

Report for Congress

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The Andean Trade Preference Act: Background and Issues for Reauthorization

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Summary

Following passage by the 102nd Congress, President George Bush signed into law the Andean Trade Preference Act (ATPA) on December 4, 1991 (P.L. 102-182, title II), making it part of a multifaceted strategy to counter illicit drug production and trade in Latin America. For ten years, it provided preferential, mostly duty-free, treatment to selected U.S. imports from Bolivia, Colombia, Ecuador, and Peru. ATPA's goal was to encourage growth of a more diversified Andean export base, thereby promoting development and providing an incentive for Andean farmers and other workers to pursue economic alternatives to the drug trade.

On December 4, 2001, ATPA expired and U.S. tariffs were reimposed on affected Andean exports. On February 15, 2002, the Bush Administration deferred collection of these tariffs for 90 days in expectation that the 107th Congress would either reauthorize ATPA or provide a short-term extension of its trade preferences. In part because the ATPA legislation was eventually linked to the larger debate on trade promotion authority (TPA), Congress was unable to complete work on the bill before the deferral expired. The ATPA was eventually reauthorized as the Andean Trade Promotion and Drug Eradication Act (ATPDEA), Title XXXI of the Trade Act of 2002 (H.R. 3009), which was signed into law by President Bush on August 6, 2002 (P.L. 107-210). All duty reductions that were in place prior to ATPA's expiration were made retroactive to December 4, 2001 and presumably all those duties collected are reimbursable.

In evaluating the ATPA program, its trade effects were shown to have been relatively small, although there was some indication that the composition of trade changed and that, with a few products, a case could be made that ATPA supported this change. It is possible that the slightly altered composition of U.S. imports from ATPA countries reflected broader change in what Andean countries were producing and that this in turn pointed to some indirect evidence that resources once used for drug-related activity were being redirected toward ATPA-eligible products. Isolating ATPA's role from other counternarcotics and economic diversification programs, however, has been a difficult challenge, producing imprecise estimates.

Supporters of ATPA argued that its effects were evident and proposed that it be reauthorized to reinforce the U.S. commitment to the "alternative development" counternarcotics strategy and that preferential treatment be extended to other Andean exports to broaden the program's effects. In general, the 107th Congress appeared to accept this position. To enhance the effects of ATPA, the reauthorization legislation provides for an extension of trade preferences through December 31, 2006, extending them to cover exports previously excluded, including certain textile and apparel articles, canned tuna, watches and parts, petroleum, footwear, and selected leather bags and goods. Congress was also careful to consider, and in many cases preserve, the interests of domestic producers. ATPA may be only a small part of a large and long-term counternarcotics effort, but Congress reasoned that expanding duty-free provisions of ATPA to include more exports in growth industries may have a positive effect on the region.

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The Andean Trade Preference Act: Background and Issues for Reauthorization

Following passage by the 102nd Congress, President George Bush signed into law the Andean Trade Preference Act (ATPA) on December 4, 1991 (P.L. 102-182, title II), making it part of a multifaceted strategy to counter illicit drug production and trade in Latin America. For ten years, it provided preferential, mostly duty-free, treatment of selected U.S. imports from Bolivia, Colombia, Ecuador, and Peru. ATPA's goal was to encourage growth of a more diversified Andean export base, thereby promoting development and providing an incentive for Andean farmers and other workers to pursue economic alternatives to the drug trade.

ATPA expired on December 4, 2001 and U.S. tariffs were reimposed on affected Andean exports. On February 15, 2002, the Bush Administration deferred collection of these tariffs for 90 days, in expectation that Congress would either reauthorize ATPA or temporarily extend the tariff provisions. Following a lengthy debate, Congress did reauthorize the program (retroactively) in the Andean Trade Promotion and Drug Eradication Act (ATPDEA), Title XXXI of the Trade Act of 2002 (H.R. 3009), which was signed into law on August 6, 2002 by President George W. Bush (P.L. 107-210). This report provides a summary and analysis of the ATPA program and final action taken by the 107th Congress. It will not be updated.

An Overview of ATPA's Scope and Impact

ATPA was created as part of a broader Andean initiative to address the growing drug trade from Latin America. It provided zero or reduced tariffs on certain U.S. imports from Bolivia, Colombia, Ecuador, and Peru (see **Appendix 1** for program details) to complement crop eradication, interdiction, military training, and other counternarcotics efforts. In 1992, when the program was implemented, supporters expected that ATPA-induced export diversification and growth would encourage economic alternatives to coca production and other drug-related activity, with one estimate projecting as much as a three-fold increase in U.S. imports from ATPA countries over a decade.¹

Trade data alone, however, do not provide adequate measures of success, which should link a decline in drug activity with the expansion of ATPA supported industries. Indeed, there was some movement on the drug front. For example, total coca cultivation fell by 13% from 1992 to 2000. This represented significant declines in Bolivia (68%) and Peru (74%), but an offsetting large increase in

¹ For more on early expectations, see: CRS Report 92-172 F, *The Andean Drug Initiative: Background and Issues for Congress*, by (name redacted). February 13, 1992, p. 3.

Colombia (267%). Little coca is grown in Ecuador.² Determining the role of ATPA tariff preferences in this trend, however, presents a difficult challenge because their effects must be isolated from other counternarcotics and economic development efforts.

Studies by the U.S. International Trade Commission (USITC) of ATPA's trade effects suggest that overall, the program had a positive, but small influence on the volume and composition of U.S. imports from ATPA countries. For example, although total U.S. imports from ATPA countries on a dollar-value basis grew 85% through the decade 1990-99, this was much less than some had hoped for and represented no growth of ATPA imports relative to U.S. import growth worldwide. Further, the composition of U.S. imports from Andean countries changed only slightly in favor of products that were ATPA eligible. This suggests that there was no major change in the production structure of ATPA economies, particularly in the biggest ATPA beneficiary, Colombia, which actually experienced a large increase in coca production in the 1990s.

One of the most telling indicators of ATPA's limited influence was that *U.S. imports given preferential treatment exclusively under ATPA represented only 10% of total imports from the four eligible countries.*³ This constituted a small percentage of trade and did not grow through the life of the ATPA program. Without legislative change to the ATPA program, a larger response was thought to be limited in the short run by the Andean export sector's dependence on a few natural-resource based products and simple manufactures, ATPA's program exclusion of many major Andean products (e.g. petroleum products, textiles, certain leather goods), and the fact that many products were already eligible for duty-free or preferential treatment under other trade arrangements.

In short, as elaborated below, although there was a positive response to the ATPA preferential tariff provisions, the overall impact was small and operated at the margin of Andean trade. Similarly, the tariff preferences had little effect on the United States economy, suggesting the cost of these preferences was low.

U.S.-ATPA Country Trade

Colombia and Bolivia qualified as ATPA first beneficiaries in mid-1992, with Ecuador and Peru following one year later. Despite ATPA, aggregate U.S. trade with beneficiary countries remained small and grew in line, more or less, with the average for U.S. trade worldwide. For the decade 1990 to 2000, U.S. exports to ATPA countries rose by 84%, less than total export growth (see **Appendix 2** for aggregate trade data.) Relative to the rest of the world, U.S. exports to ATPA countries

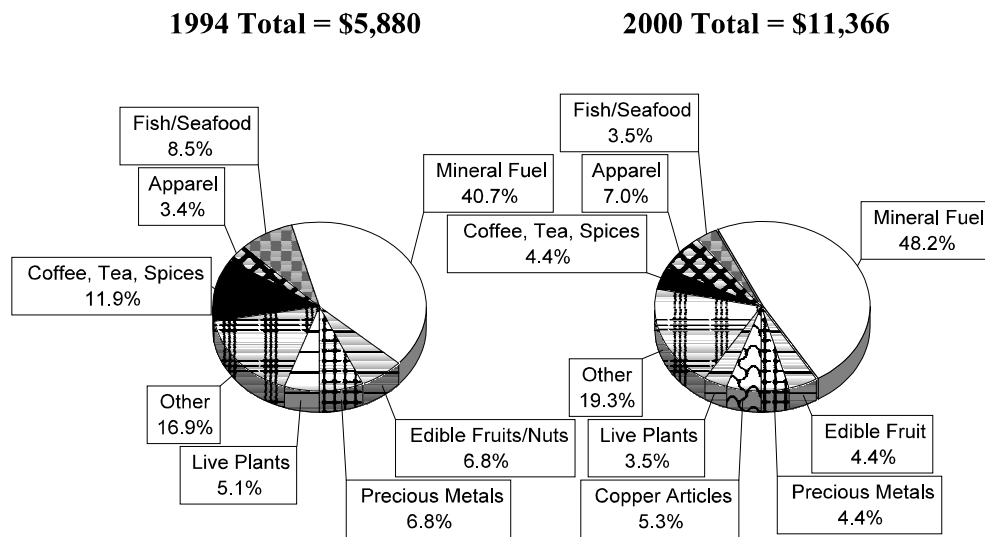
² United States Department of State. Bureau for International Narcotics and Law Enforcement Affairs. *International Narcotics Control Strategy Report (INCSR)*. March 2001. pp. II-11 and II-21.

³ U.S. International Trade Commission. *Andean Trade Preference Act: Impact on U.S. Industries and Consumers and on Drug Crop Eradication and Crop Substitution*. Seventh Report 1999. Publication No. 3358, September 2000. p. 34.

declined slightly to less than 1% of total exports, although there was an upward trend in the mid-1990s. U.S. imports from ATPA countries, although rising by 105% in dollar terms from 1990 to 2000, also declined slightly on a relative basis to less than 1% of total U.S. imports from the world.

In addition to trade volume, another indicator of ATPA's possible effects is change in the composition of ATPA imports. **Figure 1** contrasts the composition of U.S. imports from ATPA countries between 1994 and 2000. Because 1994 was the first full year all four countries participated, it provides a base for comparison since it is unlikely to reflect large changes in the trade composition due to ATPA given that insufficient time had passed for industries to have responded fully.⁴

Figure 1. U.S. Imports from ATPA Countries by Product Category



Source: CRS graph based on U.S. International Trade Commission and Department of Commerce data.

For 2000, the major U.S. imports (approximately 80% of the ATPA countries total), by harmonized tariff schedule (HTS) chapter were: HTS 27, mineral fuels (81% of which is crude oil); HTS 71, precious stones and metals (43% gold); HTS 09, spices, coffee, and tea (99% coffee); HTS 08, edible fruit and nuts (91% bananas); HTS 03, fish and seafood (69% crustaceans or shrimp); HTS 61 and 62, knit and woven apparel (73% sweaters, shirts, and suits); HTS 06, live plants and trees (99% cut flowers); and HTS 74, copper articles (94% unwrought refined and alloy.)

⁴ 1994 data from the U.S. International Trade Commission. *Andean Trade Preference Act: Impact on U.S. Industries and Consumers and on Drug Crop Eradication and Crop Substitution*. Seventh Report 1999, Publication 2995. September 1996, p. 8. Data for 2000 originated from the U.S. Department of Commerce as reported in World Trade Atlas.

A comparison of the two years suggests that on a broad product category basis, the composition of U.S. imports from eligible countries changed only marginally during the time that the original ATPA program operated. Most notable was the addition of Peru's refined copper cathode imports, which began in 1995 and were ATPA eligible. Petroleum products, which were not eligible for ATPA tariff preferences, remained a large portion of imports, but came predominantly from Colombia. There was a contrasting relative decline in seafood and coffee imports.

In general, the minimal change in U.S. import composition during this time period reflected three factors. First, most U.S. imports from ATPA countries were natural-resource based products (petroleum, gold, fish, coffee, bananas, cut flowers) or simple manufactures (knit apparel, sweaters, shirts, suits, copper cathodes), many of which were not ATPA eligible. This trend is likely to continue regardless of ATPA reauthorization. Second, the continuing large portion of oil imports on a dollar-value basis in 2000 continued to skew import figures, reflecting in part the worldwide surge in oil prices. Third, Colombia stands out as the dominant ATPA trade partner, accounting for 62% of total U.S. imports from the group in 2000, followed by Peru and Ecuador, both with 18%, and Bolivia trailing with only 2%.⁵

Given that the relative size and composition of ATPA imports, variables expected to reflect the program's effects, did not change during the course of the program, little trade effect seems attributable to the ATPA provisions. A closer look at the trade data at the sectoral level supports this conclusion, until the data are further disaggregated by duty treatment and product type. These trends are in keeping with economic reasoning that would suggest a program such as ATPA would not affect the overall structure of trade, but might alter the composition of ATPA imports at the margin and within very specific product categories.

Imports from ATPA Countries by Duty Status⁶

To determine which products were benefitting from ATPA, it was necessary to ascertain what portion would have entered duty-free *exclusively* because of their ATPA eligibility. Many imports qualified unconditionally as duty-free under general tariff rates (e.g. coffee) or through other favorable tariff arrangements, such as the Generalized System of Preferences (GSP), and could enter under more than one of these arrangements. For example, some products eligible to enter under GSP came in under ATPA. As shown in **table 1**, when these products are subtracted, it turns out that imports eligible exclusively for ATPA preferences represented only 10% of total U.S. imports from the ATPA countries.⁷ The table contrasts selected Andean country import data in 1995 and 1999 to reflect changes that may have occurred

⁵ U.S. International Trade Commission, *Andean Trade Preference Act*, September 2000, p. 14.

⁶ For this section, it was necessary to rely on specialized data produced by the International Trade Commission, which has not been updated for 2000.

⁷ Estimates by USITC, *ibid*, p. 34. It should be noted that the 10% figure was higher during the mid-1990s when the GSP program lapsed on a few occasions, causing greater reliance on the ATPA provisions.

during a time when the ATPA program was in full force. Duty-free imports rose from 59% of total imports in 1995 to 66% in 1999, but because the ATPA-only category is unchanged, the increase appears to have been due entirely to non-ATPA trade arrangements (general rates, GSP, production-sharing arrangements, or other smaller programs).

Table 1. Duty Status of U.S. Imports from ATPA Countries
(1995 and 1999 in \$ millions)

Duty Status	Bolivia	Colombia	Ecuador	Peru	Total	% of Total
1995 Total Imports:	256.8	3,807.4	1,929.2	965.4	6,958.7	100%
Dutiable	19.0	1,717.0	756.6	360.5	2,853.1	41%
Duty-Free	237.8	2,090.4	1,172.7	604.7	4,105.6	59%
(ATPA only)*	na	na	na	na	699.0	10%
(Other Duty-Free)**	na	na	na	na	3,406.6	49%
1999 Total Imports:	216.8	5,476.2	1,798.6	1,781.8	9,273.6	100%
Dutiable	40.1	2,059.3	587.8	450.6	3,137.8	34%
Duty-Free	176.7	3,417.1	1,210.8	1,331.2	6,135.8	66%
(ATPA only)*	na	na	na	na	939.0	10%
(Other Duty-Free)**	na	na	na	na	5,196.8	56%

na = not available, per discussion with USITC.
 * Includes value of both duty-free and reduced-duty ATPA imports. Reduced-duty imports amounted to only 0.3% of total imports from ATPA countries in both years and so are not shown separately.
 ** Includes all other imports that entered the United States duty-free: 1) under general rates; 2) under non-ATPA programs (e.g. Generalized System of Preferences (GSP) or production sharing provisions) and/or; 3) under ATPA, but eligible to enter duty free under another program.
 Data source: U.S. International Trade Commission. *Andean Trade Preference Act: Impact on U.S. Industries and Consumers and on Drug Crop Eradication and Crop Substitution*. Publication No. 3358, September 2000. pp. 17 and 34.

The 10% figure is important because it shows first that the amount of imports that entered duty-free exclusively under ATPA was a small portion of trade and second that, over the life of the program, ATPA-eligible imports as a group did not grow any faster than U.S. imports from the four Andean countries as a whole. This was unlikely to change in the short run without legislative action given that many imports already entered the United States duty free, other big items, such as petroleum and textile products, were not eligible for duty-free treatment, and economic diversification into new (ATPA-eligible) areas was a slow process.

Imports from ATPA Countries by Product Level

The major products that entered the United States under ATPA appear in **table 2** in descending order of importance. Between 1995 and 1999, cut flowers, most of

which came from Colombia, were the largest import item. Copper cathodes from Peru grew to become the second largest ATPA import, rising in 1999 to nearly 19% of the total on a dollar-value basis. Precious metals, mostly jewelry and gold products from Peru, were the third largest import group, comprising some 11% of the total. Colombian pigments (9%), Ecuadoran non-canned tuna (5%), and Peruvian zinc (5%) rounded out the major ATPA imports.

Table 2. Major U.S. Imports Entering Under ATPA
(1995 and 1999, in percent)

HTS*	Article	% 1995	% 1999	Beneficiary Country
06	Live Plants (cut flowers)	39.6	25.0	Colombia - 80% Ecuador - 20%
74	Copper articles (cathodes)	2.9	18.9	Peru - 100%
71	Precious metals (jewelry/gold products)	18.9	10.7	Peru - 70% Bolivia - 30%
32	Pigments	0.3	9.3	Colombia - 100%
16	Tuna (non-canned)	4.2	5.0	Ecuador - 99% Colombia - 1%
79	Zinc	0.8	4.8	Peru - 100%
	Other	33.3	26.3	
	Total	100.0	100.0	

* HTS = harmonized tariff schedule chapter.
Data source: USITC, *Andean Trade Preference Act*, September 2000, pp. 16-24, D-3.

The composition of ATPA imports changed some over the life of the program, but not in clearly predictable ways. Cut flowers, for example, which remained the largest U.S. import item on a dollar basis, actually fell from nearly 40% to 25% of total ATPA imports. This trend reflected falling demand in the United States for cut flowers and growth in other ATPA imports such as copper cathodes and pigments, which represented new U.S. imports since the ATPA the program began. Although there was a large increase in zinc products coming in under ATPA, this growth was partially due to a shift in duty treatment of zinc products, which previously entered the United States duty-free under the GSP provisions.⁸

The benefits of ATPA fell in line with the overall trade importance of the countries. In 1999, Colombia and Peru benefitted most and had 45% and 36% of the dollar value of ATPA imports, respectively. Colombia's percentage fell slightly since 1995, reflecting a decline in cut flower imports, offset some by an increase in U.S. pigment imports. Peru was the fastest growing exporter under ATPA, reflecting its new copper cathode manufacturing industry. Ecuador accounted for 15% of ATPA imports in 1999, followed by Bolivia with only 4%. Ecuador accounted for most of the tuna imports and a small portion of cut flowers. Bolivia exported mostly gold jewelry items, which is the only major ATPA item it produces.⁹

⁸ Ibid., pp. 23-24.

⁹ Ibid., pp. 24-26, D-3. Bolivia also exports small amounts of wood products under ATPA.

Overall, the ATPA trade effects appear to be relatively small. Nonetheless, at the product level there was some indication of a change in trade composition when new products came on line, at least in part to take advantage of ATPA's duty-free provisions. This reflects some level of Andean economic diversification, but not a net growth in the amount of Andean exports eligible under ATPA on a relative basis. Given that total imports eligible exclusively under ATPA remained at 10% of total U.S. imports from these countries, it appears that gains in some industries or products offset declines in others.

ATPA Program Effects: Andean and U.S. Responses

An evaluation of ATPA should indicate how any changes in trade patterns affect the economies of the Andean countries and the United States. Two studies required by the ATPA legislation tackled these questions. First, the U.S. International Trade Commission ATPA report evaluated both the Andean and U.S. responses to ATPA. The U.S. Department of Labor produced a separate targeted evaluation of ATPA's effects on U.S. workers. Both pointed to the marginal effects of ATPA on the economies of participating countries and the United States.

ATPA's Economic Effects on the Andean Countries

Although the trade effects of ATPA were relatively small, there was some indication that the composition of trade changed and that, with a few products, a case can be made that ATPA contributed to this change. It is possible that the altered composition of U.S. imports from ATPA countries reflects broader change in what Andean countries were producing and that this in turn points to some indirect evidence that ATPA-eligible products were substituted for illicit coca.¹⁰

It is difficult to gauge the effects of ATPA on national economies because the program has a small effect relative to other variables. National macroeconomic policies, particularly in countries undergoing long-term economic reform, have a much larger effect on economic trends. Domestic Andean government policies also supported crop substitution, the effects of which were not easily distinguishable from those of ATPA. In effect, they worked together. External shocks to the region's economies, such as repeated El Ninos and other natural phenomena, had devastating effects on the agricultural sector that easily overshadowed incremental policy shifts like ATPA. Isolating the marginal effects of ATPA, therefore, was an imprecise exercise.¹¹

¹⁰ The USITC also points out that the benefits of ATPA to eligible countries is declining as the "margin of preference" declines for various reasons, such as the continuing phase-in of other trade agreement tariff rate cuts from the Uruguay Round, as well as sectoral and regional agreements. For details, see: *ibid.*, pp. 33.

¹¹ *Ibid.*, pp. 53 and 55.

Bolivia and Peru. In its 2000 report, the USITC used Bolivia and Peru as case studies to explore the possibility of a link between ATPA program effects and changes in economic production. Bolivia showed some diversification in exports to the United States that coincided with ATPA. In the mid-1990s, there was a marked expansion of jewelry and, to a lesser extent, leather and wood product exports that may have been related to the ATPA tariff reductions, but other domestic policy changes (e.g. the tax code) also affected production incentives for these goods. In any case, after 1996 this export growth trend slowed. In Peru, a broader array of export growth was discernible over the past decade, with a noticeable increase in copper cathodes and agricultural products, especially asparagus, all of which benefitted from ATPA. Asparagus also stood out because it was grown near traditional coca cultivation areas and was presumed to be an alternative cash crop, at least in part encouraged by ATPA provisions.¹²

Colombia and Ecuador. In its 1999 report, the USITC evaluated ATPA's impact on Colombia and Ecuador. Of the ATPA-eligible products from Colombia over the past decade, cut flowers increased the most as a proportion of U.S. imports, but overall, the composition of Colombia's exports to the United States did not change dramatically since ATPA began, in part because of the dominance of petroleum. Other nontraditional products, such as asparagus, presented some potential for increased benefits from ATPA, but overall its benefits were considered small. Ecuador had a similar profile, with little change in the composition of exports to the United States, but some credited significant increases in the production of cut flowers and seafood, both of which benefitted from ATPA, with encouraging export diversification. The overall effect was still small given the myriad variables that affected production capabilities and decisions.¹³

Coca Eradication and Crop Substitution. Alternative crop production is a critical component of the coca eradication effort underway in the Andes. Although there was some indirect evidence to suggest that crop substitution has occurring, it was small overall and the effect of ATPA on this process was marginal at best. Whereas larger substitution effects may be linked to the cut flower industry in Colombia, there were many factors that allowed such alternatives to exist before ATPA was even conceived. All the evidence points to ATPA's supportive, but relatively small effect, particularly given the magnitude of the problem and the comprehensive effort needed to address the drug trade. For example, numerous obstacles impeded the alternative development strategy including the high profitability of coca production, lack of physical infrastructure required to support alternative cash crops, and overt, often violent, guerrilla pressure to reject the program.¹⁴

¹² Ibid., pp. 55 and 62.

¹³ U.S. International Trade Commission. *Andean Trade Preference Act: Sixth Report 1998*. USITC publication 3234, September 1999, pp. 106, 111-14, 118, 120-22.

¹⁴ Wilson, Scott. Colombia's Anti-Drug Plan Fuels Fight in Coca Country. *The Washington Post*, October 14, 2000, p. A14 and DeYoung, Karen. Colombia Plan Faces 'Crunch Time.' *The Washington Post*, December 22, 2000, p. A35.

ATPA's Economic Effects on the United States

Although ATPA was created to influence the economic landscape of the Andean region, Congress also requested analysis of how changes in trade patterns related to ATPA might affect the United States. The USITC looked at three basic issues: 1) consumer welfare gains from lower-priced imports; 2) the offsetting tariff revenue losses; and 3) producer welfare losses (production displacement). The U.S. Department of Labor produced a separate report dealing only with ATPA's effects on the domestic labor force.

Changes in Trade Composition. Given that only a very small share of U.S. imports were involved in the ATPA program, its effects on the aggregate U.S. economy were negligible. Therefore, measuring the gains and losses to the U.S. economy must be done at the product/industry level. In 1999, copper cathodes, cut flowers (roses and chrysanthemums), tuna, and gold compounds together accounted for 83% of total imports that benefitted exclusively from the ATPA provisions. Copper cathodes and cut flowers each contributed to approximately one-third of the ATPA-exclusive imports. Hence, an analysis of the benefits and displacement costs related to these products covers most of the effects ATPA had on the U.S. economy.¹⁵

Consumer Welfare and Tariff Effects. USITC market share data showed that ATPA-imported copper cathodes, although growing briskly, still accounted for only 7.4% of the U.S. market in 1999 and imported gold compounds claimed only 6.7%. Cut flowers, by contrast, accounted for up to 75% of the U.S. market. Based on a partial equilibrium analysis, the USITC estimated that the consumer welfare effects in all three cases were, nonetheless, small. In the first two, market penetration was simply too small, but even in the case of Colombia's dominance of the U.S. cut flower market, the USITC suggested that U.S. consumers would have paid only 5.5% more for flowers than they would have in the absence of ATPA. In addition, the consumer benefits were offset, in many cases, by reduced tariff revenues. The net welfare effects for the United States as a whole, therefore, were considered small.¹⁶

Producer Welfare Effects. Of greater concern to many were ATPA's effects on U.S. producers. To the extent that ATPA encouraged a marginal increase in imports, those industries in the United States that produced competing products were potentially "displaced" from the market. Given market share figures, the USITC found that only cut flowers and asparagus caused "displacement" of over 5% of the market. Asparagus imports were small and entered during the late summer and fall months when domestic crop production was low and so had a clear benefit to U.S. consumers. Because they did not directly compete with the U.S. growing season, however, they were not a primary target for concern over displacement.¹⁷

¹⁵ U.S. International Trade Commission, *Andean Trade Preference Act*, September 2000, pp. 36-37.

¹⁶ *Ibid.*, pp. 38 and 45.

¹⁷ *Ibid.*, p. 38.

Cut flower imports have been a greater concern, but as the USITC points out, Colombia, the major flower exporter, had established its market dominance before ATPA, and the U.S. growers had already responded by differentiating their products. The overall impact of ATPA flower imports was deemed small given domestic industry adjustment. One indication that U.S. flower growers are no longer seriously concerned with competition from Andean imports is their decision to discontinue pursuing antidumping and countervailing duty remedies as of May and October 1999, respectively. In short, should ATPA tariff preferences be eliminated, it appears there would be little effect on the domestic cut flower industry.¹⁸

The U.S. Department of Labor (DOL) report targeted ATPA's impact on the domestic work force. It concluded that the overall effects of ATPA in 1998 were negligible given the strong U.S. economy and employment picture, and the fact that ATPA-eligible imports were so small that their effect on aggregate U.S. employment was virtually unmeasurable.¹⁹ Based on an analysis of products that entered the United States duty free exclusively from ATPA provisions, the Department of Labor suggested that only the cut flower industry was likely to have presented any adjustment problem. U.S. cut flower production had fallen by 11% in 1998 as ATPA imports rose, perhaps indicating that ATPA may have had some effect on the industry's contraction, but the Department of Labor report was quick to note that other factors may have affected cost competitiveness of the U.S. cut flower industry, such as complying with worker protection standards, and that in any case, their estimates were not precise.²⁰

Of the workers potentially affected by layoffs in the flower industry, the DOL noted that all were seasonal agricultural workers who often experience periods of unemployment, have a very low wage level, and live predominantly in poverty. Some 43% were estimated to be of "illegal, temporary, or unknown legal status." DOL did not estimate the "degree of adjustment difficulty," but noted that the strong U.S. economy should have been able to minimize any employment dislocation that might have occurred. Adjustment costs faced by other industries from increased import competition from ATPA were considered insignificant.²¹

Policy Discussion

ATPA was only a small part of the larger Andean counternarcotics effort. Coca production was the primary target of these efforts and because it is a highly profitable

¹⁸ Ibid., p. 43.

¹⁹ U.S. Department of Labor. Bureau of International Labor Affairs. *Trade and Employment Effects of the Andean Trade Preference Act*. Sixth Annual Report to Congress, by Robert C. Shelburne. 1999. p 14.

²⁰ Ibid., p. 10. The DOL report covers 1998 and so does not reflect the fact that in 1999 the cut flower industry representatives dropped interest in antidumping and countervailing duty investigations, suggesting doubt in their ability to make a strong case that the industry is being materially harmed by ATPA-eligible imports.

²¹ Ibid., pp. 11-14.

undertaking and particularly enticing for poor areas of the world, a key element of the strategy was supporting the cultivation of alternative cash crops.²² ATPA's supporters argued that reduced tariffs conceivably played a part of the "alternative development" strategy by providing an additional financial incentive to substitute legal crops for coca cultivation. The increase in non-agricultural exports (e.g. copper cathodes), it was argued, may also have reflected, in part, ATPA's preferential tariff treatment.

Testimony before congressional committees expressed the desire by groups in the United States and the Andean countries to reauthorize ATPA and consider expanding the tariff preferences to more products and countries. These views were summarized before Congress by representatives of the Bush Administration as well, who stated that ATPA was achieving its goal of promoting "export diversification and broad-based economic development that provides sustainable economic alternatives to drug-crop production in the Andean region."²³

In considering the merits of ATPA, it is important to understand that the benefits it provided were quantitatively small. ATPA's influence should have been visible in the changing composition of U.S. imports, which was marginal. Because many imports were not eligible by law for ATPA duty-free treatment or entered the United States under other preferential trade arrangements, only 10% of ATPA country imports entered the United States exclusively under the ATPA provisions. This did not change over time, suggesting that ATPA's effect on trade was unlikely to increase, unless the program's parameters were modified.

Because the trade response has been small, so too have been ATPA's likely effects on the Andean economies. Still, indirect evidence suggests that it may have supported economic diversification into products such as copper cathodes and asparagus. Asparagus, for example, has been cultivated in larger quantities near traditional coca producing regions. Although an encouraging sign, given the high profitability of coca and active resistance by both armed guerrilla groups and peasants, there were limits to what ATPA may have been expected to accomplish and it was not clear that there is a strong direct link between increased ATPA-eligible exports and any verifiable diminished drug-related activity.

In addition to the economic analysis, the debate over ATPA considered more intangible policy benefits. For example, supporters argued that ATPA was an expression of direct U.S. support for the regional counternarcotics efforts with potentially positive side benefits in the area of economic development. They also noted that it was a less expensive and invasive counter-drug option compared to the large financial and military commitment of Plan Colombia.

²² U.S. Department of State, *2001 International Narcotics Control Strategy Report (INCSR)*, pp. IV-6, 18, 27, 37.

²³ Testimony of Ambassador Peter Allgeier, Deputy United States Trade Representative, before the Senate Committee on Finance, Subcommittee on International Trade. August 3, 2001. p. 1.

Supporters of ATPA proposed at least three program initiatives. First, reauthorize ATPA for an extended period of time to reinforce the U.S. commitment to the alternative development counternarcotics strategy. Second, extend duty-free treatment to other Andean exports, such as textile and apparel products, to broaden the program effects, particularly in Colombia, which remains the most problematic country. Third, include Venezuela as a beneficiary country, which although not currently a major coca producer, is part of the larger drug trafficking problem.

Postscript: Legislation in the 107th Congress

On December 4, 2001, ATPA expired and U.S. tariffs were reimposed on affected Andean exports. On February 15, 2002, the Bush Administration deferred collection of these tariffs for 90 days in expectation that the 107th Congress would either reauthorize ATPA or provide a short-term extension of its trade preferences. In part because the ATPA legislation was eventually linked to the larger debate on trade promotion authority (TPA), Congress was unable to complete work on the bill before the deferral expired. The ATPA program was reauthorized in the Andean Trade Promotion and Drug Eradication Act (ATPDEA), Title XXXI of the Trade Act of 2002 (H.R. 3009), which was signed into law by President Bush on August 6, 2002 (P.L. 107-210). All duty reductions that were in place prior to ATPA's expiration were made retroactive to December 4, 2001 and presumably all those duties collected are reimbursable.

Legislative Action

In the House, H.R. 3009, the Andean Trade Promotion and Drug Eradication Act was introduced on October 3, 2001 by Representative Crane (for himself and Ways and Means Chairman Thomas). Hearings were held by the House Ways and Means Committee on October 5, 2001. Chairman Thomas offered an amendment in the nature of a substitute and the committee ordered the bill favorably reported, as amended, by voice vote. On November 14, 2001, the bill was reported to the House (H. Rept. 107-290). On November 16, 2001, the House Rules Committee reported (H. Rept. 107-293) the rule (H. Res. 289) for consideration of H.R. 3009 by a vote of 225 to 191. H.R. 3009 was passed by the House the same day by voice vote.

In the Senate, S. 525, the Andean Trade Preference Expansion Act (ATPEA) was introduced by Senator Graham on March 13, 2001 and referred to the Committee on Finance. The Subcommittee on International Trade held hearings on August 3, 2001. The amended House-passed version of H.R. 3009 was sent to the Senate on November 16, 2001, where it was referred to the Committee on Finance. Full committee consideration and mark up occurred on November 29, 2001, and by voice vote, the language of S. 525, with some modifications, was offered in the nature of a substitute for H.R. 3009, which was adopted, along with three amendments, and reported to the full Senate (S. Rept. 107-126).

The *Andean Trade Preference Expansion Act* passed the Senate as Title XXXI of the Trade Act of 2002. The Senate action was controversial because it adopted the ATPA provisions by agreeing to S.Amdt. 3401, a substitute amendment for H.R. 3009, which also included a broader trade legislation package covering trade promotion authority (TPA), trade adjustment assistance (TAA), and the Generalized

System of Preferences (GSP), among others. On June 26, 2002, following a heated debate, the House voted 216 to 215 to agree to the Senate amendment with an amendment incorporating House versions of the broader provisions added in the Senate, and requested a conference.²⁴

The conference report was filed on July 26, 2002 (H.Rept. 107-624). It was agreed to in the House (215-212) on July 27, 2002 and in the Senate (64-34) on August 1, 2002. President Bush signed the bill into law on August 6, 2002 (P.L. 107-210).

Changes to ATPA Provisions

As passed into law, the Andean Trade Promotion and Drug Eradication Act (ATPDEA) expresses the findings of Congress that extending and expanding trade preferences to beneficiary countries continues to be an effective part of a broader U.S. foreign policy to counter illicit drug trafficking from the Andean region. To enhance the effects of the expired ATPA, it extends preferential treatment through December 31, 2006 and expands it to cover many exports previously excluded. In general, the provisions provided treatment similar to that received by Caribbean countries under the Caribbean Basin Trade Promotion Act (CBTPA) and incorporates customs procedures, including more relaxed certificate of origin rules, similar to those found in the North American Free Trade Agreement (NAFTA). ATPDEA also tightens transshipment and safeguard provisions to address concerns of U.S. textile and apparel manufacturers.

Changes in Tariff Treatment. The major changes to the ATPA provisions that were at the heart of much of the congressional debate involved consideration of altering the tariff treatment of eight categories of goods that were excepted from preferential treatment under the original ATPA legislation. To summarize:

- 1) selected textile and apparel articles, as defined in the next subsection, now enter duty-free;
- 2) footwear (not eligible under the GSP preferences) enter duty-free;
- 3) tuna harvested by a U.S. or ATPDEA beneficiary country that is prepared or preserved by an ATPDEA beneficiary country in an airtight container weighing not more than 6.8 kilograms, enters free of duty and quantitative restriction;
- 4) petroleum products under HTS headings 2709 or 2710 enter duty free;
- 5) watches previously excepted if they included material from HTS column 2 countries enter duty free;
- 6) selected leather goods (e.g. handbags, luggage, apparel) that previously received reduced duty treatment, enter duty free;

²⁴ For a side-by-side summary of the ATPA provisions in the House and Senate bills, see: CRS Report No. RL31450, *The Andean Trade Preference Act: A Comparison of House and Senate Versions of H.R. 3009*, by (name redacted). June 27, 2002.

- 7) sugars, syrups, and sugar products subject to over-quota duty rates remain exceptions to preferential treatment;
- 8) rum and tafia classified in subheading 2208.40 of the HTS also remain exceptions to duty-free treatment.

Treatment of Textile and Apparel Articles. The number of apparel articles that receive duty-free treatment has been expanded based on various product categories differentiated by origin of fabric, yarn, and components used. Provided the article is imported from an ATPDEA beneficiary country, it enters free of duty and quantitative restriction if it qualifies under any of the following categories:

- 1) *Apparel articles assembled from products of the United States or and ATPDEA country, or products not available in commercial quantities* – Apparel articles sewn or otherwise assembled in 1 or more ATPDEA beneficiary country or the United States, or both, exclusively from any one or any combination of the following:
 - fabrics or fabric components wholly formed, or components knit-to-shape, in the United States, from yarns wholly formed in the United States or 1 or more ATPDEA countries (including felts and nonwovens if formed in the United States). But, *if the fabrics are knit or woven fabrics*, the apparel articles shall qualify under this subclause only if all dyeing, printing, and finishing of the fabrics from which the articles are assembled is carried out in the United States;
 - fabrics or fabric components formed, or components knit-to-shape, in 1 or more beneficiary countries, from yarns wholly formed in 1 or more beneficiary countries, if such fabrics (including fabrics not formed from yarns if classified as felt or nonwovens) or components are formed in chief value of llama, alpaca, or vicuna;
 - fabrics or yarns, to the extent that apparel articles of such fabrics or yarns would be eligible for preferential treatment, without regard to the source of the fabrics or yarns, under the North American Free Trade Agreement (NAFTA) short-supply provisions (Annex 401).
- 2) *Additional Fabrics* – at the request of any interested party, the President is authorized to proclaim additional fabrics and yarns as eligible for preferential treatment under the immediately preceding paragraph if:
 - the President determines that such fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner;
 - the President has been properly advised by a committee established under Sec. 135 of the Trade Act of 1974 and the USITC;
 - within 60 days after the request, the President has submitted a report to the House Committee on Ways and Means and Senate Finance Committee that sets forth the action, the reasons for such action, and the related advisory committee findings;

- a period of 60 calendar days has expired , beginning with the first day on which the president has met the congressional notification requirements; and
 - the President has consulted with such committees regarding the proposed action during the notification period.
- 3) *Regional Fabrics* – apparel articles sewn or otherwise assembled in 1 or more beneficiary countries from fabrics or from fabric components formed or from components knit-to-shape, in a beneficiary country, from yarns wholly formed in the United States or in 1 or more beneficiary countries, including felts and nonwovens, whether or not the apparel articles are also made from any of the fabrics, fabric components formed, or components knit-to-shape as defined in 1) above (page 14), unless the apparel articles are made exclusively from any of the fabrics, fabric components, formed, or components knit-to-shape described in 1) above.
- this preferential treatment begins October 1, 2002 for a limited quantity equal to 2% (measured in square-meter equivalents) of all apparel articles imported into the United States during the previous 12 months for which data are available. This percentage increases to 5% over the next 4 one-year periods in equal increments.
- 4) *Handloomed, handmade, and folklore articles* – if certified as such by the ATPDEA country in consultation with the United States.
- 5) *Certain Other Apparel Articles* – any article classified under HTS subheading 6212.10 (brassieres), except for articles entered under sections 1), 2), 3), or 4) above, if the article is both cut and sewn or otherwise assembled in the United states, or one or more ATPDEA country, or both, with limitations.
- 6) *Special Rules* –
- *Findings and Trimmings* – an article that is otherwise eligible for preferential treatment shall not be considered ineligible so long as findings and trimmings (buttons, zippers, lace, etc.) of foreign origin do not exceed 25% of the cost of the components;
 - *Interlinings* – identical rule for selected interlinings of foreign origin. Rule may be terminated if President determines that U.S. manufacturers are producing such interlinings in the United States in commercial quantities;
 - *De Minimis Rule* – an article that otherwise would be ineligible for preferential treatment because it contains yarns not wholly formed in the United States or an ATPDEA country shall not be ineligible if the total weight of such yarns does not exceed 7% of the total weight of the good;
 - *Special Origin Rule* – articles otherwise eligible for preferential treatment under sections 1) and 3) above shall not be ineligible

because the articles contain nylon filament yarn (other than elastomeric yarn) that is classifiable under various HTS 5402 subheadings (synthetic filament yarn) from a country that is a party to an agreement with the United States establishing a free trade area, which entered into force before January 1, 1995.

- 7) *Textile Luggage* – assembled in an ATPDEA country from fabric wholly formed and cut in the United States from yarns wholly formed in the United States that is entered under subheading 9802.80 of the HTS (Mexico production sharing/maquiladora provisions), or assembled from fabric cut in an ATPDEA country from fabric wholly formed in the United States from yarns wholly formed in the United States.

Discussion of Legislative Changes

The 107th Congress developed a compromise position on ATPA reauthorization that appeared to have broad support, although not all constituent concerns were resolved. Expanding the tariff reduction provisions is expected to serve multiple purposes: 1) provide similar tariff treatment to ATPA, NAFTA, and CBTPA countries, thereby eliminating the relative competitive disadvantage of ATPA countries; 2) deepen coverage of the tariff program to include products that compose a larger portion of Andean exports and hence improve the chances for greater impact on the region's trade diversification, economic development, and counterdrug activity; 3) encourage increased U.S. investment in ATPA countries; and, 4) address possible negative repercussions to domestic apparel and textile manufacturers.²⁵

Although it is possible that the beneficiary countries will respond more to these additional incentives, they will not benefit equally. In dollar terms, Colombia may benefit the most because it has the largest share of U.S. apparel imports from beneficiary countries (49% in 2000). Peru, which constituted 46% of U.S. apparel imports from these countries, uses mostly non-U.S. materials and so has lobbied for removing restrictions on use of local fabrics and yarns. It should benefit significantly. Ecuador and Bolivia have small apparel export industries, each accounting for only 2% of the ATPA country apparel exports to the United States.²⁶ Ecuador is a major tuna exporter and so will benefit from new tariff reductions on canned tuna.

Concerns of U.S. domestic apparel and textile groups were critical aspects of the debate to loosen tariff restrictions. Many of these concerns were addressed in the detailed language related to these articles. In addition, it is worth reiterating that apparel products accounted for only 7% of U.S. imports from ATPA countries in 2000, although this percentage doubled since 1994 (see **figure 1**). Also, ATPA apparel imports accounted for less than 2% of the total sector's U.S. imports in 2000. Still, the United States is the primary market for Andean apparel, capturing 93% of

²⁵ For more details, see: U.S. International Trade Commission. Apparel: Andean Countries Seek Parity with Caribbean Basin Countries to Remain Competitive in U.S. Market. *Industry Trade and Technology Review*, March 2001. pp. 9-13.

²⁶ *Ibid.*, pp. 2-7 and 9-10.

the region's apparel exports.²⁷ For this reason alone, although reauthorized ATPA program may still be only a small part of a large and long-term U.S. counternarcotics effort, expanding duty-free provisions to a larger portion of the region's exports, including its growth industries, may have a positive effect on the program's effectiveness.

²⁷ Ibid, p. 2.

Appendix 1. Original ATPA Program Details

The original ATPA program had two major facets. First, each nation had to be designated a “beneficiary country” by meeting legislated standards.²⁸ Beneficiary status could be denied if a country: 1) is a Communist country; 2) unfairly nationalizes or expropriates U.S. property, tangible or intellectual, without due recourse or commitment for compensation; 3) fails to act in good faith in recognizing arbitral awards in favor of U.S. citizens or companies; 4) affords preferential treatment to products from other developed countries that may have a significant impact on U.S. commerce; 5) has a government entity that fails to follow copyright agreements for broadcast materials; 6) is not a signatory to an agreement providing for the extradition of U.S. citizens; or 7) is not taking steps to afford internationally recognized workers rights as in the Trade Act of 1974. All conditions, except 4 and 6, may be waived by the President if conferring beneficiary status is deemed in the economic or security interests of the United States. The President is also required to consider other factors, among them the prospective beneficiary country’s: 1) interest in ATPA; 2) economic conditions and development policies; 3) trade policies and practices complying with rules defined in the World Trade Organization (WTO) agreement; and 4) efforts to meet the narcotics cooperation certification criteria.

Second, eligible articles must be imported directly from a beneficiary country. The content of materials and processing costs originating in CBTPA or ATPA beneficiary countries, Puerto Rico, the Virgin Islands and up to 15 percentage points of U.S. origin value must sum to at least 35% of the value of the article when it enters the United States. Many products are denied duty-free treatment, including textile and apparel products subject to textile agreements, crude and refined petroleum products, canned tuna, and certain footwear, watches, sugars, syrups, molasses, and rum products. Selected import sensitive products are eligible for only a 20-percent reduction in duties, including certain handbags, luggage, flat goods, work gloves, and leather wearing apparel. The President may suspend duty-free treatment under title II of the Trade Act of 1974 (safeguard actions) or the national security provision (sec. 232) of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862). Other trade regulations apply, such as quotas and food-safety requirements.²⁹

ATPA operated in addition to the Generalized System of Preferences (GSP), a program in place since 1976 giving duty-free treatment to certain developing country imports to promote economic development. Where the two programs overlap, many Andean exporters preferred to use ATPA because it covered more tariff categories, tended to be more liberal and easier to qualify under, and had a ten-year authorization and so until recently, had not expired as had the GSP multiple times in the 1990s.³⁰

²⁸ P.L. 102-182, title II, sec. 203, as amended (19 U.S.C. 3202). Because these benefits would violate the WTO obligation to accord all WTO members equal (most-favored-nation) treatment, they require a temporary waiver by the WTO. See: WTO General Council. *United States-Andean Trade Preference Act-Decision of 14 October 1996*. WT/L/184.

²⁹ *Ibid.*, sec. 204 (19 U.S.C. 3203), including detailed provisions for “perishable products.”

³⁰ See: CRS Report 97-389 E, *Generalized System of Preferences*, by (name redacted).

Appendix 2. U.S.-ATPA Country Merchandise Trade, 1990-2000

(\$ millions)

U.S. Exports							
Country	1990	1992	1994	1996	1998	2000	% Change 90-00
Bolivia	138	222	185	270	417	251	81.9%
Colombia	2,029	3,286	4,064	4,714	4,816	3,689	81.8%
Ecuador	678	999	1,195	1,259	1,683	1,037	53.0%
Peru	772	1,005	1,408	1,774	2,063	1,662	115.3%
Total ATPA	3,617	5,512	6,852	8,017	8,979	6,639	83.6%
Total World	393,592	448,164	512,627	625,075	682,138	780,419	98.3%
U.S. Imports							
Country	1990	1992	1994	1996	1998	2000	% Change 90-00
Bolivia	203	162	260	275	224	191	-5.9%
Colombia	3,168	2,837	3,171	4,424	4,656	6,969	120.0%
Ecuador	1,376	1,344	1,726	1,958	1,752	2,210	60.6%
Peru	802	738	841	1,261	1,975	1,996	148.9%
Total ATPA	5,549	5,081	5,998	7,918	8,607	11,366	104.8%
Total World	495,310	532,665	663,256	795,289	911,896	1,216,888	145.7%
U.S. Balance of Trade							
Country	1990	1992	1994	1996	1998	2000	% Change 90-00
Bolivia	-65	60	-75	-6	193	61	
Colombia	-1,139	449	893	291	160	-3,280	
Ecuador	-697	-345	-532	-700	-69	-1,173	
Peru	-29	266	566	513	87	-334	
Total ATPA	-1,930	430	852	98	371	-4,726	
Total World	-101,718	-84,501	-150,629	-170,214	-229,758	-436,469	
Data Source: U.S. Department of Commerce.							

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