trade practice causes material injury to a U.S. domestic industry); and (9) permit duty-free entry until December 31, 1988, of ethanol, which is dehydrated by certain facilities in Costa Rica and Jamaica.[139]

Proponents for the new CBI II bill stress the fact that two thirds of Caribbean sugar sales to the U.S. were lost after CBI became law.[140] Although there is support for the new bill, a strong lobby is predicted to quash all hope for restoration of Caribbean sugar quotas.[141] Critics of the bill attack the lack of provisions addressing the dilemma of a developing country's immediate need of the basic facilities, equipment, services and installations necessary for the country's growth and global economic participation.[142]

IV. Outlook

A. Considerations

Predictions which estimated losses to the Caribbean nations because of the U.S. sugar policy have been extremely accurate.[143] As sugar quota allocations rapidly decline, Caribbean nations will continue to experience severe economic disruption. Diversification of the Caribbean economies away from sugar will require a long-term plan. It is apparent that a short-term plan is untenable.

Several elements must be evaluated in order to place CBI's interaction with a proposed sugar stabilization bill into proper prospective. Elements to consider include the prosperity of the U.S. sugar market, drastic sugar quota allocation declines, the high fructose corn syrup ("HFCS") share of the U.S. sweetener market, and the elements previously submitted in support of the sugar stabilization bill.

The U.S. domestic sugar industry is prospering. Estimated sugar production

139. H.R. 3101, 100th Cong., 1st Sess., 133 Cong. Rec. 7186-89 (1987).

140. *Legislation To Expand Trade Preferences For CBI Beneficiaries Introduced In House*, 4 Int'l Trade Rep. (BNA) 1007 (Aug. 12, 1987).

141. *CBI Bill Would Make U.S. More Competitive, Caribbean Leaders Tell Press Conference*, 4 Int'l Trade Rep. (BNA) 1219 (Oct. 7, 1987).

142. *Caribbean Basin Representatives Generally Endorse CBI II Legislation As Hearings Start*, 4 Int'l Trade Rep. (BNA) 1557 (Dec. 16, 1987).

143. *See supra* notes 73 & 75-78.

figures for the 1987/1988 crop year are 7.3 million tons, which is a six percent increase from the preceding year.[144] U.S. raw sugar prices rose to 22.1 cents in February, 1988, as compared to an average of 21.8 cents in 1987.[145] The world price for sugar was approximately 8.5 cents in March, 1988.[146]

The increase in sugar productivity is oddly accompanied by severe quota allocation reductions for 1988. The total quota allocations for twelve Caribbean Basin countries in 1983 was almost four times greater than 1988 quota allocations for the same countries.[147] The Food Security Act of 1985 requires that the President use all available authorities to enable the Secretary of Agriculture to operate the sugar program at no cost to the Federal government.[148] Therefore, although the U.S. domestic sugar industry is prospering, quota reductions continue to be made in order to prevent the accumulation of sugar by the Commodity Credit Corporation.[149]

The U.S. sugar support system not only maintains the domestic sugar market but also provides protection and expansion of the HFCS market, which is sugar's major competitor. Corn sweeteners accounted for fifty-two percent of total U.S. caloric sweetener consumption in 1987, marking a twelve percent rise since the early 1980s.[150] Current statistics indicate that liquid HFCS has achieved maximum market penetration against sugar and that the growth rate of the HFCS market is slowing.[151] Another rising competitor in the U.S. sweetener market is low-calorie sweeteners, which comprised twelve percent of the U.S. market in 1987.[152]

Promoters of the Sugar Supply Stabilization Act ("Sugar Stabilization Act") considered each of the preceding factors.[153] This program attempts to reduce the sugar support price over a four-year period in an attempt to move the U.S. government away from a posture of guaranteeing the maintenance of inefficient producers and toward a discipline of providing for the maintenance of the efficient producers.[154] The key is to allow market forces, not the govern-

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144. ECONOMIC RESEARCH SERVICE, U.S. DEP'T OF AGRIC., SUGAR AND SWEETENERS SITUATION AND OUTLOOK REPORT 3 (1988).

145. *Id.* at 6.

146. *Id.*

147. Calculations were derived from U.S. sugar import quota charts located in ECONOMIC RESEARCH SERVICE, U.S. DEP'T OF AGRIC., SUGAR AND SWEETENERS SITUATION AND OUTLOOK REPORT 13 (1988), ECONOMIC RESEARCH SERVICE, U.S. DEP'T. OF AGRIC., SUGAR AND SWEETENER SITUATION AND OUTLOOK YEARBOOK 31 (1986).

148. ECONOMIC RESEARCH SERVICE, U.S. DEP'T OF AGRIC., SUGAR AND SWEETENERS SITUATION AND OUTLOOK REPORT 22 (1988).

149. *Id.*

150. *Id.* at 17.

151. *Id.* The HFCS growth rate for 1986-87 was four and six-tenths percent as compared to an annual average growth rate of twenty percent between 1981-85. *Id.*

152. *Id.* at 18.

153. ANNUAL AGRICULTURAL OUTLOOK CONFERENCE, U.S. DEP'T OF AGRIC., OUTLOOK '88 43 (Dec. 2, 1987).

154. *Id.*

ment, to determine the mix of sweeteners. The substitution of other sweeteners and the expansion of domestic sugar production are blamed for the reduction of sugar imports.[155] Proponents of the Sugar Stabilization Act argue that production controls and marketing quotas ultimately encourage inefficiency.[156] The four-year sugar stabilizing plan includes a reduction in the loan rate to twelve cents over the next four years, which would reduce the sugar price support level from 21.5 cents to 15.5 cents.[157] At this level, it is argued, the government would be providing a "safety net" for efficient producers rather than guaranteeing the profitability of inefficient ones.[158]

Even with the severe decline in U.S. sugar imports, Caribbean nations have not lost hope in their struggle to diversify and stabilize their economies. This positive attitude is demonstrated through the Caribbean nations' willingness to participate in impact studies to improve CBI and also in their attempts to diversify. A novel approach recently announced by St. Kitts includes a "diversification into sugar plan" including a fertilizer plant, ethanol plant and liquor distillery using local cane sugar.[159]

B. Proposal

The current CBI II proposal would return sugar quota levels to those existing in 1984. This action is desperately and immediately needed. A long-range plan, however, must be devised to encourage Caribbean nations to diversify away from sugar and to achieve economic stability. This approach must be long term to allow a sufficient transition period for Caribbean economies which are presently based almost entirely on sugar. Also, the U.S. should not allow the Caribbean nations to become dependent on a U.S. sugar market that is declining because of HFCS and low-calorie sweeteners.

An immediate return to 1984 sugar quota levels should be coupled with a ten-year plan designed to reduce these initial quota levels by ten percent each year. This initial step would restore foreign exchange receipts which are desperately needed by the Caribbean nations and would fund a gradual diversification into nontraditional markets. This basic plan is attractive because it allows the Caribbean nations time to adjust. The program is equally appealing from the perspectives of U.S. sugar producers because it encompasses an eventual absence of Caribbean competition in the U.S. sugar market. Even more critical

155. *Id.* at 44.

156. *Id.* at 47.

157. *Id.*

158. *Id.* One of the major concerns of the proponents of the Sugar Stabilization Act is the ten-fold increase in Russian imports from Central America, excluding Nicaragua, between 1981 and 1986. As U.S. imports continue to decline, Russian influence will continue to expand, establishing strong trading ties. *Id.* at 51. *But see Id.* at 53, 54. "I recall that the U.S. was buying nearly all of Cuba's sugar at a premium when Fidel Castro took over and it didn't save Cuba from going communist" *Id.*

159. Telephone interview with Tom Klotzbach, International Trade Specialist for St. Kitts (Apr. 4, 1988).

is the fact that the proposed reductions are predictable rather than sporadic, allowing the Basin countries time and an incentive to prepare. The U.S. should also provide assistance through programs designed to instruct the Basin countries on U.S. marketing and production techniques to enable these countries to develop competitive postures in the U.S. markets. A direct communication line designed to promptly entertain any inquiries concerning U.S. market practices or procedures should be maintained between Caribbean nations and U.S. markets. The list of articles which are currently ineligible to receive CBI duty-free treatment should be extensively reviewed. Articles on the list which are not produced in the U.S. or which are in short supply should be reassessed. If investigations reveal that duty-free treatment of such articles would be beneficial to Caribbean economies, these articles should be transferred to the CBI eligible articles list. This procedure should be monitored by a mechanism designed to suspend such duty-free treatment if injury to a U.S. domestic economy develops. Finally, annual reviews should be conducted to evaluate and encourage diversification attempts.

Such a long-range program, including an immediate return to 1984 sugar quota levels with consistent gradual reductions of such quota levels accompanied by instructions in U.S. marketing techniques and expansion of CBI duty-free product coverage, would provide the balance necessary to achieve diversification and stability in Caribbean economies and would result in no injury to the U.S. domestic sugar market. The program must focus on a gradual transition from the production of traditional products to the production of increasingly attractive nontraditional products.

It is critical that the United States assist the Caribbean nations. With U.S. assistance, the economies of these countries can be strengthened through diversification. The present CBI program is a beginning, but it must be modified to restore and maintain strong relations with the Caribbean nations who are of such close proximity to the United States.

Betty Ruth Fox