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INTERNATIONAL TRADE SECTION

The Andean Trade Preference Act

GUY C. SMITH*

On December 4, 1991, President Bush signed into law the Andean Trade Preference Act ("ATPA") which authorizes the President to grant duty-free treatment for ten years to eligible imports from Peru, Colombia, Bolivia, and Ecuador.¹ The ATPA represents one of the chief elements of President Bush's efforts to create additional incentives to foster trade in legitimate products in the four Andean countries currently fighting the scourge of drug trafficking. The benefits bestowed under the ATPA are in addition to the duty-free benefits these four countries already receive under the U.S. Generalized System of Preferences ("GSP").² When compared with GSP, duty-free treatment under the ATPA extends to a broader array of articles and creates more certainty with respect to the continued eligibility of articles for duty-free treatment. The ATPA also has symbolic importance in that it is a tangible reflection of the U.S. government's commitment to the Andean region.

The purpose of this article is to provide readers with an overview of the ATPA. Part I discusses the genesis of the ATPA. Part II explains the substantive components of the ATPA. Finally, Part III discusses, in gen-

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1. See 19 U.S.C.A. §§ 3201-3206 (West Supp. 1992).

2. Under the U.S. Generalized System of Preferences ("GSP"), imports of certain eligible products from designated developing countries may enter the U.S. duty-free. See 19 U.S.C. §§ 2461-2465 (1988). Each year, annual reviews are conducted under GSP during which interested parties may petition, *inter alia*, to have products be removed from the list of eligible products with respect to a particular country, or to have a country be removed from the list of designated GSP beneficiaries. The GSP program is currently due to expire on July 4, 1993. See *id.* § 2465. The program is likely to be renewed, but may be modified in scope. See *GSP Renewal Holds \$500 Million Price Tag Under Budget Accord Rules*, 10 INSIDE U.S. TRADE 5 (Oct. 30, 1992). For a detailed description of the GSP program, see OFFICE OF THE U.S. TRADE REPRESENTATIVE, A GUIDE TO THE GENERALIZED SYSTEM OF PREFERENCES (1991).

eral terms, the potential impact of the ATPA on the Andean region.

I. GENESIS OF THE ATPA

Support for the ATPA grew out of a variety of initiatives by the Bush Administration geared toward Latin America, particularly the Andean region. These initiatives were aimed, either partially or wholly, at fostering economic alternatives to drug trafficking for the Andean countries. The purpose of these initiatives was to substitute legitimate trade for the drug trade by providing unilateral trade and investment incentives.

The first initiative aimed at the Andean region consisted of a package of measures that is now called Andean Trade Initiative I ("ATI I").³ ATI I grew out of a visit by then-President Virgilio Barco of Colombia to the United States during September 1989. During that visit President Barco requested that the U.S. examine what it could do to enhance the economic cooperation between Colombia and the United States as part of the Bush Administration's war on drugs.⁴ As a result of that request, President Bush announced ATI I, which consisted of, *inter alia*: (1) a special review for the Andean countries under GSP for the purposes of considering the addition of new products to the list of products eligible for duty-free treatment; (2) additional technical assistance to assist the Andean countries improve their trade performance in industrial as well as agricultural products; and (3) a promise to explore the possibility of expanding textile trade between the Andean countries and the United States.⁵

Also, as part of his war on drugs, President Bush attended the "Andean Summit" held during February 1990 in Cartagena, Colombia, which contributed to additional initiatives aimed at the Andean region.⁶ During the Andean Summit, the participants discussed a variety of measures aimed at combatting the scourge of drug trafficking, including implementation of trade initiatives and incentives to promote exports and private foreign investment in the Andean countries.⁷ The trade and investment

3. See *Andean Trade Preference Act: Hearings on H.R. 661 Before the Subcomm. on Trade of the House Comm. on Ways and Means*, 102d Cong., 1st Sess. 34 (1991) [hereinafter *ATPA Hearings*] (statement of Ambassador Carla A. Hills, United States Trade Representative).

4. See *Statement on Andean Region Trade Initiatives*, 25 WEEKLY COMP. PRES. DOC. 1659 (Nov. 1, 1989).

5. *Id.* Other components of ATI I included the following: (1) efforts to build a political consensus to negotiate a new international coffee agreement; (2) efforts to accelerate negotiations on tariff and non-tariff measures within the context of the Uruguay Round of negotiations under the General Agreement on Tariffs and Trade ("GATT"); (3) consultations with other trading partners; and (4) additional support for multilateral development bank efforts to promote meaningful trade policy reforms in Andean countries, *see id.*

6. Also attending the Andean Summit were the presidents of Bolivia, Colombia, and Peru.

7. See *Declaration of Cartagena*, 26 WEEKLY COMP. PRES. DOC. 248-254 (Feb. 15, 1990).

programs were intended to facilitate sustained economic growth and to offset any economic dislocation caused by the fight against drug trafficking.

The Andean Summit also generated the Declaration of Cartagena, which contained several "Understandings" concerning joint efforts to combat the illicit drug trade. As part of the "Understanding Regarding Economic Aspects and Alternative Development," the parties agreed to "work together to increase trade among the three Andean countries and the United States, effectively facilitating access to the United States market and strengthening export promotion, including identification, development and marketing of new export products."⁸

In addition, the ATPA grew in part out of President Bush's Enterprise for the Americas Initiative ("EAI"), which was announced on June 27, 1990. The EAI consists of a tripartite initiative addressing trade, investment, and debt reduction in Latin America.⁹ Part of the focus of EAI is to encourage Latin American countries to engage in trade and investment liberalization efforts and to promote trade, not aid, between the United States and that region.¹⁰

On July 23, 1990, following his meeting with Ecuador's then-President Rodrigo Borja, President Bush announced an additional group of trade measures, now formally called Andean Trade Initiative II ("ATI II"),¹¹ that was aimed specifically at the four Andean countries.¹² As described in the press release regarding that announcement, the measures were intended to build on the EAI as well as fulfill the President's commitments made at the Andean Summit.¹³ As part of these measures, the President announced that he would seek approval of a special tariff preference system for the Andean countries, modeled after the system established in the Caribbean Basin Initiative ("CBI") for Caribbean countries,¹⁴ which would provide duty-free treatment for eligible articles from

8. *Id.* at 248-251. The "Understandings" in the Declaration of Cartagena also contained a variety of other economic components and specific steps to combat drug trafficking directly, as well as various diplomatic initiatives. These included specific initiatives aimed at promoting alternative development and crop substitution and mitigating the social and economic costs of the fight against illicit drug trafficking. In addition, the countries agreed to attack all facets of drug trafficking with a variety of initiatives, which included, *inter alia*: (1) efforts to prevent consumption and reduce demand; (2) efforts to increase interdiction; (3) involvement of the armed forces in the antinarcotics enforcement; (4) information sharing; (5) eradication of illicit crops; and (6) control of precursor chemicals.

9. See *Bush Announces New Initiatives on Trade, Aid, and Debt Reduction for Latin America*, 7 INT'L TRADE REP. 983-984 (July 4, 1990).

10. See *id.*

11. See *ATPA Hearings*, *supra* note 3, at 38.

12. See *Remarks Following Discussions with President Rodrigo Borge Cevallos of Ecuador*, 26 WEEKLY COMP. PRES. DOC. 1140 (Nov. 7, 1980).

13. *Id.* at 1141.

14. Under CBI, certain articles from designated Caribbean basin beneficiary countries enter the United States duty-free. See 19 U.S.C.A., *supra* note 1, § 2701 *et seq.* Duty-free treatment under CBI is permanent. In addition, CBI consists of various non-tariff benefits,

certain designated beneficiary countries in the Andean region.¹⁵ On December 4, 1991 in fulfillment of this objective, President Bush signed into law the ATPA, establishing by legislation a special tariff system for Andean countries.

II. SUBSTANTIVE COMPONENTS OF THE ATPA

Under the ATPA, for a period of ten years commencing on December 4, 1991 and ending December 4, 2001, certain eligible articles from designated Andean countries may receive duty-free treatment when imported into the United States. This preferential tariff regime is essentially identical to the tariff regime established under the CBI, except that the CBI regime has been made permanent.

Under the ATPA, only Bolivia, Ecuador, Peru, and Colombia are eligible to be designated as beneficiary countries.¹⁶ On July 2, 1992, President Bush designated Colombia and Bolivia as beneficiary countries under the ATPA. The designation became effective on July 22, 1992.¹⁷ Neither Ecuador nor Peru has yet been designated as a beneficiary country.¹⁸

A. Country Eligibility

The ATPA has certain country practice standards which the President must take into account in his decision to designate a country as a beneficiary country.¹⁹ The President is prohibited under the statute from designating any country as a beneficiary if the country: (1) is a communist country; (2) has expropriated property of a U.S. citizen without providing prompt, adequate and effective compensation, or entering into good faith negotiations to provide prompt, adequate and effective compensation, or submitting the dispute to arbitration under the provisions

including, *inter alia*, a special financing mechanism, scholarship assistance, a pilot customs pre-clearance program, and separate cumulation of imports from CBI beneficiary countries in antidumping and countervailing duty investigations. See Caribbean Basin Economic Recovery Expansion Act of 1990, Pub. L. No. 101-382, 104 Stat. 629, 655. For a detailed description of the CBI, see U.S. Department of Commerce, *1991 Guidebook — Caribbean Basin Initiative* (1991).

15. See 19 U.S.C.A., *supra* note 1, § 2701. Other components of ATI II included expanded agricultural development assistance, the announcement of the results of the special review for the Andean countries conducted under GSP, and reaffirmation of the President's desire to continue encouraging the Andean countries to undertake long-term trade and investment liberalization efforts, *see id.*

16. See *id.* § 3202(b)(1).

17. See Proclamation No. 6455, 57 Fed. Reg. 30069 (July 7, 1992); Proclamation No. 6456, 57 Fed. Reg. 30097 (July 7, 1992).

18. Designation of these two countries has been delayed because both countries have not met the country practice criteria set forth in the ATPA. For a discussion of the ATPA's country practice criteria, see *ATPA Hearings*, *supra* note 3, at 7-9.

19. These country practice standards are identical to the country practice criteria applicable to Caribbean countries under the CBI and similar to those applicable to developing countries under GSP.

of the International Convention for the Settlement of Investment Disputes or another mutually agreed upon forum; (3) fails to act in good faith in recognizing arbitral awards in favor of U.S. citizens; (4) affords preferential treatment to the products of a developed country and such preferential treatment is likely to have a significant adverse impact on United States commerce; (5) engages in the broadcast of copyrighted material without the express consent of the United States copyright owner or the country fails to work toward the provision of adequate and effective protection of intellectual property rights; (6) is not a signatory to a treaty or convention regarding extradition of U.S. citizens; and (7) has not or is not taking steps to provide internationally-recognized worker rights to its workers.²⁰ Under the ATPA, the President can waive certain of these requirements if he determines that waiver is in the economic or national security interests of the United States and reports the reasons for such determination to Congress.²¹

The ATPA also has certain additional factors which the President must take into account in his decision to designate a country as a beneficiary country. These criteria include: (1) the expression by such country of its desire to be designated; (2) the economic conditions in the country, including the living standards of its inhabitants and other economic factors; (3) the extent to which the country has assured the U.S. it will provide equitable and reasonable market access; (4) the degree to which the country follows the rules of international trade as established under the GATT and other trade agreements; (5) the degree to which the country uses export subsidies or imposes export performance or local content requirements; (6) the degree to which the trade policies of the country are contributing to the revitalization of the region; (7) the degree to which the country is undertaking self-help measures to promote its own economic development; (8) whether the country has taken or is taking steps to afford its workers internationally-recognized worker rights; (9) the extent to which the country provides adequate and effective means for foreign nationals to secure, exercise, and enforce intellectual property rights; (10) the extent to which the country prohibits its nationals from engaging in the broadcast of copyrighted material belonging to U.S. copyright owners; (11) whether the country has met the narcotics cooperation certification criteria contained in the Foreign Assistance Act of 1961;²² and (12)

20. See 19 U.S.C.A., *supra* note 1, § 3202(c)(1)-(7).

21. See *id.* The criteria that can be waived if in the national economic or security interests of the United States include whether the country: (1) is a communist country; (2) has expropriated the property of a U.S. citizen without providing prompt adequate and effective compensation; (3) fails to recognize or enforce arbitral award in favor of U.S. citizens; (4) engages in the pirated broadcasts of copyrighted material owned by U.S. citizens or fails to work toward providing adequate and effective protection of intellectual property rights; and (5) has not taken or is not taking steps to afford its workers internationally recognized worker rights, *see id.*

22. Under the Foreign Assistance Act of 1961, as amended, major drug producing countries may receive certain types of U.S. assistance, including duty-free benefits under GSP

the extent to which the country is prepared to cooperate with the United States in the administration of the provisions of the ATPA.²³

Under the ATPA, the President has authority to withdraw or suspend the designation of any country as a beneficiary country, or the application of duty-free treatment to any article from any country, if the President determines that because of changed circumstances the country should no longer be designated as a beneficiary country.²⁴ Before the President renders such a determination, the ATPA provides that written comments from the public will be accepted and a public hearing will be held regarding the proposed action.²⁵ The President is also required to submit to Congress, until the expiration of duty-free benefits under the ATPA, triennial reports concerning the operation of the ATPA, including the results of a general review of the ATPA beneficiary countries' adherence to the ATPA's country practice criteria.²⁶

B. *Product Eligibility*

Under the ATPA, certain products are specifically excluded from eligibility for duty-free treatment. Products specifically excluded are (1) textile and apparel articles subject to textile agreements; (2) footwear except certain disposable items of footwear; (3) canned tuna; (4) petroleum and petroleum products; (5) watches and watch parts with any component from a country not eligible for most-favored-nation tariff treatment; (6) certain leather, rubber, and plastic gloves; (7) luggage, handbags, and flat goods; (8) certain leather wearing apparel;²⁷ (9) certain sugars, syrups

and CBI, only if the President certifies that they have cooperated fully with the U.S., or taken adequate steps on their own, to control narcotics production, trafficking, and money laundering. See 19 U.S.C.A., *supra* note 1, §§ 2491-2495. Countries that otherwise may not meet the certification criteria may nevertheless be certified if certification is in the vital national interests of the United States, *see id.*

23. *See id.* § 3202(d)(1)-(12).

24. *See id.* § 3202(e)(1)(A)-(B).

25. *See id.* § 3202(e)(2)(A)-(B).

26. *See id.* § 3202(f).

27. Although certain leather, rubber, and plastic gloves; certain leather wearing apparel; and luggage, handbags, and flat goods, from designated beneficiary countries are excluded from ATPA duty-free treatment, the ATPA nevertheless reduces the duty-rate for these items when imported from ATPA beneficiary countries. This reduction is equal to 80 percent of the duty rate applicable to the item as of December 31, 1991, except that the reduction may not exceed 2.5 percent *ad valorem*. *See id.* § 3203(c). This reduction is to be implemented in five equal annual stages with the first reduction in the duty rate to apply to entries after January 1, 1992, *see id.* The reduction is in addition to any reduction on duty rates that may be proclaimed as the result of the Uruguay Round of GATT negotiations, except that if the reduction proclaimed is less than 1.5 percent *ad valorem*, the aggregate of the ATPA reduction and the Uruguay Round reduction may not exceed 3.5 percent *ad valorem*. If the Uruguay Round reduction is 1.5 percent of *ad valorem* or greater, the aggregate reduction may not exceed the Uruguay Round reduction plus one percent *ad valorem*, *see id.* The specific Harmonized Tariff Schedule ("HTS") tariff classifications applicable to these items are as follows: leather items — 4202.11.00, 4202.12.20, 4202.12.40, 4202.12.60, 4202.12.80, 4202.19.00, 4202.21.30, 4202.21.60, 4202.21.90, 4202.22.15, 4202.22.40, 4202.22.45,

and molasses; and (10) rum and tafia.²⁸

All other products from a designated beneficiary country are eligible for duty-free treatment under the ATPA.

To qualify for duty-free treatment, an article must be the growth, product, or manufacture of a beneficiary country and imported directly from a beneficiary country into the United States.²⁹ In addition, the sum of the cost or value of the materials produced in the beneficiary country or two or more beneficiary countries, plus the direct cost of processing operations performed in a beneficiary country or countries under the ATPA, must not be less than thirty-five percent of the appraised value of the article at the time it enters the U.S.³⁰ Materials from and processing performed in CBI beneficiary countries can be counted toward the thirty-five percent value-added requirement.³¹ For the purpose of determining

4202.22.60, 4202.22.80, 4202.29.00, 4202.31.60, 4202.32.40, 4202.32.95, 4202.91.00, 4202.92.15, 4202.92.20, 4202.92.30, 4202.92.45, 4202.92.60, 4202.92.90, 4202.99.00, 4203.10.40, 4203.29.08, 4203.29.18; straw and wickerware — 4602.10.21, 4602.10.22, 4602.10.25, 4602.10.29; and gloves and mittens -- 6116.10.17, 6116.10.45, 6116.10.70, 6116.92.64, 6116.92.88, 6116.93.64, 6116.93.88, 6116.99.48, 6216.00.17, 6216.00.18, 6216.00.28, 6216.00.38, and 6216.00.54. U.S. DEP'T OF COMMERCE, GUIDEBOOK TO THE ANDEAN TRADE PREFERENCE ACT 36 (1992) (Appendix B) (hereinafter "ATPA GUIDEBOOK").

28. See 19 U.S.C.A., *supra* note 1, § 3203(b). The HTS tariff classifications for items not eligible for ATPA duty-free treatment, except for textile and apparel articles subject to textile agreements, can be broken down as follows: canned tuna — 1604.14.10, 1604.14.20, 1604.14.30; sugar — 1701.11.03, 1701.12.02, 1701.99.02, 1702.90.32, 1806.10.42, 2106.90.12; rum and tafia — 2208.40.00; petroleum and derivatives — 2709.00.10, 2709.00.20, 2710.00.05, 2710.00.10, 2710.00.15, 2710.00.18, 2710.00.20, 2710.00.25, 2710.00.30, 2710.00.35, 2710.00.40, 2710.00.45; floor coverings — 3921.90.15; footwear — 6401.10.00, 6401.91.00, 6401.92.30, 6401.92.60, 6401.92.90, 6401.99.30, 6401.99.60, 6401.99.80, 6401.99.90, 6402.11.00, 6402.19.10, 6402.19.30, 6402.19.50, 6402.19.70, 6402.19.90, 6402.30.30, 6402.30.50, 6402.30.60, 6402.30.70, 6402.30.80, 6402.30.90, 6402.91.40, 6402.91.50, 6402.91.60, 6402.91.70, 6402.91.80, 6402.91.90, 6402.99.05, 6402.99.10, 6402.99.15, 6402.99.20, 6402.99.30, 6402.99.60, 6402.99.70, 6402.99.80, 6402.99.90, 6403.11.60, 6403.19.15, 6403.19.45, 6403.19.60, 6403.20.00, 6403.30.00, 6403.40.30, 6403.40.60, 6403.51.30, 6403.51.60, 6403.51.90, 6403.59.15, 6403.59.30, 6403.59.60, 6403.59.90, 6403.91.30, 6403.91.60, 6403.91.90, 6403.99.20, 6403.99.40, 6403.99.60, 6403.99.75, 6403.99.90, 6404.11.20, 6404.11.40, 6404.11.50, 6404.11.60, 6404.11.70, 6404.11.80, 6404.11.90, 6404.19.15, 6404.19.20, 6404.19.25, 6404.19.30, 6404.19.35, 6404.19.40, 6404.19.50, 6404.19.60, 6404.19.70, 6404.19.80, 6404.19.90, 6404.20.20, 6404.20.40, 6404.20.60, 6405.10.00, 6405.20.30, 6405.20.60, 6405.20.90, 6405.90.90, 6406.10.05, 6406.10.10, 6406.10.20, 6406.10.25, 6406.10.30, 6406.10.35, 6406.10.40, 6406.10.45, 6406.10.50, 6406.10.77, 6501.00.90, 6503.00.90, 6505.90.30, 6505.90.40, 6505.90.50, 6505.90.60, 6505.90.70, 6505.90.80; glass fibers — 7019.10.10, 7019.10.20, 7019.20.10, 7019.20.20, 7019.20.50; and bedding — 9404.90.10. See ATPA GUIDEBOOK, *supra* note 27, at 31-36 (app.B).

Although the duty-free system in the ATPA is patterned after the duty-free regime in CBI, rum and tafia are not statutorily excluded from duty-free treatment under CBI, while they are statutorily excluded under the ATPA. See *id.*

29. See 19 U.S.C.A. *supra* note 1, § 3203(a)(1)(A). Also, if a product is substantially transformed into a new and different article in a designated ATPA beneficiary country it may be eligible for ATPA duty-free treatment if exported from the beneficiary country to the U.S. See ATPA GUIDEBOOK, *supra* note 27, at 4.

30. See 19 U.S.C.A. *supra* note 1, § 3203(a)(1)(A)-(B).

31. See *id.*

the thirty-five percent value-added requirement, a "beneficiary country" includes Puerto Rico and the U.S. Virgin Islands.³² In addition, fifteen percent of the appraised value attributed to U.S. materials may be applied toward the thirty five percent figure.³³ The ATPA specifically excludes from eligibility for duty-free treatment articles that have merely undergone simple combining or packaging operations, or mere dilution that does not materially alter the article.³⁴

Under the ATPA, the President may suspend duty-free treatment on any eligible article if the action is proclaimed as import relief under Title II of the Trade Act of 1974,³⁵ or for national security reasons under Section 232 of the Trade Expansion of 1962.³⁶

The ATPA also requires that the U.S. International Trade Commission prepare and submit to the U.S. Congress, after the ATPA's first twenty four months and every calendar year thereafter until ATPA duty-free treatment expires, a study regarding the economic impact of the ATPA on United States industries and consumers, and, in conjunction with other U.S. government agencies, an assessment of the ATPA's effectiveness in promoting drug-related crop eradication and crop substitution efforts of the ATPA beneficiary countries.³⁷ In addition, the ATPA requires the Secretary of Labor to, in consultation with other federal agencies, undertake a continuing review and analysis of the effect of the ATPA on U.S. labor and to provide Congress with annual reports regarding the results of this review and analysis.³⁸

III. IMPACT OF ATPA

The benefits provided to the designated beneficiary countries under the ATPA are relatively narrow in scope, but are not necessarily insignificant.³⁹ The benefits are considerably broader than the benefits the An-

32. *See id.*

33. *See id.* The cost or value of materials from non-CBI or ATPA countries (excluding the U.S., Puerto Rico, and the U.S. Virgin Islands) may count toward the 35 percent value-added requirement if the materials are first substantially transformed in a CBI or ATPA beneficiary country into a new and different article, and then substantially transformed a second time upon incorporation into the exported article. *See ATPA GUIDEBOOK, supra* note 27, at pp. 4-5.

34. *See* 19 U.S.C.A., *supra* note 1, § 3203(a)(2)(A)-(B).

35. *See id.* §§ 2251-2253. Title II of the Trade Act of 1974 authorizes the President to take action, which includes the imposition of duties or other import relief, for up to eight years to allow domestic industries that are seriously injured by increasing imports to make a positive adjustment to import competition, *see id.* The ATPA also contains provisions concerning emergency relief for perishable products, *see id.* § 3203(e)(1)-(4).

36. *See* 19 U.S.C. § 1351 (1988). Section 232 of the Trade Expansion Act of 1962 gives the President authority to impose import restrictions, including additional duties, on imports which threaten to impair national security, *see id.*

37. *See* 19 U.S.C.A., *supra* note 1, § 3204(a)-(c).

38. *See id.* § 3205.

39. Although frequently compared to the benefits provided to Caribbean countries under CBI, the ATPA is, in fact, a more limited program. CBI is now a permanent program

dean countries currently receive under GSP. Although a significant percentage of exports from these countries (approximately forty-three percent) already receive GSP or most-favored nation duty-free treatment, under the ATPA an additional \$324 million or six percent of total imports from the four countries based on 1990 figures are eligible for duty-free treatment.⁴⁰

Moreover, because the eligibility of certain articles for duty-free treatment under the ATPA is not subject to the annual review process under the GSP program, the ATPA provides greater certainty with respect to continued receipt of duty-free benefits for those products that are eligible for duty-free treatment under the ATPA.

The ATPA also offers certain advantages over GSP value-added requirements. Under GSP, the thirty-five percent value-added requirement must occur within the beneficiary country. Under the ATPA, the thirty-five percent can include processing or materials from other ATPA beneficiary countries, CBI beneficiary countries, Puerto Rico, and the U.S. Virgin Islands. In addition, U.S. materials can be counted toward the thirty-five percent value-added requirement, up to fifteen percent of the appraised value of the merchandise.

Because it provides broader benefits than GSP and institutionalizes for ten years duty-free access to the U.S. market for certain products, it is hoped that the ATPA will serve as an incentive for farmers in Latin America to engage in legitimate agricultural activities as opposed to coca production. The ATPA is also expected to contribute to further growth in U.S. trade in goods and services with beneficiary countries. The theory is that since the ATPA will contribute to the further growth and development of the Andean countries' economies, demand for U.S. goods and services in those countries will also increase. Moreover, it is anticipated that the ATPA will contribute to increased U.S. investment in the Andean region in light of the low labor costs and additional incentives it creates for exporting to the United States.

Finally, the ATPA has symbolic importance. It is a concrete reflection of the U.S. government's commitment to the Andean region, and its willingness to provide incentives to encourage trade in legitimate products between the U.S. and the Andean countries.

CONCLUSION

Within the context of the Bush Administration's war on drugs, the ATPA grew out of several initiatives and policies aimed at the Andean

that in addition to providing duty-free access for certain articles from the Caribbean, also provides, various non-tariff benefits. *See id.* § 2701. By contrast, the benefits to the four beneficiary countries under the ATPA, are limited to the provision of duty-free treatment for certain exports to the United States, *see id.* § 3202.

40. *See* H.R. Rep. No. 337, 102d Cong., 1st Sess. 8 (1991), *reprinted in* 1991 U.S.C.C.A.N. 820.

region. Although perhaps narrow in scope, the ATPA is not necessarily insignificant. A consideration of the substantive content of the ATPA against the backdrop of the GSP regime reveals that the ATPA is broader and more permanent. Moreover, because the ATPA is a concrete reflection of the Bush Administration's commitment to the Andean region by virtue of the ATPA's geographic focus, the ATPA has symbolic importance. In short, the ATPA is likely to promote trade in legitimate products between the U.S. and the Andean countries and thereby have a positive impact on the Andean region.