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Introduction

The documentary, *Life and Debt*, paints a very haunting picture of the future of Jamaica and of the Caribbean if trade liberalization in the region continues to evolve along its current path. The dairy industry in Jamaica, rice production in Haiti, and banana exports from the Eastern Caribbean are among the noticeable examples of entire sectors decimated by the onslaught of subsidized imports from the United States and other developed countries. As a result, the regional perception is that trade liberalization is bad for the Caribbean.

This perception is, of course, not necessarily true. This paper focuses on actions that can be taken by the Congressional Caribbean Caucus, and other friends of the Caribbean in the US Congress, to help the Caribbean to better benefit from trade liberalization. An immediate opportunity exists with respect to two key areas: 1) the Free Trade Area of the Americas (FTAA) and World Trade Organization (WTO) Doha trade negotiations; and 2) measures to improve access of Caribbean products to US markets.

Trade Negotiations

The CARICOM response to the negative effects of trade liberalization has been to develop a negotiating position that requires special attention to the challenges that small economies face on the world trade arena.¹ This approach has been accepted in principle and indeed enjoys wide support, both within the context of the WTO and the FTAA

¹ Seventeen countries (or 50% of the FTAA area) have self-identified themselves as “smaller economies” deserving of special attention. Twelve of those seventeen are members of the Caribbean Community (CARICOM): Antigua & Barbuda, Bahamas, Barbados, Dominica, Grenada, Guyana, Haiti, Jamaica, St. Kitts & Nevis, St. Lucia, St. Vincent & the Grenadines, and Suriname.

negotiations. In the WTO, for example, the Doha Declaration mandates the General Council to examine the issue and to make recommendations as to what trade-related measures could improve the integration of small economies. In the FTAA a special committee, the Consultative Group on Smaller Economies, has been given a similar charge.

However, the devil is always in the details. Some consensus has developed around the need to provide technical assistance to smaller economies. On the other hand, no consensus or agreement has emerged around proposals for special and differential treatment (SDT) provisions that go beyond extended timeframes for implementing obligations, and that are binding and enforceable. An example of the SDT provisions that the region seeks include: grandfathering in of existing trade preferential programs, mechanisms to offset the erosion of margins of trade preference resulting from the extension of tariff-free entry to an increasing number of countries, and introduction of preferential investment facilities. Most importantly, countries are asking for the unilateral removal of the US (and EU) agricultural subsidies that undermine the ability of Caribbean products to compete.

This paper will not address the merits of these proposals. More pertinent, is a discussion of the extent to which these demands are achievable purely through the trade negotiating process. The first issue is the tension between the assumed reciprocity of trade negotiations, on the one hand, and the assumption of unilateral action by developed countries to right past wrongs, on the other. Despite the commitment made at the launch of the Doha negotiations, the reality is that the current climate and arena are not conducive to unilateral concessions. US trade negotiators are unable to deliver on

CARICOM demands without commensurate concessions to which the United States can point for its domestic constituency.

Furthermore, CARICOM demands will require Congressional approval for two reasons: i) While Trade Promotion Authority (TPA) gives the Administration the authority to negotiate a trade agreement within the guidelines outlined by Congress, the package will still have to be voted on by Congress; and ii) more importantly, several of CARICOM's demands exceed the authority granted by Congress within TPA.

TPA provides that Congress is to review trade treaties negotiated by the Administration in their entirety and to either accept or reject the treaty as a whole (in Congressional jargon according to a straight up or down vote.) In return, the Administration has committed to negotiating trade treaties that meet the specific trade negotiating objectives that Congress has outlined in the Act.

These objectives include:

1. Equitable and reciprocal market access for US goods and services;
2. Ambitious trade liberalization;
3. Fostering of economic growth and full employment in the United States;
4. Protection and preservation of the environment and enhancement of the international means of doing so; and
5. Promotion of respect for worker rights and the rights of children consistent with core labor standards of the ILO and an understanding of the relationship between trade and worker rights.

Thus, the mandate of US trade negotiators is to bring home an agreement that generates **significant gains** for US export sectors, and to which the Administration can point to offset the naysayers. In the absence of US leadership prepared to educate Americans about the uneven playing field from which the country has benefited, an agreement that grants meaningful access to US markets without such gains is “dead on arrival” before Congress. These differences between the US mandate and CARICOM

demands play a significant role in the ongoing impasse of the WTO and FTAA negotiations.

The above analysis suggests that a role exists for the Congressional Caribbean Caucus to assume a leadership role in resolving this impasse. A congressional study could identify the factors and conditions that CARICOM needs to stay competitive within the context of the FTAA and WTO, and discuss what exemptions, if any, may need to be carved out for the region. Along with other efforts, such a study could play a meaningful role in advancing the negotiations. This information would allow the region to negotiate with a clearer understanding of what will pass muster with Congress, and send a key signal to the Office of the US Trade Representatives and its negotiating teams.²

The above suggestion provides further support for slowing down the FTAA and WTO trade negotiation processes. There is some internal logic supporting the January 1, 2005 deadline. On the other hand, a poorly-negotiated trade agreement that increases the negative impacts on the region will only continue to undermine the positives that can result from properly-negotiated trade liberalization packages. Therefore, the Caucus should also voice its support for extending the WTO and FTAA negotiating deadlines, as well as the current deadline for the expiration of Presidential trade negotiating authority under TPA.

Market Access

Three key factors that affect the access of Caribbean goods into the US market are: tariffs, quotas, and sanitary & phyto-sanitary measures.

² The Congress would have the benefit of a number of existing analyses about the challenges the region faces in the multilateral trading regime. A hearing on the issue would air this analysis for Congressional consumption and permit a discussion of how to find a better balance between US and Caribbean trade interests.

Tariffs

The Caribbean Basin Initiative/Caribbean Basin Trade Partnership Act (CBI/CBTPA) grants duty-free entry for a wide-range of Caribbean products. However, the program is being underutilized and is accounting for a declining share of imports into the United States. Most importers claim Most Favored Nation (MFN), not CBI, duty-free access. On the one hand, they continue to enjoy duty-free access. However, if the programs appear to be interchangeable, where is the edge that the CBI was supposed to give to Caribbean products entering the US market? A few changes to the CBI could address some of the issues impeding effective use of the program.

CBI, and other preferential programs, has been notoriously underutilized because of the complex Rules of Origin (used to ensure that only products from the intended country get preferential access) and the bureaucratic burdens of complying with those rules. The region could derive real benefit from a simplification and revision of the US rules of origin, which are always very skillfully crafted to provide maximum protection to those domestic sectors most sensitive to imports. Additionally, attention needs to be paid to further minimizing the bureaucratic and technical requirements for the entry of goods wholly produced in the region.

One outstanding issue is the question of the expiration of CBTPA benefits in 2008 or entry into force of the FTAA, whichever happens first. It would be wise to anticipate the possibility of the FTAA not being in place in 2008 when the CBTPA benefits expire, and to ensure that there is no lapse in the program should this eventuality occur.

Quotas

Quotas have protected Caribbean access to certain markets and sectors. These are being phased out, and there is very little argument that should be made to keep them. The region can expect to experience some negative impact from the end of the Multi-Fibre Agreement (MFA) in January 2005. A USITC study has outlined steps that the United States and the region can take to remain competitive. Such steps need to be incorporated into the negotiating process of the FTAA and the WTO.³

Sanitary & Phyto-Sanitary (SPS) Requirements

Even with the removal of tariffs, sanitary and phyto-sanitary measures continue to place substantive barriers to the smooth and cost-effective entry of Caribbean products, in particular primary products, into the US market. Despite pre-clearance procedures designed to certify that the goods meet USDA and FDA requirements and that they receive clearance prior to leaving the country or origin, goods are subject to random detentions. These detentions can result in goods being held for weeks at a time. Caribbean exporters suffer spoilage and loss of products, lose buyers dissatisfied with the delays and resulting shortfall in their orders, and incur huge costs that can wipe out the profits they expected to make from the shipment. Work needs to be done with the respective agencies to ascertain what the outstanding issues are and to incorporate solutions into the pre-clearance procedures to stop or minimize the delays.

Caribbean food importers into the United States are also subject to the requirements of the Food and Drug Administration (FDA) to implement the Bio-Terrorism Act. The Act applies to all domestic and foreign facilities that manufacture,

³ "Textiles and Apparel: Assessment of the Competitiveness of Certain Foreign Suppliers to the U.S. Market," USITC Investigation No. 332-448, Publication 3671, January 2004.

process, pack, or hold food for human or animal consumption. FDA procedures require that food importers: 1) register with the FDA; 2) have an agent in the United States; and 3) provide the US Customs and Border Protection Bureau with prior notification of all human and animal food, drinks and dietary supplements imported to the United States. Companies are complying with these requirements. There is, however, no denying that the requirements place additional burdens on Caribbean exporters, and another set of procedures that can result in detentions at the border.

Another anti-terrorist measure has been the introduction of a voluntary program by the US Customs and Border Protection Bureau, the Customs - Trade Partnerships Against Terrorism (C-TPAT) program. C-TPAT calls upon the trade community to establish policies to enhance their own security practices and those of business partners involved in the supply chain. The focus is on establishing, improving, or amending, security procedures along the entire supply chain: procedural, physical, conveyance and personnel security; manifest procedures to ensure timely submission of clear and accurate manifests; education and training of employees. Companies that comply with C-TPAT are promised expedited Customs processing at ports of entry. Companies that do not join the program face the risk that their goods will incur additional delays at the US border.

Understanding the genuine security concerns of the United States, companies and countries are complying with C-TPAT. Jamaica, for one, has initiated the Business Anti-Smuggling Coalition (BASC) program. Companies are being promised that BASC certification will meet the requirements of C-TPAT and result in the promised benefits. The cost of the initial security assessments of companies' supply chain is being paid for under US technical assistance programs. However, the costs associated with any security

measures that will need to be put in place are not being covered.⁴ If these costs are too high, companies will be forced to forego their implementation. Some cost-sharing measures at the implementation phase are needed. Furthermore, it is absolutely essential that the promised benefits of faster and smoother clearance times become a reality.

Conclusion

The United States wants, and needs, strong and viable bilateral and regional trading partners. A trade liberalization process that unfolds in a manner and timetable that properly takes into account the strengths and weaknesses of the countries of the Caribbean can bring enormous benefit to the people of the region, and to the United States. A rushed and unilateral approach by the United States to that process will, on the other hand, head the region further down the road to the nightmare depicted in *Life and Debt*. This nightmare, in the form of the continued erosion of industries and entire sectors in the region, will make the slogan, “*Trade, not Aid*” a meaningless phrase. It is therefore, in the long-term interest of the United States, to lay a framework for trade liberalization that ensures it is the former scenario that prevails.

The Congressional Caribbean Caucus and other friends of the region in Congress have a key role to play in this process. A hearing on US-Caribbean trade relations that: i) addresses continuing non-tariff barriers to the US market; and ii) carves out reasonable exemptions to trade agreements that allow smaller economies to remain competitive within the FTAA and WTO would be a logical starting point. The hearing would send a

⁴ The Container Security Initiative (CSI) program, which works with ports to identify shipments that pose potential risk is also being implemented, with substantial cost to the ports, which have been passed on to users of ports.

strong signal to the negotiating teams of the negotiating compromises that stand a good chance of winning Congressional approval.

Furthermore, US trade policy sometimes acts as a barrier to the overall growth and development of the region. A recent example is the use of the Helms-Burton Act against the Jamaican hotel chain, SuperClubs.⁵ In June, 2004, the company executives were threatened with exclusion from the United States because of the company's investments in Cuba. As a result, the company has decided to divest from the property that precipitated the US action. There is as yet no word on the losses the company will incur from this decision.

Cuba is a part of the Caribbean. Geography and the cultural ties make Cuba a logical place for the expansion of business opportunities. US unilateral sanction against Cuba is being enforced to interfere with logical business investment opportunities in the region. Meanwhile, however, European Union companies continue to operate without similar sanction in Cuba. This selective enforcement of US unilateral trade policies against small, defenseless countries was also visible in the US ban against offshore gambling industry in the Eastern Caribbean. We urge the Caucus to continue to examine the US Cuba policy, and to speak out against US trade policy where it retards the progress of the region, and of other developing economies.

⁵ The Cuban Liberty and Democratic Solidarity (LIBERTAD) Act, commonly referred to as the Helms-Burton Act after its sponsors, aims to strengthen the sanctions and embargoes against Cuba. To do so, the Act targets non-US trade and investment in Cuba. Title IV provides for the exclusion from the United States of corporate officers, principals, and shareholders with a controlling interest in an entity trafficking in confiscated property to which a US citizen has a claim of ownership. The United States has previously excluded from entry into the United States the executives and their family members of three companies. The companies are 1) Sherritt International Corp. of Canada; 2) Grupo Domos of Mexico; and 3) BM Group, an Israeli-owned firm registered in Panama.