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## Executive Summary: Seventh Report to the Congress on the Operation of the Andean Trade Preference Act as Amended

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# EXECUTIVE SUMMARY: SEVENTH REPORT TO THE CONGRESS ON THE OPERATION OF THE ANDEAN TRADE PREFERENCE ACT AS AMENDED\*

THE Andean Trade Preference Act (ATPA), as amended by the Andean Trade Promotion and Drug Eradication Act (ATPDEA) (jointly referred to as the ATPA/ATPDEA), requires the U.S. Trade Representative (USTR) to submit a report to Congress on the operation of the program no later than June 30th every year during the period that the program is in effect. Congress directed that these reports include a review of the ATPA/ATPDEA beneficiary countries based on the eligibility criteria and considerations described in the statute. This is the seventh USTR report to Congress on the ATPA/ATPDEA, and covers the year 2012, unless otherwise indicated.

The ATPDEA renewed and expanded the ATPA, which had expired on December 4, 2001, providing beneficiary countries duty-free access to the U.S. market for any product not specifically excluded. Sections 203(c) and 203(d) and Section 204 (b)(6)(B) of ATPA, as amended by the ATPDEA, require that countries meet certain criteria in order to be designated as an ATPDEA beneficiary country and to maintain such beneficiary status. In Presidential Proclamation 7616 of October 31, 2002, the President designated all four ATPA beneficiary countries—Bolivia, Colombia, Ecuador, and Peru—as ATPDEA beneficiary countries. The ATPA, as amended, was originally set to expire on December 31, 2006, but Congress has enacted several extensions. On February 12, 2011, the privileges under the ATPA/ATPDEA lapsed but were reauthorized, retroactively, on October 21, 2011 for eligible countries pursuant to section 501 of the United States-Colombia Trade Promotion Agreement Implementation Act (the Implementation Act) (P.L. 112-42).

In its previous extension of the program, Congress stipulated that Bolivia would not receive ATPA/ATPDEA benefits after June 30, 2009, unless by that date the President determined that Bolivia was satisfying the program's eligibility criteria. In a June 30, 2009 report to Congress, the President did not determine that Bolivia satisfied the program's eligibility requirements. As a result, no ATPA/ATPDEA benefits remained in ef-

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\* OFFICE OF THE U.S. TRADE REP., SEVENTH REPORT TO THE CONG. ON THE OPERATION OF THE ANDEAN TRADE PREFERENCE ACT AS AMENDED (2013) (available at <http://www.ustr.gov/sites/default/files/USTR%202013%20ATPA%20Report.pdf>).

fect for Bolivia after that date.<sup>1</sup>

Further, Section 201 of the Omnibus Trade Act of 2010 (P.L. 111-344), which re-authorized the ATPA/ATPDEA, terminated any preferential treatment available under ATPA/ATPDEA to Peru, after December 31, 2010. Peru has a free trade agreement with the United States.

At the time of the 2011 re-authorization, only Colombia and Ecuador were eligible beneficiary countries. Colombia is no longer an eligible beneficiary country under the ATPA as of May 15, 2012, when the United States-Colombia Trade Promotion Agreement (CTPA) entered into force (19 U.S.C. 3805 Note). Unless renewed by Congress, the ATPA/ATPDEA will expire on July 31, 2013.

The objectives of the ATPA/ATPDEA are to promote broad-based economic development, and diversification of exports, and to help defeat the scourge of drug trafficking by providing sustainable economic alternatives to drug-crop production in beneficiary countries. This report 2 examines Ecuador's progress toward achieving these goals and its performance with respect to the program's eligibility criteria.

Total U.S. imports from ATPA/ATPDEA countries (i.e., Colombia and Ecuador), whether or not under the program, rose from \$31.9 billion in 2011 to \$34.0 billion in 2012, or 6.5 percent. Measured U.S. imports specifically under the ATPA/ATPDEA program rose from \$4.4 billion in 2011 to \$11.4 billion in 2012. However, the 2011 figure does not represent normal operation of the program due to the 2011 nine-month lapse in the program and issues associated with retroactive applications for preferences.

In furtherance of the ATPA/ATPDEA's objectives, in May 2004, the United States initiated free trade agreement (FTA) negotiations with Peru, Colombia, and Ecuador, with Bolivia participating as an observer. On December 7, 2005, the United States and Peru concluded negotiations on the United States-Peru Trade Promotion Agreement (PTPA) and signed the agreement on April 12, 2006. The PTPA entered into force on February 1, 2009. The United States and Colombia concluded negotiations on the CTPA on February 27, 2006, and signed the agreement on November 22, 2006. The Implementation Act was enacted on October 21, 2011, and included the re-authorization of the ATPA/ATPDEA. Negotiations on an FTA with Ecuador took place through March 2006, but did not conclude. The United States did not initiate negotiations on an FTA with Bolivia.

This report is organized as follows. Chapter 1 briefly describes the key sections of the ATPA/ATPDEA, including the requirements and the designation of ATPA/ATPDEA beneficiary countries. Chapter 2 highlights trade between the United States and the ATPA/ATPDEA beneficiary countries. Chapter 3 evaluates Ecuador's compliance with the eligibility

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1. President Bush suspended Bolivia's designation as a beneficiary country under the ATPA/ATPDEA, effective December 15, 2008, citing Bolivia's failure to meet the program's eligibility criteria related to counternarcotics cooperation.

criteria of the statute and discusses the ATPA/ATPDEA's effect on trade with Ecuador. Chapter 4 summarizes responses by interested parties to the Administration's notice in the *Federal Register* inviting comments on the program, as mandated by Section 203(f) of the ATPA/ATPDEA. Finally, Chapter 5 describes the operation of the ATPA/ATPDEA beneficiary review process.

