

103^D CONGRESS
1ST SESSION

S. 1155

To ensure that the Caribbean Basin Initiative is not adversely affected by the implementation of the North American Free Trade Agreement and to apply “fast track” approval procedures to free trade agreements entered into between the United States and certain Caribbean Basin countries.

IN THE SENATE OF THE UNITED STATES

JUNE 24 (legislative day, JUNE 22), 1993

Mr. GRAHAM (for himself, Mr. DURENBERGER, and Mr. MACK) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To ensure that the Caribbean Basin Initiative is not adversely affected by the implementation of the North American Free Trade Agreement and to apply “fast track” approval procedures to free trade agreements entered into between the United States and certain Caribbean Basin 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 Free
5 Trade Agreements Act”.

1 **SEC. 2. CONGRESSIONAL FINDINGS.**

2 The Congress finds that the continuation and
3 strengthening of the commitment of the United States, as
4 expressed by the enactment of the Caribbean Basin Eco-
5 nomic Recovery Act and the Caribbean Basin Economic
6 Recovery Expansion Act of 1990, to the successful devel-
7 opment of the Caribbean region requires the enactment
8 of provisions—

9 (1) to encourage the continuation of structural
10 reform efforts by Caribbean countries toward market
11 economies and trade liberalization;

12 (2) to preserve existing economic advantages
13 under the Caribbean Basin Initiative program and
14 avoid the potential diversion of investment from ben-
15 efitary countries under the program to Mexico as a
16 result of the North American Free Trade Agree-
17 ment;

18 (3) to maintain and increase trade benefits
19 under the Caribbean Basin Initiative program in
20 order to promote further economic development and
21 political stability in beneficiary countries and to ex-
22 pand United States export opportunities in the Car-
23ibbean region; and

24 (4) to encourage and create further economic
25 integration in the Western Hemisphere through free
26 trade arrangements that provide United States busi-

1 ness and labor reciprocal benefits through the re-
2 removal of barriers to trade and investment in goods
3 and services on a mutually advantageous basis.

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

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

11 (a) TEMPORARY PROVISIONS.—Section 213(b) of the
12 Caribbean Basin Economic Recovery Act (19 U.S.C.
13 2703(b)) is amended to read as follows:

14 “(b) IMPORT-SENSITIVE ARTICLES.—

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

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

20 “(B) footwear not designated at the time
21 of the effective date of this title as eligible arti-
22 cles for the purpose of the generalized system
23 of preferences under title V of the Trade Act of
24 1974;

1 “(C) tuna, prepared or preserved in any
2 manner, in airtight containers;

3 “(D) petroleum, or any product derived
4 from petroleum, provided for in headings 2709
5 and 2710 of the Harmonized Tariff Schedule of
6 the United States;

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

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

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

18 “(A) EQUIVALENT TARIFF AND QUOTA
19 TREATMENT.—During the transition period—

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

1 article that originates in the territory of
2 Mexico and is imported into the United
3 States;

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

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

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

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

1 “(I) originates in the territory of
2 a beneficiary country,

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

13 “(III) qualifies for duty-free
14 treatment under clause (ii)(II).

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

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

24 “(I) is a product of a beneficiary
25 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 Har-
22 monized Tariff Schedule of the United
23 States.

24 “(B) RELATIONSHIP TO SUBSECTION (h)
25 DUTY REDUCTIONS.—If at any time during the

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

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

14 “(5) DEFINITIONS.—As used in this sub-
15 section—

16 “(A) The term ‘the Annex’ means Annex
17 300-B of the NAFTA.

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

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

1 “(D) The term ‘transition period’ means,
2 with respect to a beneficiary country, the period
3 that begins on the date that the NAFTA enters
4 into force with respect to the United States,
5 and ends on the earlier of—

6 “(i) the date that is the 3rd anniver-
7 sary of the date on which the NAFTA en-
8 ters into force; or

9 “(ii) the date on which—

10 “(I) there enters into force with
11 respect to the United States a trade
12 agreement entered into under the au-
13 thority of section 202(a) of the Carib-
14 bean Basin Free Trade Agreements
15 Act and to which the beneficiary coun-
16 try is a party, or

17 “(II) the beneficiary country ac-
18 cedes to the NAFTA.

19 “(E) An article shall be treated as having
20 originated in the territory of a beneficiary coun-
21 try if the article meets the rules of origin for
22 a good set forth in chapter 4 of part two of the
23 NAFTA or in Appendix 6.A of the Annex. In
24 applying such chapter 4 or Appendix 6.A with
25 respect to a beneficiary country for purposes of

1 this subsection, no countries other than the
2 United States and beneficiary countries may be
3 treated as being Parties to the NAFTA.”.

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

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

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

13 (2) by inserting “and except as provided in sec-
14 tion 213(b)(2) and (3),” after “Tax Reform Act of
15 1986,” in section 213(a)(1).

16 **TITLE II—CARIBBEAN BASIN**
17 **FREE TRADE AGREEMENTS**

18 **SEC. 201. TRADE AGREEMENT FEASIBILITY AND OBJEC-**
19 **TIVES.**

20 As soon as practicable, the United States Trade Rep-
21 resentative shall determine the desirability and feasibility
22 of, and a likely timetable for, any country that is a bene-
23 ficiary country for purposes of the Caribbean Basin Eco-
24 nomic Recovery Act, or a group of such beneficiary coun-
25 tries, either—

1 (1) acceding to—

2 (A) the North American Free Trade
3 Agreement pursuant to Article 2204 of such
4 Agreement, and

5 (B) as appropriate, supplemental agree-
6 ments pertaining to environmental, labor, and
7 import issues; or

8 (2) entering into comprehensive bilateral or
9 multilateral agreements with the United States that
10 contain provisions that—

11 (A) are comparable to the provisions of the
12 North American Free Trade Agreement and, as
13 appropriate, to the provisions of supplemental
14 agreements pertaining to environmental, labor,
15 and import issues, and

16 (B) will achieve the applicable purposes,
17 policies, and objectives set forth in section
18 212(b) and (c) of the Caribbean Basin Eco-
19 nomic Recovery Act and section 1101 of the
20 Omnibus Trade and Competitiveness Act of
21 1988.

22 The United States Trade Representative shall consult with
23 the Committee on Ways and Means of the House of Rep-
24 resentatives and the Committee on Finance of the Senate
25 regarding the determinations made under this section.

1 **SEC. 202. TRADE AGREEMENT NEGOTIATING AUTHORITY.**

2 (a) IN GENERAL.—

3 (1) EFFECTIVE PERIOD OF AUTHORITY.—Be-
4 fore June 1, 1996, the President may enter into
5 trade agreements with one or more beneficiary coun-
6 tries under the Caribbean Basin Economic Recovery
7 Act providing for the elimination or reduction of any
8 duty imposed by the United States and for the re-
9 duction or elimination of barriers to, or other distor-
10 tions of, the international trade of the beneficiary
11 countries or the United States, if each such agree-
12 ment would comply with section 201(2).

13 (2) LIMITATION.—Notwithstanding any other
14 provision of law, no trade benefit shall be extended
15 to any country by reason of the extension of any
16 trade benefit to another country under a trade
17 agreement entered into under paragraph (1) with
18 such other country.

19 (b) CONSULTATION WITH CONGRESS BEFORE
20 AGREEMENTS ENTERED INTO.—

21 (1) Before the President enters into any trade
22 agreement under subsection (a), the President shall
23 consult with—

24 (A) the Committee on Ways and Means of
25 the House of Representatives and the Commit-
26 tee on Finance of the Senate; and

1 (B) each other committee of the House
2 and the Senate, and each joint committee of the
3 Congress, which has jurisdiction over legislation
4 involving subject matters which would be af-
5 fected by the trade agreement.

6 (2) The consultation under paragraph (1) shall
7 include—

8 (A) the nature of the agreement;

9 (B) how and to what extent the agreement
10 will achieve the applicable purposes, policies,
11 and objectives of this title; and

12 (C) all matters relating to the implementa-
13 tion of the agreement under section 203.

14 (3) If it is proposed to implement two or more
15 trade agreements in a single implementing bill under
16 section 203(a), the consultation under paragraph (1)
17 shall include the desirability and feasibility of such
18 proposed implementation.

19 **SEC. 203. IMPLEMENTATION OF TRADE AGREEMENTS.**

20 (a) IN GENERAL.—

21 (1) REQUIREMENTS FOR ENTERING INTO
22 FORCE.—Any agreement entered into under section
23 202(a) shall enter into force with respect to the
24 United States if (and only if)—

1 (A) the President, at least 90 calendar
2 days before the day on which he enters into the
3 trade agreement, notifies the House of Rep-
4 resentatives and the Senate of his intention to
5 enter into the agreement, and promptly there-
6 after publishes notice of such intention in the
7 Federal Register;

8 (B) after entering into the agreement, the
9 President submits a document to the House of
10 Representatives and to the Senate containing a
11 copy of the final legal text of the agreement, to-
12 gether with—

13 (i) a draft of an implementing bill,

14 (ii) a statement of any administrative
15 action proposed to implement the trade
16 agreement, and

17 (iii) the supporting information de-
18 scribed in paragraph (2); and

19 (C) the implementing bill is enacted into
20 law.

21 (2) SUPPORTING INFORMATION.—The support-
22 ing information required under paragraph (1)(B)(iii)
23 consists of—

1 (A) an explanation as to how the imple-
2 menting bill and proposed administrative action
3 will change or affect existing law; and

4 (B) a statement—

5 (i) asserting that the agreement
6 makes progress in achieving the agreement
7 requirements set forth in section 201(2)
8 (A) and (B), and

9 (ii) setting forth the reasons of the
10 President regarding—

11 (I) how and to what extent the
12 agreement makes progress in achiev-
13 ing the agreement requirements set
14 forth in section 201(2) (A) or (B),
15 and why and to what extent the
16 agreement does not achieve other ap-
17 plicable purposes, policies, and objec-
18 tives,

19 (II) how the agreement serves
20 the interests of United States com-
21 merce, and

22 (III) why the implementing bill
23 and proposed administrative action is
24 required or appropriate to carry out
25 the agreement.

1 (3) APPLICATION.—To ensure that a foreign
2 country which receives benefits under a trade agree-
3 ment entered into under section 202(a) is subject to
4 the obligations imposed by such agreement, the
5 President shall recommend to Congress in the imple-
6 menting bill and statement of administrative action
7 submitted with respect to such agreement that the
8 benefits and obligations of such agreement apply
9 solely to the parties to such agreement, if such ap-
10 plication is consistent with the terms of such agree-
11 ment. The President may also recommend with re-
12 spect to any such agreement that the benefits and
13 obligations of such agreement not apply uniformly to
14 all parties to such agreement, if such application is
15 consistent with the terms of such agreement.

16 (b) APPLICATION OF CONGRESSIONAL “FAST
17 TRACK” PROCEDURES TO IMPLEMENTING BILLS.—The
18 provisions of section 151 of the Trade Act of 1974 (19
19 U.S.C. 2191) apply to implementing bills submitted with
20 respect to trade agreements entered into under section
21 202(a) before June 1, 1996.

22 (c) CONFORMING AMENDMENT.—Section 151(b)(1)
23 of the Trade Act of 1974 (19 U.S.C. 2191(b)(1)) is
24 amended by striking out “or section 1103(a)(1) of the
25 Omnibus Trade and Competitiveness Act of 1988” and in-

1 sserting “, section 1103(a)(1) of the Omnibus Trade and
2 Competitiveness Act of 1988, and section 202(a) of the
3 Caribbean Basin Free Trade Agreements Act”.

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