

104TH CONGRESS
1ST SESSION

S. 529

To provide, temporarily, tariff and quota treatment equivalent to that accorded to members of the North American Free Trade Agreement (NAFTA) to Caribbean Basin beneficiary countries.

IN THE SENATE OF THE UNITED STATES

MARCH 10 (legislative day, MARCH 6), 1995

Mr. GRAHAM (for himself, Mr. MACK, Mr. LOTT, Mr. BRADLEY, Ms. MOSELEY-BRAUN, Mr. HATCH, and Mr. GRASSLEY) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To provide, temporarily, tariff and quota treatment equivalent to that accorded to members of the North American Free Trade Agreement (NAFTA) to Caribbean Basin beneficiary countries.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Caribbean Basin Trade
5 Security Act”.

6 **SEC. 2. FINDINGS AND POLICY.**

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

1 (1) the Caribbean Basin Economic Recovery
2 Act represents a permanent commitment by the
3 United States to encourage the development of
4 strong democratic governments and revitalized
5 economies in neighboring countries in the Caribbean
6 Basin;

7 (2) the economic security of the countries in the
8 Caribbean Basin is potentially threatened by the di-
9 version of investment to Mexico as a result of the
10 North American Free Trade Agreement;

11 (3) to preserve the United States commitment
12 to Caribbean Basin beneficiary countries and to help
13 further their economic development, it is necessary
14 to offer temporary benefits equivalent to the trade
15 treatment accorded to products of NAFTA mem-
16 bers;

17 (4) offering NAFTA equivalent benefits to Car-
18ibbean Basin beneficiary countries, pending their
19 eventual accession to the NAFTA, will promote the
20 growth of free enterprise and economic opportunity
21 in the region, and thereby enhance the national se-
22 curity interests of the United States; and

23 (5) increased trade and economic activity be-
24tween the United States and Caribbean Basin bene-

1 beneficiary countries will create expanding export oppor-
2 tunities for United States businesses and workers.

3 (b) POLICY.—It is therefore the policy of the United
4 States to offer to the products of Caribbean Basin bene-
5 ficiary countries tariff and quota treatment equivalent to
6 that accorded to products of NAFTA countries, and to
7 seek the accession of these beneficiary countries to the
8 NAFTA at the earliest possible date, with the goal of
9 achieving full participation in the NAFTA by all bene-
10 ficiary countries by not later than January 1, 2005.

11 **SEC. 3. DEFINITIONS.**

12 As used in this title:

13 (1) BENEFICIARY COUNTRY.—The term “bene-
14 ficiary country” means a beneficiary country as de-
15 fined in section 212(a)(1)(A) of the Caribbean Basin
16 Economic Recovery Act (19 U.S.C. 2702(a)(1)(A)).

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

21 (3) TRADE REPRESENTATIVE.—The term
22 “Trade Representative” means the United States
23 Trade Representative.

24 (4) WTO AND WTO MEMBER.—The terms
25 “WTO” and “WTO member” have the meanings

1 given such terms in section 2 of the Uruguay Round
2 Agreements Act.

3 **TITLE I—RELATIONSHIP OF**
4 **NAFTA IMPLEMENTATION TO**
5 **THE OPERATION OF THE CAR-**
6 **IBBEAN BASIN INITIATIVE**

7 **SEC. 101. TEMPORARY PROVISIONS TO PROVIDE NAFTA**
8 **PARITY TO BENEFICIARY COUNTRY ECONO-**
9 **MIES.**

10 (a) TEMPORARY PROVISIONS.—Section 213(b) of the
11 Caribbean Basin Economic Recovery Act (19 U.S.C.
12 2703(b)) is amended to read as follows:

13 “(b) IMPORT-SENSITIVE ARTICLES.—

14 “(1) IN GENERAL.—Subject to paragraphs (2)
15 through (5), the duty-free treatment provided under
16 this title does not apply to—

17 “(A) textile and apparel articles which are
18 subject to textile agreements;

19 “(B) footwear not designated at the time
20 of the effective date of this title as eligible arti-
21 cles for the purpose of the generalized system
22 of preferences under title V of the Trade Act of
23 1974;

24 “(C) tuna, prepared or preserved in any
25 manner, in airtight containers;

1 “(D) petroleum, or any product derived
2 from petroleum, provided for in headings 2709
3 and 2710 of the HTS;

4 “(E) watches and watch parts (including
5 cases, bracelets and straps), of whatever type
6 including, but not limited to, mechanical, quartz
7 digital or quartz analog, if such watches or
8 watch parts contain any material which is the
9 product of any country with respect to which
10 HTS column 2 rates of duty apply; or

11 “(F) articles to which reduced rates of
12 duty apply under subsection (h).

13 “(2) NAFTA TRANSITION PERIOD TREATMENT
14 OF CERTAIN TEXTILE AND APPAREL ARTICLES.—

15 “(A) EQUIVALENT TARIFF AND QUOTA
16 TREATMENT.—During the transition period—

17 “(i) the tariff treatment accorded at
18 any time to any textile or apparel article
19 that originates in the territory of a bene-
20 ficiary country shall be identical to the tar-
21 iff treatment that is accorded during such
22 time under section 2 of the Annex to a like
23 article that originates in the territory of
24 Mexico and is imported into the United
25 States;

1 “(ii) duty-free treatment under this
2 title shall apply to any textile or apparel
3 article of a beneficiary country that is im-
4 ported into the United States and that—

5 “(I) meets the same require-
6 ments (other than assembly in Mex-
7 ico) as those specified in Appendix 2.4
8 of the Annex (relating to goods as-
9 sembled from fabric wholly formed
10 and cut in the United States) for the
11 duty free entry of a like article assem-
12 bled in Mexico, or

13 “(II) is identified under subpara-
14 graph (C) as a handloomed, hand-
15 made, or folklore article of such coun-
16 try and is certified as such by the
17 competent authority of such country;
18 and

19 “(iii) no quantitative restriction or
20 consultation level may be applied to the
21 importation into the United States of any
22 textile or apparel article that—

23 “(I) originates in the territory of
24 a beneficiary country,

1 “(II) meets the same require-
2 ments (other than assembly in Mex-
3 ico) as those specified in Appendix
4 3.1.B.10 of the Annex (relating to
5 goods assembled from fabric wholly
6 formed and cut in the United States)
7 for the exemption of a like article as-
8 sembled in Mexico from United States
9 quantitative restrictions and consulta-
10 tion levels, or

11 “(III) qualifies for duty-free
12 treatment under clause (ii)(II).

13 “(B) NAFTA TRANSITION PERIOD TREAT-
14 MENT OF NONORIGINATING TEXTILE AND AP-
15 PAREL ARTICLES.—

16 “(i) PREFERENTIAL TARIFF TREAT-
17 MENT.—Subject to clause (ii), the United
18 States Trade Representative may place in
19 effect at any time during the transition pe-
20 riod with respect to any textile or apparel
21 article that—

22 “(I) is a product of a beneficiary
23 country, but

1 “(II) does not qualify as a good
2 that originates in the territory of that
3 country,

4 tariff treatment that is identical to the
5 preferential tariff treatment that is ac-
6 corded during such time under Appendix
7 6.B of the Annex to a like article that is
8 a product of Mexico and imported into the
9 United States.

10 “(ii) PRIOR CONSULTATION.—The
11 United States Trade Representative may
12 implement the preferential tariff treatment
13 described in clause (i) only after consulta-
14 tion with representatives of the United
15 States textile and apparel industry and
16 other interested parties regarding—

17 “(I) the specific articles to which
18 such treatment will be extended,

19 “(II) the annual quantity levels
20 to be applied under such treatment
21 and any adjustment to such levels,

22 “(III) the allocation of such an-
23 nual quantities among the beneficiary
24 countries that export the articles con-
25 cerned to the United States, and

1 “(IV) any other applicable provi-
2 sion.

3 “(iii) ADJUSTMENT OF CERTAIN BI-
4 LATERAL TEXTILE AGREEMENTS.—The
5 United States Trade Representative shall
6 undertake negotiations for purposes of
7 seeking appropriate reductions in the
8 quantities of textile and apparel articles
9 that are permitted to be imported into the
10 United States under bilateral agreements
11 with beneficiary countries in order to re-
12 flect the quantities of textile and apparel
13 articles of each respective country that are
14 exempt from quota treatment by reason of
15 paragraph (2)(A)(iii).

16 “(C) HANDLOOMED, HANDMADE, AND
17 FOLKLORE ARTICLES.—For purposes of sub-
18 paragraph (A), the United States Trade Rep-
19 resentative shall consult with representatives of
20 the beneficiary country for the purpose of iden-
21 tifying particular textile and apparel goods that
22 are mutually agreed upon as being handloomed,
23 handmade, or folklore goods of a kind described
24 in section 2.3 (a), (b), or (c) or Appendix
25 3.1.B.11 of the Annex.

1 “(D) BILATERAL EMERGENCY ACTIONS.—

2 The President may take—

3 “(i) bilateral emergency tariff actions
4 of a kind described in section 4 of the
5 Annex with respect to any textile or ap-
6 parel article imported from a beneficiary
7 country if the application of tariff treat-
8 ment under subparagraph (A) to such arti-
9 cle results in conditions that would be
10 cause for the taking of such actions under
11 such section 4 with respect to a like article
12 that is a product of Mexico; or

13 “(ii) bilateral emergency quantitative
14 restriction actions of a kind described in
15 section 5 of the Annex with respect to im-
16 ports of any textile or apparel article de-
17 scribed in subparagraph (B)(i) (I) and (II)
18 if the importation of such article into the
19 United States results in conditions that
20 would be cause for the taking of such ac-
21 tions under such section 5 with respect to
22 a like article that is a product of Mexico.

23 “(3) NAFTA TRANSITION PERIOD TREATMENT
24 OF CERTAIN OTHER ARTICLES ORIGINATING IN BEN-
25 EFICIARY COUNTRIES.—

1 “(A) EQUIVALENT TARIFF TREATMENT.—

2 “(i) IN GENERAL.—Subject to clause
3 (ii), the tariff treatment accorded at any
4 time during the transition period to any
5 article referred to in any of subparagraphs
6 (B) through (F) of paragraph (1) that
7 originates in the territory of a beneficiary
8 country shall be identical to the tariff
9 treatment that is accorded during such
10 time under Annex 302.2 of the NAFTA to
11 a like article that originates in the terri-
12 tory of Mexico and is imported into the
13 United States. Such articles shall be sub-
14 ject to the provisions for emergency action
15 under chapter 8 of part two of the NAFTA
16 to the same extent as if such articles were
17 imported from Mexico.

18 “(ii) EXCEPTION.—Clause (i) does not
19 apply to any article accorded duty-free
20 treatment under U.S. Note 2(b) to sub-
21 chapter II of chapter 98 of the HTS.

22 “(B) RELATIONSHIP TO SUBSECTION (h)
23 DUTY REDUCTIONS.—If at any time during the
24 transition period the rate of duty that would
25 (but for action taken under subparagraph (A)(i)

1 in regard to such period) apply with respect to
2 any article under subsection (h) is a rate of
3 duty that is lower than the rate of duty result-
4 ing from such action, then such lower rate of
5 duty shall be applied for the purposes of imple-
6 menting such action.

7 “(4) CUSTOMS PROCEDURES.—The provisions
8 of chapter 5 of part two of the NAFTA regarding
9 customs procedures apply to importations of articles
10 from beneficiary countries under paragraphs (2) and
11 (3).

12 “(5) DEFINITIONS.—For purposes of this sub-
13 section:—

14 “(A) The term ‘the Annex’ means Annex
15 300-B of the NAFTA.

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

20 “(C) The term ‘textile or apparel article’
21 means any article referred to in paragraph
22 (1)(A) that is a good listed in Appendix 1.1 of
23 the Annex.

24 “(D) The term ‘transition period’ means,
25 with respect to a beneficiary country, the period

1 that begins on the date of the enactment of the
2 Caribbean Basin Trade Security Act and ends
3 on the earlier of—

4 “(i) the date that is the 6th anniver-
5 sary of such date of enactment; or

6 “(ii) the date on which—

7 “(I) the beneficiary country ac-
8 cedes to the NAFTA, or

9 “(II) there enters into force with
10 respect to the United States and the
11 beneficiary country a free trade agree-
12 ment comparable to the NAFTA that
13 makes substantial progress in achiev-
14 ing the negotiating objectives set forth
15 in section 108(b)(5) of the North
16 American Free Trade Agreement Im-
17 plementation Act.

18 “(E) An article shall be treated as having
19 originated in the territory of a beneficiary coun-
20 try if the article meets the rules of origin for
21 a good set forth in chapter 4 of part two of the
22 NAFTA or in Appendix 6.A of the Annex. In
23 applying such chapter 4 or Appendix 6.A with
24 respect to a beneficiary country for purposes of
25 this subsection, no countries other than the

1 United States and beneficiary countries may be
2 treated as being Parties to the NAFTA.”.

3 (b) CONFORMING AMENDMENTS.—The Caribbean
4 Basin Economic Recovery Act is amended—

5 (1) by amending section 212(e)(1)(B) to read
6 as follows:

7 “(B) withdraw, suspend, or limit the appli-
8 cation of the duty-free treatment under this
9 subtitle, and the tariff and preferential tariff
10 treatment under section 213(b)(2) and (3), to
11 any article of any country,”; and

12 (2) by inserting “and except as provided in sec-
13 tion 213(b)(2) and (3),” after “Tax Reform Act of
14 1986,” in section 213(a)(1).

15 **SEC. 102. EFFECT OF NAFTA ON SUGAR IMPORTS FROM**
16 **BENEFICIARY COUNTRIES.**

17 The President shall monitor the effects, if any, that
18 the implementation of the NAFTA has on the access of
19 beneficiary countries under the Caribbean Basin Economic
20 Recovery Act to the United States market for sugars, syr-
21 ups, and molasses. If the President considers that the im-
22 plementation of the NAFTA is affecting, or will likely af-
23 fect, in an adverse manner the access of such countries
24 to the United States market, the President shall
25 promptly—

1 (1) take such actions, after consulting with in-
2 terested parties and with the appropriate committees
3 of the House of Representatives and the Senate, or

4 (2) propose to the Congress such legislative ac-
5 tions,

6 as may be necessary or appropriate to ameliorate such ad-
7 verse effect.

8 **SEC. 103. DUTY-FREE TREATMENT FOR CERTAIN BEV-**
9 **ERAGES MADE WITH CARIBBEAN RUM.**

10 Section 213(a) of the Caribbean Basin Economic Re-
11 covery Act (19 U.S.C. 2703(a)) is amended—

12 (1) in paragraph (5), by striking “chapter” and
13 inserting “title”; and

14 (2) by adding at the end the following new
15 paragraph:

16 “(6) Notwithstanding paragraph (1), the duty-free
17 treatment provided under this title shall apply to liqueurs
18 and spirituous beverages produced in the territory of Can-
19 ada from rum if—

20 “(A) such rum is the growth, product, or manu-
21 facture of a beneficiary country or of the Virgin Is-
22 lands of the United States;

23 “(B) such rum is imported directly from a ben-
24 eficiary country or the Virgin Islands of the United
25 States into the territory of Canada, and such li-

1 queurs and spirituous beverages are imported di-
2 rectly from the territory of Canada into the customs
3 territory of the United States;

4 “(C) when imported into the customs territory
5 of the United States, such liqueurs and spirituous
6 beverages are classified in subheading 2208.90 or
7 2208.40 of the HTS; and

8 “(D) such rum accounts for at least 90 percent
9 by volume of the alcoholic content of such liqueurs
10 and spiritous beverages.”.

11 **TITLE II—RELATED PROVISIONS**

12 **SEC. 201. MEETINGS OF TRADE MINISTERS AND USTR.**

13 (a) SCHEDULE OF MEETINGS.—The President shall
14 take the necessary steps to convene a meeting with the
15 trade ministers of the beneficiary countries in order to es-
16 tablish a schedule of regular meetings, to commence as
17 soon as is practicable, of the trade ministers and the
18 Trade Representative, for the purpose set forth in sub-
19 section (b).

20 (b) PURPOSE.—The purpose of the meetings sched-
21 uled under subsection (a) is to reach agreement between
22 the United States and beneficiary countries on the likely
23 timing and procedures for initiating negotiations for bene-
24 ficiary countries to accede to the NAFTA, or to enter into
25 mutually advantageous free trade agreements with the

1 United States that contain provisions comparable to those
2 in the NAFTA and would make substantial progress in
3 achieving the negotiating objectives set forth in section
4 108(b)(5) of the North American Free Trade Agreement
5 Implementation Act (19 U.S.C. 3317(b)(5)).

6 **SEC. 202. REPORT ON ECONOMIC DEVELOPMENT AND MAR-**
7 **KET ORIENTED REFORMS IN THE CARIB-**
8 **BEAN.**

9 (a) IN GENERAL.—The Trade Representative shall
10 make an assessment of the economic development efforts
11 and market oriented reforms in each beneficiary country
12 and the ability of each such country, on the basis of such
13 efforts and reforms, to undertake the obligations of the
14 NAFTA. The Trade Representative shall, not later than
15 July 1, 1996, submit to the President and to the Commit-
16 tee on Finance of the Senate and the Committee on Ways
17 and Means of the House of Representatives a report on
18 that assessment.

19 (b) ACCESSION TO NAFTA.—

20 (1) ABILITY OF COUNTRIES TO IMPLEMENT
21 NAFTA.—The Trade Representative shall include in
22 the report under subsection (a) a discussion of pos-
23 sible timetables and procedures pursuant to which
24 beneficiary countries can complete the economic re-
25 forms necessary to enable them to negotiate acces-

1 sion to the NAFTA. The Trade Representative shall
2 also include an assessment of the potential phase-in
3 periods that may be necessary for those beneficiary
4 countries with less developed economies to imple-
5 ment the obligations of the NAFTA.

6 (2) FACTORS IN ASSESSING ABILITY TO IMPLE-
7 MENT NAFTA.—In assessing the ability of each bene-
8 ficiary country to undertake the obligations of the
9 NAFTA, the Trade Representative should consider,
10 among other factors—

11 (A) whether the country has joined the
12 WTO;

13 (B) the extent to which the country pro-
14 vides equitable access to the markets of that
15 country;

16 (C) the degree to which the country uses
17 export subsidies or imposes export performance
18 requirements or local content requirements;

19 (D) macroeconomic reforms in the country
20 such as the abolition of price controls on traded
21 goods and fiscal discipline;

22 (E) progress the country has made in the
23 protection of intellectual property rights;

24 (F) progress the country has made in the
25 elimination of barriers to trade in services;

1 (G) whether the country provides national
2 treatment to foreign direct investment;

3 (H) the level of tariffs bound by the coun-
4 try under the WTO (if the country is a WTO
5 member);

6 (I) the extent to which the country has
7 taken other trade liberalization measures; and

8 (J) the extent which the country works to
9 accommodate market access objectives of the
10 United States.

11 (c) PARITY REVIEW IN THE EVENT A NEW COUNTRY
12 ACCEDES TO NAFTA.—If—

13 (1) a country or group of countries accedes to
14 the NAFTA, or

15 (2) the United States negotiates a comparable
16 free trade agreement with another country or group
17 of countries,

18 the Trade Representative shall provide to the committees
19 referred to in subsection (a) a separate report on the eco-
20 nomic impact of the new trade relationship on beneficiary
21 countries. The report shall include any measures the
22 Trade Representative proposes to minimize the potential
23 for the diversion of investment from beneficiary countries

1 to the new NAFTA member or free trade agreement
2 partner.

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