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## A Caribbean Perspective of the Caribbean Basin Initiative

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# A Caribbean Perspective of the Caribbean Basin Initiative<sup>†</sup>

## I. Introduction

On January 1, 1984, legislation containing the Caribbean Basin Economic Recovery Act, commonly known as the Caribbean Basin Initiative (CBI) took effect.<sup>1</sup> It marks rare growth opportunities for trade, financial services and tourism in the Caribbean at a time when countries in this area are suffering from high unemployment, trade imbalances and political unrest. The purpose of this article is to provide practical information for the attorney and business person about a Commonwealth Caribbean perspective of the CBI. Ideology and policy issues are not discussed except as they explain or assist the interpretation of CBI provisions.<sup>2</sup>

The principal part of CBI provides for waiver of duties on products imported from twenty eligible and seven potentially eligible Caribbean and Central American countries until September 30, 1995. These trade provi-

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<sup>1</sup>The Caribbean Basin Initiative, Pub. L. No. 98-67, 97 Stat. 384 (1983) (codified at 19 U.S.C. § 2701 *et. seq.*) (hereinafter referred to as CBI Statute).

<sup>2</sup>For a discussion of the Administration's viewpoint of the CBI ideology and policy issues, see the address of the President on the Caribbean Basin Initiative to the Organization of American States, February 24, 1982, and accompanying fact sheet released by the White House; *contra* Feinberg and Newfarmer, *The Caribbean Basin Initiative: Bold Plan or Empty Promise?* in FROM GUNBOATS TO DIPLOMACY 210-27 (R. Newfarmer ed. 1984); Mayerson and Zorn, *The Caribbean Basin Initiative: A Windfall for the Private Sector*, 14 LAWYER OF THE AMERICAS 523-56 (no. 3, 1983).

sions, particularly the recently promulgated interim regulations of the United States Customs Service and the import relief provisions, will be discussed in Part II of this article.<sup>3</sup> In Part III, the CBI provisions are applied to industrial and agricultural opportunities using Barbados as an example of the CBI beneficiary countries of the Commonwealth Caribbean. A description of the relationship of CBI to the regional integration structure and programs of the Caribbean Common Market and Community (CARICOM)<sup>4</sup> follows in this part. Since an investor can utilize an investment to export Caribbean products to the European Economic Community (EEC) as well as the United States, the Lome Convention is also discussed. The CBI tax provisions are discussed in Part IV.

## II. CBI Trade Provisions

### A. ELIGIBLE GOODS

To enter the U.S. duty-free, an article must be: (1) the growth, product, or manufacture of a beneficiary country;<sup>5</sup> (2) imported directly from a beneficiary country into the United States customs territory; and (3) the sum of the cost of value of the materials produced in a beneficiary country(ies) plus the direct costs of processing operations performed in a beneficiary country(ies) cannot be less than 35 percent of the appraised value of such article at the time it is entered.<sup>6</sup> Specifically excluded from duty-free treatment are: textile and apparel articles which are subject to textile agreements;<sup>7</sup> footwear, handbags, luggage, flat goods, work gloves, and leather

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<sup>3</sup>The countries and territories are: Anguilla, Antigua and Bermuda, the Bahamas, Barbados, Belize, Costa Rica, Dominica, The Dominican Republic, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Nicaragua, Panama, St. Lucia, St. Vincent and the Grenadines, Surinam, Trinidad and Tobago, Cayman Islands, Montserrat, the Netherlands Antilles, St. Christopher-Nevis, Turks and Caicos Islands, and the British Virgin Islands.

<sup>4</sup>Treaty Establishing the Caribbean Community, 12 I.L.M. 1033 (1973).

<sup>5</sup>The following 20 countries have been designated beneficiaries of the CBI legislation: Antigua, Barbados, Belize, British Virgin Islands, Costa Rica, Dominica, the Dominican Republic, El Salvador, Grenada, Guatemala, Haiti, Honduras, Jamaica, Montserrat, the Netherlands Antilles, Panama, St. Christopher-Nevis, St. Lucia, St. Vincent, and Trinidad and Tobago. The seven countries which remain eligible to be designated as CBI beneficiaries are: Anguilla, Bahamas, Cayman Islands, Guyana, Nicaragua, and the Turks and Caicos. For designation criteria, which consists essentially of economic requirements, see CBI Statute, Sec. 212(c), 19 U.S.C. § 2702(c).

<sup>6</sup>CBI Statute, Sec. 213(a)(1), 19 U.S.C. § 2703(a)(1); U.S. Customs Service Caribbean Basin Initiative Interim Regulations (hereinafter referred to as Customs Interim Regulations), 49 Fed. Reg. 3, 852 (1984) (to be codified at 19 C.F.R. pt. 10 § 10.191(3)).

<sup>7</sup>CBI Statute, Sec. 213(b)(1). Textile products are not only excluded from the CBI; but the U.S., after orchestrating the Multifibre Arrangement departing from GATT prohibition against quotas, has now notified Barbados that it wants to enter into consultations preliminary to imposing a new level of quotas on brassieres manufactured in Barbados. 49 Fed. Reg. 14552 (April 12, 1984).

apparel, tuna, petroleum or any derivative products, and watches and watch parts.<sup>8</sup> Sugar exports are still subject to a quota,<sup>9</sup> and sugar and beef products qualify only if the President determines that the beneficiary country has a stable food production plan.<sup>10</sup>

## B. CUSTOMS INTERIM REGULATIONS

On January 5, 1984, the U.S. Customs Services promulgated interim regulations.<sup>11</sup> The CBI interim regulations are generally based on the Customs Regulations relating to the Generalized System of Preferences (G.S.P.) under which the President must specifically designate the articles to be accorded duty-free treatment. Unlike the G.S.P. rules, however, the CBI provides duty-free treatment to all articles, except those specifically excluded.<sup>12</sup>

### 1. *The Requirement of "Imported Directly"*

This CBI requirement differs from the G.S.P. in that the "imported directly" requirement in the CBI does not require the country of exportation be the same as the country in which the article is grown, produced, or manufactured. Such liberalization becomes important for cumulating value from other Caribbean Basin countries (thereby facilitating regional integration, see Section III.D. *infra*) and for using material from Puerto Rico, the U.S. Virgin Islands, and the United States.<sup>13</sup>

### 2. *Country of Origin Rules*

Any article which is either wholly the growth, product, or manufacture of a beneficiary country *or* a new or different article of commerce which has been grown, produced or manufactured in a beneficiary country, may qualify for duty-free entry under the CBI.<sup>14</sup> No article or material—by virtue of merely having undergone simple combining, packaging operations or dilution with another substance—may be considered to have been grown, produced or manufactured in the beneficiary country if there is no material alteration of the characteristics of the article.<sup>15</sup>

The interim regulations restate the statutory requirement that duty-free

<sup>8</sup>CBI Statute, Sec. 213(b).

<sup>9</sup>CBI Statute, Sec. 213(d).

<sup>10</sup>CBI Statute, Sec. 213(c)(1)(B).

<sup>11</sup>49 Fed. Reg. 851 (1984)(to be codified at 19 C.F.R. pt.10).

<sup>12</sup>See section-by-section analysis, 49 Fed. Reg. 852 (1984).

<sup>13</sup>CBI Statute, Sec. 213(a)(1), Customs Interim Regulations, 49 Fed. Reg. 856-7 (1984)(to be codified at 19 C.F.R. pt.10 § 10.193(a); §10.195).

<sup>14</sup>Customs Interim Regulations, 49 Fed. Reg. 857 (1984)(to be codified at 19 C.F.R. pt. 10 §10.195(a)).

<sup>15</sup>*Id.*

entry may be accorded an article only if the sum of the cost or value of other materials produced in the beneficiary country or countries, plus the "direct costs of processing operations" performed in a beneficiary country(ies), is not less than 35 percent of the appraised value of the article at the time it is entered at U.S. customs.<sup>16</sup> All of the 35 percent value added may come from Puerto Rico or the U.S. Virgin Islands, but this value must be included in the value *prior* to exportation from the beneficiary country. In addition, materials produced in the U.S. may be used for up to 15 percent of the value added.<sup>17</sup> The principal undecided question is whether you can process or have part of the value, and then arrive at the remainder by exporting to a U.S. free trade zone and perform processing therein.

### 3. *Cost or Value Produced in a Beneficiary Country*

Materials produced in a beneficiary country or countries are defined as those materials which are incorporated in an article which are either wholly the growth, produce or manufacture of two or more beneficiary countries, or *substantially transformed* in any beneficiary country or two beneficiary countries into a new or different article of commerce which is then used in any beneficiary country in the production or manufacture of a *new* or *different* article imported into the U.S. The interpretation of substantial transformation and the requirement of double transformation may result in much litigation even though the Interim Regulations give four examples for guidance.<sup>18</sup>

### 4. *Processing Direct Costs Performed in a Beneficiary Country*

The Interim Regulations delineate the items included in the direct costs of processing operations as those costs either directly incurred or which can be reasonably allocated to the growth, manufacture, or assembly of specific merchandise under consideration. To the extent they are not included in the appraised value of the imported merchandise, these costs include, but are not limited to:

- (1) all actual labor costs involved, including fringe benefits, on-the-job training, and the cost of engineering, supervisory, quality control, and similar personnel;

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<sup>16</sup>Sec. 213(a)(1)(B): Customs Interim Regulations, 49 Fed. Reg. 857 (1984)(to be codified at 19 C.F.R. pt. 10 §10.195(a)).

<sup>17</sup>CBI Statute, Sec. 213(a)(1)(B), Customs Interim Regulations, 49 Fed. Reg. 857(1984)(to be codified at 19 C.F.R. pt. 10 § 10.196(a)).

<sup>18</sup>Customs Interim Regulations, 49 Fed. Reg. 857(1984)(to be codified at 19 C.F.R. pt. 10 § 10.196(a)).

- (2) dyes, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise;
- (3) research, development, design, engineering, and blue print costs insofar as they are allocable to specific merchandise; and
- (4) costs of inspecting and testing the specific merchandise.<sup>19</sup>

The items which are not included in the direct costs of processing operations include, but are not limited to, profit and general expenses of doing business not allocable or related to the specific merchandise, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions and expenses.<sup>20</sup> Unfortunately, marketing and advertising costs are major impediments to successful extra-regional market penetration by developing country producers, especially ones as large and sophisticated as the United States. Perhaps the question of whether to include marketing costs as direct costs of processing operations ought to be reexamined.

### 5. *Evidence of Country of Origin*

Unless waived by U.S. Customs Service, the importer or consignee must file a declaration of eligibility with the entry of the merchandise. The declaration must include a description of the processing operations and the direct costs of processing operations, where the operations were performed, and the materials used in production.<sup>21</sup> Since foreign manufacturers may be prejudiced if they have to disclose this pricing information which is now available to U.S. importers, an alternative is to allow a Caribbean beneficiary government to certify the information without U.S. importer access to it, or to require the foreign manufacturer to supply the information only initially and not with each entry of merchandise.

## C. IMPORT RELIEF PROVISIONS

### 1. *In General*

Import relief provisions exist whereby the President may suspend the duty-free treatment provided to any eligible article, and may proclaim a duty rate for such article.<sup>22</sup> The import relief provisions may be problematic for Caribbean Basin countries since they are not accustomed to U.S. trade law.

<sup>19</sup>CBI Statute, Sec. 213(a)(3), Customs Interim Regulations, 49 Fed. Reg. 858(1984)(to be codified at 19 C.F.R. pt. 10 § 10.197(a)).

<sup>20</sup>CBI Statute, Sec. 213(a)(3), Customs Interim Regulations, 49 Fed. Reg. 858(1984)(to be codified at 19 C.F.R. pt. 10 § 10.197(b)).

<sup>21</sup>Customs Interim Regulations, 49 Fed. Reg. 858(1984)(to be codified at 19 C.F.R. pt. 10 § 10.198).

<sup>22</sup>CBI Statute, Sec. 213(e)(1).

## 2. *Fast Track Perishable Imports*

An interested person may file a complaint with the International Trade Commission (I.T.C.) pursuant to § 201 of the Trade Act of 1974<sup>23</sup> regarding perishable products<sup>24</sup> and may simultaneously petition the Secretary of Agriculture for emergency relief.<sup>25</sup> The latter may be filed by any of a number of entities<sup>26</sup> representative of a domestic industry producing a perishable product like or directly competitive with a perishable product. The request must allege that the product is being imported into the U.S. duty free under CBI from a beneficiary country(ies) in quantities as to be a substantial cause of or a threat of serious injury.<sup>27</sup> The petition must include information on why emergency action is warranted.<sup>28</sup>

## 3. *Section 332 Study on CBI Rum Imports*

On January 16, 1984, the I.T.C. announced the institution of an investigation under the authority of Section 332(g) of the Tariff Act of 1930<sup>29</sup> to

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<sup>23</sup>19 U.S.C. § 2251 (1984).

<sup>24</sup>A "perishable product" is defined as: specifically enumerated live plants, fresh cut flowers, and concentrated citrus fruit juice. (48 Fed.Reg. 56060 (1984).)

<sup>25</sup>48 Fed. Reg. 56060 (1984).

<sup>26</sup>E.g., a firm, group of workers, trade association, or certified recognized union. 48 Fed. Reg. 56060 (1984).

<sup>27</sup>48 Fed. Reg. 56060 (1984).

<sup>28</sup>If the Secretary of Agriculture has reason to believe that the perishable product is being imported into the U.S. in such increased quantities as to be a substantial cause of serious injury or the threat of the same, to the domestic industry producing a perishable product like or directly competitive with the imported perishable product and that emergency action is warranted, the Secretary within 14 days must recommend to the President that he take emergency action. If the Secretary decides not to recommend the imposition of such action, the Secretary must publish a notice of his decision and notify the petitioner. 48 Fed. Reg. 56060 (1984).

A prominent trade attorney, commenting on the proposed Rule, criticized the evidence required on the petition because it does not focus on "hard evidence of the irreparable nature of the harm allegedly caused by the CBI origin perishable products and on a showing that relief at the end of a normal ITC investigation would 'render meaningful relief illusory'." The attorney advised that the regulations should define the way in which USDA will conduct its investigation, so that potential petitioners and the USDA will have advance guidance. (Letter from Marcia A. Echols to Ms. Stanton (Jan. 18, 1984), p. 4, *reprinted in* 1 CARIBBEAN LAW NEWSLETTER 4, p.17 (Jan. 1984).) Furthermore, the Proposed Rule does not require proper notice. It should provide for notification of the petition to the affected CBI beneficiary country(ies), a Federal Register notice of the request, and an opportunity for the beneficiary country(ies), foreign exporters and/or importers to participate in the emergency proceedings. (*Id.* at 5 (letter) and 18-20 (Newsletter)). The USDA, without experience in escape clause investigations, will be forced to conduct an abbreviated §201 investigation within fourteen days. Hence, the USDA should be required to coordinate its investigation closely with the ITC, particularly to avoid potential conflicts in the areas of the definition of which product is like or directly competitive with the imported perishable product, the previous representative (time) period, the determination of whether there is a serious injury or a threat, and the causation or the substantial cause requirement between the serious injury or threat of serious injury to domestic industries and the increased CBI imports. (*Id.* at 5-7 (letter) and 18-20 (Newsletter)).

<sup>29</sup>19 U.S.C. § 1332(g) (1983).

establish a permanent docket for the annual reports concerning rum.<sup>30</sup> The investigation will result in the I.T.C. preparing and publishing an annual report containing statistical information on rum.<sup>31</sup> The significance of the study is that, although such investigations are in the nature of competitive impact studies—rather than formal trade complaints—they often presage such complaints.

### III. Application of the CBI: Barbados, A Case in Point

#### A. INCENTIVE LEGISLATION

Barbados has numerous incentives for attracting foreign investment. Many provide tax holidays<sup>32</sup> or tax relief,<sup>33</sup> although some involve special

<sup>30</sup>Letter from Robert J. Dole, Chairman, Committee of Finance, U.S. Senate, to the Honorable Alfred E. Eckes, Jr., Chairman, U.S. International Trade Commission (December 21, 1983).

<sup>31</sup>It will include: (1) U.S. production; (2) U.S. exports; (3) U.S. imports for consumption (total and by countries designated as eligible for the CBI); and (4) apparent U.S. consumption. (49 Fed. Reg. 3145 (Jan. 25, 1984)). The reports also must differentiate, if possible, rum produced in Puerto Rico and the Virgin Islands, and ensure that additional statistical categories are provided for in the Tariff Schedules of the U.S. (under new categories for rum valued at not more than \$2.00 per proof gallon, at between \$2.00 and \$3.50 per proof gallon, and above \$3.50 per proof gallon).

An initial report regarding rum entered and withdrawn for consumption in the six months after January 1, 1984, will be submitted to the Committee on Finance as soon as data are available, and thereafter annually as long as duty-free treatment of rum is accorded pursuant to the CBI.

<sup>32</sup>The 1974 Barbados Fiscal Incentives Act classifies five types of enterprise which qualify for a tax holiday. The length of the tax holiday for the first three types depends on the amount of value added locally. A fourth type, the enclave industry, qualifies if the production is exclusively for export outside the CARICOM region. Capital-intensive industry, with capital investment more than \$25 million, also qualifies for a tax holiday. The length of the tax holiday for the five groups varies from six to ten years.

Under the Fiscal Incentives Act, dividends paid from profits made during the tax holiday to a resident of CARICOM will be exempt from personal income tax. When the payment is made to a non-resident of CARICOM, the payment is exempt from income tax only for any amount over and above what the individual would pay in his country of residence. Net losses incurred during the tax holiday may be carried forward to offset future profits for five years after the end of the tax holiday.

Another incentive law is the Pioneer Industries Act of 1958. (Pioneer Industries Act, 1958 (CAP. 83, Laws of Barbados)). It provides manufacturers of approved products an exemption from taxes from seven to ten years under two options: (1) exemption from the 20 percent local trade tax on companies engaged in trading; and (2) exemption from taxes on profits remitted to shareholders who are residents, if the dividends are paid within a two-year period after expiration of the tax holiday. The Industrial Incentives Act, 1963 (Industrial Incentives Act 1963-31. L.N. 168/1967), allows an approved company registered in Barbados an exemption from taxation for ten years. Under the Industrial Development (Export Industries) Act, 1960 (Industrial Development (Exempt Industries) Act, 1969-43; 1978-22), a company registered in Barbados can be exempted from tax for ten years, if already approved as an export producer, and a reduced rate of 12-1/2 percent thereafter. In addition, losses sustained during the ten-year



services<sup>34</sup> or training,<sup>35</sup> depreciation allowances,<sup>36</sup> export control exceptions.<sup>37</sup> Currently Barbados has tax treaties with Canada, the United Kingdom, Switzerland, Norway, and Sweden.<sup>38</sup> Negotiations to replace the cancelled tax treaty with the United States are currently under way. These treaties offer many planning opportunities to prospective investors. However, since royalties remitted from Barbados are not taxed and the domestic legislation

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period could be carried forward five years. After a tax holiday expires, a pioneer manufacturer or "approved enterprise" is subject to a maximum 25 percent tax instead of the normal 45 percent.

<sup>33</sup>The Industrial Incentives (Factory Construction) Act, 1965 provides that a building company which obtains a license for construction of a factory for pioneer industry use is granted tax relief for 15 years after the completion of the project. (Industrial Incentives (Factory Cons.) Act (CAP. 76, Laws of Barbados)).

<sup>34</sup>Another program favorable to foreign investors in Barbados is the Industrial Estates Program whereby the Industrial Development Corporation (IDC) owns and operates nine Industrial Estates in Barbados. The IDC provides general services including road maintenance, water supply, sewage treatment, drainage, electricity, and refuse treatment. Two types of factory accommodations are offered—the straight rental plan under which straight rental rates are 14 percent of replacement costs; and the lease purchase plan under which a company may receive an option to purchase a building within five years. The annual rental is 16 percent of market value, less 4 percent for each year occupied by the company. (Barbados Industrial Development Corporation, *The Manufacturers' Handbook* 21–22 (1983)).

<sup>35</sup>An industrial training grant program is also available from the Industrial Development Corporation. Training grants are available to approved manufacturers in the process of training workers. The IDC will pay a percentage of the employee's wages for a specified period not to exceed three months. The percentage paid by the IDC varies according to the number of workers being employed:

<i>Number of Employees</i>	<i>Training Grant (Percent)</i>
1–50	25%
50–200	33-1/3%
200 and more	50%

In addition to depreciation allowances, investment allowances ranging from 3 percent to 25 percent are allowed for capital expenditure on machinery or plant, an industrial building or structure, and equipment for scientific research. Investment allowances of up to 40 percent are permitted for capital expenditures for machinery or plant, other than equipment for scientific research, to be used in the business for manufacturing and refining of sugar or products from clay or limestone and 20 percent in any other basic industry. (*Id.* at 19.)

<sup>36</sup>*Id.*

<sup>37</sup>All outward capital transfers from Barbados require exchange control approval. The exchange control regulations are administered by the Central Bank. Proceeds from a capital investment by a company approved under the Fiscal Incentives Program may be repatriated freely according to the following formula: the repatriation is limited to the original investment PLUS 8 percent return for the last five years, 5 percent return for the preceding five years and 4 percent return for the preceding ten years. Any amounts repatriated in excess of these restrictions is limited to (U.S.) \$12,000 per year. (The Exchange Control Act, 1967–53, and amendments of February 28, 1974; also see discussion in Diamond, *Tax Havens of the World, Barbados*, at 19–20 (Rel. 4/83)).

<sup>38</sup>All of these conventions are reprinted in *Barbados Income Tax Act and Tax Treaties—a Consolidation to 1982*, 117–265 (prepared by R.S. Kirby & Co., Barbados, member of Touche Ross International, 1983); see also discussion of Barbados-Canada Treaty in Zagaris, "Canada and Barbados Sign a New Income Tax Treaty," 7 TAXES INT'L 4 (March 1980).

is favorable to foreign investment, tax treaties are not needed to reduce taxation on royalties remitted from foreign investments by United States persons in Barbados.

As a member of CARICOM, Barbados is a party to two tax conventions with the members of CARICOM, the Agreement on the Harmonization of Fiscal Incentives to Industry in the Caribbean,<sup>39</sup> intended to harmonize fiscal incentives the member states give to industry, and Agreement for the Avoidance of Double Taxation and Prevention of Fiscal Evasion with Respect to Taxes on Income and Encouragement for International Trade and Investment in the Caribbean.<sup>40</sup> By establishing an enterprise in Barbados and trading in CARICOM, a foreign investor can utilize Barbados fiscal incentives and tax credits derived from exports, as well as benefit from reduced withholding tax rates from the CARICOM agreement to avoid double taxation. The foreign investor can also utilize the Barbados tax treaty network with non-CARICOM countries to then repatriate profits from Barbados.<sup>41</sup>

## B. INDUSTRIAL SECTOR PROJECTS

Under the CBI, existing investors already in the Caribbean, especially those already exporting to the United States, are likely to expand their production.<sup>42</sup> The use of Puerto Rico should also be important in this regard since Puerto Rico is at a more advanced engineering and testing stage than Barbados and most other Caribbean states, although it has wage levels three to four times higher. A corporation could advantageously do low wage

<sup>39</sup>Agreement on the Harmonization of Fiscal Incentives to Industry, June 1, 1983, reprinted as Appendix E, H. GEISER ET AL., *LEGAL PROBLEMS OF CARIBBEAN INTEGRATION*, 229 (1975).

<sup>40</sup>Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Profits and for the Encouragement of International Trade and Investment, reprinted in *Barbados Income Tax Act and Tax Treaties*, supra note 38, at 119-40; also reprinted in GEISER, supra note 39, at Appendix F, p. 240.

<sup>41</sup>For more discussion of use of Barbados for CARICOM investments, see Zagaris, *Barbados Develops as a Low Tax Jurisdiction*, 15 INT'L LAW. 673, 684-85 (1981).

<sup>42</sup>Conference with John E. Hope, First Secretary, Economic Commercial Officer, U.S. Embassy, Bridgetown, Barbados (Feb. 9, 1984) for discussion of the success of Corcom, an Illinois electronics manufacturer, making electronic coils and filters in Barbados for shipment to the U.S., see *Forbes Focus on Barbados—Building on a Strong Base*, FORBES, Oct. 11, 1982 (special Advertising Section). In St. Vincent the Wilson Sporting Goods is now engaged in finishing tennis rackets. It plans to also manufacture the graphite for the tennis rackets. Harowe Servo Controls, a Pennsylvania based United States corporation, is planning to double output of components for tiny, precision electric motors on St. Kitts and Nevis. Although the St. Kitts subsidiary had a plant in Singapore for which the St. Kitts operation was an alternative, the duty-free entry of products under the CBI is resulting in the expansion of the St. Kitts plant. (Farnsworth "Caribbean Initiative Attracts Investment," N.Y. TIMES, February 20, 1984, at D1.) Electronic contractors in Barbados, Antigua, St. Vincent, and Dominica can be expected to increase their activities.

assembly in the Eastern Caribbean and finish the assembling in Puerto Rico. Barbados and Eastern Caribbean countries, considering such prospects, have already met with Puerto Rican officials to discuss joint ventures.<sup>43</sup>

Caribbean industries in which United States materials are already used should also prosper under the CBI,<sup>44</sup> as well as information data processing industries.<sup>45</sup> Barbados can also serve as a research and development center for investors due to the inclusion of processing operations of research and development as direct costs, the high number of well-educated professionals, the developed information industry, and the generous investment allowances under Barbadian tax law to research and development expenditures. The Caribbean Development Bank, Center for Tourism Research and Development, and a campus of the University of the West Indies, already situated in Barbados, provide a significant infrastructure for research and development.

### C. AGRICULTURAL SECTOR PROJECTS

Until recent years, Barbados and other Caribbean Commonwealth countries have produced for export only traditional commodities such as sugar cane, bananas, and citrus fruit.<sup>46</sup> Recently, Barbados and other CARICOM countries have begun to explore the processing of locally produced commodities, such as fruit, root crops, pulse, vegetables, fish and livestock. Canning of frozen vegetables, meat and poultry processing, and sausage production already take place in Barbados. At the cottage industry level, relishes, jams, jellies and guava cheese have been produced for many years. On a larger scale, sorrel, ginger beer, and cherry drinks have been produced, primarily for the local and CARICOM markets. Some processed

<sup>43</sup>Conference with Frederick L. Harding, Deputy General Manager, Investment Promotion, Barbados Industrial Development Corp., Bridgetown, Barbados (February 10, 1984).

<sup>44</sup>Conference with Hope, *see supra* note 42; *see also* Ramond, "Barbados 1984," *Bus. Wk.* April 16, 1984 at 40 (hereinafter, Ramond). EDA Industries in Barbados already makes rotary pins and costume jewelry from blanks imported from the United States. Costume jewelry is also an important industry in St. Lucia. The medical supplies industries in Barbados should benefit, since the Barbados government's plan is to move into specialized medical supplies with electronics. (Conference with Harding, *supra* note 43; and Ramond, at 39.)

<sup>45</sup>Ramond, *supra* note 44, at 40. Already Caribbean Development Services, Ltd. (CDS), an affiliate of American Airlines which processes information from airline tickets and sends the information by satellite to the United States is an example. There are at least four other United States investors engaged in electronics in Barbados. The Barbados government plans to develop the information industry into providing high technical professional services such as software. (Barbados Industrial Development Corporation, *Development Plan 1983-1987* 6 (1983).)

<sup>46</sup>Chernick, *The Commonwealth Caribbean* 117-20 (A World Bank Country Economic Report, Johns Hopkins Press, 1978).

local commodities, such as pepper sauce have been exported to extra-regional markets including the United States.<sup>47</sup>

The export of processed agricultural products to the United States can be greatly expedited by entering a joint venture with a firm already marketing in the United States. Vertical integration of the production, processing and marketing activities will provide greater efficiency in the development of a processing industry. A recent study shows that exotic commodities such as the Barbados cherry (acerola berry), okra and pickled onion, hot pepper, jams and jellies, are capable of penetrating extra-regional markets such as the United States, especially if they are marketed under recognized labels.<sup>48</sup>

Agricultural opportunities exist in other CARICOM countries. They include non-traditional agriculture in Antigua and Barbuda, cattle raising in Belize and Montserrat, specialty foods in Grenada and Dominica, spices in Grenada, food processing in St. Lucia, tobacco and fruits and vegetables in St. Vincent.<sup>49</sup>

#### D. TAKING ADVANTAGE OF REGIONAL INTEGRATION

One advantage of the CBI is that, unlike most international trade laws such as the Generalized System of Preferences, it permits cumulation of all of the Caribbean beneficiary countries in the determination of value added, so that regional integration opportunities are provided. Thus, bananas from Dominica may be processed in Barbados and combined with citrus juices from St. Lucia, and all the materials would qualify for the value added. Barbados is strategically located in close proximity to and has been a traditional import market for fresh food crops from St. Vincent, St. Lucia and Dominica. The lack of an international airport or air freight facilities in

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<sup>47</sup>"Barbados Marketing Corporation (BMC) Accepts Processing Challenge," Weekly Column No. 66; "BMC Pursues Processing Opportunities," Weekly Column 68; "BMC Details Export and Processing Plan," Weekly Column No. 77; all press releases obtained from Castagne, Williams Advertising Ltd., 11 Seventh Ave., Belleville, Bridgetown, Barbados or from the Barbados Marketing Corporation.

<sup>48</sup>Barbados Agricultural Marketing Services, Annex, Project Agreement with Thomas S. Summers, Jr., Inc. (1983).

<sup>49</sup>*Caribbean Mini States Beckon Foreign Investors to Help Diversify Economies*, BUSINESS LATIN AMERICA, February 8, 1984 at 46, 47. During the last two years, the fishing industry in Barbados has begun to change from using small boats, able only to make day return trips to obtain their catch of mainly pelagic seafood (e.g., flying fish, dolphin, and snapper) to larger boats equipped with ice, so that they can remain at sea for three to four days and preserve their catch. In 1982, a group of ice boat owners formed Barbados Fishing Processing Limited with one of its objectives to increase the storage, processing, and marketing facilities for the fisheries sector in Barbados. As a result of these efforts, Barbados now has a surplus of fish and is actively seeking a foreign joint venture partner with which to market the fish. ("BMC Aids Fisheries Sector," Weekly Column No. 44, *supra* note 46.) Other CARICOM countries with investment opportunities in fisheries include Belize (deep sea fishing and fish processing), Dominica and St. Lucia (fish farming), (BUSINESS LATIN AMERICA, *supra* note 48).

St. Vincent and Dominica and the excellent air freight facilities and airport in Barbados enhance the viability of Barbados as a point of processing and transshipment of fruit. It can serve as a processing center for some or all of these.

The CBI offers CARICOM members opportunities to increase integration activities in agricultural cooperation, under their existing framework. The CARICOM Treaty, in operation since 1973,<sup>50</sup> provides for fifteen areas of functional cooperation contained in a schedule to Article 18.<sup>51</sup> The Caribbean Common Market Annex provides for eleven attached schedules integral to the Annex. The Caribbean Common Market contains the liberalization provisions of the Caribbean Free Trade Association (CARIFTA), established in 1968.<sup>52</sup> Aside from regional arrangements among producers of sugar and bananas, and bilateral rice marketing agreements with Guyana which predate CARICOM, the two major instruments of regional agricultural cooperation have been the Agricultural Marketing Protocol (AMP) and the Oils and Fats Agreement (OFA). In addition, the sugar-producing countries supply the demand of the non-sugar producing CARICOM countries at a price equal to the lowest contractual price.<sup>53</sup> One additional sign of progress in interregional agricultural cooperation has been the preparation of a Regional Food Plan (RFP), which is setting general policy objectives for the region's agricultural production and is designed to reduce the region's rising food import bill. The Caribbean Food Corporation (CFC), which was established in 1976, is the major regional institution involved in implementing the RFP, including the control of regional projects. All the

<sup>50</sup>Treaty Establishing the Caribbean Community, 12 I.L.M. 1033 (1973).

<sup>51</sup>For background and analysis of the Caribbean Community, see H. GEISER ET AL, *supra* note 39; and F. PHILLIPS, *Freedom in the Caribbean* (1977).

<sup>52</sup>Agreement Establishing the Caribbean Free Trade Association, 7 I.L.M. 935 (April 30, 1968). For background on the interaction of economic integration theory in CARICOM and the legal and institutional mechanisms, see Hall and Blake, *The Caribbean Community: Administrative and Institutional Aspects*, 16 J. OF COMMON MARKET STUDIES 211 (1977); and O'Connell, *The Caribbean Community: Economic Intergration in the Commonwealth Caribbean*, 11 J. INT'L LAW & ECONOMICS 35 (1976).

<sup>53</sup>Chernick, *supra* note 46, at 126. AMP serves as an example of how CARICOM operates. The AMP represents a cautious approach to intra-regional trade promotion for a limited range of commodities, covering only twenty-two items (vegetables, fruits (oranges and pineapples) and some meat products (pork, poultry, eggs)). Each territory is required to declare its estimates of surpluses and deficits of the twenty-two products twice a year. The AMP committee of officials then allocates markets among all the territories. In practice, priority is given to the surpluses of the developed countries over those of the moderate developing countries, and the AMP committee will authorize member countries to import from outside the region only where regional supplies are not available. The Protocol also provides for the fixing of minimum f.o.b. export prices for each six-month period. However, AMP operations have not worked smoothly due to inaccurate information on market opportunities, the absence of negotiating skills among exporters, and problems with the Caribbean Multi-Lateral Clearing Facility (CMCF) under which importers buy CARICOM imports on credit. (Chernick, *supra* note 46, at 121, 131).

CARICOM governments hold shares in the CFC. A number of the projects in the RFP have been allocated between member countries, based on their anticipated comparative advantage in particular sectors.<sup>54</sup>

Successful exports of agricultural commodities under the CBI will require marketing, credit and extension services and education and research programs. Unfortunately, marketing services are not included within the value added under the Custom Interim Regulations.<sup>55</sup> One possibility for assisting in the research and development as well as marketing of exotic commodities is to rely on a foreign joint venture with Brazilian companies.<sup>56</sup>

#### E. COMBINING THE CBI WITH LOME

Companies from Brazil and countries with climatic and agricultural conditions similar to the Caribbean, and companies which are faced with tariff barriers not only to the United States but also to Western Europe (e.g., Japanese trading companies) can use the same investment to qualify both for CBI and Lome Convention benefits. The Lome Convention is a five-year treaty which applies between the 10-member states of the European Economic Community and most of the countries of CARICOM which are part of the 63 developing countries in the African, Caribbean and Pacific Basin (ACP countries).<sup>57</sup> In fact, the one-way free trade includes a scheme which guarantees the stabilization of earnings from agricultural exports. The multipurpose agreement contains trade, finance and investment measures. The members of the Lome Convention belonging to the Caribbean Basin include

<sup>54</sup>The CARICOM Secretariat, *Towards the Development of the Agricultural Sector of the Caribbean Community: The Regional Food Plan and the Regional Food and Nutrition Strategy*, *The CARICOM Bulletin—A Forum on Caribbean Integration Issues* 10-19 (No. 3, 1982).

<sup>55</sup>See 19 C.F.R. § 10.197(a)(1).

<sup>56</sup>Brazil has a sophisticated exotic fruit industry. It cultivates many exotic fruit similar to those grown in Caribbean countries, such as papayas, coconuts, berries, mangoes, pineapples, guavas, lemons, melons, etc. Fresh fruits are already marketed abroad by some 100 Brazilian companies. In addition, with Brazil's population and experience, Brazilian industries are expert in processing fruit. Two product lines stand out: unfermented, sweetened or unsweetened fruit and vegetable choices, with no alcohol content; and the line of fruit preparations, such as purees, compotes and fruit jellies, obtained through cooking, and which are either sweetened or unsweetened. Fruit pastes and pulp have a tariff of 15 percent in the U.S.; banana and plantain pastes, a tariff of 7/5 percent; pineapple jellies and jams, a tariff of 5 percent. (International Trade Administration, Caribbean Division, U.S. Department of Commerce, *Major Duty Concession under CBI* (1984)). Hence, although some of these products may qualify for GSP already from Brazil, due to applicable trade relief or merely for secure longer-term trade position, and to earn foreign exchange, Brazilian and other companies producing exotic fruits can contribute technology, material (e.g., cans), chemicals and preservatives, marketing know-how, and so forth to Barbados and other Caribbean countries.

<sup>57</sup>Lome II Dossier, *reprinted* from the Special Issue of "The Courier" ACP-EEC No. 58 (November, 1979).

Antigua, Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, St. Lucia, St. Vincent, Surinam, Trinidad and Tobago.<sup>58</sup>

Under Lome's rules of origin,<sup>59</sup> the following products qualify: (1) those wholly obtained in the exporting ACP countries are automatically originating products; (2) those processed and exported by an ACP country made of products, parts or components coming from ACP countries, from the EEC countries or from their overseas territories, are originating products (the Lome Convention, like the CBI, provides for cumulative origin); (3) those in which other products, components or parts coming from a non-ACP, non-EEC country (such as Brazil) must undergo sufficient processing, meaning (with two exceptions) processing resulting in a change of tariff heading in the EEC Common Customs Tariff.<sup>60</sup>

#### IV. CBI Tax Provisions

Under the tax incentive provisions of the CBI, a U.S. tax resident may deduct the reasonable business expenses of attending conventions held in an eligible beneficiary country, if that country agrees to exchange information to enforce tax laws, and does not discriminate against U.S. convention sites in its tax law.<sup>61</sup>

##### A. INTERNATIONAL TAX PROVISIONS

###### 1. Convention Deductions

The CBI tax provisions permit a U.S. tax resident to deduct the ordinary and necessary expenses (in pursuit of a trade or business or income-producing activity) of attending conventions and similar meetings in those countries among the Caribbean Basin countries and Bermuda that meet three criteria. The taxpayer will not have to establish that holding a convention in a country meeting these criteria is as reasonable as holding it in another location, as the taxpayer must now do to obtain the deduction for

<sup>58</sup>For background on the operations and success of Lome, see Lister, *The Functioning of Lome II*, 16 J. WORLD TRADE LAW 434 (1982); Yelapaala, *The Lome Conventions and the Political Economy of the African-Caribbean-Pacific Countries: A Critical Analysis of the Trade Provisions*, 13 N.Y.U. INT'L LAW AND POLITICS 807 (1981).

<sup>59</sup>McQueen, *Lome and the Protective Effect of Rules of Origin*, 16 J. WORLD TRADE LAW 119 (1982).

<sup>60</sup>For a useful comparison of the CBI and Lome, see Pierini, *The European Community and the Caribbean Countries*, 4 (Jan. 1984)(unpublished; on file with author). Countries such as Canada also have GSP treatment of products exported from most CARICOM countries such as Barbados that may qualify from the same investment. See, e.g., discussion of Canadian GSP provisions and their interaction with Lome in Neville and Rachlin, *Why Corporate Clients Are Moving Offshore to the Caribbean Basin*, N.Y. STATE BAR J. 22, 24 (1983).

<sup>61</sup>CBI Statute, §§ 221-223, 26 U.S.C. § 274(h)(6).

attending a convention in a foreign country.<sup>62</sup> A taxpayer may deduct only such traveling expenses as are reasonable and necessary in the conduct of the taxpayer's business and are directly attributable to it. Fees charged for admission to a convention or other meeting are deductible if there is a sufficient relationship between the taxpayer's trade or business or income-producing activity.

To qualify for these "North American" convention deductions, three criteria must be fulfilled by Caribbean Basin beneficiary countries. First, only countries designated as a CBI country and Bermuda may qualify for this convention treatment; second, deductions will be available only for expenses of attending conventions held in countries with which an agreement with the U.S. to exchange tax information is in force; and third, deductions will not be available for conventions in any country after publication of a finding by the Department of the Treasury that such country discriminates in its tax laws against conventions and similar meetings held in the U.S. or the U.S. possessions.<sup>63</sup>

## 2. *Exchange of Information Agreements Required*

### a. General Standards

The CBI authorizes the Treasury to negotiate and to conclude such agreements, which may be bilateral or multilateral. The agreements may be part of a normal bilateral tax agreement or a separate agreement only covering exchange of information and related enforcement matters. Such an agreement will provide, on a reciprocal basis, for information relating to United States tax matters to be made available only to persons or authorities (including courts and administrative bodies) involved in the administration of United States taxes (including assessment and collection of taxes and enforcement and prosecution in respect of taxes) or oversight of the administration of such taxes (a task of the Senate Committee on Finance, the House Committee on Ways and Means, the Joint Committee on Taxation, and the General Accounting Office), or in the determination of appeals in such cases.<sup>64</sup>

The exchange of information agreement must apply to and include provisions relating to both civil and criminal tax matters and must apply to information relevant to tax matters of the U.S. or of the beneficiary country whether that information concerned nationals or residents of the United States or the beneficiary country or nationals or residents of a third country.<sup>65</sup>

<sup>62</sup>IRC Sec. 274(h)(1).

<sup>63</sup>*Id.*

<sup>64</sup>CBI Statute, § 222, 26 U.S.C. § 274(h)(6)(C).

<sup>65</sup>*Id.*



It must require production of information notwithstanding local rules requiring secrecy about such information as the ownership of bank accounts, trusts or bearer shares.<sup>66</sup> In this connection, the agreements will go further than exchange of information articles of some United States tax treaties, which may not impose an obligation to supply information not obtainable under local law or administrative practice.<sup>67</sup>

Significantly, the purposes for which information may be exchanged under agreements will not be limited to information about any particular class of transactions covered by the agreement (e.g., expenses for conventions), but rather extend to such information as may be necessary or appropriate to implement the tax laws of the U.S. or of the beneficiary country.<sup>68</sup> In addition, if a party specifically requests, information must be furnished in the form of depositions of witnesses and authenticated copies of unedited original documents (including books, papers, statements, records, accounts, and writings) in a form admissible into evidence. The legislative history also requires that the requested country should have a process for obtaining the information requested and required to be provided by that country.<sup>69</sup>

#### b. Waivers

An exchange of information agreement does not need to require the exchange of "qualified confidential information" which is sought only for civil tax purposes, if the President determines that an exception is in the national security interest, and if the Secretary of the Treasury determines that such an exchange agreement would assist the administration and enforcement of United States tax laws.<sup>70</sup> "Qualified confidential information" is defined as information which is subject to the non-disclosure provisions of any local law regarding bank secrecy and non-disclosure of ownership of bearer shares.<sup>71</sup> Under the CBI statute, the requesting country will determine whether information is sought only for civil tax purposes.<sup>72</sup>

So far, the tax package of the CBI has been a failure. No treaty has yet been concluded. The Department of Treasury has announced that an agree-

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<sup>66</sup>*Id.* This provision seeks to remedy the problem of blocking laws, e.g., when a treaty partner, such as Switzerland, is not allowed under its internal law to engage in the type of international judicial assistance necessary to comply with evidentiary rules of U.S. courts, without which the information will not be admissible.

<sup>67</sup>See, e.g., U.S. Model Income Tax Treaty, June 1981, Art. 26(2), reprinted in *12th Annual Institute on International Taxation* 568 (P.L.I. Course Handbook Series No. 157, 1981).

<sup>68</sup>CBI Statute, § 222, 26 U.S.C. § 274(h)(6)(C).

<sup>69</sup>H.R. REP. NO. 98-266 (to accompany H.R. 2769, Caribbean Business Economic Recovery Act), at 29-30.

<sup>70</sup>CBI Statute, § 222, 26 U.S.C. § 274(h)(6)(C)(ii).

<sup>71</sup>CBI Statute, § 222, 26 U.S.C. § 274(h)(6)(C)(iii).

<sup>72</sup>CBI Statute, § 222, 26 U.S.C. § 274(h)(6)(C)(iii).

ment in principle has been reached with the Dominican Republic.<sup>73</sup> Many of the Caribbean countries have indicated that they do not want to even consider negotiating exchange of information agreements.<sup>74</sup>

### 3. *Caribbean Tax Study*

On January 6, 1984, the Department of the Treasury released a report prepared pursuant to Section 223 of the CBI which required the Treasury to report to Congress on the use of Caribbean Basin tax havens to evade or avoid federal taxes, the relationship of such use to drug trafficking and other criminal activities, and current Treasury anti-tax haven enforcement activities.<sup>75</sup> The report focuses during the period 1978 through 1982 on five countries—the Bahamas, Bermuda, Cayman Islands, the Netherlands Antilles, and Panama—which, according to the report, account for most of the international financial activities of the region.<sup>76</sup>

The report states that most of the largest banks, United States and foreign, have branch offices in the Bahamas and the Cayman Islands primarily to participate in the Eurodollar market. Since December 1981, however, when the International Banking Facilities (IBF) regulations were promulgated by the Federal Reserve Board, United States banks and office of foreign banks in the United States have been able to deal with foreign customers free of reserve requirements, interest rate ceilings, and insurance requirements without resort to an offshore lending facility, making the Caribbean branches less attractive to U.S. banks. According to the report the administration of Subpart F and Section 482 of the Internal Revenue Code, which requires IRS access to detailed books and records, is difficult when taxpayers utilize Caribbean tax havens with secrecy.

A discussion of anti-tax haven activities identifies 464 cases for January 1978 through August 1983 containing financial transactions allegedly involving Caribbean Basin countries, and classifies the cases by the type of offenses and Caribbean jurisdictions involved.<sup>77</sup>

The report discusses the formation in May 1983 by the Criminal Investigation and Examination function of the I.R.S. of a joint information-gathering project designated "Project Tax Havens—Offshore Banks." The objective of the project is to identify United States taxpayers who are utilizing the facilities of tax haven countries which are protected by stringent foreign secrecy laws and who use these vehicles in order to evade taxation. After

<sup>73</sup>U.S. Department of Treasury Press Release, January 11, 1984; 1 Caribbean Law Newsletter, No. 4, at 12.

<sup>74</sup>See A Number of Caribbean Jurisdictions Refuse to Sign Exchange of Information Pacts Pursuant to the CBI Law, 13 TAX MANAGEMENT INT'L J. 98 (No. 3, March 1984, B.N.A.).

<sup>75</sup>U.S. Dept. of Treasury, *Tax Havens in the Caribbean Basin* (Jan. 1984).

<sup>76</sup>*Id.*

<sup>77</sup>*Id.*

gathering the available intelligence, the information will be formatted, reviewed, analyzed by computer operations, and then will be cross-checked on existing law enforcement and other computerized information systems. Thereafter, the information will be transmitted to field offices for possible criminal investigations or civil examinations.<sup>78</sup>

The only current significance of the CBI from an international tax perspective is in the exchange of information provisions and the United States international enforcement efforts. Although initially the Administration promised great incentives to promote direct investment from the United States into the Caribbean Basin and talked about tax sparing and even introduced a bill providing for investment credits,<sup>79</sup> the potential beneficiary countries must now settle for convention deductions. Since the amount of convention business from the United States is limited and since there will be many competing countries, the benefit to the CBI country economies will be marginal, particularly since the deductions for attending business-related conventions are not that difficult to obtain in the absence of the CBI. The potential use of the CBI tax provisions is that United States law enforcement agencies, masquerading under the banner of giving tax concessions to needy Caribbean countries, will gain a window to confidentiality provisions. Tactically, the Department of Treasury has taken the bold step on July 1, 1983, of announcing the cancellation effective January 1, 1984, of all the extensions of its 1945 tax treaty with the United Kingdom. Among the Caribbean Basin jurisdictions affected are: Anguilla, Barbados, Belize, Dominica, the Falkland Islands, Grenada, Montserrat, St. Christopher and Nevis, St. Lucia, and St. Vincent. Since none of these countries has concluded exchange of information agreements, the U.S. has gone from limited exchange of information provisions in the cancelled conventions to none at all, and has irritated many of the Caribbean governments, thereby diminishing enforcement efforts in cases and increasing diplomatic tensions.<sup>80</sup>

The exchange of information provisions are only one step in a series of attempts by the United States law enforcement agencies to penetrate the use of the Caribbean by organized crime. The Senate Permanent Investigative Subcommittee is investigating the misuse of offshore banks.<sup>81</sup> One likely

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<sup>78</sup>*Id.*; for a more comprehensive discussion of the report, see Zagaris, *Treasury Report on Caribbean Tax-Havens Reveals New Information Gathering Task Force to Identify Tax Evasion*, 51 TAXES INT'L 6 (Jan. 1984).

<sup>79</sup>H.R. 5900 and S. 2237; statement of J. Gregory Ballentine, Deputy Asst. Sec. (Tax Analysis), Dept. of the Treasury before the Subcommittee on Trade of the House Ways and Means Committee, May 17, 1982; Feinberg & Newfarmer, *supra* note 2, at 220-21.

<sup>80</sup>For a more comprehensive discussion of the tax provisions, of the CBI, see Zagaris, *Caribbean Basin Initiative Becomes Law and Heralds New Exchange of Information Agreement*, 48 TAXES INT'L 7 (Oct. 1983).

<sup>81</sup>See Zagaris, *Senate Hearings on Tax Havens/Crime*, 41 TAXES INT'L 60-62 (March 1983); Zagaris, *Crime and Secrecy: The Use of Offshore Banks and Companies*, 49 TAXES INT'L 5 (Nov.

development is that, as United States law enforcement agencies continue to pressure Caribbean governments, the latter will turn to regional organizations and fora to decide how to cope with the pressure.<sup>82</sup>

## V. Conclusion

The Caribbean perspective on the CBI is that, although the CBI may be too little too late—and for primarily security purposes—such United States initiatives directed at the Caribbean are enacted only once every several decades. The economies of the Commonwealth Caribbean are so dependent, as they have always been, on international trade and investment, that they cannot afford to miss the opportunities afforded by the CBI. The opportunities are trade—especially with the United States and Europe. Trade will bring foreign investment from the United States, Asia, and even Europe. Commonwealth Caribbean countries, such as Barbados, having an existing infrastructure to accomplish trade and long-term political support, will welcome this opportunity. With increased trade, other economic sectors such as financial services (e.g., shipping, offshore banking, and exempt insurance) and tourism will experience growth.<sup>83</sup>

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1983); *Crime and Secrecy: The Use of Offshore Banks and Companies, Hearings Before the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs*, U.S. Senate, 98 Cong., 1st Sess. 98-151 (1983).

<sup>82</sup>See, e.g., discussion of Caribbean Interpol activities in Zagaris, *Interpol Steps up Initiatives against International Fraud*, 51 TAXES INT'L 4-6 (Jan. 1984).

<sup>83</sup>New impetus for increased trade and investment in the Caribbean comes from H.R. 4874, entitled the Central American Democracy, Peace and Development Initiative Act of 1984 and its counterpart Bill in the Senate. It was introduced on Feb. 21, 1984 to implement the Kissinger Report. (Report of National Bipartisan Commission on Central America (Jan. 1984)). Title II of that Bill calls for development assistance, which would go to: an economic support fund; assistance to the Peace Corps and U.S. Information Agency; migration and refugee assistance; a housing guarantee program; administration of justice, trade credit insurance and land reform programs. Although it is expected to be enacted in a compromise form, the Bill will inject into the Caribbean and Central America more than \$5 billion worth of assistance. (See U.S. Department of State, Briefing Book, Central America, Democracy, Peace and Development Initiative (1984)). From the perspective of the U.S. and Caribbean private and public sectors, the combination of the CBI and H.R. 4874 will open up a variety of profit and non-profit opportunities.

