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ATPA Renewal: Background and Issues

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Summary

The Andean Trade Preference Act (ATPA) extends special duty treatment to certain U.S. imports that meet domestic content and other requirements from designated countries in the Andean region. The purpose of ATPA is to promote economic growth in the Andean region and to encourage a shift away from dependence on illegal drugs by supporting legitimate economic activities. The countries originally designated to qualify for trade preferences under ATPA were Bolivia, Colombia, Ecuador, and Peru. ATPA (Title II of P.L. 102-182) was enacted on December 4, 1991. It was renewed and modified under the Andean Trade Promotion and Drug Eradication Act (ATPDEA; Title XXXI of P.L. 107-210) on August 6, 2002, extending trade preferences until December 31, 2006. Since that time, Congress has favored short-term extensions of ATPA. In the 110th Congress, legislation was enacted on October 16, 2008 to extend ATPA trade preferences for Colombia and Peru until December 31, 2009, and until June 30, 2009 for Bolivia and Ecuador, with a possible additional six-month extension for Bolivia and Ecuador under certain conditions (P.L. 110-436). Under the previous extension of ATPA (P.L. 110-191), the trade preference program was scheduled to expire for all four countries on December 31, 2008.

The current legislation has allowed trade preferences for Ecuador to be in effect until December 31, 2009. On June 30, 2009 President Obama issued a report to Congress continuing Ecuador's eligibility for ATPA benefits for six months, stating that the Administration would monitor Ecuador's investment policies during that time. For Bolivia, trade preferences under ATPA could be extended only if the President determined that Bolivia met the program's eligibility criteria. On November 25, 2008, the Bush Administration stated that Bolivia failed to meet ATPA eligibility criteria because of its lack of cooperation with the United States on counter-narcotics efforts and that the country would no longer be designated as a beneficiary. The suspension of trade preferences for Bolivia was effective as of December 15, 2008. In his June 2009 report to Congress, President Obama extended the previous Administration's determination that Bolivia failed to meet eligibility criteria. The President has the option to issue a proclamation redesignating Bolivia as a beneficiary country if it improves on efforts to work with the United States on counter-narcotics efforts.

In the 111th Congress, policymakers may consider renewing ATPA trade preferences for Colombia and Ecuador, and also may re-evaluate the issue of whether to include Bolivia as a designated ATPA country. The Congress may also be considering a reform of all U.S. trade preference programs before the end of 2009 when the Generalized System of Preferences and ATPA expire. Regarding Colombia, the Congress may consider whether or not to renew ATPA trade preferences if the pending U.S.-Colombia free trade agreement (FTA) is not approved by the U.S. Congress. Implementing legislation for the U.S.-Colombia FTA was introduced on April 8, 2008, but it is unclear whether the 111th Congress will consider implementing legislation for the agreement. For more information, see CRS Report RL34470, *The Proposed U.S.-Colombia Free Trade Agreement: Economic and Political Implications*, by M. Angeles Villarreal. In the case of Peru, trade preferences will become permanent upon full implementation of the U.S.-Peru FTA (P.L. 110-138). On January 16, 2009, President Bush issued a proclamation to implement the U.S.-Peru FTA as of February 1, 2009.

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ATPA Overview

The United States extends special duty treatment to imports from Bolivia, Colombia, Ecuador, and Peru under a regional trade preference program that began under the Andean Trade Preference Act (ATPA). ATPA was enacted on December 4, 1991 (Title II of P.L. 102-182) and was originally authorized for ten years. It lapsed on December 4, 2001 and was not renewed until eight months later. On August 6, 2002, it was renewed and modified under the Andean Trade Promotion and Drug Eradication Act (ATPDEA; Title XXXI of P.L. 107-210). ATPDEA renewed ATPA trade preferences until December 31, 2006, with a retroactive date of December 4, 2001, and also expanded trade preferences to include additional products that were previously excluded under ATPA. These products include certain items in the following categories: petroleum and petroleum products, textiles and apparel products, footwear, tuna in flexible containers, and others. Since ATPDEA was enacted, Congress has favored short-term extensions of ATPA. In the 110th Congress, legislation was enacted on October 16, 2008 to extend ATPA trade preferences for Colombia and Peru until December 31, 2009, and until June 30, 2009 for Bolivia and Ecuador (P.L. 110-436). An additional six-month extension would be possible for Bolivia and Ecuador under certain conditions. Under the previous extension of ATPA (P.L. 110-191), the trade preference program was scheduled to expire for all four countries on December 31, 2008.

The current legislation has allowed trade preferences for Ecuador to be in effect until December 31, 2009. Preferences were to be automatically renewed unless the President found that Ecuador was in violation of the eligibility criteria. On June 30, 2009, President Obama issued a report to Congress continuing Ecuador's eligibility for ATPA benefits for six months and stated that the Administration would monitor Ecuador's investment policies during that time. For Bolivia, ATPA trade preferences were to be extended only if the President determined that Bolivia had met program eligibility criteria. However, President Bush suspended Bolivia's designation as a beneficiary country in November 2008, stating that Bolivia failed to meet ATPA eligibility criteria because of its lack of cooperation with the United States on counter-narcotics efforts. A statement by the White House at the time said that if Bolivia improved on efforts to work with the United States on counter-narcotics efforts, the President would have the option to issue a proclamation redesignating Bolivia as a beneficiary country. The suspension was effective as of December 15, 2008.[1] President Obama extended the Bush Administration's determination that Bolivia failed to meet eligibility criteria.[2] The President's June 2009 report to Congress states that his decision was based on the United States Trade Representative's (USTR) April 2009 report to Congress. This report contains a section on Bolivia's narcotics and counter-terrorism cooperation which states that challenges in Bolivia include "explicit acceptance and encouragement of coca production from the highest levels of the Bolivian government; the tolerance and attractive economic income from increased and unconstrained growth of coca cultivation in both the Yungas and the Chapare regions; and the increased and uncontrolled sale of coca to drug traffickers."[3]

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[1] Bureau of National Affairs, *International Trade Reporter*, "Bush Suspends Bolivia's ATPA Participation Because of Failure to Cooperate on Narcotics," December 4, 2008.

[2] Bureau of National Affairs, *International Trade Reporter,* "Obama Continues ATPA Benefits for Ecuador, Does Not Reinstate Bolivia," July 9, 2009.

[3] The Office of the United States Trade Representative, *Fourth Report to the Congress on the Operation of the Andean Trade Preference Act as Amended,* April 30, 2009, pp. 22-23.

ATPA, as amended by ATPDEA, is part of a broader U.S. initiative with Andean countries to address the drug trade problem with Latin America. It authorized the President to grant duty-free treatment or reduced tariffs to certain products from Bolivia, Colombia, Ecuador, or Peru that met domestic content and other requirements. The act (as a complement to crop eradication, interdiction, and other counter-narcotics efforts) was intended to promote economic growth in the Andean region and to encourage a shift away from dependence on illegal drugs by supporting legitimate economic activities. Increased access to the U.S. market was expected to help create jobs and expand legitimate opportunities for workers in the Andean countries in alternative export sectors.

U.S. Trade with Andean Countries

In 2008, the United States imported $28.5 billion (1.4% of total U.S. imports) from the four ATPA countries (Bolivia, Colombia, Ecuador, and Peru). U.S. exports to ATPA countries in 2008 totaled $19.8 billion (1.7% of total U.S. exports). The four countries collectively were the 17th leading supplier of U.S. imports. The United States is a leading export market for all four countries. Ecuador and Colombia have the highest market share of exports going to the United States, with 45% of Ecuador's exports and 37% of Colombia's exports headed to the United States. For the United States, Colombia is the leading trading partner in the region, accounting for 45.9% of U.S. imports from ATPA countries and 53.5% of U.S. exports to ATPA countries (see **Table 1**). Leading U.S. imports from all ATPA countries in 2008 were petroleum oils (principally crude), coal, cut flowers, and gold. Leading U.S. exports to ATPA countries were petroleum products (other than crude), machinery parts, corn (maize), polymers of ethylene, and wheat.

In 2008, a considerable share of all U.S. imports from the four Andean countries entered duty-free under ATPA (9.5% of total imports) and ATPDEA (51.1% of total imports) (see **Table 2**).[4] A very small share (2.1%) entered duty-free under the U.S. Generalized System of Preferences (GSP), which applies to most developing countries throughout the world. Of the remaining 37.3% of imports, most entered duty-free under normal trade relations, which applies on a nondiscriminatory basis to almost all U.S. trading partners. Only 9.1% of the value of U.S. imports from the four countries was dutiable in 2008. Thus, only a relatively small share of U.S. imports from ATPA countries is dutiable. These imports might include products that are relatively import-sensitive in the United States.

The year 2008 marked the sixth full year that ATPA provisions were in effect after its renewal under ATPDEA. Between 2001 and 2008, U.S. imports from the region receiving ATPA and ATPDEA preferential duty treatment increased from $1.7 billion (17% of total U.S. imports from ATPA countries) to $12.3 billion (58% of total U.S. imports from ATPA countries). Leading U.S. ATPA imports are crude petroleum oils, refined copper, other petroleum oils, fresh roses, and sweaters and other knitted or crocheted apparel.

[4] The additional products under ATPDEA included petroleum and petroleum products, certain footwear, tuna in flexible containers, and certain watches and leather products. ATPDEA also authorized the President to grant duty-free treatment to U.S. imports of certain apparel articles, if the articles met domestic content rules.

Table 1. U.S.Trade with ATPA Countries, 2008

Country	U.S. Exports[a]			U.S. Imports[b]		
	US Billions	Region Share	Leading U.S. Export Items	US Billions	Region Share	Leading U.S. Import Items
Bolivia[c]	$0.4	1.8%	Jewelry, Machinery parts, Motor cars and vehicles	$0.5	1.9%	Petroleum oils (other than crude), Tin, Jewelry
Colombia	$10.6	53.5%	Petroleum oils (other than crude), Corn, Machinery parts	$13.1	45.9%	Crude petroleum oil, Coal, Coffee
Ecuador	$3.2	15.9%	Petroleum oils (other than crude), Polymers of ethylene, Machinery parts	$9.0	31.8%	Crude petroleum oil, Crustaceans, Bananas and plantains
Peru	$5.7	28.8%	Petroleum oils (other than crude), Machinery parts, Polymers of ethylene	$5.8	20.5%	Copper, Petroleum oils (other than crude), Silver
Total	$19.8	--		$28.5	--	

Source: U.S. International Trade Commission, Interactive Tariff and Trade DataWeb at http://dataweb.usitc.gov. Compiled by CRS.

Notes:

a. Exports at the HTS 4-digit level.

b. Imports at the HTS 4-digit level.

c. Bolivia's designation as an ATPA beneficiary country was suspended on December 15, 2008.

Table 2. U.S. Imports from Andean Countries: 2001 and 2008

($ in millions)

	Bolivia	Colombia	Ecuador	Peru	Total	% of Total
2001 Total Imports	165.1	5,622.6	1,975.4	1,805.5	9,568.7	
Duty-Free Imports	137.3	3,281.0	1,038.1	1,221.0	5,677.3	59.3%
ATPA	53.2	696.6	216.1	686.3	1,652.2	17.3%
GSP	9.5	68.2	33.0	73.4	184.2	1.9%
Other duty-free	74.5	2,516.1	789.0	461.3	3,840.9	40.1%
2008 Total Imports	540.4	13,058.8	9,043.8	5,839.9	28,483.0	
Duty-Free Imports	471.2	12,001.2	7,915.4	5,507.9	25,895.7	90.9%
Total ATPA (including ATPDEA)	140.0	7,339.2	6,594.8	3,168.7	17,242.7	60.5%
ATPDEA	57.0	6,527.8	6,311.1	1,648.6	14,544.4	51.1%
ATPA	83.0	811.5	283.7	1,520.1	2,698.2	9.5%
GSP	47.6	235.8	57.1	271.0	611.6	2.1%
Other duty-free	283.6	4,426.2	1,263.5	2,068.1	8,041.4	28.2%

Source: United States International Trade Commission, Interactive Tariff and Trade Data Web http://dataweb.usitc.gov. Compiled by CRS.

ATPA Impact

The trade effects of ATPA on the U.S. economy are minimal because the amount of U.S. trade with the region is low. The value of duty-free U.S. imports under ATPA accounts for about 0.7% of total U.S. imports, or 0.1% of the U.S. gross domestic product (GDP). A 2008 U.S. International Trade Commission (USITC) study on the ATPA states that the overall effect of ATPA-eligible imports on the U.S. economy continued to be negligible in 2007. The study also states that imports under ATPA of knitted cotton tops and fresh or chilled asparagus provided the most significant impact on U.S. consumers through lower prices. In addition, imports of certain products entered under ATPA in 2007 may have displaced 5% or more of the value of U.S. production in certain industries, including asparagus, fresh-cut roses, and chrysanthemums.[5]

Effects on Andean Countries

The overall effects of the ATPA on the economies of the Bolivia, Colombia, Ecuador, and Peru are difficult to measure precisely because of the challenges involved in isolating the effects of

[5] United States International Trade Commission, *Andean Trade Preference Act: Impact on U.S. Industries and Consumers and on Drug Crop Eradication and Crop Substitution, 2007: Thirteenth Report,* USITC Publication 4037, September 2008, pp. ix – xi. (Hereinafter USITC Publication 4037).

ATPA from other variables that affect the economy. National economic policies in the region and investor confidence may have a larger effect on economic trends. The program's effect also depends on the U.S. market share of a country's exports. Ecuador and Colombia have the highest market share of exports to the United States and, thus, may experience more significant effects.

The impact of the ATPA on coca production in Andean countries is not clear. The ATPA, combined with U.S. economic assistance through alternative development programs,[6] may have contributed to the U.S. counter-narcotics effort. The USITC study mentioned previously in this report states that, in 2007, ATPA continued to have a small, indirect effect in support of illicit coca eradication and crop substitution efforts in the Andean region. The study states that, according to U.S. government data, net land area under coca cultivation increased in Bolivia, Colombia, and Peru in 2005 and 2006 (the most recent years for which data are available). However, growth in the flower and asparagus industries expanded job opportunities to individuals who otherwise might have engaged in illicit drug crop production and related activities.[7]

The rapid rise in the value of imports from ATPA countries in recent years was primarily due to an increase in the value of imports of petroleum-related products which resulted from higher oil prices. Imports of crude petroleum oils accounted for nearly 70% of U.S. imports under ATPA in 2008. U.S. ATPA-eligible imports, such as asparagus and cut flowers, may have helped support job growth and expanded alternatives to workers who may have otherwise engaged in drug-crop production.

Possible Sectoral Effects

The USITC study identified the asparagus and cut flower industries as two U.S. sectors that had estimated displacements of five percent or more due to the ATPA. U.S. imports of all fresh or chilled asparagus increased significantly between 2001 and 2007, from $116.9 million to $275.3 million. Peru is the leading exporter of asparagus in the world and, by far, the major Andean supplier of fresh asparagus to the U.S. market. In 2007, Peru supplied nearly all U.S. asparagus imports under ATPA and 57% of all U.S. fresh-asparagus imports. Asparagus imports from ATPA countries in 2007 totaled $159.4 million in 2007, an increase of 26% from 2006. After a decrease of 9% in 2006, U.S. production of fresh-market asparagus increased in 2007 by 12%, from $81.0 million in 2006 to $91 million in 2007.[8] Although most asparagus imports from the Andean region enter the U.S. market when overall U.S. production is low, U.S. producers have been affected by lower prices and some growers went out of business as a result.[9] On the other hand, U.S. consumers have benefitted from a greater availability of fresh asparagus throughout the year and from lower retail prices. The Peruvian Asparagus Importers Association states that U.S. consumers have benefited from asparagus imports from Peru because there is now greater availability of fresh asparagus throughout the year. The Association also states that most imports from Peru are destined predominantly in the Eastern United States in areas where local production is minimal.[10] The Peruvian asparagus industry provides jobs for an estimated 60,000

[6] The Alternative Development program is a program funded under the U.S. Agency for International Development's Andean Counterdrug Initiative (ACI).

[7] USITC Publication 4037, pp. xi.

[8] USITC Publication 4037, pp. 3-11 through 3-13.

[9] USITC, *The Impact of the Andean Trade Preference Act, Twelfth Report, 2005,* Publication 3888, September 2006, p. 3-12.

[10] USITC Publication 4037, p. 3-13.

workers and is considered to be an important part of overall economic development in Peru. The Peruvian Asparagus and Vegetables Institute (IPEH) estimates that nearly 40% of the workers in the asparagus industry come from areas that formerly supplied workers to illegal coca cultivation.[11]

Another sector in which U.S. producers have been affected is fresh-cut flowers. ATPA countries supplied 96% of the total value of U.S. imports of fresh-cut roses and 96% of U.S. imports of chrysanthemums in 2007. Almost all imports in these two categories enter the United States duty-free under ATPA. The major supplier from the region is Colombia, followed by Ecuador. The United States is an important fresh-cut flower export market for ATPA countries, accounting for 61% of the total value of Colombian exports ($832 million) and 28% of Ecuadorian exports ($524 million) in 2007. The USITC reports that U.S. companies have invested more than $250 million in the Colombian flower industry and own approximately 17% of total Colombian cut-flower production.[12] Colombia's association of flower exporters estimates that the industry provides for 83,300 direct jobs and 75,000 indirect jobs, and that it has the highest concentration of employees per hectare in Colombia's agriculture sector.[13]

Since the ATPDEA was implemented, investment in the textiles and apparel industries has increased in the Andean region. Textiles and apparel production has been a leading source of economic activity, particularly in Peru and Colombia. Peru has been the leading Andean textile and apparel supplier to the United States for the past several years. Peru has more than 1,700 companies that export textile and apparel articles. The sector accounts for about 20% of the country's manufacturing jobs, employing about 500,000 workers directly and indirectly. Since the U.S.-Peru free trade agreement (FTA) was approved by the U.S. Congress, Peruvian apparel producers reportedly have been increasing production capacity to meet expected greater U.S. demand for Peruvian textile and apparel products. Some industry analysts anticipate that the FTA will encourage long-term capital investments in the industry.[14] In Bolivia, Colombia, and Ecuador, the textile and apparel sectors also are a significant source of economic activity and employment. Industry representatives from the region have been concerned about losing ATPDEA preferences because of the importance of the United States as an export market. The USITC study reports that knitted cotton tops provided the largest estimated gain in U.S. consumer surplus resulting exclusively from ATPA tariff preferences in 2007. Without ATPA, the study reports, the price that U.S. consumers would have paid for imports of knitted cotton tops from ATPA countries would have been up to 15.7% higher.[15]

Policy Implications

Supporters of ATPA argue that the program should continue to reinforce the U.S. commitment to the "alternative development" counternarcotics strategy, while critics argue that unilateral trade programs are ineffective and that trade preferences should not be extended to countries that do not

[11] Peruvian Asparagus Importers Association, *Written Statement for the House Committee on Ways and Means*, July 12, 2006.

[12] USITC Publication 4037, pp. 3-14 through 3-15.

[13] U.S. Department of Commerce, U.S. Commercial Service, *Trade Never Smelled So Sweet: Colombian Flowers Make Bouquet Bucks*, see http://www.buyusa.gov.

[14] Ibid, pp. 3-34 through 3-36.

[15] USITC Publication 4037, p. 3-7.

support U.S. foreign and trade policies. Some industry representatives in the United States believe that the ATPA has lowered prices of certain products, forcing U.S. producers to compete with lower-cost Andean imports. In the Andean countries, ATPA supporters state that the program has had a positive impact in the region by increasing investor confidence, creating thousands of jobs in alternative sectors, and preventing organized crime and reducing the production of drugs. They believe that maintaining confidence in the trade relationship with the United States is key to the long-term stability of the region.

In the 110th Congress, major policy issues were related to the question of whether to renew the ATPA program, either on a short or long-term basis, or allow the program to expire for some or all of the countries. In the 111th Congress, policymakers may consider renewing ATPA trade preferences for Colombia and Ecuador, and also may re-evaluate the issue of continuing to include Bolivia as a designated ATPA country. A key issue regarding Colombia is the pending U.S.-Colombia FTA and whether or not to renew ATPA trade preferences for Colombia if a U.S.-Colombia FTA is not approved by the U.S. Congress. Implementing legislation for a U.S.-Colombia FTA was introduced on April 8, 2008, but it is unclear whether or how the 111th Congress will consider implementing legislation for the agreement.[16] In the case of Peru, trade preferences will become permanent upon full implementation of the U.S.-Peru FTA (P.L. 110-138). On January 16, 2009, President Bush issued a proclamation to implement the U.S.-Peru FTA as of February 1, 2009.

The 111th Congress may be considering a reform of trade preference programs before the end of 2009 when the Generalized System of Preferences and ATPA expire. House Ways and Means Trade Subcommittee Chairman Sander Levin stated in July 2009 that the subcommittee may begin examining the possibility of an overhaul of U.S. trade preference programs before the end of the year. He stated that there had been no decision on whether Congress will consider major reforms or launch a debate while extending preferences again for the short term. This would be something the Administration would decide.[17] Some Members of Congress believe that there is no reason to consider long-term extension of ATPA for countries such as Bolivia and Ecuador that are not supportive of U.S. trade and foreign policies. Others believe that if the trade preferences are not extended, the United States and the Andean countries risk losing some of the economic progress that has been achieved over the sixteen-year life of the program. Some Members have argued that renewing ATPA is a pragmatic means to urge President Morales of Bolivia and President Correa of Ecuador to maintain open-market and democratic policies.[18]

[16] For more information, see CRS Report RL34470, *The Proposed U.S.-Colombia Free Trade Agreement: Economic and Political Implications*, by M. Angeles Villarreal.

[17] World Trade Online, *Daily News*, "Levin Says Committee to Tackle Preference Reform After August Recess," July 21, 2009.

[18] For more information, see CRS Report RS21687, *Ecuador: Political and Economic Situation and U.S. Relations*, by Clare Ribando Seelke, and CRS Report RL32580, *Bolivia: Political and Economic Developments and Relations with the United States*, by Clare Ribando Seelke and June S. Beittel, Bolivia: Political and Economic Developments and Relations with the United States, by Clare Ribando Seelke.

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