Collection: Roberts, John G.: Files
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THE WHITE HOUSE

WASHINGTON

December 5, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Henry Berliner Correspondence Concerning Barbados

Attached, as you requested, is a draft response to Mr. Berliner's two memoranda. My memorandum of November 30 discussed the substance of those memoranda.

Attachment

THE WHITE HOUSE

WASHINGTON

December 5, 1983

Dear Henry:

Thank you for your memoranda on law enforcement assistance in the Eastern Caribbean and the United States - Barbados tax treaty. As you might imagine, recent events have highlighted the importance of this region, and we certainly appreciate having the benefit of your informed views on subjects affecting the area.

It is true that the major hurdle preventing significant foreign aid for police training is section 660 of the Foreign Assistance Act, 22 U.S.C. § 2420, which provides that foreign assistance funds generally may not be used "...to provide training or advice, or provide any financial support, for police, prisons, or other law enforcement forces for any foreign government...." I am advised, however, that there are prospects for increased aid from other foreign sources for the Barbadian police training center, in which we cannot, by law, participate.

Questions concerning the tax treaty are complicated by the fact that the termination and renegotiation of the United States - Barbados treaty is part of a much broader, comprehensive effort governing tax treaties of some 23 countries. These treaties typically date from British colonial days and involve countries not only in the Caribbean but Africa as well. There is understandable reluctance to consider special arrangements with respect to Barbados when any such action could precipitate similar demands from the other affected nations, thereby jeopardizing the entire effort to modernize the tax treaties. In any event, I was pleased to learn that negotiations on a new United States - Barbados tax treaty are scheduled to convene in Washington before the end of the year.

Once again, thank you for sharing your concerns with us.

Sincerely,

Fred F. Fielding
Counsel to the President

Mr. Henry A. Berliner, Jr.
Berliner & Maloney
1100 Connecticut Avenue, N.W.
Washington, D.C. 20036-4162

FFF:JGR:aea 12/5/83
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

November 30, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Henry Berliner Correspondence Concerning Barbados

When we discussed the Henry Berliner correspondence concerning law enforcement assistance to Barbados and the U.S. - Barbados tax treaty, you requested that I consult with the State Department to determine the feasibility of pursuing these questions. The significant point about the termination of the tax treaty is that it is part of an across-the-board decision to terminate all of a certain class of tax treaties dating back to British colonial days. Some 23 countries are involved, in the Carribean and Africa. The decision to terminate these treaties was made and formally announced, after consultation with Congress, over one year ago. By the terms of the treaties the effectiveness of the termination was delayed until January 1, 1984. Treasury was the moving force behind the decision, arguing that the colonial era treaties were outdated and were facilitating tax avoidance.

There was a dispute between U.S. and Barbadian officials over which side was responsible for the delay in commencing negotiations on a new treaty. Those negotiations are now scheduled to begin in Washington on December 19. Even if the negotiations move quickly there will inevitably be a treaty "gap" of six months to one year.

The Treaty Section of the Legal Adviser's Office at State is reluctant to rescind the notice of termination with respect to Barbados, because of the impact such a decision could have on negotiations with the 22 other affected nations. If Barbados is granted a reprieve it would be difficult to deny one to each of the other countries that find themselves in the same boat. And the other 22 countries are in the same boat: no new treaties have yet been negotiated, so the "gap" problem exists across the board. State attorneys also expressed concern about rescinding the notice of termination after consulting with and advising the Senate of the decision to terminate the treaties. Treasury is opposed to rescinding the notice of termination because it views the "gap" problem as providing valuable leverage in the negotiations for new treaties. At least with respect to

Barbados, however, Treasury has already agreed to make the provisions of any new tax treaty retroactive to January 1, 1984, which should somewhat ease the "gap" problems.

With respect to police training, Mr. Berliner is correct that section 660 of the Foreign Assistance Act, 22 U.S.C. § 2420, limits our efforts by providing that foreign assistance funds generally may not be used "...to provide training or advice, or provide any financial support, for police, prisons, or other law enforcement forces for any foreign government...." This whole area has of course been rather dramatically overtaken by events. Police training is now a critical issue, with the most significant initiative involving increased British aid to a police training center in Barbados, in which we do not (and by law cannot) participate. Extra slots for Grenadians are promised at this center, which it is hoped will help develop the core of a larger and more sophisticated Grenadian police force.

Let me know what further action, if any, you want on these matters.

JV

ID # 182931 CU

C0015

WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

JB "see me for brief"

☐ O - OUTGOING
☐ H - INTERNAL
☐ I - INCOMING
Date Correspondence Received (YY/MM/DD) ___/___/___

Name of Correspondent: Henry A. Berliner, Jr

☐ **MI Mail Report** **User Codes:** (A) ______ (B) ______ (C) ______

Subject: Encloses 2 memos 1) U.S. - Barbados Tax Treaty 2) Developments on Regional Police Training Center

ROUTE TO: **ACTION** **DISPOSITION**

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
CWHOLL	ORIGINATOR	DD 83/11/04			/ /
Referral Note:					
CWAT 18	A	DD 83/11/04			/ /
Referral Note:					
		/ /			/ /
Referral Note:					
		/ /			/ /
Referral Note:					
		/ /			/ /
Referral Note:					

ACTION CODES:
A - Appropriate Action
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C - Completed
S - Suspended

FOR OUTGOING CORRESPONDENCE:
Type of Response = Initials of Signer
Code = "A"
Completion Date = Date of Outgoing

Comments: DD Nov 02 83 letter also attached from Henry Berliner

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Always return completed correspondence record to Central Files.
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5/81

M E M O R A N D U M

DATE: November 2, 1983

TO: Fred Fielding

182931cu

FROM: Henry Berliner and Bruce Zagaris

RE: Developments on Regional Police Training Center

Recently, K. Scott Gudgeon, Assistant Legal Advisor Affairs, has phoned Mr. Zagaris. Mr. Gudgeon was following up a letter dated August 26, 1983 to Mr. Berliner from Mark Richard, Deputy Assistant Attorney General, Criminal Division, U.S. Department of Justice. Mr. Richard's letter stated that the Department of State is considering a variety of initatives in this area. Accordingly, he was forwarding our proposal to Mr. Richards.

According to Mr. Gudgeon, Section 660 of the Foreign Assistance Act prohibits assistance to law enforcement agencies. Because of Section 660, the Agency for International Development (IAD) has not been responsive to law enforecement assistance proposals in the Caribbean. Most of the efforts in this are have been through the Federal Bureau of Investigation. Mr. Gudgeon stated that Chris Kriskovich, National Academy, FBI, Quantico, VA (703) 640-6131 and 273-0700 has a copy of our proposal. An apparent concern of some federal agencies is that the FBI is primarily concerned with maintaining program control. This is a problem because of the limited resources and the fact that much training already being done by the FBI in Roosevelt Roads, Puerto Rico. There are increasingly requests from Central American countries for law enforcement assistant. The Department of State heads an inter-agency legal reform group having as its projects the following: Improving court systems; training judges; reinvigorating bar association; and assisting law faculties in improving legal education.

Richard Stiener, Head of the U.S. Interpol N.C.B., Department of Justice, has been very active in the Caribbean Working Group of Interpol. He has extensive contacts with Caribbean law enforcement agencies. He has been favorably disposed to providing additional assistance to Caribbean law enforcement agencies. In addition, Mr. Stiener's extensive contacts with the international Interpol personnel, including Mr. Bossard, Secretary General of Interpol, as well as other international Interpol executives, should prove useful in involving the proper regional and other non-U.S. people in any law enforcement endeavor in the Caribbean.

The idea of additional law enforcement assistance is the Eastern Caribbean gains additional significance in the aftermath of recent Grenada developments.

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64432

November 2, 1983

HAND DELIVERED

The Honorable Fred Fielding
Counsel to the President
The White House
Washington, D.C. 20500

Dear Fred:

Enclosed please find our memorandum entitled, "U.S.-Barbados Tax Treaty."

Also enclosed is a corrected copy of the update on recent developments with the regional police training center which you received at our meeting today.

If you have any questions, please feel free to contact me.

Sincerely,

Hank

Henry A. Berliner, Jr.

HAB/pg

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MEMORANDUM

TO: The Honorable Fred Fielding
Counsel to the President

FROM: Henry A. Berliner, Jr. & HAB
Bruce Zagaris BZ

DATE: November 2, 1983

SUBJECT: U.S.-Barbados Tax Treaty

I. BENEFITS TO BARBADOS OF CURRENT TREATY

A. U.S. corporations in Barbados pay reduced withholding tax on dividends and royalties. The tax treaty also provides a procedure for resolving any double tax issues which may involve U.S. persons investing in Barbados.

B. International business corporations and offshore banks use the treaty to invest in the U.S. Barbados derives revenue from these investments, and it provides employment to the highly-educated, but unemployed sector of its labor force.

C. The development of Barbados as a management center for multinationals has been an economic priority for the Adams Administration and the Government wants to develop this sector. Currently, approximately 20 international business companies and at least two major multinational banks get benefits from the U.S. treaty.

II. LOSS TO BARBADOS FROM CANCELLATION OF THE EXISTING TREATY

A. Barbados would lose the above benefits.

B. The perception in Barbados, the region, and the international community of the ability of the Adams Administration to maintain an economic connection with the U.S. would be weakened.

C. The Barbados Government's attempt to develop its economy and attract foreign exchange would be weakened and invite undesirable alternative funding sources.

III. GOALS OF BARBADOS FOR A NEW TREATY

A. U.S. withdraw its announcement terminating the existing treaty on January 1, 1984, pending the negotiation of a new treaty.

B. Facilitate investment by and confidence of foreign persons in Barbados through use of a new tax treaty.

C. Afford U.S. investors tax sparing or investment credits, along the lines of the initial CBI bill and the tax treaties between LDCs and Canada, West Germany, Japan, Scandinavian countries, France and most industrialized nations.

IV. CONSEQUENCES TO U.S. OF TERMINATION OF EXISTING TREATY

1. The loss of the existing exchange of information.

2. Reduced U.S. private investment in the Caribbean country most friendly to the U.S.

3. Future law enforcement efforts by the U.S. in Barbados and the Caribbean will become less efficient and loss of exchange of information and cooperation in law enforcement may provide an opening for organized crime to use Barbados.

4. The Adams Administration will suffer an economic and political setback and be more vulnerable to leftist opponents and will facilitate use of Barbados by U.S. business competitors economically and the Soviet-Cuban bloc politically.

V. SUMMARY

Since the U.S. wants to maintain exchange of information and strengthen law enforcement efforts with Barbados as well as facilitate U.S. private investment in the Caribbean, it will accomplish these goals by maintaining the existing treaty.

BZ/pag

ID # 190922 CU

FG226

Issue 1 - SHC
Issue 2 - JR

JV

WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

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☐ H - INTERNAL
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Date Correspondence Received (YY/MM/DD) ___ / ___ / ___

Name of Correspondent: Henry A. Berliner, Jr

☐ **MI Mail Report** **User Codes: (A)** ______ **(B)** ______ **(C)** ______

Subject: 1) Draft letter for President to be part of 1983 annual report of the Pennsylvania Avenue Development Corp.
2) treatment given Barbados and Netherlands Antilles re: U.S. Tax Convention

ROUTE TO: **ACTION** **DISPOSITION**

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
CUHOU	ORIGINATOR	83/12/08			/ /
	Referral Note:				
CUAT17	D	83/12/08		S	83/12/18
	Referral Note:				
CUAT18	D	83/12/08		S	83/12/18
	Referral Note:				
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	Referral Note:				
		/ /			/ /
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64432

December 7, 1983

190922

HAND DELIVERED

The Honorable Fred Fielding
General Counsel to the President
The White House
Washington, D.C. 20500

Dear Fred:

Enclosed please find:

1. Draft letter for the President to be part of the 1983 Annual Report of the Pennsylvania Avenue Development Corporation. A copy of 1982's Annual Report is enclosed.

2. Memorandum discussing treatment given Barbados and the Netherlands Antilles regarding U.S. tax convention.

If you have any questions, please don't hesitate to contact me.

Sincerely,

Henry A. Berliner, Jr.

Henry A. Berliner, Jr.

HAB/pg

Enclosures

DRAFT - PRESIDENTIAL LETTER FOR 1983 ANNUAL REPORT OF PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

Date

Dear Mr. Chairman:

PENNSYLVANIA AVENUE OCCUPIES A SPECIAL PLACE IN OUR NATION'S HISTORY. IT IS THE LINK BETWEEN THE UNITED STATES CAPITOL AND THE WHITE HOUSE; THE SITE FOR MANY OF OUR GREAT GOVERNMENTAL BUILDINGS; AND IS THE INAUGURAL ROUTE OF PRESIDENTS.

RENOVATION OF THE WILLARD HOTEL; REOPENING OF THE NATIONAL THEATER; THE NATIONAL PLACE COMPLEX INCLUDING A MAJOR HOTEL; THE PAVILION AT THE OLD POST OFFICE; A MULTITUDE OF SPECIALTY SHOPS, BOUTIQUES AND RESTAURANTS AND OVER A MILLION SQUARE FEET OF OFFICE AND RETAIL SPACE; TOGETHER WITH THE PARKS, STREETS, LIGHTING AND PUBLIC IMPROVEMENTS, HAVE REVITALIZED THIS PORTION OF THE CITY.

I AM ESPECIALLY PROUD THAT THE $100 MILLION REPRESENTING THE U.S. TAXPAYERS' INVESTMENT IN LAND ACQUISITION, WILL BE RETURNED TO THE FEDERAL TREASURY, INCLUDING CARRYING CHARGES, BY THE YEAR 2008 AND WILL HAVE GENERATED PRIVATE SECTOR INVESTMENT OF $1.3 BILLION. THROUGH THE WORK OF THE PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION, THIS HISTORIC BOULEVARD HAS BECOME A SYMBOL OF WHAT PRIVATE ENTERPRISE AND GOVERNMENT CAN ACHIEVE WHEN WORKING TOGETHER IN PARTNERSHIP. AMERICANS WHO VISIT OUR NATION'S CAPITAL, AS WELL AS THOSE LIKE MYSELF WHO LIVE AND WORK HERE, HAVE REASON TO BE PROUD OF OUR NATION'S MAIN STREET.

Sincerely,

The Honorable Henry A. Berliner, Jr.
Chairman, Pennsylvania Avenue Development
Corporation
Washington, D.C. 20007

JR

December 7, 1983

MEMORANDUM: COMPARISON OF U.S. TAX CONVENTION NEGOTIATIONS BETWEEN BARBADOS AND THE NETHERLANDS ANTILLES (N.A.)

1. Termination of Treaty and New Treaty Negotiation

After announcing the termination of the tax convention with Barbados and the other United Kingdom extensions on June 29, 1983, the Dept. of State and Treasury have stated that the U.S. will not withdraw the Barbados notice of termination, which becomes effective January 1, 1984. Barbados is to begin negotiation of a new treaty in Washington, D.C. December 19-21. Prime Minister Adams has taken a personal interest in the tax convention (Ministry of Finance is in his portfolio), and has expressed his irritation at the "hostile" and "extremely discriminatory" U.S. action (See attached newspaper article dated Nov. 10, 1983).

2. Status of Netherlands Antilles Treaty

Although Treasury has stated that it does not support the N.A. tax treaty, it has not cancelled it. During recent Congressional hearings,[1] Subcommittee Chairman Doug Barnard, Jr. stated that serious efforts to revise the existing treaty only began in early 1981 and that the pace of the negotiations did not appear to be commensurate with the seriousness of the tax evasion problem. (Hearings, pp. 1-2). There is still no new N.A. treaty.

3. Withdrawal of Barbados Termination

Some U.S. Government officials have raised technical objections to withdrawal of notice of termination, however, our research reflects many precedents for withdrawal of the notice under public international and U.S. law, including a memorandum from State's Legal Adviser.

4. Barbados Position

Although Treasury may state that N.A. should be treated differently because it is (a) required for Eurodollar lending by U.S. corporations and (b) more time is needed concerning the N.A. confidentiality problem (e.g., bank secrecy and bearer shares), Barbados is only asking that the U.S. accord it the same deference accorded treaty partners (e.g., N.A.): to continue the existing treaty during the pendency of negotiations of a new treaty.

---

1. See hearings entitled "Tax Evasion through the Netherlands Antilles and Other Tax Haven Countries,"before a Subcommittee of the Committee on Government Operations, House of Rep., 98th Congr., 1st Sess., April 12 and 13, 1983. John E. Chapoton, Ass't Secty for Tax Policy, Treasury, testified that the existing N.A. treaty is subject to abuse. (p. 262).

~~Ulstrom - meeting 1:30~~ viewing

Barbados.

no interest here involves

tax: U.S. making big mistake.

Suspending treaty.

– stop reinvestment?

State Dept.

Bank willing to go further.

add three.

call in Gerald

Rosen

Rachel Brown

632-2087

Barbados center:

police training

6 month course:

all of E.C. countries

mixed center

don't participate

will give extra slots to Grenadians

<u>can</u> give military assistance - R.S.S.

— how far along is this? Any flexibility left?
— Barbadans willing to bend further, want additional time
— will U.S. terminate on 1/1/84?
— regional police training center?

— 2 years ago: Treasury:
treaties and Barbados etc. outdated — tax avoidance problem

Deal: hold off term notice 1 yr.
come up again December 1982.
1 yr after 1/1 of termination.
did Dec 1982 — many islands — term 1/1/84
earlier: thinking about it, new treaty will talk.
— Barbados: say they wanted to talk, Treas: ball left in their court
— with Antilles no notice of term. Too disruptive to terminate — big off-shore base.
Barbadian upset.
Barb: want treaty, but avoid hiatus. Continue treaty in force during negotiations.
[Treasury] ← Can't revoke notice → new treaty. [LT]
Treasury: retroactive new treaty.
Negotiations: ~~[illegible]~~ set Dec 19-21 in D.C.

— No leverage by gap
— old British Treaties → treaty shopping

Dalton:

notice of term. w/other countries

(mission, planes)

23 altogether (inc some in Africa)

<u>No</u> new treaties

No opinion

Sticky to go back

State: wouldn't cancel

note

[some opening]

Dep Ass Sec

Gramewell

Steve Shay

new developments

Dalton:

N.A. not independent country. Netherlands kingdom in Europe, + N.A. Neth can conclude treaties for N.A. Treaties w/ Neth extended to N.A.

All others are countries, former colonies. Eric British, one Belgian European colonies, which are treaties, then became independent.

No full treaties w/ N.A. (is possible)
↳ allowed by Dutch

Not NA tax treaty —
a 1948 Treaty US — Neth extended to N.A.

12/13

- why not term N.A.?
  [only Eurobond window?]
- dif than [illegible]
- [illegible]

Steve Shay 566-8275 . Treasury
N. Antilles

Would have term N.A., but for $25 billion → Eurobond deals. Only place. Of other routes available, this has proven track record. Foreign rules a [illegible] treaties — no tax cost

[In first stages, major issues in N.A. shooting for pre-Clinton: private]

- Treasury wants treaty, although the claim making retroactive of in 1984.

THE WHITE HOUSE

WASHINGTON

December 13, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Berliner Correspondence Concerning Barbados

After reviewing Mr. Berliner's further correspondence of December 7, I called the State Department to obtain the facts on the apparent special treatment of the Netherlands Antilles. Assistant Legal Adviser for Treaty Affairs Robert E. Dalton advised me that the Netherlands Antilles was treated differently than the 23 terminated countries because it was not a country but an integral component of the Dutch realm, and our tax treaty with the Netherlands Antilles could not be terminated without affecting relations with the Netherlands itself. Subsequent research demonstrated this explanation to be palpably false. On June 30, 1982, we easily terminated our tax treaty with the British Virgin Islands by advising the British that the extension of our treaty with them to the Islands was terminated. On reflection Dalton conceded the same process could be applied to the Netherlands Antilles.

Yielding all hope of obtaining accurate information on this matter from State, I contacted the Treasury officials actually handling the tax treaty negotiations with the Netherlands Antilles and the 23 terminated countries (including Barbados). They advised that they would have terminated the Netherlands Antilles treaty with glee, but for the fact that the treaty provides the only mechanism for American firms to raise capital in the Eurobond market. Access to the Eurobond market through the Netherlands Antilles accounts for some $25 billion in capital raised by American corporations. The tax treaty with the Netherlands Antilles establishes the mechanisms for the functioning of this capital market. Terminating the tax treaty to end tax haven abuse, as done with the 23 countries, would have the deleterious consequence of completely shutting off this vital source of capital. The problem is not present with the 23 terminated countries.

The Treasury officials also noted that they were very close to concluding a new treaty with the Netherlands Antilles, possibly even before the end of the year. (This should not be made public.) There is thus no need for the leverage of a treaty "gap" to encourage serious negotiations, as they feel to be true with respect to the 23 terminated countries.

With respect to our response, the Treasury officials recommended stressing our government's keen desire to conclude a new treaty as soon as possible, and our already expressed willingness to make the provisions of a new treaty retroactive to January 1, 1984, the termination date.

A revised response to Berliner is attached.

Attachment

THE WHITE HOUSE

WASHINGTON

December 13, 1983

Dear Henry: Hank

Thank you for your memoranda on law enforcement assistance in the Eastern Caribbean and the United States - Barbados tax treaty. As you might imagine, recent events have highlighted the importance of this region, and we certainly appreciate having the benefit of your informed views on subjects affecting the area.

It is true that the major hurdle preventing significant foreign aid for police training is section 660 of the Foreign Assistance Act, 22 U.S.C. § 2420, which provides that foreign assistance funds generally may not be used "...to provide training or advice, or provide any financial support, for police, prisons, or other law enforcement forces for any foreign government...." I am advised, however, that there are prospects for increased aid from other foreign sources for the Barbadian police training center, in which we cannot, by law, participate.

Questions concerning the tax treaty are complicated by the fact that the termination and renegotiation of the United States - Barbados treaty is part of a much broader, comprehensive effort governing tax treaties of some 23 countries. These treaties typically date from British colonial days and involve countries not only in the Caribbean but Africa as well. There is understandable reluctance to consider special arrangements with respect to Barbados when any such action could precipitate similar demands from the other affected nations, thereby jeopardizing the entire effort to modernize the tax treaties.

It is true, as you noted in your memorandum of December 7, that our tax treaty with the Netherlands Antilles has not been terminated. This certainly does not reflect greater deference on our part to the interests of the Netherlands Antilles than to those of Barbados or the 22 other terminated countries. The decision not to terminate the Netherlands Antilles tax treaty was based on the unique factual circumstances of the financial markets in the Netherlands Antilles. As you know, the situation in the Netherlands Antilles is quite different from that prevailing in the 23 countries whose treaties have been terminated.

Largely because of the important Eurobond market in the Netherlands Antilles, and the significance of the tax treaty to the functioning of that market, the question of termin-ting that treaty raises concerns that are not present with respect to the other countries. Our recognition of these concerns should in no sense be construed as favoring one country over another.

In any event, I was pleased to learn that negotiations with Barbados on a new tax treaty are scheduled to commence in Washington before the end of this year. I know that the United States Government is anxious to see the negotiations come to a successful conclusion as soon as possible. I also understand that the Treasury Department has expressed a willingness to make the new treaty retroactive to the termination date, if the new treaty can be concluded next year. This should help alleviate some of the difficulties associated with a gap in treaty coverage.

Once again, thank you for sharing your concerns with us.

Sincerely,

Orig. signed by FFF

Fred F. Fielding
Counsel to the President

Mr. Henry A. Berliner, Jr.
Berliner & Maloney
1100 Connecticut Avenue, N.W.
Washington, D.C. 20036-4162

FFF:JGR:aea 12/13/83
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

September 30, 1985

MEMORANDUM FOR RICHARD A. HAUSER

FROM: JOHN G. ROBERTS JGR

SUBJECT: Barbados-United States Tax Treaty

I understand that Mr. Fielding has asked you to return a telephone call on this subject. Attached for your background is my memorandum of December 13, 1983, for Mr. Fielding, concerning this firm's first approach to this office on this subject, and the response Mr. Fielding signed. At that time the U.S. Government had terminated a tax treaty with Barbados (and 22 other Caribbean countries) as a prelude to negotiating new ones. The new treaty has now been concluded and is awaiting ratification; there has already been a hearing before the Senate Foreign Relations Committee.

Zagaris's concern is that some on the Hill are contending ratification should await passage of the new tax bill, while Zagaris's client, the Barbados Government, wants prompt ratification. According to Treasury, the Administration is also clearly committed to prompt ratification, and is opposed to any delay pending the tax bill. Apparently the Foreign Relations Committee is waiting for letters from Rostenkowski's committee (House Ways and Means) and Packwood's committee (Senate Finance) before voting out the treaty.

You can tell Zagaris that the Administration fully agrees with his position: we want prompt ratification, and do not think ratification should be held up for the tax bill.

ID # 346194 CU

C0015

WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING

☐ H - INTERNAL

☐ I - INCOMING

Date Correspondence Received (YY/MM/DD) / /

Name of Correspondent: Bruce Bazzaris

☐ MI Mail Report   User Codes: (A) ______ (B) ______ (C) ______

Subject: Barbados - United States Tax Treaty

ROUTE TO: | **ACTION** | **DISPOSITION**

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
CWHolland	ORIGINATOR	85/09/18			/ /
Referral Note:					
CUAT18	A/R	85/09/19		S	85/09/29
Referral Note:					
		/ /			/ /
Referral Note:					
		/ /			/ /
Referral Note:					
		/ /			/ /
Referral Note:					

ACTION CODES:
- A - Appropriate Action
- C - Comment/Recommendation
- D - Draft Response
- F - Furnish Fact Sheet to be used as Enclosure
- I - Info Copy Only/No Action Necessary
- R - Direct Reply w/Copy
- S - For Signature
- X - Interim Reply

DISPOSITION CODES:
- A - Answered
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- C - Completed
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FOR OUTGOING CORRESPONDENCE:
- Type of Response = Initials of Signer
- Code = "A"
- Completion Date = Date of Outgoing

Comments: See ID182931cu

Keep this worksheet attached to the original incoming letter.
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5/81

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346194

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TELEX
64432

September 17, 1985

Delivery by Hand

Fred Fielding, Esq.
Office of the President
White House
Washington, D.C.

Re: Barbados-United States Tax Treaty

Dear Fred:

As you may recall, my partner Henry A. Berliner, Jr. and I visited with you on behalf of the Government of Barbados in November, 1983 concerning the precipitous cancellation of the Barbados-U.S. tax treaty. Upon the representation from Administration officials, including Secretary of State George P. Shultz that, if renegotiated, the treaty would be ratified at an early date, the Barbados Government negotiated and concluded both a double tax agreement and the only exchange of information agreement the U.S. has concluded with a Caribbean country.

A hearing on all pending tax treaties was held by the Senate Foreign Relations Committee on Tuesday, July 30, 1985. According to Joint Committee on Taxation and the Treasury Technical Explanation of the Barbados-U.S. tax treaty, there exists no substantive barriers to ratification. However, there is apparently a feeling by some members in Congress (e.g., Senate Finance Committee) that the final ratification vote should await the President's Tax Proposal.

Early ratification of the tax treaty is a high priority issue by the Barbados Government. The Barbados Government, which has made close relations with the U.S. a key part of its foreign policy, is now engaged in electoral campaigns. Early ratification of the tax treaty would show that its policy of close relations with the United States Government has succeeded and will aid in attracting foreign investors in Barbados (e.g., for CBI purposes).

We would be grateful if you or someone from your staff could take approximately ten minutes to discuss this matter with me.

With personal regards,

Bruce Zagaris

Bruce Zagaris

cc: Amb. Peter D. Laurie

THE WHITE HOUSE

WASHINGTON

April 3, 1986

MEMORANDUM FOR DIANNA G. HOLLAND

FROM: JOHN G. ROBERTS JGR

SUBJECT: Berliner Correspondence Concerning Barbados

No further action necessary. Mr. Fielding reconsidered his decision to raise the difficulties we encountered in obtaining accurate information from the Legal Adviser's office with Dave Robinson.

THE WHITE HOUSE

WASHINGTON

December 13, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Berliner Correspondence Concerning Barbados

pls prepare memo for me to send to Davis Robinson on this — "While I would not, ordinarily, raise issue with the support provided from your office, the following circumstances almost caused a profound embarrassment. Thus, I feel compelled to relate the following:

After reviewing Mr. Berliner's further correspondence of December 7, I called the State Department to obtain the facts on the apparent special treatment of the Netherlands Antilles. Assistant Legal Adviser for Treaty Affairs Robert E. Dalton advised me that the Netherlands Antilles was treated differently than the 23 terminated countries because it was not a country but an integral component of the Dutch realm, and our tax treaty with the Netherlands Antilles could not be terminated without affecting relations with the Netherlands itself. Subsequent research demonstrated this explanation to be palpably false. On June 30, 1982, we easily terminated our tax treaty with the British Virgin Islands by advising the British that the extension of our treaty with them to the Islands was terminated. On reflection Dalton conceded the same process could be applied to the Netherlands Antilles.

Yielding all hope of obtaining accurate information on this matter from State, I contacted the Treasury officials actually handling the tax treaty negotiations with the Netherlands Antilles and the 23 terminated countries (including Barbados). They advised that they would have terminated the Netherlands Antilles treaty with glee, but for the fact that the treaty provides the only mechanism for American firms to raise capital in the Eurobond market. Access to the Eurobond market through the Netherlands Antilles accounts for some $25 billion in capital raised by American corporations. The tax treaty with the Netherlands Antilles establishes the mechanisms for the functioning of this capital market. Terminating the tax treaty to end tax haven abuse, as done with the 23 countries, would have the deleterious consequence of completely shutting off this vital source of capital. The problem is not present with the 23 terminated countries.

The Treasury officials also noted that they were very close to concluding a new treaty with the Netherlands Antilles, possibly even before the end of the year. (This should not be made public.) There is thus no need for the leverage of a treaty "gap" to encourage serious negotiations, as they feel to be true with respect to the 23 terminated countries.

With respect to our response, the Treasury officials recommended stressing our government's keen desire to conclude a new treaty as soon as possible, and our already expressed willingness to make the provisions of a new treaty retroactive to January 1, 1984, the termination date.

A revised response to Berliner is attached.

Attachment

THE WHITE HOUSE

WASHINGTON

December 13, 1983

Dear ~~Henry~~ Hank:

Thank you for your memoranda on law enforcement assistance in the Eastern Caribbean and the United States - Barbados tax treaty. As you might imagine, recent events have highlighted the importance of this region, and we certainly appreciate having the benefit of your informed views on subjects affecting the area.

It is true that the major hurdle preventing significant foreign aid for police training is section 660 of the Foreign Assistance Act, 22 U.S.C. § 2420, which provides that foreign assistance funds generally may not be used "...to provide training or advice, or provide any financial support, for police, prisons, or other law enforcement forces for any foreign government...." I am advised, however, that there are prospects for increased aid from other foreign sources for the Barbadian police training center, in which we cannot, by law, participate.

Questions concerning the tax treaty are complicated by the fact that the termination and renegotiation of the United States - Barbados treaty is part of a much broader, comprehensive effort governing tax treaties of some 23 countries. These treaties typically date from British colonial days and involve countries not only in the Caribbean but Africa as well. There is understandable reluctance to consider special arrangements with respect to Barbados when any such action could precipitate similar demands from the other affected nations, thereby jeopardizing the entire effort to modernize the tax treaties.

It is true, as you noted in your memorandum of December 7, that our tax treaty with the Netherlands Antilles has not been terminated. This certainly does not reflect greater deference on our part to the interests of the Netherlands Antilles than to those of Barbados or the 22 other terminated countries. The decision not to terminate the Netherlands Antilles tax treaty was based on the unique factual circumstances of the financial markets in the Netherlands Antilles. As you know, the situation in the Netherlands Antilles is quite different from that prevailing in the 23 countries whose treaties have been terminated.

Largely because of the important Eurobond market in the Netherlands Antilles, and the significance of the tax treaty to the functioning of that market, the question of termin-ting that treaty raises concerns that are not present with respect to the other countries. Our recognition of these concerns should in no sense be construed as favoring one country over another.

In any event, I was pleased to learn that negotiations with Barbados on a new tax treaty are scheduled to commence in Washington before the end of this year. I know that the United States Government is anxious to see the negotiations come to a successful conclusion as soon as possible. I also understand that the Treasury Department has expressed a willingness to make the new treaty retroactive to the termination date, if the new treaty can be concluded next year. This should help alleviate some of the difficulties associated with a gap in treaty coverage.

Once again, thank you for sharing your concerns with us.

Sincerely,

Orig. signed by FFF

Fred F. Fielding
Counsel to the President

Mr. Henry A. Berliner, Jr.
Berliner & Maloney
1100 Connecticut Avenue, N.W.
Washington, D.C. 20036-4162

FFF:JGR:aea 12/13/83
bcc: FFFielding/JGRoberts/Subj/Chron

John — see me ASAP ([illegible] may not be accurate)

THE WHITE HOUSE

WASHINGTON

December 5, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Henry Berliner Correspondence Concerning Barbados

Attached, as you requested, is a draft response to Mr. Berliner's two memoranda. My memorandum of November 30 discussed the substance of those memoranda.

Attachment

THE WHITE HOUSE

WASHINGTON

December 5, 1983

Dear Henry:

Thank you for your memoranda on law enforcement assistance in the Eastern Caribbean and the United States - Barbados tax treaty. As you might imagine, recent events have highlighted the importance of this region, and we certainly appreciate having the benefit of your informed views on subjects affecting the area.

It is true that the major hurdle preventing significant foreign aid for police training is section 660 of the Foreign Assistance Act, 22 U.S.C. § 2420, which provides that foreign assistance funds generally may not be used "...to provide training or advice, or provide any financial support, for police, prisons, or other law enforcement forces for any foreign government...." I am advised, however, that there are prospects for increased aid from other foreign sources for the Barbadian police training center, in which we cannot, by law, participate.

Questions concerning the tax treaty are complicated by the fact that the termination and renegotiation of the United States - Barbados treaty is part of a much broader, comprehensive effort governing tax treaties of some 23 countries. These treaties typically date from British colonial days and involve countries not only in the Caribbean but Africa as well. There is understandable reluctance to consider special arrangements with respect to Barbados when any such action could precipitate similar demands from the other affected nations, thereby jeopardizing the entire effort to modernize the tax treaties. In any event, I was pleased to learn that negotiations on a new United States - Barbados tax treaty are scheduled to convene in Washington before the end of the year.

Once again, thank you for sharing your concerns with us.

Sincerely,

Fred F. Fielding
Counsel to the President

Mr. Henry A. Berliner, Jr.
Berliner & Maloney
1100 Connecticut Avenue, N.W.
Washington, D.C. 20036-4162

THE WHITE HOUSE

WASHINGTON

November 30, 1983

John
pls prepare response for Berliner
Thanks
F 11/30

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Henry Berliner Correspondence Concerning Barbados

When we discussed the Henry Berliner correspondence concerning law enforcement assistance to Barbados and the U.S. - Barbados tax treaty, you requested that I consult with the State Department to determine the feasibility of pursuing these questions. The significant point about the termination of the tax treaty is that it is part of an across-the-board decision to terminate all of a certain class of tax treaties dating back to British colonial days. Some 23 countries are involved, in the Carribean and Africa. The decision to terminate these treaties was made and formally announced, after consultation with Congress, over one year ago. By the terms of the treaties the effectiveness of the termination was delayed until January 1, 1984. Treasury was the moving force behind the decision, arguing that the colonial era treaties were outdated and were facilitating tax avoidance.

There was a dispute between U.S. and Barbadian officials over which side was responsible for the delay in commencing negotiations on a new treaty. Those negotiations are now scheduled to begin in Washington on December 19. Even if the negotiations move quickly there will inevitably be a treaty "gap" of six months to one year.

The Treaty Section of the Legal Adviser's Office at State is reluctant to rescind the notice of termination with respect to Barbados, because of the impact such a decision could have on negotiations with the 22 other affected nations. If Barbados is granted a reprieve it would be difficult to deny one to each of the other countries that find themselves in the same boat. And the other 22 countries are in the same boat: no new treaties have yet been negotiated, so the "gap" problem exists across the board. State attorneys also expressed concern about rescinding the notice of termination after consulting with and advising the Senate of the decision to terminate the treaties. Treasury is opposed to rescinding the notice of termination because it views the "gap" problem as providing valuable leverage in the negotiations for new treaties. At least with respect to

Barbados, however, Treasury has already agreed to make the provisions of any new tax treaty retroactive to January 1, 1984, which should somewhat ease the "gap" problems.

With respect to police training, Mr. Berliner is correct that section 660 of the Foreign Assistance Act, 22 U.S.C. § 2420, limits our efforts by providing that foreign assistance funds generally may not be used "...to provide training or advice, or provide any financial support, for police, prisons, or other law enforcement forces for any foreign government...." This whole area has of course been rather dramatically overtaken by events. Police training is now a critical issue, with the most significant initiative involving increased British aid to a police training center in Barbados, in which we do not (and by law cannot) participate. Extra slots for Grenadians are promised at this center, which it is hoped will help develop the core of a larger and more sophisticated Grenadian police force.

Let me know what further action, if any, you want on these matters.

JV

ID # 182931 CU

C0015

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

JR

- ☐ O - OUTGOING
- ☐ H - INTERNAL
- ☐ I - INCOMING

Date Correspondence Received (YY/MM/DD) / /

Name of Correspondent: Henry A. Berliner, IV

☐ **MI Mail Report** **User Codes:** (A) ____ (B) ____ (C) ____

Subject: Encloses 2 memos 1) U.S. - Barbados Tax Treaty 2) Developments on Regional Police Training Center

ROUTE TO: **ACTION** **DISPOSITION**

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
CUHOLL	ORIGINATOR	DD 83/11/04			/ /
	Referral Note:				
CUAT 18	A DD	83/11/04			/ /
	Referral Note:				
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DD

Comments: Nov 02 83 letter also attached from Henry Berliner

Keep this worksheet attached to the original incoming letter.
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Always return completed correspondence record to Central Files.
Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

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M E M O R A N D U M

DATE: November 2, 1983

TO: Fred Fielding

FROM: Henry Berliner and Bruce Zagaris

182931 cu

RE: Developments on Regional Police Training Center

Recently, K. Scott Gudgeon, Assistant Legal Advisor Affairs, has phoned Mr. Zagaris. Mr. Gudgeon was following up a letter dated August 26, 1983 to Mr. Berliner from Mark Richard, Deputy Assistant Attorney General, Criminal Division, U.S. Department of Justice. Mr. Richard's letter stated that the Department of State is considering a variety of initatives in this area. Accordingly, he was forwarding our proposal to Mr. Richards.

According to Mr. Gudgeon, Section 660 of the Foreign Assistance Act prohibits assistance to law enforcement agencies. Because of Section 660, the Agency for International Development (IAD) has not been responsive to law enforecement assistance proposals in the Caribbean. Most of the efforts in this are have been through the Federal Bureau of Investigation. Mr. Gudgeon stated that Chris Kriskovich, National Academy, FBI, Quantico, VA (703) 640-6131 and 273-0700 has a copy of our proposal. An apparent concern of some federal agencies is that the FBI is primarily concerned with maintaining program control. This is a problem because of the limited resources and the fact that much training already being done by the FBI in Roosevelt Roads, Puerto Rico. There are increasingly requests from Central American countries for law enforcement assistant. The Department of State heads an inter-agency legal reform group having as its projects the following: Improving court systems; training judges; reinvigorating bar association; and assisting law faculties in improving legal education.

Richard Stiener, Head of the U.S. Interpol N.C.B., Department of Justice, has been very active in the Caribbean Working Group of Interpol. He has extensive contacts with Caribbean law enforcement agencies. He has been favorably disposed to providing additional assistance to Caribbean law enforcement agencies. In addition, Mr. Stiener's extensive contacts with the international Interpol personnel, including Mr. Bossard, Secretary General of Interpol, as well as other international Interpol executives, should prove useful in involving the proper regional and other non-U.S. people in any law enforcement endeavor in the Caribbean.

The idea of additional law enforcement assistance is the Eastern Caribbean gains additional significance in the aftermath of recent Grenada developments.

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(202) 293-1419

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64432

November 2, 1983

HAND DELIVERED

The Honorable Fred Fielding
Counsel to the President
The White House
Washington, D.C. 20500

Dear Fred:

Enclosed please find our memorandum entitled, "U.S.-Barbados Tax Treaty."

Also enclosed is a corrected copy of the update on recent developments with the regional police training center which you received at our meeting today.

If you have any questions, please feel free to contact me.

Sincerely,

Henry A. Berliner, Jr.

HAB/pg

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64432

M E M O R A N D U M

TO: The Honorable Fred Fielding
Counsel to the President

FROM: Henry A. Berliner, Jr. & HB
Bruce Zagaris BZ

DATE: November 2, 1983

SUBJECT: U.S.-Barbados Tax Treaty

I. BENEFITS TO BARBADOS OF CURRENT TREATY

A. U.S. corporations in Barbados pay reduced withholding tax on dividends and royalties. The tax treaty also provides a procedure for resolving any double tax issues which may involve U.S. persons investing in Barbados.

B. International business corporations and offshore banks use the treaty to invest in the U.S. Barbados derives revenue from these investments, and it provides employment to the highly-educated, but unemployed sector of its labor force.

C. The development of Barbados as a management center for multinationals has been an economic priority for the Adams Administration and the Government wants to develop this sector. Currently, approximately 20 international business companies and at least two major multinational banks get benefits from the U.S. treaty.

II. LOSS TO BARBADOS FROM CANCELLATION OF THE EXISTING TREATY

A. Barbados would lose the above benefits.

B. The perception in Barbados, the region, and the international community of the ability of the Adams Administration to maintain an economic connection with the U.S. would be weakened.

C. The Barbados Government's attempt to develop its economy and attract foreign exchange would be weakened and invite undesirable alternative funding sources.

III. GOALS OF BARBADOS FOR A NEW TREATY

A. U.S. withdraw its announcement terminating the existing treaty on January 1, 1984, pending the negotiation of a new treaty.

B. Facilitate investment by and confidence of foreign persons in Barbados through use of a new tax treaty.

C. Afford U.S. investors tax sparing or investment credits, along the lines of the initial CBI bill and the tax treaties between LDCs and Canada, West Germany, Japan, Scandinavian countries, France and most industrialized nations.

IV. CONSEQUENCES TO U.S. OF TERMINATION OF EXISTING TREATY

1. The loss of the existing exchange of information.

2. Reduced U.S. private investment in the Caribbean country most friendly to the U.S.

3. Future law enforcement efforts by the U.S. in Barbados and the Caribbean will become less efficient and loss of exchange of information and cooperation in law enforcement may provide an opening for organized crime to use Barbados.

4. The Adams Administration will suffer an economic and political setback and be more vulnerable to leftist opponents and will facilitate use of Barbados by U.S. business competitors economically and the Soviet-Cuban bloc politically.

V. SUMMARY

Since the U.S. wants to maintain exchange of information and strengthen law enforcement efforts with Barbados as well as facilitate U.S. private investment in the Caribbean, it will accomplish these goals by maintaining the existing treaty.

BZ/pag

ID # 190922 CU

FG226

JV

WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

Issue 1 - SHC
Issue 2 - JR

☐ O · OUTGOING

☐ H · INTERNAL

☐ I · INCOMING
Date Correspondence Received (YY/MM/DD) / /

Name of Correspondent: Henry A. Berliner, Jr

☐ **MI Mail Report** **User Codes:** (A) ______ (B) ______ (C) ______

Subject: 1) Draft letter for President to be part of 1983 annual report of the Pennsylvania Avenue Development Corp.
2) treatment given Barbados and Netherlands Antilles re: U.S. Tax Convention

ROUTE TO: Office/Agency (Staff Name)	ACTION: Action Code	Tracking Date YY/MM/DD	DISPOSITION: Type of Response	Code	Completion Date YY/MM/DD
CUHOU	ORIGINATOR	DD 83/12/08			/ /
Referral Note:					
CUAT17	D	DD 83/12/08		S	83/12/18
Referral Note:					
CUAT18	D	DD 83/12/08		S	83/12/18
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TELEX:
64432

December 7, 1983

190922

HAND DELIVERED

The Honorable Fred Fielding
General Counsel to the President
The White House
Washington, D.C. 20500

Dear Fred:

Enclosed please find:

1. Draft letter for the President to be part of the 1983 Annual Report of the Pennsylvania Avenue Development Corporation. A copy of 1982's Annual Report is enclosed.

2. Memorandum discussing treatment given Barbados and the Netherlands Antilles regarding U.S. tax convention.

If you have any questions, please don't hesitate to contact me.

Sincerely,

Henry A. Berliner, Jr.

HAB/pg

Enclosures

DRAFT - PRESIDENTIAL LETTER FOR 1983 ANNUAL REPORT OF PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

Date

Dear Mr. Chairman:

PENNSYLVANIA AVENUE OCCUPIES A SPECIAL PLACE IN OUR NATION'S HISTORY. IT IS THE LINK BETWEEN THE UNITED STATES CAPITOL AND THE WHITE HOUSE; THE SITE FOR MANY OF OUR GREAT GOVERNMENTAL BUILDINGS; AND IS THE INAUGURAL ROUTE OF PRESIDENTS.

RENOVATION OF THE WILLARD HOTEL; REOPENING OF THE NATIONAL THEATER; THE NATIONAL PLACE COMPLEX INCLUDING A MAJOR HOTEL; THE PAVILION AT THE OLD POST OFFICE; A MULTITUDE OF SPECIALTY SHOPS, BOUTIQUES AND RESTAURANTS AND OVER A MILLION SQUARE FEET OF OFFICE AND RETAIL SPACE; TOGETHER WITH THE PARKS, STREETS, LIGHTING AND PUBLIC IMPROVEMENTS, HAVE REVITALIZED THIS PORTION OF THE CITY.

I AM ESPECIALLY PROUD THAT THE $100 MILLION REPRESENTING THE U.S. TAXPAYERS' INVESTMENT IN LAND ACQUISITION, WILL BE RETURNED TO THE FEDERAL TREASURY, INCLUDING CARRYING CHARGES, BY THE YEAR 2008 AND WILL HAVE GENERATED PRIVATE SECTOR INVESTMENT OF $1.3 BILLION. THROUGH THE WORK OF THE PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION, THIS HISTORIC BOULEVARD HAS BECOME A SYMBOL OF WHAT PRIVATE ENTERPRISE AND GOVERNMENT CAN ACHIEVE WHEN WORKING TOGETHER IN PARTNERSHIP. AMERICANS WHO VISIT OUR NATION'S CAPITAL, AS WELL AS THOSE LIKE MYSELF WHO LIVE AND WORK HERE, HAVE REASON TO BE PROUD OF OUR NATION'S MAIN STREET.

Sincerely,

The Honorable Henry A. Berliner, Jr.
Chairman, Pennsylvania Avenue Development
Corporation
Washington, D.C. 20007

JR

December 7, 1983

MEMORANDUM: COMPARISON OF U.S. TAX CONVENTION NEGOTIATIONS BETWEEN BARBADOS AND THE NETHERLANDS ANTILLES (N.A.)

1. Termination of Treaty and New Treaty Negotiation

After announcing the termination of the tax convention with Barbados and the other United Kingdom extensions on June 29, 1983, the Dept. of State and Treasury have stated that the U.S. will not withdraw the Barbados notice of termination, which becomes effective January 1, 1984. Barbados is to begin negotiation of a new treaty in Washington, D.C. December 19-21. Prime Minister Adams has taken a personal interest in the tax convention (Ministry of Finance is in his portfolio), and has expressed his irritation at the "hostile" and "extremely discriminatory" U.S. action (See attached newspaper article dated Nov. 10, 1983).

2. Status of Netherlands Antilles Treaty

Although Treasury has stated that it does not support the N.A. tax treaty, it has not cancelled it. During recent Congressional hearings,[1] Subcommittee Chairman Doug Barnard, Jr. stated that serious efforts to revise the existing treaty only began in early 1981 and that the pace of the negotiations did not appear to be commensurate with the seriousness of the tax evasion problem. (Hearings, pp. 1-2). There is still no new N.A. treaty.

3. Withdrawal of Barbados Termination

Some U.S. Government officials have raised technical objections to withdrawal of notice of termination, however, our research reflects many precedents for withdrawal of the notice under public international and U.S. law, including a memorandum from State's Legal Adviser.

4. Barbados Position

Although Treasury may state that N.A. should be treated differently because it is (a) required for Eurodollar lending by U.S. corporations and (b) more time is needed concerning the N.A. confidentiality problem (e.g., bank secrecy and bearer shares), Barbados is only asking that the U.S. accord it the same deference accorded treaty partners (e.g., N.A.): to continue the existing treaty during the pendency of negotiations of a new treaty.

---

1. See hearings entitled "Tax Evasion through the Netherlands Antilles and Other Tax Haven Countries,"before a Subcommittee of the Committee on Government Operations, House of Rep., 98th Congr., 1st Sess., April 12 and 13, 1983. John E. Chapoton, Ass't Secty for Tax Policy, Treasury, testified that the existing N.A. treaty is subject to abuse. (p. 262).