

section 315 of Pub. L. 97-446, set out as a note under section 2601 of this title.

§ 2611. Certain material and articles exempt from this chapter

The provisions of this chapter shall not apply to—

(1) any archaeological or ethnological material or any article of cultural property which is imported into the United States for temporary exhibition or display if such material or article is immune from seizure under judicial process pursuant to section 2459 of title 22; or

(2) any designated archaeological or ethnological material or any article of cultural property imported into the United States if such material or article—

(A) has been held in the United States for a period of not less than three consecutive years by a recognized museum or religious or secular monument or similar institution, and was purchased by that institution for value, in good faith, and without notice that such material or article was imported in violation of this chapter, but only if—

(i) the acquisition of such material or article has been reported in a publication of such institution, any regularly published newspaper or periodical with a circulation of at least fifty thousand, or a periodical or exhibition catalog which is concerned with the type of article or materials sought to be exempted from this chapter,

(ii) such material or article has been exhibited to the public for a period or periods aggregating at least one year during such three-year period, or

(iii) such article or material has been cataloged and the catalog material made available upon request to the public for at least two years during such three-year period;

(B) if subparagraph (A) does not apply, has been within the United States for a period of not less than ten consecutive years and has been exhibited for not less than five years during such period in a recognized museum or religious or secular monument or similar institution in the United States open to the public; or

(C) if subparagraphs (A) and (B) do not apply, has been within the United States for a period of not less than ten consecutive years and the State Party concerned has received or should have received during such period fair notice (through such adequate and accessible publication, or other means, as the Secretary shall by regulation prescribe) of its location within the United States; and

(D) if none of the preceding subparagraphs apply, has been within the United States for a period of not less than twenty consecutive years and the claimant establishes that it purchased the material or article for value without knowledge or reason to believe that it was imported in violation of law.

¹ So in original. Probably should be “United”.

(Pub. L. 97-446, title III, §312, Jan. 12, 1983, 96 Stat. 2362.)

EFFECTIVE DATE

Section effective on the 90th day after Jan. 12, 1983, or on any date which the President shall prescribe and publish in the Federal Register, with exceptions, see section 315 of Pub. L. 97-446, set out as a note under section 2601 of this title.

§ 2612. Regulations

The Secretary shall prescribe such rules and regulations as are necessary and appropriate to carry out the provisions of this chapter.

(Pub. L. 97-446, title III, §313, Jan. 12, 1983, 96 Stat. 2363.)

EFFECTIVE DATE

Section effective on the 90th day after Jan. 12, 1983, or on any date which the President shall prescribe and publish in the Federal Register, with exceptions, see section 315 of Pub. L. 97-446, set out as a note under section 2601 of this title.

§ 2613. Enforcement

In the customs territory of the United States, and in the Virgin Islands, the provisions of this chapter shall be enforced by appropriate customs officers. In any other territory or area within the United States, but not within such customs territory or the Virgin Islands, such provisions shall be enforced by such persons as may be designated by the President.

(Pub. L. 97-446, title III, §314, Jan. 12, 1983, 96 Stat. 2363.)

EFFECTIVE DATE

Section effective on the 90th day after Jan. 12, 1983, or on any date which the President shall prescribe and publish in the Federal Register, with exceptions, see section 315 of Pub. L. 97-446, set out as a note under section 2601 of this title.

DELEGATION OF FUNCTIONS

For delegation of certain functions of President under this section, see Ex. Ord. No. 12555, Mar. 10, 1986, 51 F.R. 8475, set out as a note under section 2602 of this title.

CHAPTER 15—CARIBBEAN BASIN ECONOMIC RECOVERY

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§ 2701. Authority to grant duty-free treatment

The President may proclaim duty-free treatment (or other preferential treatment) for all eligible articles from any beneficiary country in accordance with the provisions of this chapter.

(Pub. L. 98-67, title II, §211, Aug. 5, 1983, 97 Stat. 384; Pub. L. 106-200, title II, §211(e)(1)(A), May 18, 2000, 114 Stat. 287.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this title”, meaning title II of Pub. L. 98-67, Aug. 5, 1983, 97 Stat. 384, which is classified principally to this chapter. For complete classification of title II to the Code, see Short Title note set out below and Tables.

AMENDMENTS

2000—Pub. L. 106-200 inserted “(or other preferential treatment)” after “treatment”.

SHORT TITLE OF 2010 AMENDMENT

Pub. L. 111-171, § 1, May 24, 2010, 124 Stat. 1194, provided that: “This Act [amending sections 58c, 2703, and 2703a of this title and enacting provisions set out as notes under section 2703a of this title and section 6655 of Title 26, Internal Revenue Code] may be cited as the ‘Haiti Economic Lift Program Act of 2010’.”

SHORT TITLE OF 2008 AMENDMENT

Pub. L. 110-234, title XV, § 15401, May 22, 2008, 122 Stat. 1527, and Pub. L. 110-246, § 4(a), title XV, § 15401, June 18, 2008, 122 Stat. 1664, 2289, provided that: “This part [part I (§§ 15401-15412) of subtitle D of title XV of Pub. L. 110-246, amending sections 2703 and 2703a of this title and enacting provisions set out as notes under section 2703a of this title] may be cited as the ‘Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008’ or the ‘HOPE II Act’.”

[Pub. L. 110-234 and Pub. L. 110-246 enacted identical provisions. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246, set out as a note under section 8701 of Title 7, Agriculture.]

SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109-432, div. D, title V, § 5001, Dec. 20, 2006, 120 Stat. 3181, provided that: “This title [enacting section 2703a of this title, amending sections 2703 and 3203 of this title, and enacting provisions set out as a note under section 2703 of this title] may be cited as the ‘Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006’.”

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106-200, title II, § 201, May 18, 2000, 114 Stat. 275, provided that: “This title [amending this section and sections 2702 to 2704, 3202, and 3204 of this title and enacting provisions set out as notes under this section] may be cited as the ‘United States-Caribbean Basin Trade Partnership Act’.”

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101-382, title II, § 201, Aug. 20, 1990, 104 Stat. 655, provided that: “This title [enacting section 226 of Title 20, Education, amending sections 1677, 2463, 2702, 2703, and 2706 of this title and section 936 of Title 26, Internal Revenue Code, enacting provisions set out as notes under this section and sections 1677, 2071, and 2703 of this title and section 936 of Title 26, and amending provisions set out as notes under section 2703 of this title] may be cited as the ‘Caribbean Basin Economic Recovery Expansion Act of 1990’.”

SHORT TITLE

Pub. L. 98-67, title II, § 201, Aug. 5, 1983, 97 Stat. 384, provided that: “This title [enacting this chapter, amending section 1202 of this title and sections 274 and 7652 of Title 26, Internal Revenue Code, repealing section 2582 of this title, and enacting provisions set out as notes under sections 1319, 2251, and 2703 of this title, sections 274 and 7652 of Title 26, and section 1311 of Title 33, Navigation and Navigable Waters] may be cited as the ‘Caribbean Basin Economic Recovery Act’.”

FINDINGS AND POLICY

Pub. L. 106-200, title II, § 202, May 18, 2000, 114 Stat. 275, provided that:

“(a) FINDINGS.—Congress makes the following findings:

“(1) The Caribbean Basin Economic Recovery Act [19 U.S.C. 2701 et seq.] (in this title [see Short Title of 2000 Amendment note above] referred to as ‘CBERA’) represents a permanent commitment by the United States to encourage the development of strong democratic governments and revitalized economies in neighboring countries in the Caribbean Basin.

“(2) In 1998, Hurricane Mitch and Hurricane Georges devastated areas in the Caribbean Basin region, killing more than 10,000 people and leaving 3,000,000 homeless.

“(3) The total direct impact of Hurricanes Mitch and Georges on Honduras, Nicaragua, the Dominican Republic, El Salvador, and Guatemala amounts to \$4,200,000,000, representing a severe loss to income levels in this underdeveloped region.

“(4) In addition to short term disaster assistance, United States policy toward the region should focus on expanding international trade with the Caribbean Basin region as an enduring solution for successful economic growth and recovery.

“(5) Thirty-four democratically elected leaders agreed at the 1994 Summit of the Americas to conclude negotiation of a Free Trade Area of the Americas (in this title referred to as ‘FTAA’) by the year 2005.

“(6) The economic security of the countries in the Caribbean Basin will be enhanced by the completion of the FTAA.

“(7) Offering temporary benefits to Caribbean Basin countries will preserve the United States commitment to Caribbean Basin beneficiary countries, promote the growth of free enterprise and economic opportunity in these neighboring countries, and thereby enhance the national security interests of the United States.

“(8) Given the greater propensity of countries located in the Western Hemisphere to use United States components and to purchase United States products compared to other countries, increased trade and economic activity between the United States and countries in the Western Hemisphere will create new jobs in the United States as a result of expanding export opportunities.

“(b) POLICY.—It is the policy of the United States—

“(1) to offer Caribbean Basin beneficiary countries willing to prepare to become a party to the FTAA or another free trade agreement, tariff treatment essentially equivalent to that accorded to products of NAFTA countries for certain products not currently eligible for duty-free treatment under the CBERA; and

“(2) to seek the participation of Caribbean Basin beneficiary countries in the FTAA or another free trade agreement at the earliest possible date, with the goal of achieving full participation in such agreement not later than 2005.”

MEETINGS OF TRADE MINISTERS AND USTR

Pub. L. 106-200, title II, § 213, May 18, 2000, 114 Stat. 288, provided that:

“(a) SCHEDULE OF MEETINGS.—The President shall take the necessary steps to convene a meeting with the trade ministers of the CBTPA beneficiary countries in order to establish a schedule of regular meetings, to commence as soon as is practicable, of the trade ministers and the Trade Representative, for the purpose set forth in subsection (b).

“(b) PURPOSE.—The purpose of the meetings scheduled under subsection (a) is to reach agreement between the United States and CBTPA beneficiary countries on the likely timing and procedures for initiating negotiations for CBTPA beneficiary countries to enter into mutually advantageous free trade agreements with the United States that contain provisions comparable to those in the NAFTA and would make substantial progress in achieving the negotiating objectives set

forth in section 108(b)(5) of Public Law 103-182 (19 U.S.C. 3317(b)(5)).

“(c) DEFINITION.—In this section, the term ‘CBTPA beneficiary country’ has the meaning given that term in section 213(b)(5)(B) of the Caribbean Basin Economic Recovery Act [19 U.S.C. 2703(b)(5)(B)].”

CONGRESSIONAL FINDINGS

Pub. L. 101-382, title II, §202, Aug. 20, 1990, 104 Stat. 655, provided that: “The Congress finds that—

“(1) a stable political and economic climate in the Caribbean region is necessary for the development of the countries in that region and for the security and economic interests of the United States;

“(2) the Caribbean Basin Economic Recovery Act [this chapter] was enacted in 1983 to assist in the achievement of such a climate by stimulating the development of the export potential of the region; and

“(3) the commitment of the United States to the successful development of the region, as evidenced by the enactment of the Caribbean Basin Economic Recovery Act, should be reaffirmed, and further strengthened, by amending that Act to improve its operation.”

DEFINITIONS

Pub. L. 106-200, title II, §203, May 18, 2000, 114 Stat. 276, provided that: “In this title [see Short Title of 2000 Amendment note above]:

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

“(2) NAFTA COUNTRY.—The term ‘NAFTA country’ means any country with respect to which the NAFTA is in force.

“(3) WTO AND WTO MEMBER.—The terms ‘WTO’ and ‘WTO member’ have the meanings given those terms in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501).”

§ 2702. Beneficiary country

(a) Definitions; termination of designation

(1) For purposes of this chapter—

(A) The term “beneficiary country” means any country listed in subsection (b) with respect to which there is in effect a proclamation by the President designating such country as a beneficiary country for purposes of this chapter. Before the President designates any country as a beneficiary country for purposes of this chapter, he shall notify the House of Representatives and the Senate of his intention to make such designation, together with the considerations entering into such decision.

(B) The term “entered” means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(C) The term “HTS” means Harmonized Tariff Schedule of the United States.

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

(E) The terms “WTO” and “WTO member” have the meanings given those terms in section 3501 of this title.

(F) The term “former beneficiary country” means a country that ceases to be designated as a beneficiary country under this chapter because the country has become a party to a free trade agreement with the United States.

(2) If the President has designated any country as a beneficiary country for purposes of this

chapter, he shall not terminate such designation (either by issuing a proclamation for that purpose or by issuing a proclamation which has the effect of terminating such designation) unless, at least sixty days before such termination, he has notified the House of Representatives and the Senate and has notified such country of his intention to terminate such designation, together with the considerations entering into such decision.

(b) Countries eligible for designation as beneficiary countries; conditions

In designating countries as “beneficiary countries” under this chapter the President shall consider only the following countries and territories or successor political entities:

Anguilla	Saint Lucia
Antigua and Barbuda	Saint Vincent and the Grenadines
Bahamas, The	Suriname
Barbados	Trinidad and Tobago
Belize	Cayman Islands
Dominica	Montserrat
Grenada	Netherlands Antilles
Guyana	Saint Christopher-Nevis
Haiti	Turks and Caicos Islands
Jamaica	Virgin Islands, British

In addition, the President shall not designate any country a beneficiary country under this chapter—

- (1) if such country is a Communist country;
- (2) if such country—

(A) has nationalized, expropriated or otherwise seized ownership or control of property owned by a United States citizen or by a corporation, partnership, or association which is 50 per centum or more beneficially owned by United States citizens,

(B) has taken steps to repudiate or nullify—

- (i) any existing contract or agreement with, or
- (ii) any patent, trademark, or other intellectual property of,

a United States citizen or a corporation, partnership, or association which is 50 per centum or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property so owned, or

(C) has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property, unless the President determines that—

(i) prompt, adequate, and effective compensation has been or is being made to such citizen, corporation, partnership, or association,

(ii) good-faith negotiations to provide prompt, adequate, and effective compensation under the applicable provisions of international law are in progress, or such country is otherwise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or