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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. However, trade preferences for Bolivia were suspended on December 15, 2008, by the Bush Administration because Bolivia failed to meet ATPA eligibility criteria. In his June 2009 report to Congress, President Obama extended the Bush Administration's determination that Bolivia failed to meet eligibility criteria. Bolivia may only be reinstated as a beneficiary country under ATPA if Congress approves legislation to do so.

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. The most recent extension of ATPA continued trade preferences for Colombia, Ecuador, and Peru until December 31, 2010 (P.L. 111-124). On December 14, 2009, the U.S. House of Representatives passed the bill to extend trade preferences for the three countries by unanimous consent (H.R. 4284). On December 22, 2010, the U.S. Senate passed the measure, also by unanimous consent. The bill was signed into law by President Obama on December 28, 2009. Without this extension, the program would have expired on December 31, 2009.

The previous extension of ATPA (P.L. 110-436) extended preferences for Colombia and Peru until December 31, 2009, and until June 30, 2009, for Bolivia and Ecuador, with possible six-month extensions for Bolivia and Ecuador under certain conditions. For Ecuador, 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 trade benefits through the end of 2009. 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 late 2008 because of its failure to meet the eligibility criteria. In June 2009, President Obama extended the Bush Administration's determination that Bolivia failed to meet ATPA criteria.

In the second session of the 111th Congress, policymakers may reevaluate the extension of ATPA trade preferences for Ecuador, Colombia, and Peru, and could decide to reconsider the suspension of preferences for Bolivia. Policymakers may also consider broader reform of U.S. trade preference programs, including the Generalized System of Preferences. Some Members of Congress believe that if ATPA 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 eighteen-year life of the program. Supporters of ATPA argue that the program should continue to reinforce the U.S. commitment to the "alternative development" counternarcotics strategy. Critics of ATPA argue that unilateral trade programs are ineffective; that the ATPA has forced U.S. producers to compete with lower-cost Andean imports; and, in the cases of Bolivia and Ecuador, that trade preferences should not be extended to countries that do not support U.S. foreign and trade policies.

Contents

Tables

Contacts

ATPA Overview

The United States extends special duty treatment to imports from Colombia, Ecuador, and Peru under a regional trade preference program that began under the Andean Trade Preference Act (ATPA).[1] 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 renewed and modified on August 6, 2002 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.

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. The original act 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.

The most recent extension of ATPA continues preferential duty treatment for U.S. imports from Colombia, Ecuador, and Peru through the end of 2010. On December 14, 2009, the U.S. House of Representatives passed a bill by voice vote to extend preferences until December 31, 2010, for Colombia, Ecuador, and Peru (H.R. 4284). On December 22, 2010, the U.S. Senate passed the measure by unanimous consent. On December 28, 2009, President Obama signed the bill extending ATPA trade preferences through the end of 2010 (P.L. 111-124). Without this extension, the program would have expired on December 31, 2009.

The previous extension of ATPA (P.L. 110-436) extended preferences for Colombia and Peru until December 31, 2009, and until June 30, 2009, for Bolivia and Ecuador, with possible six-month extensions for Bolivia and Ecuador under certain conditions. For Ecuador, 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 through the end of 2009 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

[1] Bolivia was originally designated as a beneficiary country under the Andean Trade Preference Act (ATPA) but its designation as a beneficiary country was suspended by the President as of December 2008 because the country failed to meet the requirements set forth by the ATPA. On June 30, 2009, President Barack Obama extended the previous Administration's determination that Bolivia was not meeting eligibility requirements set forth by the ATPA. A reinstatement of Bolivia as a beneficiary country under ATPA would require congressional approval.

designation as a beneficiary country in November 2008, stating that Bolivia failed to meet the 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.[2] The President's option of redesignating Bolivia as an ATPA beneficiary country expired on June 30, 2009. Because of the wording in the legislation, Bolivia can only be reinstated as a beneficiary country under ATPA if Congress approves legislation to do so.

In June 2009, President Barack Obama extended the Bush Administration's determination that Bolivia failed to meet eligibility criteria. The President's June 2009 report to Congress stated that his decision was based on the United States Trade Representative's (USTR) April 2009 report to Congress. This report contained a section on Bolivia's narcotics and counter-terrorism cooperation stating 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]

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.

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

[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.

[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.

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.

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 ATPA 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 also unclear. 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 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]

Effects of Bolivia's Suspension under ATPA

The effect of the suspension of trade preferences for Bolivia is difficult to measure because of other factors that affect the economy. A major likely impact will be a loss of investor confidence and reduced private investment, which would subsequently affect jobs. However, investment in

[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.

Bolivia is also affected by other economic factors and by the political situation in Bolivia. Since 2001, Bolivia has experienced a period of political volatility, with the country having had six presidents since 2001. [16] The policies of current Bolivian President Evo Morales, an indigenous leader elected in December 2005, have restricted foreign direct investment (FDI) in Bolivia and subsequently caused a great deal of uncertainty for foreign investors. President Morales has nationalized a number of industries since 2006, including hydrocarbons, telecommunications and electricity.[17] Bolivia has stringent rules on foreign ownership and profit repatriation. In addition, U.S.-Bolivian relations have been strained by the Morales government's drug policy and its increasing ties with Venezuela. In September 2008, Bolivia broke off diplomatic ties with the United States over accusations of political interference. President Morales is expected to continue the nationalist-leftist policies of Venezuela, which may make restoring diplomatic ties with the United States challenging.[18]

The resulting political uncertainty has likely affected the potential for long-term investments in Bolivia and probably contributed to volatility in Bolivia's FDI flows as well as potential ATPA-related investment.[19] FDI flows to Bolivia decreased from $677 million in 2002 to an outflow of $239 million in 2005. In 2006, FDI inflows totaled $240 billion but decreased to $164 billion in 2007.[20] Though foreign investment flows to Bolivia are relatively low, any negative impact on the economy could be significant because the size of the Bolivian economy is so small. The losses due to the suspension of ATPA trade preferences would likely be concentrated in certain regions of the country and may come at a significant cost to certain communities.

Some reports on Bolivia's economy and the effect of the removal of ATPA trade preferences for Bolivia conclude that one of the main impacts will be a loss of investor confidence and reduced private investment, which could subsequently affect jobs.[21] A 2008 private sector report by a group of Bolivian business owners called the *Confederación de Empresarios Privados de Bolivia* (CEPB) stated that the Bolivian economy is going through a major crisis due to the political situation and a weakening of free trade practices in the country.[22] The report argued that the suspension of ATPA benefits for Bolivia would increase investor uncertainty, increase unemployment, and have a detrimental effect on attempts to reduce the production of drugs in Bolivia.[23] According to the report, the suspension of ATPA duty benefits for Bolivian exports would mostly affect Bolivia's manufacturing industry because such a high percentage (55%) of Bolivia's total exports in this industry are headed to the United States. The report estimated that the removal of duty-free benefits for Bolivian exports to the United States could eliminate 12,000 direct jobs in the textile sector and up to 85,000 other jobs indirectly.[24] The report also stated that the La Paz region in Bolivia would be the most affected region, especially within the El Alto area

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

[17] The Economist Intelligence Unit (EIU), *Country Report: Bolivia*, January 2010, p. 5.

[18] EIU, *Country Report: Bolivia*, January 2010.

[19] USITC, *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, p. 3-22.

[20] Ibid.

[21] See USITC Publication 4037; and Economist Intelligence Unit, *Country Report: Bolivia*, March 2009.

[22] Confederación de Empresarios Privados de Bolivia, *The Importance of ATPDEA for Bolivia,* October 2008.

[23] Ibid., p. 1.

[24] The study does not present a methodology explaining how it estimated job losses.

which has high levels of poverty. The study argued that any negative effects in this region can add to political instability and pose a high risk for democracy in Bolivia.[25]

Another report, by the Université de Lausanne (Unil), estimated the effects of ATPA suspension on Bolivian real incomes.[26] The Unil study stated that most industries affected by the removal of ATPA duty benefits are mostly situated in La Paz and El Alto in Bolivia. It estimated that the effect of ATPA termination on households with employees in the manufacturing industry is sizable, but the proportion of those households to the economy as a whole is very small. The study estimated that the termination of ATPA duty benefits would cause a 0.13% drop in manufacturing employment in Bolivia, in general, and a 2% decline in the textile and apparel sector, the most affected sector according to the authors of the study. However, the study's projected job losses fall more than proportionately on indigenous people and the authors argue that indigenous people would have fewer "outside opportunities" for earning money once they lose their job.[27]

Policy Implications

In the second session of the 111th Congress, policymakers may reevaluate the extension of ATPA trade preferences for Ecuador, Colombia, and Peru, and could decide to reconsider the suspension of preferences for Bolivia. Some policymakers believe that if ATPA 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 eighteen-year life of the program. Supporters of ATPA argue that the program should continue to reinforce the U.S. commitment to the "alternative development" counternarcotics strategy. Critics of ATPA argue that unilateral trade programs are ineffective; that the ATPA has forced U.S. producers to compete with lower-cost Andean imports; and that trade preferences should not be extended to countries that do not support U.S. foreign and trade policies. 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; 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.

Issues Regarding Suspension of Bolivia

The most recent extension of ATPA trade preferences (P.L. 111-124) does not extend preferences for Bolivia, which, until June 2009, had historically been an ATPA designated country. The wording of the previous ATPA extension in the second session of the 110th Congress (P.L. 110-436) stated that the President would have to determine by June 30, 2009, that Bolivia was complying with the programs' eligibility criteria to continue as a designated beneficiary. President Obama did not make an affirmative finding that Bolivia was complying with ATPA eligibility criteria and Bolivia was subsequently "legally outside of the program".[28] Bolivia can only be

[25] Confederación de Empresarios Privados de Bolivia, *The Importance of ATPDEA for Bolivia,* October 2008, p. 6.

[26] Université de Lausanne (Unil), *ATPDEA's End: Effects on Bolivian Real Incomes,* by Olivier Cadot, Etchel M. Fonseca, and Synabout Yaye Sakho, February 2008.

[27] Ibid.

[28] World Trade Online, *Inside U.S. Trade*, "House Unanimously Passes One-Year Extensions for ATPDEA, GSP," (continued...)

reinstated as a beneficiary under an act of Congress. A number of Members of Congress believe that there is no reason to consider a reinstatement of Bolivia as a beneficiary country because of Bolivia's continued lack of progress on the issue of counternarcotics and because of the lack of support for U.S. trade and foreign policies in Bolivia.

Some policymakers, however, have been opposed to the suspension of trade preferences for Bolivia. Chairman Eliot L. Engel of the House Western Hemisphere Subcommittee submitted a public comment at a public hearing held by USTR on October 23, 2008 on the proposed action to suspend Bolivia's trade benefits. In his statement, Representative Engel objected to the suspension of Bolivia as a designated country under ATPA, stating that the suspension "would unfortunately do more harm than good. The suspension would empower champions of anti-Americanism, and would make the United States less and less relevant in Bolivia. It would leave thousands of people unemployed, and provide the perfect opportunity for countries like Iran to fill the void."[29] In a hearing held on March 3, 2009, by the House Western Hemisphere Subcommittee on the future of U.S.-Bolivia relations, Representative Engel called for the administrations of Evo Morales and Barack Obama to initiate a high level bilateral dialogue between the United States and Bolivia to consider a renewed strategy for joint counternarcotics efforts and the possible reinstatement of ATPA preferences for Bolivia.[30]

The United States and Bolivia began bilateral talks under the auspices of the U.S.-Bolivia Dialogue in La Paz, Bolivia in May 2009, which may later have implications for U.S. trade policy with Bolivia.[31] The talks have been led by the U.S. State Department and Bolivia's Ministry of Foreign Affairs with the objective of reviewing and improving relations between the two countries. The second meeting took place on October 27, 2009, in Washington, DC.[32] The talks, which are expected to resume in Washington in early 2010, have focused on a framework covering trade, counter-narcotics, human rights, economic development, and environmental issues, according a recent journal article.[33]

Issues Regarding Dispute in Ecuador

Trade preferences for Ecuador were extended through the end of 2010 under the latest renewal of ATPA (P.L. 111-124). In an October 2009 letter to the House Ways and Means Committee and the Senate Finance Committee, six business groups[34] urged policymakers to renew ATPA for Colombia and Peru but to eliminate or severely restrict trade preferences for Ecuador and

(...continued)

December 14, 2009, p. 2.

[29] Press Release from the Office of Representative Eliot Engel, "Engel Objects to Suspension of Bolivia from Andean Trade Preferences," October 23, 2009.

[30] Press Release from the Office of Representative Eliot Engel, "Engel Calls for Immediate High Level Bilateral Dialogue Between U.S. and Bolivia," March 3, 2009.

[31] U.S. Department of State, "United States-Bolivia Bilateral Dialogue," Press Release, October 26, 2009.

[32] Ibid.

[33] World Trade Online, *Inside U.S. Trade,* "Bolivia, U.S. to Relaunch Talks Involving Trade as Soon as this Month," January 8, 2010.

[34] Signatories to the letter included the Emergency Committee on American Trade, the Business Roundtable, the national Association of Manufacturers, the national Foreign Trade Council, the united States Council for International Business, and the U.S. Chamber of Commerce.

Bolivia.[35] The groups argued that there had been a basic deterioration in the rule of law in both Bolivia and Ecuador and that trade preferences should not "...be extended automatically, particularly where countries are turning their back on basic due process and the rule of law".[36]

A major issue that may be related to the concerns of business groups has to do with the dispute between the U.S. oil company Chevron and the government of Ecuador. Chevron has been actively pursuing the elimination of trade preferences for Ecuador because of a dispute over a long-standing lawsuit brought by 30,000 Amazon residents against Chevron in which these residents claim they are the victims of toxic waste. The case goes back to a period between 1964 and 1990 in which Texaco (which has since merged with Chevron) is accused of dumping more than 18 billion gallons of toxic wastewater into Ecuador's waterways and forests. The case could potentially cost Chevron billions of dollars. Chevron claims that the environmental damage was caused by Texaco and that the government of Ecuador exempted the oil companies from liability in exchange for a cleanup and payment in the early 1990s. According to a recent journal article, Chevron has claimed that the legal system in Ecuador is corrupt and will not provide a fair forum, and that Ecuador's courts are politically influenced. [37] Another article from September 2009 stated that Chevron claims it has evidence of a bribery scheme connected to the lawsuit in which an Ecuadoran political operative was working to obtain $3 million in bribes related to the environmental cleanup contracts that would be awarded in the event of a ruling against Chevron.[38] Chevron has filed a claim with the Permanent Court of Arbitration in The Hague to look into whether Ecuador breached international law under the Rules of the United Nations Commission on International Trade Law.[39] The government of Ecuador argues that the case should be resolved by the courts between the two parties and not in an arbitration court.[40] The government of Ecuador has denied Chevron's claims. In an interview in December 2009, Ecuador's ambassador to the United States, Luis Gallegos, states that "We are very respectful of international law in everything we do. Every step we have taken ha been in line with international norms."[41]

A group of Members of Congress has asked the Office of the United States Trade Representative (USTR) to reject Chevron's efforts to suspend trade preferences for Ecuador. In a letter to USTR Ron Kirk, 26 Members of Congress in the House of Representatives expressed their concern about Chevron's attempts to have the United States withhold trade preferences for Ecuador and urged the USTR to not use trade policy "as leverage to interfere in private claims processing through Ecuador's legal process."[42] The USTR has reportedly rejected similar requests made by Chevron in previous years but it did raise foreign investment problems with Ecuador at a meeting of the U.S.-Ecuador Trade and Investment Council in November 2009. Other Members of

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[35] *International Trade Reporter,* "Business Groups urge ATPA Renewal for Colombia, Peru, but Not Ecuador, Bolivia," October 15, 2009.

[36] Ibid.

[37] *International Trade Reporter,* "Chevron Brings Arbitration Claim Against Ecuador in Long-Standing Dispute," October 1, 2009.

[38] *The New York Times,* "Chevron Offers Evidence of Bribery Scheme in Ecuador Lawsuit," September 1, 2009.

[39] Ibid.

[40] Ibid.

[41] World Trade Online, *Inside U.S. Trade,* "Ecuador Ambassador Says loss of ATPDEA Would Hurt U.S. Jobs, Drug Fight," December 7, 2009.

[42] *International Trade Reporter,* "Sanchez, 25 House Members Urge USTR to Reject Chevron ATPA Lobbying," December 24, 2009.

Congress who would like to see a continuation of trade preferences for Bolivia have argued that renewing ATPA is a pragmatic means to urge President Correa of Ecuador to maintain open-market and democratic policies.[43]

Colombia and Peru

With regard to Colombia, a key issue related to ATPA trade preference renewal is to the pending U.S.-Colombia FTA. In the second session of the 111th Congress, policymakers will likely consider whether or not to continue renewing ATPA trade preferences in the absence of a U.S.-Colombia FTA. 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.[44] In the case of Peru, the United States and Peru have entered into a free trade agreement (FTA) which entered into force on February 1, 2009 (P.L. 110-138). Some policymakers have questioned the issue of whether to continue to extend trade preference to Peru because it already has an FTA with the United States. The government of Peru wants to retain ATPA benefits because the ATPA rules of origin for apparel allow for more use of third-country fabric. The U.S.-Peru FTA rules of origin only allow the use of U.S. or Peruvian fabric for apparel items to be imported duty-free into the United States.[45]

Possible Trade Preference Program Reform

Another issue policymakers may consider in the second session of the 111th Congress is broader reform of U.S. trade preference programs. House Ways and Means Trade Subcommittee Chairman Sander Levin stated in mid-2009 that the subcommittee may begin examining the possibility of an overhaul of U.S. trade preference programs. 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.[46] Ranking Member of the Senate Finance Committee Charles Grassley has also publicly called for a reform of U.S. trade preference programs.[47]

A broad alliance of non-government organizations and business groups has been working to build a consensus on possible changes to improve the effectiveness and utilization of U.S. preference programs. They recommend that the United States create a single, comprehensive trade preference program with a harmonized and simplified set of rules that provides 100% duty-free and quota-free market access for all the world's poorest countries; and with an effective mechanism to link aid with preference programs.[48] They believe that trade preference programs

[43] 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..

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

[45] World Trade Online, *Inside U.S. Trade*, " House, Senate Trade Aides Continue to Wrestle with GSP, ATPDEA," October 23, 2009.

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

[47] World Trade Online, *Inside U.S. Trade*, " House, Senate Trade Aides Continue to Wrestle with GSP, ATPDEA," October 23, 2009.

[48] Oxfam America, "What's Your Preference – Should U.S. Preference Programs be Reformed." Presentation by (continued...)

help poorer countries benefit from trade and that the United States should combine trade capacity building assistance with trade preference programs to help these countries better utilize trade opportunities. They argue that simply providing access to the U.S. market is not enough to help poorer countries benefit from trade.

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