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ATPA Renewal: Background and Issues

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Summary

The Andean Trade Preference Act (ATPA) extends duty-free treatment to certain U.S. imports that meet domestic content and other requirements from Ecuador. There were four countries originally designated to qualify for trade preferences under ATPA, including Bolivia, Colombia, Ecuador, and Peru. Colombia and Peru are no longer designated beneficiary countries because both countries have free trade agreements with the United States that have entered into force. In the case of Bolivia, trade preferences were suspended in December 2008 because Bolivia failed to meet ATPA eligibility criteria related to counter-narcotics cooperation. Bolivia may only be reinstated as a beneficiary country under ATPA if Congress approves legislation to do so.

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. 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 provided several short-term extensions of ATPA. The most recent extension took place on October 12, 2011, when the 112th Congress enacted implementing legislation for the U.S.-Colombia Trade Promotion Agreement (P.L. 112-42). As part of the free trade agreement (FTA) implementing legislation, ATPA was renewed for Colombia and Ecuador until July 31, 2013. The implementing legislation directed the President to terminate Colombia's status as a designated beneficiary country once the agreement entered into force. The U.S.-Colombia FTA entered into force on May 15, 2012.

The impact of the ATPA on coca production in Andean countries has been small and mostly indirect, according to a 2012 study by the U.S. International Trade Commission. The study reports that illegal coca cultivation fell substantially in Andean countries from a 20-year peak of 232,500 hectares in 2007 to 187,000 in 2010. The study also reports that the ATPA, in combination with other alternative development programs, may indirectly have helped support job growth in certain exports from Andean countries, such as fresh-cut flowers, asparagus, bananas, and pineapples.

The trade effects of ATPA on the U.S. economy have been minimal because the amount of U.S. trade with the Andean region is low. The value of duty-free U.S. imports under ATPA accounts for about 0.8% of total U.S. imports, or 0.1% of the U.S. gross domestic product (GDP). Over 80% of U.S. imports from ATPA countries enter duty-free under various trade preference programs or through normal trade relations.

The 113th Congress may consider whether or not to continue renewing ATPA for Ecuador. Policymakers may also consider broader reform of U.S. trade preference programs, including the Generalized System of Preferences (GSP). Some Members of Congress maintain that ATPA has been responsible for helping the Andean region progress economically over the 18-year life of the program. Critics of ATPA argue that unilateral trade programs are ineffective and that trade preferences should not be extended to countries that do not support U.S. foreign and trade policies. The Ecuadorian government's announcement that it no longer wanted to receive ATPA preferences may have overshadowed the debate for Congress on whether or not to renew ATPA. On June 27, 2013, top Ecuadorian government officials announced that the country was renouncing trade preferences from the United States under ATPA.

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ATPA Overview

The United States extends duty-free treatment to certain imports from Ecuador 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 10 years with Bolivia, Colombia, Ecuador, and Peru as designated beneficiary countries. 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 amended ATPA by expanding 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 the enactment of ATPDEA, Congress has favored extending ATPA for short periods of time.

The 113th Congress may consider whether or not to renew ATPA, especially since Ecuador is now the only remaining designated beneficiary country. The most recent extension renewed trade preferences for Colombia and Ecuador until July 31, 2013, as part of the implementing legislation for the U.S.-Colombia Free Trade Agreement (FTA). The FTA, formally known as the U.S.-Colombia Trade Promotion Agreement, was approved by the Congress on October 12, 2011, and signed into law on October 21 (P.L. 112-42).[1] Section 201 of the implementing legislation specifically directed the President to terminate Colombia's designation as an ATPA beneficiary country upon the agreement's entry into force, which took place on May 15, 2012.

Peru is no longer a designated beneficiary country under ATPA because the United States and Peru also have a free trade agreement, which entered into force on February 1, 2009 (P.L. 110-138). Bolivia's designation as a beneficiary country was terminated in November 2008 by President George W. Bush because of Bolivia's failure to meet the eligibility criteria due to its lack of cooperation on counter-narcotics efforts. In 2009, President Barack Obama continued the determination that Bolivia was not meeting the eligibility criteria. The President's option of reinstating Bolivia as an ATPA beneficiary country expired on June 30, 2009. Thus, Bolivia can only be reinstated as a beneficiary country under ATPA if Congress approves legislation to do so.

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 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.

[1] For more information, see CRS Report RL34470, *The U.S.-Colombia Free Trade Agreement: Background and Issues*, by (name redacted).

U.S. Trade with Andean Countries

Total Trade with Bolivia, Colombia, Ecuador, and Peru

In 2012, the United States imported $42.3 billion (2% of total U.S. imports) from the four Andean countries that were originally designated as ATPA beneficiaries (Bolivia, Colombia, Ecuador, and Peru), as shown in **Table 1**. Between 2008 and 2012, imports from these countries increased by 49%. Colombia is the leading source of U.S. imports from the region, accounting for 58% of imports in 2012. The next leading supplier of U.S. imports from these countries is Ecuador ($9.3 billion in imports in 2012), followed by Peru ($6.6 billion), and Bolivia ($1.7 billion). Leading import items from the region include crude petroleum oil (51%), gold (13%), non-crude petroleum oil products (6%), coffee (3%), and cut flowers (2%).

Table 1. U.S. Imports for Consumption from Original ATPA Countries: 2008-2012

(Billions U.S. $)

Country	2008	2009	2010	2011	2012	Leading U.S. Imports[a]
Bolivia	0.5	0.5	0.7	0.9	1.7	Gold, precious metal scrap, tin
Colombia	13.1	11.2	15.7	22.4	24.7	Crude oil, gold, petroleum oil products
Ecuador	9.0	5.2	7.3	9.5	9.3	Crude oil, crustaceans, bananas
Peru	5.8	4.2	5.2	6.2	6.6	Gold, petroleum oil products, crude oil
Total	**28.4**	**21.2**	**28.9**	**38.9**	**42.3**	

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

a. Imports at the HTS 4-digit level.

Total U.S. exports to the original four ATPA countries totaled $29.2 billion in 2012, an increase of 47% since 2008. These countries account for a very small market share (2%) of total U.S. exports. In 2012, the countries collectively were the 10th-largest market for total U.S. exports. Exports from the United States to the region totaled $29.2 billion in 2012, as shown in **Table 2**. Colombia accounted for the largest share of U.S. exports to the region (49%), followed by Peru (28%), Ecuador (21%), and Bolivia (2%). Leading U.S. exports to these countries in 2012 were non-crude petroleum oil products (22%), aircraft (2%), machinery parts (2%), bulldozers and related products (2%), and polymers of ethylene (2%).

Table 2. U.S. Domestic Exports to Original ATPA Countries: 2008-2012

(Billions U.S. $)

Country	2008	2009	2010	2011	2012	Leading U.S. Exports[a]
Bolivia	0.4	0.4	0.4	0.6	0.6	Data processing machines, machinery parts, jewelry
Colombia	10.6	8.8	11.0	12.8	14.3	Petroleum oil products, aircraft, machinery parts
Ecuador	3.2	3.6	5.0	5.5	6.0	Petroleum oil products, petroleum gases, soybean products
Peru	5.7	4.4	6.1	7.4	8.2	Petroleum oil products, motor vehicles, bulldozers
Total	**19.8**	**17.1**	**22.5**	**26.3**	**29.2**	

Source: USITC Tariff and Trade DataWeb, http://dataweb.usitc.gov. Compiled by CRS.

a. Exports at the HTS 4-digit level.

Duty-Free Imports Under ATPA and Other Programs

Duty-free imports accounted for 87.4% of U.S. imports from the region in 2012 (see **Table 3**). With Ecuador as the only remaining beneficiary ATPA country, the value of total imports under ATPA has been declining steadily since 2008, when it reached a high of $17.2 billion, or 61% of total import value from the region. By 2012, this amount had declined to $11.4 billion, or 27% of total import value from the four countries. Of the remaining imports in 2012, 24% entered duty-free under the Colombia and Peru Free Trade Agreements (FTAs). Another small share entered duty-free under GSP and the remainder entered under normal trade relations, which applies on a nondiscriminatory basis to almost all U.S. trading partners. Only 17% of the value of U.S. imports from the four countries was dutiable in 2012.

The year 2008 marked the sixth full year that ATPA provisions were in effect after its renewal under ATPDEA and also the last year that trade preferences were in effect for all four countries originally designated as ATPA beneficiaries. Between 2001 and 2008, total U.S. ATPA imports increased from $1.7 billion (17% of total imports from ATPA countries) to $17.2 billion (61% of total imports from ATPA countries), an increase of more than 900%. Because Ecuador is the only remaining ATPA beneficiary country, ATPA imports went down to $11.4 billion in 2012, as shown in **Table 3**. Colombia's status as a beneficiary country ended when the U.S.-Colombia FTA went into effect in May 2012 and imports from Colombia in the latter part of the year no longer qualified for ATPA treatment. ATPA imports from Colombia decreased from $9.5 billion in 2010 to $5.5 billion in 2012. ATPA imports from Bolivia went down to zero by 2010 after Bolivia was removed as an ATPA-designated country in December 2008. Peru was removed from the list because of the U.S.-Peru free trade agreement, which went into force on February 1, 2009, and U.S. ATPA imports from Peru declined from $3.2 billion in 2008 to nearly zero in 2012.

Table 3. U.S. Imports from Original ATPA Countries by Import Program

(Millions of U.S. $)

	2001	2004	2006	2008	2010	2012
Bolivia	165.1	260.8	362.4	540.4	675.9	1,679.6
Duty Free Imports	137.6	236.5	329.0	471.2	457.4	1,572.3
ATPA	54.0	120.4	166.2	140.0	0.0	0.0
GSP	9.5	16.6	21.7	47.6	155.7	128.2
% Duty Free	88%	91%	91%	87%	68%	94%
Colombia	5,622.6	7,360.6	9,239.8	13,058.8	15,672.6	24,652.2
Duty Free Imports	3,367.2	6,557.7	8,531.5	12,011.4	14,536.6	20,008.1
ATPA	718.0	3,888.9	4,791.2	7,339.2	9,472.6	5,536.0
GSP	68.2	186.6	181.6	235.8	158.5	76.5
US-Colombia FTA	0.0	0.0	0.0	0.0	0.0	7,638.5
% Duty Free	60%	89%	92%	92%	93%	81%
Ecuador	1,975.4	4,183.6	7,011.4	9,043.8	7,333.8	9,336.2
Duty Free Imports	1,044.0	3,609.9	6,524.9	7,915.4	5,507.1	7,771.7
ATPA	216.3	2,747.3	5,325.2	6,694.8	4,179.1	5,869.5
GSP	33.0	49.6	71.2	57.1	54.3	106.8
% Duty Free	53%	86%	93%	88%	75%	83%
Peru	1,805.5	3,684.8	5,896.9	5,839.9	5,172.5	6,586.0
Duty Free Imports	1,221.0	3,608.3	5,793.6	5,507.9	4,729.2	5,919.7
ATPA	686.3	1,602.7	3,201.9	3,168.7	759.3	0.1
GSP	73.4	107.2	179.4	271.0	0.0	0.0
US-Peru FTA	0.0	0.0	0.0	0.0	2,224.0	2,657.7
% Duty Free	68%	98%	98%	94%	91%	90%
Total Imports	9,568.7	15,489.8	22,510.6	28,483.0	28,854.8	42,254.0
Duty Free Imports	5,769.8	14,012.3	21,179.0	25,905.9	25,230.3	35,271.8
ATPA	1,674.6	8,359.3	13,484.4	17,242.7	14,410.9	11,405.6
GSP	0.2	360.0	453.9	611.6	368.5	311.5
FTA's	0	0	0	0	2,224.0	10,296.2
% Duty Free	60%	90%	94%	91%	87%	83%

Source: USITC Interactive Tariff and Trade DataWeb, http://dataweb.usitc.gov. Compiled by CRS.

ATPA Impact

The effects of ATPA on the U.S. economy have likely been minimal because the amount of U.S. trade with the region is low and the value of ATPA imports is very small as a percentage of total U.S. trade. The effect on the beneficiary countries was likely higher, especially in those industries that benefitted from ATPA trade preferences. At least one study suggests that ATPA may have had a small, indirect effect on coca production in the region.

Likely Impact on the United States

The overall impact of ATPA on the U.S. economy has likely been small because the amount of U.S. trade with the region has been low. The value of duty-free U.S. imports under ATPA accounts for less than 0.5% of total U.S. imports and a very small percentage of the U.S. gross domestic product (GDP). A 2012 U.S. International Trade Commission (USITC) study on ATPA[2] states that the overall effect of ATPA-eligible imports on the U.S. economy has been minimal and that this continued to be the case in 2010 and 2011. It also states that the probably future effects of ATPA on U.S. industries and consumers are likely to be minimal because Ecuador is the only remaining ATPA beneficiary.[3]

The rapid rise in the value of imports from ATPA countries after the modifications made under ATPDEA was primarily due to an increase in the value of imports of petroleum-related products. Imports of crude petroleum oils accounted for 76% of the value of the 20 leading items in 2007, 85% in 2008, 91% in 2009, 94% in 2010, and 94% in 2011, according to the USITC.[4] Imports of cut flowers also increased as a result of ATPA. The USITC study estimated that U.S. imports under ATPA of fresh-cut roses and fresh-cut chrysanthemums provided the most significant impact on U.S. consumers through lower prices. Fresh cut roses provided the largest single gain in consumer surplus (between $8.9 million and $9.2 million), according to the study.[5] The largest potential relative displacement effects on U.S. producers were on U.S. production of fresh cut roses. ATPA preferences may have resulted in a displacement of 0.3% to 2.0% of rose production in the United States, an estimated value of $59,000 to $362,000.[6]

Impact on Andean Countries

A central purpose of the original ATPA legislation was to expand economic incentives to shift from illegal crop production to legitimate economic activities in Bolivia, Colombia, Ecuador, and Peru. Estimating the effects of ATPA on the beneficiary countries is difficult because it is not easy to separate the effects of ATPA from other factors such as domestic law enforcement programs, U.S. drug eradication programs in the region, and other socio-economic variables. According to the USITC study, the impact of the ATPA on coca production in Andean countries has been small and mostly indirect.[7] The ATPA, combined with U.S. economic assistance through alternative development programs,[8] may have contributed to the U.S. counter-narcotics effort. The study states that, in 2010 and 2011, ATPA continued to have a small, indirect effect in support of illicit

[2] United States International Trade Commission (USITC), *Andean Trade Preference Act: Impact on U.S. Industries and Consumers and on Drug Crop Eradication and Crop Substitution, 2011: Fifteenth Report,* USITC Publication 4352, September 2012.

[3] Ibid.

[4] Ibid., p. x.

[5] Ibid., pp. 3-1 through 3-15.

[6] Ibid.

[7] Ibid., pp. 4-1 through 4-7.

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

coca eradication and crop substitution efforts in the Andean region. Although coca cultivation has decreased notably since 2007, ATPA was not a major cause of this and there were likely other factors that contributed to the decline. The study reports that, according to U.S. State Department data, illegal coca cultivation fell substantially in the Andean countries of Bolivia, Colombia, and Peru, from an estimated 20-year peak of 232,500 hectares (ha) in 2007 to 187,000 ha in 2010. The study also states that Ecuador effectively eradicated its coca cultivation by 1992, but remains a major transit country for illegal drugs trafficked from Colombia and Peru.[9]

The ATPA, in combination with other alternative development programs, may have helped support job growth in export sectors such as fresh-cut flowers, asparagus, bananas, and pineapples, which possibly expanded alternatives to workers who may have otherwise engaged in drug-crop production.[10] As stated previously, Ecuador is the only remaining designated beneficiary country under ATPA. According to a U.S. embassy survey in Ecuador, most of the non-oil industries benefiting from ATPA in Ecuador include fresh cut flowers, pouched tuna, frozen vegetables, pineapples, mangoes, and plywood. The survey reports that an absence of ATPA would likely result in an adverse impact on their exports. The impact on exports of plywood and mangoes would probably be less severe because these products are also eligible for duty-free treatment under another U.S. trade preference program called the Generalized System of Preferences.[11] Fresh cut flowers are not eligible for duty-free treatment under GSP.[12]

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 affecting trade and investment, such as political and economic conditions. A likely impact has been a loss of investor confidence and reduced private investment, which affects jobs. However, investment in Bolivia is also affected by other economic factors and by the internal political situation. 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. For example, President Morales nationalized a number of industries, including hydrocarbons, telecommunications, and electricity.

The losses due to the suspension of ATPA trade preferences were likely been concentrated in certain sectors or regions of the country and, therefore, costly to certain communities. Some reports on Bolivia's economy and the effect of the removal of ATPA trade preferences for Bolivia concluded that the main impacts have been a loss of investor confidence and reduced private investment, subsequently affecting jobs. The government of Bolivia estimated that before Bolivia's suspension, ATPA trade preferences created 19,300 jobs, mostly in the clothing sector. One report cited by the USITC study estimates that the suspension of trade preferences for Bolivia resulted in thousands of job losses in the textiles and leather sectors. Another report estimates that employment in the textile sector fell 30% since trade preferences were suspended.[13]

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[9] USITC Publication 4352, pp. xi-xii.

[10] Ibid., pp. 4-1 through 4-6.

[11] Ibid., p. 3-13.

[12] For more information on the Generalized System of Preferences, see CRS Report RL33663, *Generalized System of Preferences: Background and Renewal Debate*, by (name redacted).

[13] USITC Publication 4188, pp. 3-15 through 3-17.

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 was going through a major crisis due to the political situation and a weakening of free trade practices in the country.[14] 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.[15] 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 were 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.[16] The report also stated that the La Paz region in Bolivia would be the most affected region, especially within the El Alto area, 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.[17]

Another report, by the Université de Lausanne (Unil), estimated the effects of ATPA suspension on Bolivian real incomes.[18] The Unil study stated that most industries affected by the removal of ATPA duty benefits were 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 were more than proportionately on indigenous people and the authors argued that indigenous people would have fewer "outside opportunities" for earning money once they lose their job.[19]

Issues for Congress

Some Members of Congress have stated that ATPA preferences should not be extended because of Ecuador's failure to support U.S. policies.[20] The Ecuadorian government's announcement that it no longer wanted to receive ATPA preferences may have ended the debate for Congress on whether or not to renew ATPA. On June 27, 2013, top Ecuadorian government officials announced that the country was renouncing trade preferences from the United States under ATPA. The government's communication minister, Fernando Alvarado, stated at a June 27 press conference that Ecuador "renounces unilaterally and irrevocably trade preferences with the United States."[21] Some observers believe that Ecuador made this announcement to avoid possible

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

[15] Ibid., p. 1.

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

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

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

[19] Ibid.

[20] See for example, Julian Pecquet, "Top Dem Threatens to Block Trade Deal with Ecuador over Snowden," *The Hill,* June 26, 2013.

[21] Lucien O. Chauvin, "Ecuador Renounces U.S. Trade Preferences Ahead of ATPA Expiration Set for July 31," (continued...)

political blackmail in the case of Edward Snowden, who was seeking political asylum from Ecuador at the time.[22]

Supporters of ATPA have argued that the program reinforced the U.S. commitment to an "alternative development" counternarcotics strategy and supports thousands of jobs in Ecuador. U.S. importers of fresh flowers from Ecuador maintain that their companies and their customers would be adversely affected if ATPA is not extended.[23] 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 have stated 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.

Economic Impact on Ecuador

Policymakers may be interested in the economic effects of ATPA on Ecuador and the possible effects of allowing ATPA trade preferences to expire. The effects of ATPA on the number of jobs, income, or investment in Ecuador are difficult to measure because of other factors affecting the economy and trade. Though the impact of ATPA on Ecuador's economy is likely small, a suspension of ATPA would likely increase investor uncertainty. This would likely adversely affect long-term investment. Any potential job losses would likely be statistically small on a national level; however, they would likely be concentrated in certain regions of the country and could potentially come at a cost to some communities. For example, the flower industry in Ecuador has been one of the key beneficiaries from ATPA preferences. After crude petroleum oil, the leading U.S. import item from Ecuador under ATPA is fresh cut flowers. The value of flower imports from Ecuador in 2012 totaled $166.1 million.[24]

Ecuador is also a beneficiary of the U.S. Generalized System of Preferences (GSP) program.[25] The ATPA offers broader product coverage for Ecuador than the GSP. The government of Ecuador estimates that if ATPA is not renewed, it will negatively impact thousands of workers in various industries. For this reason, Ecuador asked the U.S. government to add certain products to the list of products eligible for GSP preferences.[26] The Embassy of Ecuador and several private entities petitioned the Office of the United States Representative (USTR) to modify the GSP eligible product list to include fresh cut roses and certain vegetables. These petitions are included in USTR's 2012 *Annual Product Review* for GSP.[27] In June 2013, the Trade Policy Staff

(...continued)

International Trade Daily, June 28, 2013.

[22] Ibid.

[23] Office of the United States Trade Representative, *Sixth Report to the Congress on the Operation of the Andean Trade Preference Act as Amended,* June 30, 2012, pp. 36-39.

[24] U.S. International Trade Commission Interactive Tariff and Trade DataWeb.

[25] For more information on the Generalized System of Preferences, see CRS Report RL33663, *Generalized System of Preferences: Background and Renewal Debate*, by (name redacted).

[26] Rosella Brevetti, "Ecuador's Ambassador Presses Case for Adding Three Products to GSP," *International Trade Reporter,* March 7, 2013.

[27] An online version of the petitions accepted in the 2012 Generalized System of Preferences (GSP) Annual Product Review is available at http://www.ustr.gov.

Committee[28] deferred the decision on Ecuador's petitions to add additional products to the GSP program.[29] If these products are added to the GSP program and Congress extends GSP, the adverse effects from a termination of ATPA may be mitigated.

Eligibility Criteria

An issue of concern for policymakers has been related to Ecuador's ability to meet the country eligibility criteria. One group of business associations contends that Congress should, at a minimum, require periodic reviews of Ecuador's fulfillment of ATPA eligibility criteria. The group contends that Ecuador is falling short of ATPA criteria related to rule of law, foreign investment, and intellectual property rights protection.[30] A major issue has to do with a long-running, multibillion-dollar lawsuit brought against the U.S. oil company Chevron by Ecuadorian indigenous peoples in which they 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. 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. On February 9, 2011, an Ecuadorean judge ordered Chevron to pay $18.2 billion in cleanup costs for environmental damages in the Amazon region. Chevron appealed the ruling in Ecuador.[31] Chevron has long argued that the judgment was based on fraudulent evidence and that the legal system in Ecuador will not provide a fair forum because Ecuador's courts are politically influenced.

Some observers maintain that the Chevron dispute demonstrates that Ecuador has failed to meet ATPA eligibility criteria pertaining to recognition and enforcement of arbitral awards. Chevron Corporation submitted documents to the United States Trade Representative in which it argues that Ecuador is in violation of ATPA eligibility criteria because the government of Ecuador has failed to enforce or recognize arbitral awards under the U.S.-Ecuador Bilateral Investment Treaty (BIT).[32] In 2006, Chevron 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 (U.N.) Commission on International Trade Law. In March 2010, the U.N. arbitration panel ruled that the Ecuadorian government violated the Bilateral Investment Treaty (BIT) with the United States with a series of unnecessary court delays in a long-running dispute between Chevron and the government of Ecuador. On August 31, 2011, the international tribunal in The Hague ruled in

[28] The U.S. GSP program is subject to annual review by the GSP Subcommittee of the Trade Policy Staff Committee (TPSC), a body chaired by the Office of the U.S. Trade Representative (USTR), and including representatives from the Departments of Agriculture, Commerce, the Interior, Labor, State, and the Treasury. Among other activities, the TPSC makes recommendations to the President concerning the continued eligibility of countries to receive benefits and investigates petitions to add or remove items from the list of eligible products. See CRS Report RL33663, *Generalized System of Preferences: Background and Renewal Debate*, by (name redacted).

[29] Office of the USTR, "Results of the 2012 GSP Annual Review," available at http://www.ustr.gov.

[30] Rosella Brevetti, "Business Groups Urge Renewal of GSP and ATPA for Peru, Colombia," *International Trade Reporter,* October 7, 2010.

[31] *Latin News Daily Briefing*, "Chevron setback in Ecuador case," September 20, 2011.

[32] Letter from Edward B. Scott, Vice President and General Counsel of Chevron Corporation, to Mr. Bennett Harman, Deputy Assistant USTR for Latin America, May 6, 2013.

Chevron's favor with monetary compensation. [33] On June 6, 2013, the U.S. District Court for the District of Columbia upheld the international arbitration award against Ecuador.[34]

In a letter submitted to USTR in May 2013, Ambassador Nathalie Cely of Ecuador states that the government of Ecuador "has been and continues to be in compliance with the mandatory and discretionary eligibility criteria" of ATPA.[35] The letter urges the United States to extend trade preferences beyond the current expiration date of July 31, 2013. It states that ATPA supports thousands of jobs for farmers, transportation and distribution employees, and vendors and customers in both the United States and Ecuador. According to the letter, ATPA has been an effective tool in fighting the narcotics trade in the Andean region; supported women business owners in Ecuador; created jobs in tuna processing plants in provinces that are highly vulnerable to narcotics trade; and helped expand exports in industries that employ thousands of workers.[36]

Diplomatic Issues

The debate surrounding a renewal of ATPA may be overshadowed by recent diplomatic tensions between the United States and Ecuador. In April 2011, diplomatic ties between the United States and Ecuador deteriorated when the U.S. Ambassador to Ecuador, Heather M. Hodges, was expelled by Ecuadorean President Rafael Correa's government as a result of a cable exposed by WikiLeaks. [37] Parts of a sensitive U.S. government cable exposed by WikiLeaks were published on April 4, 2011, by the Spanish newspaper *El Pais*. The government of Ecuador reportedly issued the following statement after the cable was published: "This information, in addition to being unacceptable, is malicious and imprudent." [38] In retaliation to the expulsion, the Obama Administration expelled the Ecuadorean ambassador to the United States on Thursday, April 7, 2011.[39] In September 2011, the two countries announced that they would resume Ambassadorial-level relations.[40]

Some observers contend that certain actions and statements by President Correa demonstrate a lack of willingness and commitment by the Ecuadorian government to cooperate with the United States.[41] Last year, President Correa granted asylum to Julian Assange in the Ecuadorean Embassy in London, on the grounds that he faced the risk of persecution in the United States for revealing secret State Department cables and other materials. More recently, in June 2013, President Correa announced that he was willing to consider granting asylum to Edward Snowden, the fugitive former intelligence contractor who revealed details of classified U.S. government

[33] Lucien O. Chauvin, "U.N. Panel Says Ecuador Violated U.S. BIT Because of Undue Delays in Chevron Case," *International Trade Reporter,* April 8, 2010.

[34] Brian Flood, "Court Upholds Award Against Ecuador under Bilateral Investment Treaty with U.S.," *International Trade Daily,* June 11, 2013.

[35] Letter from Ambassador of the Republic of Ecuador Nathalie Cely to Bennett Harman, Deputy Assistant U.S. Trade Representative for Latin America, May 8, 2013.

[36] Ibid.

[37] Simon Romero, "U.S. Ambassador Expelled Over Cable," *The New York Times,* April 6, 2011.

[38] Ibid.

[39] Matthew Lee, "U.S. expels Ecuadorean ambassador," *The Miami Herald," April 7, 2011.*

[40] U.S. State Department, *U.S. Relations with Ecuador,* Country Fact Sheet, October 24, 2012.

[41] *The Washington Post,* "Ecuador's Double Standard," June 25, 2013, p. A14.

surveillance programs to the press. Snowden is fleeing a U.S. extradition request and had reportedly asked Ecuador for asylum.[42]

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[42] Juan Forero, "Ecuador Leader Invites Tussle with U.S. over Snowden," *The Washington Post,* June 25, 2013, p. 7.