Third Report to the Congress on the Operation of the Andean Trade Preference Act as Amended

April 30, 2007

prepared by

THE OFFICE OF THE UNITED STATES
TRADE REPRESENTATIVE

**THIRD REPORT TO CONGRESS ON
THE OPERATION OF
THE ANDEAN TRADE PREFERENCE ACT AS AMENDED**

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EXECUTIVE SUMMARY

The Andean Trade Preference Act (ATPA), as amended by the Andean Trade Promotion and Drug Eradication Act (ATPDEA) (jointly referred to as ATPA/ATPDEA), requires the U.S. Trade Representative to submit a report to Congress on the operation of the program no later than April 30, 2003, and every two years thereafter during the period that the program is in effect. Congress directed that these reports include a general review of the ATPA/ATPDEA beneficiary countries based on the eligibility criteria and considerations described in the statute. This is the third such report, and covers the period 2005 through 2006, 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 set to expire on December 31, 2006. Before the program's expiration, the Congress enacted the Andean Trade Preferences Extension Act (the Act), which extends benefits under ATPA/ATPDEA for Bolivia, Colombia, Ecuador, and Peru through June 30, 2007. The Act grants an additional six-month extension to any beneficiary country that concludes a trade promotion agreement with the United States, provided the Congress and that country's legislature both approve the agreement by June 30, 2007.

The objectives of the ATPA/ATPDEA are to promote broad-based economic development, diversification of exports, consolidation of democracy, and to defeat the scourge of drug trafficking by providing sustainable economic alternatives to drug-crop production in Bolivia, Colombia, Ecuador, and Peru. This report shows that the ATPA/ATPDEA continues to achieve this goal. Furthermore, the United States is the leading source of imports and the leading export market for each of the ATPA/ATPDEA beneficiary countries. The four Andean countries collectively represented a market of about $11.6 billion for U.S. exports in 2006, and were home to about $8.2 billion in U.S. foreign direct investment in 2005. Thus, the ATPA/ATPDEA has benefited the trade of both the Andean region and the United States.

In furtherance of ATPA/ATPDEA's objectives, in May 2004, the United States initiated free trade agreement (FTA) negotiations with Colombia, Ecuador and Peru, 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 United States and Colombia concluded negotiations on the United States-Colombia Trade Promotion Agreement (CTPA) on February 27, 2006 and signed the agreement on November 22, 2006. Negotiations with Ecuador took place through March 2006, but no date has been set to continue the negotiations. Negotiations with Bolivia were not initiated.

The trade agreements concluded with Peru and Colombia contain affirmative obligations related to strong protection of intellectual property rights, strong protection for investors, and protections for labor and the environment. Both agreements provide for the elimination of previously identified barriers to trade and investment.

The report is organized as follows. Chapter 1 briefly describes the key sections of the ATPA/ATPDEA, including the ATPDEA requirements and the designation of ATPDEA beneficiary countries. Chapter 2 highlights trade between the United States and the ATPA/ATPDEA beneficiary countries. It notes that U.S. trade with the countries has continued to grow substantially during the two years since the submission of the last report on the operation of the ATPA/ATPDEA. In 2006, two-way trade increased 18 percent, following a 25 percent increase in 2005. Chapter 3 evaluates the beneficiary countries' compliance with the eligibility criteria in the statute and discusses the ATPA/ATPDEA's effect on economic development and the creation of viable economic alternatives to coca production in each of the beneficiary countries. The report concludes that the countries have been meeting the eligibility criteria of the program, but that there are several areas that they should continue to address. The chapter also finds that the program is having a positive effect on the countries' economic development, which in turn supports their counternarcotics efforts.

Chapter 4 summarizes private sector and non-governmental organization responses to the Administration's Federal Register notice requesting 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 pr

Chapter 1

DESCRIPTION OF THE ATPA/ATPDEA

Key Provisions

ATPA was enacted in December 1991, to help four Andean countries (Bolivia, Colombia, Ecuador, and Peru) in their fight against drug production and trafficking by expanding their economic alternatives. To this end, the ATPA provides reduced-duty or duty-free treatment to most of these countries' exports to the United States.

ATPDEA, which renewed and amended ATPA, was enacted on August 6, 2002, as part of the Trade Act of 2002. The renewal of the ATPA was retroactive to December 4, 2001, the date on which it had expired. The ATPDEA program provides for the possibility of enhanced trade benefits for the four ATPA beneficiary countries. The ATPDEA amended ATPA to provide duty-free treatment for certain products previously excluded under the ATPA. 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 set to expire on December 31, 2006. Before its expiration, Congress enacted the Andean Trade Preferences Extension Act (the "Act"), which extends benefits under ATPA/ATPDEA for Bolivia, Colombia, Ecuador, and Peru through June 30, 2007. The Act grants an additional six-month extension to any beneficiary country that concludes a trade promotion agreement with the United States, provided the Congress and that country's legislature both approve the agreement by June 30, 2007.

These four Andean countries are also beneficiaries of the U.S. Generalized System of Preferences (GSP) program. The ATPA/ATPDEA offers broader product coverage than the GSP, thus augmenting the benefits of the GSP for the four countries. In addition, U.S. imports under the ATPA/ATPDEA are not subject to the GSP's competitive need limitations or its country graduation requirements.

In response to the requirement in Section 3103(d) of the Trade Act of 2002, USTR published final regulations establishing a petition process relating to the eligibility of the countries for the benefits of the program. (These regulations may be found at 15 CFR 2016.) Pursuant to these regulations, USTR conducted reviews of petitions at least on an annual basis through the program's initial expiration on December 31, 2006. The President has the authority to withdraw or suspend ATPA/ATPDEA designation, or withdraw, suspend or limit benefits if a country's performance under the eligibility criteria had been found to be no longer satisfactory.

Country Eligibility

Under the ATPA/ATPDEA, Bolivia, Colombia, Ecuador, and Peru are the only countries eligible to be designated by the President as ATPA/ATPDEA beneficiary countries and the President has designated all four countries as ATPA/ATPDEA beneficiary countries. Although Venezuela is a member of the Andean Community along with the four ATPA/ATPDEA beneficiary countries, Venezuela is not eligible under the statute to be designated as an ATPA/ATPDEA beneficiary country.

Each ATPA/ATPDEA beneficiary country is eligible for the enhanced trade benefits of the ATPDEA, if the President designates it as an ATPDEA beneficiary country, taking into account: (1) the criteria contained in sections 203(c) and 203(d) of the ATPA/ATPDEA; and (2) additional eligibility criteria provided for in section 204(b)(6)(B) of the ATPA/ATPDEA. These criteria are discussed in detail in Chapter 3, which also contains a discussion of each country's compliance with the criteria since being designated. These four countries have also satisfied the requirements of section 204(b)(5)(A)(ii)(I) of the ATPA/ATPDEA, related to customs cooperation.

Product Eligibility

Section 204 of the ATPA/ATPDEA identifies the articles eligible for preferential treatment. Duty-free treatment applies only to articles that meet the program's rules of origin, including a requirement that the sum of the cost or value of the inputs produced in the beneficiary country and the cost of processing operations performed in the country must not be less than 35 percent of the value of the article. Inputs from other ATPA/ATPDEA beneficiary countries, Puerto Rico, the U.S. Virgin Islands, and beneficiaries of the Caribbean Basin Economic Recovery Act (CBERA) may be counted toward the 35 percent requirement.

As noted, the ATPDEA renewed the ATPA and amended it to provide preferential treatment for certain previously excluded products, including: certain textile and apparel articles, footwear, tuna packaged in foil or other flexible packages, petroleum and petroleum derivatives, watches and watch parts, and certain leather goods. Inclusion of all of the new benefits, except textiles and apparel articles, was subject to a Presidential determination that they are not import sensitive in the context of imports from ATPDEA beneficiary countries. The President did determine that certain footwear articles were import sensitive, as reflected in Presidential Proclamation 7616. In addition, the following products continue to be excluded by statute from receiving preferential treatment: textile and apparel articles not otherwise eligible for preferential treatment under the ATPDEA; rum and tafia; above-quota imports of certain agricultural products subject to tariff rate quotas (TRQs), including sugars, syrups and sugar-containing products; and tuna in cans.

Petition Process

Pursuant to Section 3103(d) of the ATPDEA, in July 2003, USTR promulgated regulations (15 CFR Part 2016) (68 Fed. Reg. 43922) regarding reviews of the eligibility of countries and articles under the ATPA as amended. Under these provisions, USTR conducts reviews and provides an opportunity for the submission of petitions for the withdrawal or suspension of certain benefits of the program. Petitions must indicate the eligibility criterion that the petitioner believes warrants review. USTR, on behalf of the Trade Policy Staff Committee (TPSC), publishes a list of the responsive petitions filed. The Andean Subcommittee of the TPSC conducts a preliminary review of the petitions. Based on the results of the reviews, the U.S. Trade Representative has not recommended the withdrawal or suspension of ATPA/ATPDEA designation, or the withdrawal, suspension or limitation of benefits for any of the beneficiary countries.

Safeguard Provisions

Section 204(d) of the ATPA authorizes the President to suspend duty-free treatment under the ATPA, if temporary import relief is proclaimed for an article pursuant to Chapter 1 of Title II of the Trade Act of 1974 ("global safeguards") or Section 232 of the Trade Expansion Act of 1962. Section 204(e) of the ATPA provides for emergency relief from imports of perishable products from beneficiary countries, and specifies the procedures for using these safeguard provisions.

Since 1991, the U.S. Government has taken two global safeguard measures that affected imports from the region. In February 2000, the President suspended duty-free treatment of steel wire rod and welded line pipe from ATPA beneficiary countries in two separate actions under the U.S. global safeguard law. In 1996, the President instituted a global safeguard action and suspended duty-free treatment of corn brooms for the period November 28, 1996, through November 27, 1999. This affected imports of corn brooms from Colombia.

Reports on the Impact of the ATPA

Section 206 of the ATPA requires the U.S. International Trade Commission (USITC) to submit annual reports to the Congress on the impact of the ATPA on the U.S. economy generally and on U.S. industries and consumers, and its effectiveness in promoting drug-related crop eradication and crop substitution efforts of beneficiary countries. The USITC submitted its most recent (Twelfth) report covering 2005 to Congress in September 2006.

The USITC reports have consistently found that the overall effect of imports benefiting exclusively under the ATPA program (i.e., those ineligible for other tariff preferences) on the U.S. economy and consumers, including in the year 2005, has been negligible. The twelfth report estimated that U.S. imports of ATPA/ATPDEA-preference products could have potentially significant effects on domestic industries producing asparagus; fresh-cut roses; and fresh-cut chrysanthemums, carnations, anthuriums, and orchids. This report also found that the ATPA/ATPDEA continues to have a positive (albeit small and indirect) effect on drug-crop eradication and crop substitution, as well as job growth in export-oriented industries, in the Andean region.

Section 207 of the ATPA/ATPDEA directs the Secretary of Labor, in consultation with other appropriate Federal agencies, to undertake a continuing review and analysis of the impact of the ATPA/ATPDEA on U.S. labor. The Secretary of Labor is required to report to Congress annually on the results of such review and analysis. The Department of Labor's most recent (Thirteenth) report covering 2004 to 2005 was submitted in Congress in 2006. The Department of Labor's reports have consistently found that the ATPA/ATPDEA does not appear to have had an adverse impact on, or to have constituted a significant threat to, U.S. employment. The Thirteenth Report found that although declines in production and possibly employment in some sectors of the cut flower industry (standard carnations, standard and pompon chrysanthemums, and roses) may have been affected by ATPA/ATPDEA tariff preferences, other factors might also have contributed to production and employment declines.

Chapter 2

U.S. TRADE WITH ATPA/ATPDEA COUNTRIES

U.S. trade with the ATPA/ATPDEA countries has continued to grow substantially during the two years since the submission of the last report on the operation of the ATPA/ATPDEA. In 2006, two-way trade increased 18 percent, following a 25 percent increase in 2005. Strong, but not spectacular, economic performance in the United States as well as in each of the four ATPA/ATPDEA countries in 2006 fueled trade in both directions. U.S. imports from the region grew 12 percent to $22.5 billion in 2006 compared with 2005 and U.S. exports grew 30 percent to $11.6 billion, resulting in a trade deficit of $10.9 billion in 2006. Since 1991 when ATPA was enacted, U.S. imports from the region were 4.5 times higher and U.S. exports have tripled.

Table 2-1.--U.S. Trade with ATPA/ATPDEA Countries, 1991 - 2006

Year	U.S. Exports*	ATPA/ATPDEA Countries' Share of U.S. Exports to the World	U.S. Imports**	ATPA/ATPDEA Countries' Share of U.S. Imports from the World	U.S. Trade Balance
	Million $$	Percent	Million $$	Percent	Million $$
1991	3,798.2	0.9	4,969.5	1.0	-1,171.3
1992	5,319.7	1.3	5,058.7	1.0	261.0
1993	5,359.1	1.2	5,282.3	0.9	76.7
1994	6,445.0	1.3	5,879.5	0.9	565.5
1995	7,820.2	1.4	6,968.7	0.9	851.4
1996	7,718.7	1.3	7,867.6	1.0	-148.9
1997	8,681.8	1.3	8,673.6	1.0	8.2
1998	8,670.1	1.4	8,361.0	0.9	309.1
1999	6,263.2	1.0	9,830.2	1.0	-3,567.0
2000	6,295.1	0.9	11,117.2	0.9	-4,822.1
2001	6,363.3	1.0	9,568.7	0.8	-3,205.3
2002	6,463.8	1.0	9,611.5	0.8	-3,147.7
2003	6,525.7	1.0	11,639.5	0.9	-5,113.8
2004	7,663.6	1.1	15,489.8	1.1	-7,826.2
2005	8,919.1	1.1	20,060.1	1.2	-11,141.0
2006	11,636.5	1.3	22,510.6	1.2	-10,874.1
*Domestic Exports, F.A.S. basis					
**Imports for consumption, customs value					
Source: Compiled from official statistics of the U.S. Department of Commerce					

U.S. Imports From ATPA/ATPDEA Beneficiaries

U.S. imports from ATPA/ATPDEA countries reached record levels in 2005 and again in 2006. They rose 12 percent in 2006 to $22.5 billion following a 30 percent increase in 2005. U.S. imports from ATPA/ATPDEA countries also increased during this time period as a share of U.S. imports from the world, accounting for 1.2 percent of total U.S. imports in 2006, the highest share recorded since ATPA was enacted in 1991.

U.S. imports from ATPA/ATPDEA countries consist primarily of derivatives of raw materials, agricultural products and apparel. Mineral fuels, mainly petroleum, accounted for 50 percent of imports in 2006, up from 45 percent in 2004. In 2006, higher oil prices were primarily responsible for the increased share since the quantity of crude oil imports fell. Other leading imports from ATPA/ATPDEA countries in 2006 were precious metals, gemstones and jewelry, primarily nonmonetary gold; apparel; copper articles, primarily cathodes; coffee; fruits and nuts, primarily bananas; cut flowers; fish and crustaceans; unwrought tin; and edible vegetables, primarily asparagus.

Over 90 percent of U.S. imports from ATPA/ATPDEA countries now enter the U.S. market duty-free under ATPA/ATPDEA, GSP, or Normal Trade Relations (NTR) tariff rates (formerly known as Most Favored Nation (MFN) duty rates). (See Table 2-2.) All 20 leading imports from the region were eligible for duty-free treatment in 2006. With the implementation of ATPDEA in late 2002, the duty-free portion of U.S. imports jumped from approximately 53 percent in 2002, to 85 percent in 2003 and 93 percent in 2006. Thirty-one percent of U.S. imports from the region entered duty free under NTR tariff rates in 2006. Such traditional U.S. imports from ATPA countries as coffee, bananas, shrimp, and bituminous coal enter the U.S. market NTR duty-free. Another 2 percent of U.S. imports entered under the GSP. Sixty percent of imports from the region entered under ATPA/ATPDEA in 2006, rising from 50 percent in 2003 and an average of 18 percent in the three years prior to the implementation of ATPDEA.

U.S. imports under ATPA/ATPDEA preferences climbed 18 percent to $13.5 billion in 2006 from $11.5 billion in 2005. About 78 percent, or $10.6 billion, represented U.S. imports under ATPDEA. U.S. imports under the original ATPA (ATPA excluding ATPDEA) accounted for the remaining 22 percent, or $2.9 billion. Imports under both ATPDEA and the original ATPA increased in 2006, by 14 percent and 35 percent, respectively.

Petroleum-based imports accounted for just over two-thirds (68 percent) of U.S. imports under ATPA/ATPDEA in 2006. Apparel was the next largest category of imports under ATPA/ATPDEA, accounting for 10 percent of the total. The third largest category of imports under ATPA/ATPDEA in 2006 was copper cathodes, and cut flowers, ranked fourth. Other important imports under ATPA/ATPDEA were gold jewelry, asparagus, and sugar. U.S. imports of all of these products increased in 2006 compared to 2005, although the gains were weak for gold jewelry and especially apparel.

Table 2-2.--U.S. Imports from ATPA/ATPDEA Countries, Total and Under Import Programs, 2004-2006, (*thousands of dollars*)							
Country	Import Program	2004	Percent of total	2005	Percent of total	2006	Percent of total
Bolivia	Total	260,830	100.0	293,324	100.0	362,449	100.0
.	GSP	16,632	6.4	26,825	9.1	21,667	6.0
.	ATPA[1]	75,609	29.0	77,325	26.4	107,060	29.5
.	ATPDEA	44,753	17.2	80,061	27.3	59,156	16.3
	MFN free	99,466	38.1	98,229	33.5	141,091	38.9
Colombia	Total	7,360,558	100.0	8,770,270	100.0	9,239,815	100.0
.	GSP	186,569	2.5	188,907	2.2	181,626	2.0
.	ATPA[1]	717,113	9.7	820,337	9.4	926,980	10.0
.	ATPDEA	3,171,775	43.1	3,832,911	43.7	3,864,207	41.8
	MFN free	2,248,856	30.6	2,865,488	32.7	3,289,799	35.6
Ecuador	Total	4,183,617	100.0	5,873,933	100.0	7,011,414	100.0
.	GSP	49,604	1.2	57,700	1.0	71,222	1.0
.	ATPA[1]	272,202	6.5	300,596	5.1	325,753	4.6
.	ATPDEA	2,475,133	59.2	4,070,058	69.3	4,999,441	71.3
	MFN free	792,204	18.9	918,008	15.6	1,128,223	16.1
Peru	Total	3,684,761	100.0	5,122,590	100.0	5,896,917	100.0
.	GSP	107,211	2.9	174,802	3.4	179,384	3.0
.	ATPA[1]	771,445	20.9	962,473	18.8	1,565,255	26.5
.	ATPDEA	831,228	22.6	1,320,188	25.8	1,636,596	27.8
	MFN free	1,898,037	51.5	2,497,968	48.8	2,399,510	40.7
All ATPA countries	Total	15,489,766	100.0	20,060,117	100.0	22,510,596	100.0
	GSP	360,016	2.3	448,234	2.2	453,900	2.0
	ATPA[1]	1,836,369	11.9	2,160,731	10.8	2,925,048	13.0
	ATPDEA	6,522,889	42.1	9,303,218	46.4	10,559,400	46.9
	MFN free	5,038,562	32.5	6,379,693	31.8	6,958,624	30.9
[1] ATPA in this table refers to the original ATPA (ATPA excluding ATPDEA).							
Source: Compiled from official statistics of the U.S. Department of Commerce.							

U.S. Imports under the ATPA/ATPDEA by Country

Colombia has been the leading source of U.S. imports under the ATPA/ATPDEA in every year since the program began, except 2000 and 2006. In 2006, Ecuador provided 39 percent of all U.S. imports under the ATPA/ATPDEA, rising to the leading source on the strength of imports of petroleum products. Colombia ranked second, with 36 percent; Peru was third, with 24 percent; and Bolivia was fourth, with 1 percent of the total. (See Table 2-3.) With the eligibility of petroleum products under the ATPDEA, Ecuador displaced Peru as the second largest source of U.S. imports under the ATPA in 2003.

In 2006, ATPA/ATPDEA entries from Ecuador increased 22 percent, from $4.4 billion in 2005 to $5.3 billion in 2006. The leading U.S. import under ATPA/ATPDEA was petroleum products ($4.9 billion), which accounted for 92 percent of U.S. imports under ATPA/ATPDEA from Ecuador in 2006. U.S. imports of petroleum products have climbed significantly since the completion of the Transandean heavy crude pipeline in 2003 and the increase of world petroleum prices in recent years. The second largest ATPA/ATPDEA entry was cut flowers ($141 million), which increased 9 percent in 2006. Other important ATPA/ATPDEA entries in 2006 were tuna ($82 million); fruits, including primarily fresh mangoes and pineapples and frozen fruits ($30 million); vegetables ($28 million); and fruit and vegetable preparations ($24 million). U.S. imports of all of these product categories increased in 2006 compared to 2005.

Table 2-3.--U.S. Imports for Consumption under the ATPA, by Country, 2004-2006

Country	2004	2005	2006	2006 share of total
	1,000 dollars	*1,000 dollars*	*1,000 dollars*	*Percent*
Ecuador	2,747,335	4,370,654	5,325,193	39.5
Colombia	3,888,888	4,653,248	4,791,187	35.5
Peru	1,602,673	2,282,661	3,201,851	23.7
Bolivia	120,363	157,386	166,216	1.2
Total	8,359,258	11,463,949	13,484,448	100.0

Source: Compiled from official statistics of the U.S. Department of Commerce.

In 2006, U.S. imports under the ATPA/ATPDEA from Colombia rose 3 percent to $4.8 billion. Petroleum-related products was the dominant category ($3.4 billion), accounting for 71 percent of ATPA entries from Colombia in 2006. The second largest U.S. import under ATPA/ATPDEA was apparel ($453 million), and the third largest was cut flowers ($448 million). These two products each accounted for 9 percent of ATPA/ATPDEA entries from Colombia in 2006. Other imports under ATPA/ATPDEA from Colombia were plastics ($85 million), aluminum products ($76 million), ceramics ($59 million), and sugar ($47 million), all of which increased in 2006 compared with 2005, except apparel and plastics.

U.S. imports under the ATPA/ATPDEA from Peru increased 40 percent, from $2.3 billion in 2005 to $3.2 billion in 2006. The leading ATPA/ATPDEA entry from Peru was refined copper cathodes, which increased 78 percent to $993 million in 2006, accounting for 31 percent of total ATPA/ATPDEA entries from Peru. The second largest U.S. import under ATPA/ATPDEA was apparel, which increased 5 percent to $826 million in 2006. Other leading ATPA entries from Peru included petroleum products ($808 million), fresh asparagus ($130 million), jewelry and parts ($77 million), and vegetable and fruit preparations, primarily artichokes and asparagus ($77 million), all of which increased in 2006 compared to the previous year, except for jewelry and parts, which fell 2 percent.

U.S. imports under the ATPA from Bolivia rose 6 percent, from $157 million in 2005 to $166 million in 2006. The top U.S. import under ATPA/ATPDEA from Bolivia was jewelry (primarily gold) and parts, which accounted for 28 percent of ATPA/ATPDEA entries in 2006. U.S. imports of jewelry and parts from Bolivia increased 16 percent, from $65 million in 2005 to $75 million in 2006. The second largest ATPA/ATPDEA entry was apparel ($31 million), which accounted for 21 percent of ATPA/ATPDEA entries from Bolivia in 2006. Apparel imports under ATPA/ATPDEA fell 12 percent from 2005 to 2006. Other leading ATPA/ATPDEA entries in 2006 were petroleum products ($27 million), tungsten concentrates ($17 million), and raw cane sugar ($7 million).

U.S. Exports To ATPA/ATPDEA Beneficiaries

U.S. exports to ATPA/ATPDEA countries grew 30 percent in 2006 to $11.6 billion, faster than the 16-percent increase recorded for all U.S. exports. As a result, the ATPA/ATPDEA countries' share of U.S. exports to the world grew to 1.3 percent in 2006. (See Table 2-1.)

The leading category of U.S. export to ATPA/ATPDEA countries in 2006 was nonelectrical machinery, equipment, appliances, and parts, which accounted for 22 percent of total U.S. exports to the region. U.S. exports of nonelectrical machinery and parts, destined principally for oil and gas extraction, mining, and data processing, increased 33.6 percent to $2.6 billion in 2006. U.S. exports of mineral fuels, primarily refined petroleum products, which was the second largest export, increased 90 percent in 2006 to $1.3 billion. All other categories of U.S. exports among the top ten to the region also increased in 2006 compared to the previous year, including electrical machinery ($973 million); organic chemicals ($930 million); plastics ($704 million); and cereals ($582 million).

Colombia was the largest market for U.S. exports at $6.2 billion, representing 54 percent of U.S. exports to ATPA countries in 2006. Peru ranked second with $2.7 billion in U.S. goods, Ecuador was third with $2.5 billion, and Bolivia was fourth with $197 million. U.S. exports to each of the ATPA countries increased in 2006.

Chapter 3

COUNTRY ELIGIBILITY REPORTS

This chapter first outlines the detailed country eligibility criteria in the ATPA/ATPDEA and proceeds to discuss each of the four beneficiaries' performance under the criteria. Each country report also examines the effects of the ATPA/ATPDEA on trade, investment and economic development in the beneficiary country and on creating sustainable economic alternatives to coca production. These country reports are based on information provided by U.S. embassies in the region. They are an update to USTR's April 30, 2005, Second Report to the Congress on the Operation of the Andean Trade Preference Act as Amended.

As summarized below, the ATPA/ATPDEA contains two types of criteria: mandatory and discretionary. The President may not designate an ATPA/ATPDEA country as a beneficiary if the country fails to meet the mandatory criteria, described in the statute as "limitations on designation," unless the President finds that designation would be in the national economic or security interest of the United States. The President must take the discretionary criteria, described in the statute as "factors affecting designation," into account in determining whether to designate any country a beneficiary country, but he is not barred from designating a beneficiary a country that fails to meet those criteria.

SUMMARY OF ELIGIBILITY CRITERIA

Mandatory criteria *(for renewed ATPA benefits and ATPDEA benefits)*:

The President shall not designate any country:

(1) if such country is a Communist country;

(2) if such country:

- has nationalized, expropriated or otherwise seized ownership or control of property owned by a United States citizen or by a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens,
- has taken steps to repudiate or nullify any existing contract or agreement with, or any patent, trademark, or other intellectual property of, a United States citizen or a corporation, partnership, or association, which is 50 percent or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property so owned, or
- has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property, unless the President determines that:
  - prompt, adequate, and effective compensation has been or is being made to such citizen, corporation, partnership, or association,
  - good-faith negotiations to provide prompt, adequate, and effective compensation under the applicable provisions of international law are in

progress, or such country is otherwise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or

- a dispute involving such citizen, corporation, partnership or association, over compensation for such a seizure has been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or in another mutually agreed upon forum,

and promptly furnishes a copy of such determination to the Senate and House of Representatives;

(3) if such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute;

(4) if such country affords preferential treatment to the products of a developed country, other than the United States, and if such preferential treatment has, or is likely to have, a significant adverse effect on United States commerce, unless the President:

- has received assurances satisfactory to him that such preferential treatment will be eliminated or that action will be taken to assure that there will be no such significant adverse effect, and
- reports those assurances to the Congress;

(5) if a government-owned entity in such country engages in the broadcast of copyrighted material, including films or television material, belonging to United States copyright owners without their express consent or such country fails to work towards the provision of adequate and effective protection of intellectual property rights;

(6) unless such country is a signatory to a treaty, convention, protocol, or other agreement regarding the extradition of United States citizens; and

(7) if such country has not or is not taking steps to afford internationally recognized worker rights (as defined in section 507(4) of the Trade Act of 1974) to workers in the country (including any designated zone in that country).

The first, second, third, fifth, and seventh criteria shall not prevent the designation of any country as a beneficiary country under this title if the President determines that such designation will be in the national economic or security interest of the United States and reports such determination to the Congress with his reasons therefore.

Discretionary criteria *(for renewed ATPA benefits and ATPDEA benefits)*:

(1) an expression by such country of its desire to be so designated;

(2) the economic conditions in such country, the living standards of its inhabitants, and any other economic factors which he deems appropriate;

(3) the extent to which such country has assured the United States it will provide equitable and reasonable access to the markets and basic commodity resources of such country;

(4) the degree to which such country follows the accepted rules of international trade provided for under the WTO Agreement and the multilateral trade agreements (as such terms are defined in paragraphs (9) and (4), respectively, of section 2 of the Uruguay Round Agreements Act);

(5) the degree to which such country uses export subsidies or imposes export performance requirements or local content requirements which distort international trade;

(6) the degree to which the trade policies of such country as they relate to other beneficiary countries are contributing to the revitalization of the region;

(7) the degree to which such country is undertaking self-help measures to protect its own economic development;

(8) whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights;

(9) the extent to which such country provides under its law adequate and effective means for foreign nationals to secure, exercise, and enforce exclusive rights in intellectual property, including patent, trademark, and copyright rights;

(10) the extent to which such country prohibits its nationals from engaging in the broadcast of copyrighted material, including films or television material, belonging to United States copyright owners without their express consent;

(11) whether such country has met the narcotics cooperation certification criteria set forth in section 481(h)(2)(A) *[deemed to be a reference to section 490 of the Foreign Assistance Act of 1991 by section 6(a) of Public Law 102-583]* of the Foreign Assistance Act of 1961 for eligibility for United States assistance; and

(12) the extent to which such country is prepared to cooperate with the United States in the administration of the provisions of the Andean Trade Preference Act, as amended.

Discretionary criteria *(for ATPDEA benefits only)*:

(1) Whether the beneficiary country has demonstrated a commitment to undertake its obligations under the WTO, including those agreements listed in section 101(d) of the Uruguay Round Agreements Act, on or ahead of schedule, and participate in negotiations toward the completion of the FTAA or another free trade agreement;

(2) the extent to which the country provides protection of intellectual property rights consistent with or greater than the protection afforded under the Agreement on Trade-Related Aspects of Intellectual Property Rights described in section 101(d)(15) of the Uruguay Round Agreements Act;

(3) the extent to which the country provides internationally recognized worker rights, including:

- the right of association;
- the right to organize and bargain collectively;
- a prohibition on the use of any form of forced or compulsory labor;
- a minimum age for the employment of children; and
- acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health;

(4) whether the country has implemented its commitments to eliminate the worst forms of child labor, as defined in section 507(6) of the Trade Act of 1974;

(5) the extent to which the country has met the counternarcotics certification criteria set forth in section 490 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(j)) for eligibility for United States assistance;

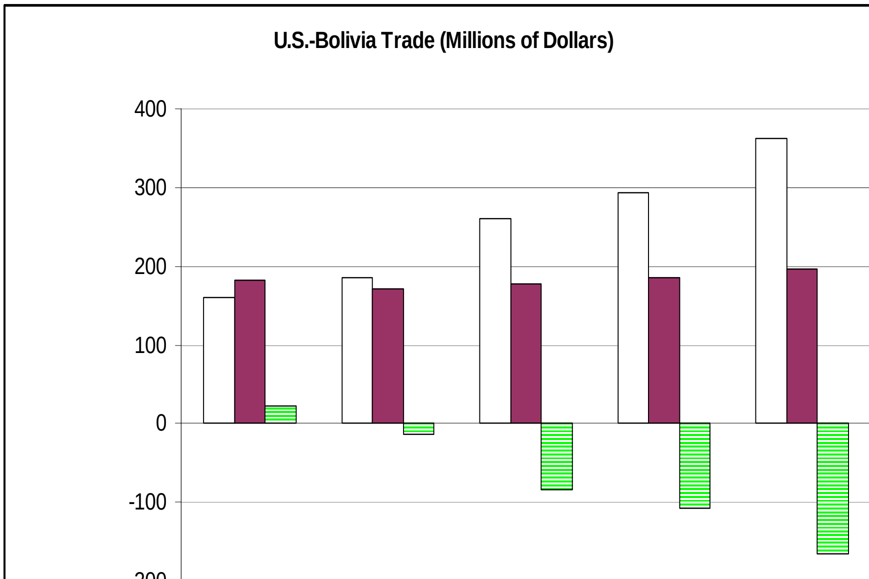
(6) the extent to which the country has taken steps to become a party to and implements the Inter-American Convention Against Corruption;

(7) the extent to which the country applies transparent, nondiscriminatory, and competitive procedures in government procurement equivalent to those contained in the Agreement on Government Procurement described in section 101(d)(17) of the Uruguay Round Agreements Act, and contributes to efforts in international fora to develop and implement rules on transparency in government procurement; and

(8) the extent to which the country has taken steps to support the efforts of the United States to combat terrorism.

BOLIVIA

Population: 8,989,046
(July 2006 est.)
GDP per capita,
purchasing power parity:
$3,000
(2006 est.)
Source: 2007 World Fact Book



	2002	2003	2004	2005	2006
US Imports	160	185	261	293	362
US Exports	182	172	177	186	197
Trade Balance	22	-13	-84	-108	-165

Effect of the ATPA/ATPDEA: In 2006, U.S. goods imports from Bolivia totaled $362 million, up 24 percent from 2005. U.S. imports under ATPA/ATPDEA from Bolivia rose 6 percent, from $157 million in 2005 to $166 million in 2006. U.S. imports of jewelry and parts from Bolivia increased 16 percent, from $65 million in 2005 to $75 million in 2006. The second largest ATPA/ATPDEA product from Bolivia was apparel, totaling $31 million; however, this marked a decrease of 12 percent from 2005 to 2006. Other leading ATPA/ATPDEA exports were petroleum products, raw cane sugar, leguminous vegetables, sweet onions, palm hearts, and dried beans.

Despite this growth, Bolivia has faced difficulties taking full advantage of ATPA/ATPDEA opportunities. Social and political unrest has discouraged investment in ATPA/ATPDEA-related industries, and the Bolivian government has been ineffective in the dissemination of information about the ATPA/ATPDEA program and the general promotion of Bolivian exports. Tax advantages for exporters are cumbersome and only cost effective for large producers and small scale industries lack large-scale job training programs. In addition, lack of knowledge of the U.S. market among Bolivian firms limits sales, as does the failure to meet quality and service standards required by U.S. buyers.

Still, ATPA/ATPDEA continues to be an important means of nurturing an entrepreneurial class and a vibrant small business sector. Certain ATPA/ATPDEA-linked industries, like textiles and apparel, have grown dramatically in the last few years, and many small and medium-sized businesses are successfully exporting labor-intensive goods to the United States under ATPA/ATPDEA. With unemployment at an estimated 7.9 percent in 2006 and underemployment believed to be much higher, ATPA/ATPDEA-related jobs are critical to the Bolivian economy. The Bolivian government estimates that ATPA/ATPDEA-linked industries provide 23,000 direct and indirect jobs, with approximately 10,000 laborers in the textile and apparel industry alone.

Expropriations: Article 22 of the Bolivian Constitution provides that property may be expropriated for the public good or when the property does not fulfill a “social purpose,” a term that is not fully defined in Bolivian law. Article 22 also stipulates that just compensation must be provided. Economic regulatory laws grant concessions to exploit natural resources such as hydrocarbons and minerals. The laws also provide a means of expropriating land and guaranteeing rights of way needed to develop concessions.

In 2000, the Bolivian government cancelled a water concession granted to an international consortium in the city of Cochabamba, an action that constituted a legal expropriation. Lengthy negotiations resulted in a settlement in December 2005, when the Bolivian government acquired 80 percent ownership of the consortium and freed its members of all liabilities related to the concession.

In 2005, the Bolivian government enacted a supreme decree to amend and dissolve a water concession in the city of El Alto. The international operator left Bolivia in January 2007 after the Bolivian government agreed to assume the firm’s outstanding debts and compensate shareholders for the company’s investment.

In 2006, the Bolivian government issued a supreme decree “nationalizing” the hydrocarbons sector. The decree restated the provisions of a 2005 law, giving companies six months to negotiate new service contracts, transferring to the state control over the entire production chain, and offering YPFB, the state-owned oil company, a majority share of five companies, including two with U.S. investment. All production companies signed new contracts in October 2006, just days before the negotiation deadline. The companies agreed to pay 50 percent in taxes and royalties, plus a varying stake for YPFB ranging from zero to 32 percent. As of April 2007, the new contracts were awaiting approval by the Bolivian Congress. Separate negotiations between the Bolivian government and the five companies destined for YPFB takeover were ongoing.

Arbitral Awards: Bolivia is a member of the International Centre for Settlement of Investment Disputes (ICSID). The Bolivian government accepts binding international arbitration in all sectors. The Investment Law (Law 1182, 1990) provides for arbitration in accordance with the Bolivian Constitution and international norms, while the Arbitration and Conciliation Law (Law 1770, 1997) outlines arbitration procedures and enforcement mechanisms. The law states that international agreements, such as the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID Convention) and the New York Convention of 1958 on the Recognition and Enforcement of Foreign Arbitral Awards, must be honored. It also mandates the recognition of foreign decisions and awards and establishes procedures for the Supreme Court’s execution of decisions.

Reverse Preferences: The U.S. Government has no indication that Bolivia has granted such preferences to the products of a developed nation.

Intellectual Property: Patents, trademarks, and industrial designs are protected by Andean Community Decisions 486 (Common Industrial Property Regime) and 345 (Common Provisions on the Protection of the Rights of Breeders of New Plant Varieties). Copyrights are protected by Andean Community Decision 351 (Common Regime on Copyright and Neighboring Rights). These decisions, adopted in 2000, 1992, and 1993, respectively, represent a significant improvement over earlier standards of intellectual property protection in Bolivia. Inadequacies remain in some areas, including copyright law, and IPR enforcement is inconsistent.

The Bolivian government is a member of the following international conventions that concern intellectual property:

- World Intellectual Property Organization Convention;
- Paris Convention for the Protection of Industrial Property;
- Berne Convention for the Protection of Literary and Artistic Works;
- Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations; and
- Nairobi Treaty (Olympic Symbol).

Bolivia has been on the Special 301 Watch List since October 1996. The International Intellectual Property Alliance (IIPA) estimates that trade losses due to copyright infringement in Bolivia in 2005 amounted to $21.8 million, with $15.8 million from the recording industry and $6.0 million from software. Estimates on losses to the film and videogame industries are not available, although pirated films and games are often found on Bolivian streets. Enforcement of existing laws to protect intellectual property rights is weak, and piracy in Bolivia continues largely unabated.

In late 1999, the Bolivian government consolidated the industrial and intellectual property portfolios under one administrator, the National Intellectual Property Service (SENAPI), which oversees the registration of patents and trademarks. SENAPI has extremely limited resources and suffers from a high staff turnover rate, as personnel leave for the private sector.

A May 2004 USAID-sponsored study on how to improve Bolivia’s IPR regime outlined a comprehensive plan for the institutionalization of SENAPI, focusing on staffing needs and merit-based hiring, fee structures, financial sustainability, improved customer service, and organizational effectiveness. In December 2004, the government began implementing several recommendations, including:

- Institutionalizing all but the highest-level positions in SENAPI and hiring more qualified, technical personnel;
- Authorizing SENAPI to be the sole entity handling administrative processes related to IPR, thus eliminating an often politicized appeals process; and

- Passing a supreme decree permitting SENAPI's Copyright Office to conduct raids against counterfeit products in Bolivia.

USAID subsequently helped SENAPI process its backlog of applications; develop an information technology platform and databases for the efficient processing of future applications; and create a plan for completing the institutionalization process. SENAPI's restructuring process stalled in 2006 due to lack of government support, and as of April 2007 remained incomplete.

U.S. drug manufacturers have expressed concern that Bolivia does not provide adequate protection for data submitted to regulatory authorities to gain marketing approval for pharmaceutical products.

The U.S. Government is not aware of any allegations of unauthorized broadcast of U.S. copyrighted works by a government-owned entity.

Extradition: An extradition treaty with the United States permits the extradition of U.S. citizens.

Workers' Rights: Bolivia has ratified all eight ILO core labor conventions.

Bolivia's labor code assures workers the right to establish and join organizations of their choosing. The formation of a new trade union, however, requires approval by the Bolivian government, which may dissolve a trade union by administrative decree if it determines that the union fails to meet legal requirements. The government is not alleged to have used this power for political or anti-union purposes in recent years. Bolivian labor law does not restrict unions from affiliating with international labor confederations.

About 25 percent of workers in the formal economy belong to labor unions, and many workers in the informal economy participate in some form of labor union or trade association. Although a limited number of union leaders are protected from unjust dismissal, union members are not, and labor advocates claim that anti-union firings are a common tool used by employers to prevent unionization.

To call a legal strike, private sector workers must first engage in lengthy government mediation and then obtain authorization to strike by a vote of 75 percent of workers. Laborers rarely meet these hurdles, but strikes and protests are common, and the government does not normally prosecute strikers. While solidarity strikes are illegal under the current labor code, the government does not routinely enforce this law and in practice allows such strikes. The government has the power to declare a strike illegal and has done so on occasion.

With the exception of health workers and teachers, the labor code formally denies civil servants the right to organize and prohibits strikes in public services, including banks and public markets. In practice, however, the rate of unionization in the public sector (just over 50 percent of salaried workers) is twice that of the private sector, and strikes are common. Recent studies indicate that the number of public sector strikes and conflicts has risen significantly since the mid-1990s.

Collective bargaining without the participation of the Bolivian government is limited. The current labor code was written in a period in which the Bolivian Labor Confederation (the *Central Obrera Boliviana* (COB)) had quasi-governmental status and exclusive authority to negotiate with state-owned enterprises. The practice was for the COB and the government to negotiate an annual agreement on salaries, minimum wages, and other working conditions for public servants. Since the "capitalization" (privatization) of most of these enterprises in the mid-1990s, the COB's official role has diminished markedly, and the practice of direct employee-management negotiations in individual enterprises has expanded. Sectoral negotiations by teachers, health workers, transit drivers, and many others also eclipse the COB's role.

Bolivian labor laws are in some aspects highly rigid, with a range of benefits stipulated for full-time salaried employees. Due to contradictions embedded in the frequently amended body of labor law, however, workers frequently do not receive the full range of pay, vacation, and severance benefits. Moreover, employers have shifted towards forms of temporary or informal employment that do not require payment of the same benefits.

Bolivian law prohibits forced or compulsory labor, including by children; however, in 2005 the ILO reported that between 26,000 and 30,000 persons, mostly of indigenous origin, were victims of forced labor, harvesting Brazil nuts in Beni Department. Similar conditions were reported to exist in the sugar industry in Santa Cruz Department.

On November 28, 2002, the Bolivian government ratified International Labor Organization (ILO) Convention 182 on the Worst Forms of Child Labor. Bolivia has taken steps to implement its commitments under this Convention by creating an inter-institutional commission and initiating the development of a national plan to eradicate the worst forms of child labor.

There are no known special laws or exemptions from national labor laws in the seven special duty-free zones.

Economic Conditions: Bolivia made strong economic advances between 1985 and 2000, transforming itself from one of the most unstable economies in Latin America to one with sound, market-driven macroeconomic policies.

Since 2000, political pressure from left-leaning social and civic groups has led the government to move away from free market policies. According to the United Nations Conference on Trade and Development (UNCTAD), world stock of FDI in Bolivia increased from $1.2 billion in 1992 to $6.6 billion in 2002, before declining to $4.5 billion in 2005. Stock of U.S. FDI in Bolivia was $177 million in 2005, a 21 percent decrease from 2004. Foreign companies have been the victims of social demonstrations and unrest, including roadblocks, facility occupations, looting, vandalism, and even attempted extortion. Government modifications of hydrocarbons contracts and proposed mining tax increases have caused great concern among foreign investors about the continued sanctity of contracts in Bolivia.

Bolivia's real gross domestic product (GDP) grew an estimated 3.3 percent in 2006. Inflation in 2006 was estimated at 4.3 percent. The international donor community has moved for years to reduce Bolivia's stock of multilateral and bilateral debt in recognition of its economic reforms.

Through the Heavily Indebted Poor Country (HIPC) initiative and its subsequent enhanced framework (HIPC II), Bolivia benefited from International Monetary Fund and World Bank debt forgiveness totaling $1.7 billion in 2006, bringing its total external debt to an estimated $3.2 billion.

Market Access: Bolivia generally provides equitable and reasonable market access for U.S. exports, with a three-tier tariff structure allowing duty-free entry of capital goods designated essential for industrial development and imposing a five percent tariff on non-essential capital goods and a ten percent tariff on most other goods. Measures such as quotas, variable import levies, and tariff rate quotas are no longer used, although certain import fees raise the cost of importing some products. Import licensing requirements exist for only a few goods.

Importers of foreign products can participate in government tenders under $1 million only when locally manufactured products and service providers are unavailable or when the government fails to award a contract. The government may call for international bids only for purchases between $1 and $5 million. Suppliers submitting bids for purchases over $5 million must comply with prerequisites established in bidding documents exclusive to each purchase. Domestic bidders receive a 10 to 15 percent preference, depending on the bid, to encourage local industrial development.

A series of investment laws have liberalized Bolivia's investment regime. The laws established guarantees such as national treatment, the free remission of profits, the free convertibility of currency, and the right to international arbitration in all sectors. The U.S.-Bolivia Bilateral Investment Treaty (BIT) entered into force on June 7, 2001.

Participation in Free Trade Negotiations: In May 2004, the United States initiated free trade negotiations with Colombia, Ecuador, and Peru. To date, the United States has concluded free trade agreements with Peru and Colombia. Bolivia initially participated as an observer and could become party to a free trade agreement at a later stage, although the Bolivian government has not made clear its intent to pursue these negotiations.

Subsidies or Other Requirements that Distort International Trade: While Bolivia has eliminated many of its export subsidy programs, the Government has notified the WTO that it provides export subsidies through its "Free Trade Zones" and "Temporary Import Regime for Export Promotion."

Trade Policies that Revitalize the Region: Bolivia is a member of the Andean Community, whose other members include Colombia, Ecuador and Peru. Venezuela is a member but is in the process of withdrawing. According to the Bolivian government, Bolivian exports to the bloc totaled $325 million or 11 percent of total exports in 2006. Imports from the Andean Community in 2006 totaled $214 million, or nine percent of total imports.

In addition to full membership in the Andean Community, Bolivia is a member of the Latin American Integration Association (ALADI), which includes Argentina, Brazil, Chile, Colombia, Cuba, Ecuador, Mexico, Paraguay, Peru, Uruguay and Venezuela. The ALADI promotes the creation of an area of economic preferences in the region, aiming at a Latin American common market through regional tariff preferences and trade agreements. Bolivia enjoys associate membership in MERCOSUR, effective since March 1, 1997. Bolivia signed an FTA with Mexico in September 1994 and has more limited trade agreements with Chile and Cuba. Bolivia is also party to an April 2006 Peoples' Trade Agreement with Venezuela and Cuba (joined by Nicaragua in January 2007 and Dominica, Saint Vincent and Antigua in February 2007), although the economic effect of the pact is limited.

Narcotics and Counter-terrorism Cooperation: On September 15, 2006, Bolivia received full certification under the Foreign Assistance Act for its cooperation with the United States on counter narcotics (CN) issues, although President Bush expressed concern over Bolivia's CN policies. Bolivia's coca cultivation is about half what it was at its 1989 peak, dropping from 52,900 hectares to 26,500 hectares in 2005, the most recent available Counter Narcotics Center (CNC) estimate. Bolivian law authorizes the cultivation of up to 12,000 hectares of coca for licit uses.

However, the Bolivian government's commitment to maintaining these gains is in doubt. While the government achieved its stated goal of eradicating 5,000 hectares in 2006 (reaching 5,070 hectares), the figure represents the lowest eradication number in a decade and probably did not keep pace with new plantings. The new Bolivian National Drug Strategy, introduced by the government in December 2006, proposes increasing permitted coca cultivation to 20,000 hectares and absorbing excess production (i.e., beyond traditional, licit demand) with "industrialization," or new, non-traditional uses for which there is no current demand. If enacted, this plan could raise concerns with respect to Bolivia's commitments under various multilateral anti-narcotics conventions.

The challenge in the near term is the unconstrained growth of cultivation in the Yungas, where the terrain and hostile populace will greatly complicate any forced or voluntary eradication efforts. Cultivation there grew by 40 percent from 2001 to 2005, to 20,300 hectares, or 76 percent of the most recent CNC estimate of 26,500 total hectares. The mountainous, difficult-to-access Yungas region is both the traditional zone for growing legal coca for licit uses (Law 1008 permits 12,000 hectares, although licit demand is probably even less) and the new epicenter of illegal coca cultivation. Challenges include tightening the regulation and control of the movement of licit coca from the Yungas in order to prevent diversion to illicit cocaine production, which appears to be primarily occurring in the cities of El Alto, Yapacani, and Santa Cruz. The Chapare and Cochabamba regions continue to be the epicenter of cocaine production in Bolivia, accounting for almost one third of all cocaine seized in Bolivia in 2006, a year in which authorities estimate that only 1 percent of coca grown in the Chapare actually arrived at the legal coca market.

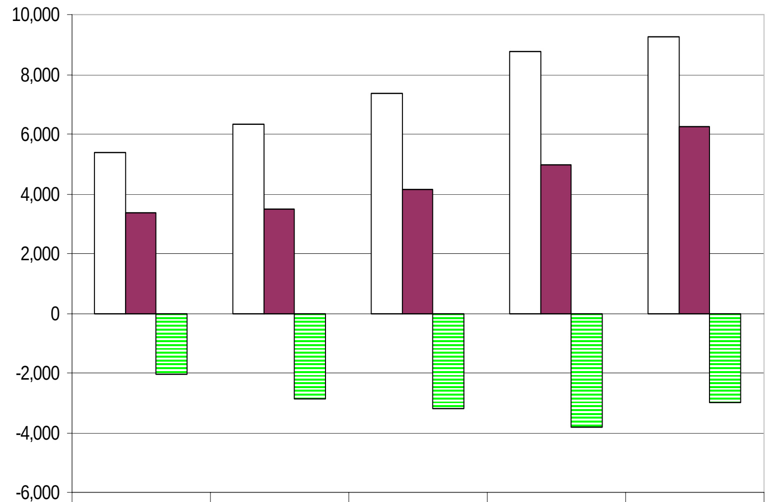
In contrast to the government's ambivalence towards eradication and limiting coca cultivation, its support for interdiction efforts is strong. Interdiction (of both drugs and precursor chemicals) continues to rise. 2006 seizures (14 metric tons of cocaine and base) were 23 percent higher than the 11 metric tons seized in 2005. Destruction of base labs and maceration pits were up 55 and 54 percent, respectively. Seizures of marijuana, the drug of choice in Bolivia, were up over 260 percent. The amount of liquid precursors seized rose by 132 percent, to 1,352,152 liters. While the Bolivian counter narcotics police (FELCN) and other CN units are improving coordination effectiveness, increased seizures also reflect the fact that supply has increased.

USAID figures estimate that the cultivation of licit crops and pastures in the Cochabamba area has increased steadily, from 40,613 hectares in 1986 to an estimated 150,000 hectares in 2006. USAID anticipates validating this number through a planned survey in 2007. Community development activities in the Yungas and agricultural extension services and improved road access in Cochabamba have proven effective ways of reaching increasing numbers of families in those regions. The cumulative number of farm families assisted through integrated alternative development projects in the Chapare and Yungas regions totaled 51,192 through 2006, or more than half of all farm families in those regions. The wholesale value of licit agricultural products leaving the Chapare and Yungas reached $91.7 million in 2006. High-value licit crop exports such as bananas, pineapple, and canned palm hearts increased from $7.5 million in 2001 to $36.4 million in 2006. With the exception of canned palm hearts, coffee, cacao, and more recently tropical flowers, most of these goods do not reach U.S. markets. In 2006, approximately $950,000 in canned palm hearts entered the United States.

COLOMBIA

Population: 43,593,035
(July 2006 est.)
GDP per capita: $8,400
(2006 est.)
Source:
2007 World Fact Book

U.S.-Colombia Trade (Millions of Dollars)



	2002	2003	2004	2005	2006
US Imports	5,382	6,346	7,361	8,770	9,240
US Exports	3,345	3,496	4,145	4,962	6,236
Trade Balance	-2,037	-2,850	-3,216	-3,808	-3,004

***Effect of ATPA/ATPDEA*:** In 2006, U.S. goods imports from Colombia totaled $9.3 billion, a 4.7 percent ($416 million) increase from 2005. Under the ATPA/ATPDEA, Colombian exports to the U.S. market reached $4.8 billion in 2006, a 3 percent increase from $4.6 billion in 2005. Colombia was the largest market for U.S. exports among ATPA/ATPDEA countries at $6.7 billion, representing 54 percent of U.S. exports to ATPA countries in 2006. Colombia has been the leading source of U.S. imports under the ATPA/ATPDEA in every year since the program began in 1991, except in 2000 and 2006. In 2006, Colombia was displaced by Ecuador as the leading source due to the rising value of imports of petroleum products. Since 2004, Colombian exports to the U.S. under ATPA/ATPDEA have increased by approximately $1 billion dollars.

Petroleum-related products continued to be the main products exported under ATPA/ATPDEA from Colombia. In 2006, these exports totaled $3.4 billion, accounting for 71 percent of ATPA entries from Colombia in 2006. The other two largest U.S imports under ATPA/ATPDEA from Colombia were apparel ($453 million) and cut flowers ($448 million). These two products each accounted for 9 percent of ATPA/ATPDEA entries from Colombia in 2006. Other key Colombian exports under the program were plastics, aluminum products, ceramics, and sugar.

The renewal and expansion of ATPA/ATPDEA in 2002 has contributed to the revitalization of Colombia's economy along with other internal factors such as increased security, strong internal demand (particularly in construction), and a strong global market (particularly in petroleum and coal). Total Colombian exports to the world grew by 86 percent between 2003 and 2006, from $13.1 billion to $24.4 billion. In addition to enabling Colombia to significantly increase its export performance, the ATPA/ATPDEA has also provided new employment opportunities within export-driven industries. According to Colombia's Trade Ministry, exports to the U.S. under ATPA/ATPDEA maintained more than 660,000 direct jobs in 2006. Of the 3.1 million Colombians employed in export industries, more than one-in-three are employed by companies that export to the United States and approximately one-in-five are directly employed producing exports covered by ATPA/ATPDEA.

Expropriations: The 1991 Constitution explicitly protects individual rights against the actions of the state and upholds the right to private property. The Constitution permits acquisition of private property in cases of public necessity (e.g., a public transit system) and social interest (e.g. agrarian reform). Colombian law guarantees indemnification in such cases. Confiscation is allowed for property used in, or that is the "fruit" of, criminal activities. While seizure of property for drug-related crime has been in practice for some time, a new law strengthening asset forfeiture was passed in December 1996.

Arbitral Awards: Law 315 permits the inclusion of an international binding arbitration clause in contracts between foreign investors and domestic partners. The law allows parties to set their own arbitration terms, including location, procedures, and the nationality of rules and arbitrators. In the absence of an arbitration clause, Colombian law mandates that the dispute go before a Colombian judge for settlement. Colombia is a member of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, the International Center for the Settlement of Investment Disputes (ICSID), and the Multilateral Investment Guarantee Agency (MIGA).

Reverse Preferences: The U.S. Government has no indication that Colombia has granted such preferences to the products of a developed nation.

Intellectual Property: Patents, trademarks and industrial designs are protected by Andean Community Decisions 344 (the Common Industrial Property Regime) and 345 (the Common Regime to Protect Plant Varieties). Copyrights are protected by Andean Community Decision 351 (the Common Regime on Copyright and Neighboring Rights). These decisions, which were adopted in 1993 and 1994, are comprehensive and represent a significant improvement over earlier standards of protection for intellectual property in the Andean Community countries.

The Colombian government is a member of the following international conventions that concern intellectual property:

- Convention Establishing the World Intellectual Property Organization (WIPO);
- Berne Convention for the Protection of Literary and Artistic Works;
- Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations;
- Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of the Phonograms;
- Treaty on the International Registration of Audiovisual Works;
- Universal Copyright Convention of 1952; and
- Paris Convention for the Protection of Industrial Property.

In Colombia, the grant, registration and administration of intellectual property rights (industrial property and copyright) are carried out by four different government entities. The Superintendence of Industry and Commerce acts as the Colombian patent and trademark office. This agency was given control of the government's IPR policy effective January 2000. The Colombian Agricultural Institute is in charge of the issuance of plant variety protection and agro-chemical patents. The Ministry of Social Protection is in charge of the issuance of pharmaceutical patents, while the Ministry of Justice is in charge of the issuance of literary copyrights. Each of these entities suffers from significant financial and technical resource constraints. Moreover, the lack of uniformity and consistency in IPR registration and oversight procedures limits the transparency and predictability of the IPR enforcement regime.

In 2002, the Colombian government issued Decree 2085, which improved the protection of confidential data for pharmaceutical products. The decree grants a 5 year period for confidential data used to obtain a health registration.

During the past two years, the Colombian government has taken aggressive actions to combat IPR violations. In 2006, Colombia's Special Investigative IPR Unit within the Prosecutor General's Office performed 936 investigations, 1,058 captures, 21 raids, and 2,282 seizures. Some of the most important investigations included a major anti-piracy effort against internet cafes and "home delivery" services of pirated music, films, and games. The criminal raids, however, have rarely resulted in deterrent penalties or criminal sentences.

The International Intellectual Property Alliance (IIPA) estimates that losses to U.S. industries were $139.9 in 2005 and $116.5 million in 2006. For the music and recording industry alone, IIPA estimated that losses reached $62.5 million with piracy levels as high as 71 percent. These problems are an important factor in Colombia's continued presence on the Special 301 Watch List.

In an effort to improve Colombia's enforcement efforts, President Uribe signed a criminal reform law (Law 1032) on June 22, 2006, establishing new offences and increasing the penalties for violation of intellectual property rights, including the illegal broadcasting of copyrighted material. Law No. 1032 increased the penalties described in Articles 271 and 272 of the Penal Code, and established a minimum sentence of four years and fines of between 20 to 1,000 times the legal monthly minimum wage (approximately $4,000 to $200,000). There are also fines for evading or tampering with the copyright protection mechanisms, including for anyone who manufactures or sells devices that can be used to decode a satellite signal. Colombia's Special Investigative IPR Unit within the Prosecutor General's Office has several pending cases against pirate television programming broadcasters. Moreover, in 2006, the motion picture industry and the recording industry combined forces for joint anti-piracy operations.

There is no indication that government-owned entities are engaging in the broadcast of copyrighted material belonging to U.S. copyright holders. The National Television Commission (CNTV) has been credited for greatly reducing the incidence of television piracy through licensing and inspections.

The United States - Colombia Trade Promotion Agreement (CTPA) will provide for improved standards for the protection and enforcement of a broad range of intellectual property rights, which are consistent with U.S. standards of protection and enforcement and with emerging international standards.

Extradition: Extradition is based on the Colombian Penal Code. A constitutional amendment permits extradition of Colombian nationals for crimes committed after December 17, 1997. From August 2002 through the end of 2006, Colombia has extradited over 400 individuals to the United States.

Workers' Rights: Colombia has ratified all eight of the core ILO conventions.

Colombian law recognizes the rights of workers to organize, bargain collectively, and strike. Unions are free to affiliate with international labor confederations. The labor code provides for automatic recognition of unions that obtain 25 signatures from potential members and comply with a registration process. There are penalties for interfering with workers' freedom of association and the labor code prohibits the dissolution or suspension of trade unions by administrate fiat.

The Constitution provides for the right to strike, and workers exercise this right in practice; however, members of the armed forces, police, and persons executing "essential public services," as defined by law, are not permitted to strike. Before staging a strike, public sector unions must negotiate directly with management and accept mediation if they cannot reach agreement. The law prohibits the use of strikebreakers. According to the labor code, the Ministry of Social Protection (MSP) can send strikes that are not resolved within 60 days to a tripartite arbitration tribunal, where a binding resolution is conducted. The Minister of Social Protection has the power to declare any strike illegal if it affects "national security." In 2006, the MSP did not declare any strikes illegal.

The Colombian government continues to demonstrate its commitment to protect labor union leaders and members. In 2006, a government protection program provided protection measures to over 1,200 trade unionists.

The Colombian government is taking active steps to bring the perpetrators of crimes against trade unionists to justice and to combat impunity in general. With funding from the Plan Colombia program, Colombia is continuing to implement a new accusatorial-style criminal justice system, replacing the inquisitorial system whereby a person was detained pending an investigation that involved the formal acceptance of evidence, without an actual trial. The percentage of convictions under the old system was extremely low, and criminal cases typically lasted three to five years. Under the new system, conviction rates have risen from 3 to 5 percent to 60 percent, and delays in prosecutions have been reduced from 3 to 5 years to between 3 weeks to 3 months. These reforms are being implemented in each judicial district, and the Colombia government anticipates the new criminal code will be functioning nationwide by 2008.

At the 95th Meeting of the International Labor Conference held in June 2006, a "*Tripartite Agreement on Freedom of Association and Democracy*" was signed by the Colombian government, business representatives and labor leaders aimed at combating violence against union members, eliminating impunity, and reinforcing a social dialogue. The agreement also provided for the establishment of a permanent representative of the ILO in Colombia to provide support to the government-financed ILO Special Technical Cooperation Program. This program was established to address the issues of violence against trade unionists and to improve industrial relations. The ILO representative arrived in Bogotá, Colombia at the end of 2006.

As part of the Tripartite Agreement, in 2006, the Office of the Attorney General established a special unit of 100 prosecutors and investigative personnel to work on 200 priority cases of alleged violence against trade unionists. The priority cases were selected jointly by the Office of the Attorney General and trade unions.

Colombian law provides workers the right to organize and engage in collective bargaining. Non-union workers have the right to collective bargaining. Colombia's 15 export processing zones are not exempt from national labor laws.

Forced or compulsory labor is prohibited by law. In 2006, Colombia raised the minimum age of employment to age 15, making Colombian law compatible with ILO Convention 138. Although the labor code mandates special authorization for minors between 15-17 years of age to work, child labor remains a problem. The Colombian government is making efforts to address the problem through several initiatives, including ILO child labor programs funded by the U.S. Department of Labor. Colombia ratified ILO Convention 182 on the worst forms of child labor through Law 704 in 2001. The Colombian government has designated authority to implement and enforce labor laws to the Family Ombudsman's offices, Human Rights Ombudsman's offices, Family Welfare Institute and community police officers.

In 2005, Colombia signed a Memorandum of Understanding with the ILO to cooperate in the eradication of child labor, with an emphasis on the worst forms of child labor.

The government establishes a uniform minimum wage every year through tripartite negotiations among representatives of business, organized labor, and the government. Colombia has extensive regulations providing for the occupational safety and health of workers, but regulations are difficult to enforce due to an under-resourced labor inspectorate and the large percentage of workers in the informal sector who are not covered by the social insurance systems.

Economic Conditions: The revival of Colombia's economy in recent years can be attributed to increased security, strong internal demand (particularly in construction), a strong global market (particularly in petroleum and coal), and ATPA/ATPDEA driven exports. Real GDP growth in 2002 was estimated at only 1.93 percent, however, by 2006, the Colombian economy rebounded strongly to an estimated 5.4 percent annual growth. According to UNCTAD, the world stock of FDI in Colombia increased from $3.9 billion in 1992 to $36.7 billion in 2005. Stock of U.S. FDI in Colombia was $3.4 billion in 2005, a 21 percent increase from 2004. While unemployment remained at 12 percent in 2006, poverty rates have dropped substantially during President Uribe's time in office, from 55.7 percent in 2002 to 45.1 percent in 2006.

In addition to the CTPA, which the Colombian government estimates would increase GDP growth by one percentage point per year once it is implemented, the Uribe Administration has undertaken and is promoting other initiatives to spur greater economic growth and employment opportunities. In 2003, President Uribe reformed and revitalized the hydrocarbon industry by requiring the parastatal to compete directly with private sector companies for contracts. In 2005, he pushed through legislation to reform the public pension system. In 2006, President Uribe gained passage of important tax reforms. In 2007, he announced his intention to reform the regional revenue transfer system, which the IMF has described as an unsustainable federal liability, and create an agricultural support program for sectors impacted by increased imports due to the CTPA. The overall economic reform package is referred to as the "Internal Agenda," with the goal of cutting the poverty rate by more than half by 2019. The Colombian government is also launching major infrastructure projects to provide more efficient links between the country's landlocked manufacturing centers and the ports.

The Uribe Administration is also pushing an aggressive trade agenda, negotiating trade agreements with Chile and Central America (Guatemala, El Salvador and Honduras). Negotiations with the European Union, Venezuela and possibly Canada are set to begin in mid-2007.

Market Access*:* Colombia has opened its economy considerably since the early 1990s. Customs duties have been cut and many non-tariff barriers eliminated. Most duties have been consolidated into three tariff levels: 0 percent to 5 percent on capital goods, industrial goods and raw materials not produced in Colombia; 10 percent on manufactured goods with some exceptions; and 15 percent to 20 percent on consumer and "sensitive" goods.

Some important exceptions include automobiles, which are subject to a 35 percent tariff, and many agricultural products, which fall under a variable "price band" import duty system. The price band system includes 14 product groups and covers more than 150 tariff lines. When international prices surpass the price band ceiling, tariffs are reduced; when prices drop below the price band floor, tariffs are raised. At times this results in duties approaching or exceeding 100 percent for important U.S. exports to Colombia, including corn and products made from corn including pet food, wheat, rice, soybeans, pork, poultry, cheeses and powdered milk, and negatively affects U.S. access.

Colombia will immediately eliminate its price band system on trade with the United States upon entry into force of the CTPA. Under the CTPA, over half of the value of current U.S. agricultural exports to Colombia will enter duty-free upon entry into force of the agreement, including high quality beef, a variety of poultry products, soybeans and soybean meal, cotton, wheat, whey, and most horticultural and processed food products. U.S. agricultural exporters will also benefit from duty-free access through tariff-rate quotas, including on corn, rice, dairy products, and pet food.

In addition, over 80 percent of U.S. exports of consumer and industrial products to Colombia will become duty-free immediately under the CTPA, with remaining tariffs phased out over 10 years. Under the agreement, Colombia affirmed that it would not adopt or maintain prohibitions or restrictions on trade in remanufactured goods and that certain existing prohibitions on trade in used goods would not apply to remanufactured goods. Colombia also committed to eliminate discriminatory practices, including an element of an excise tax, that have restricted the ability of U.S. distilled spirits companies to conduct business in Colombia.

In 2006, the United States and Colombia resolved a number of sanitary and phytosanitary (SPS) barriers to agricultural trade. In February of 2006, Colombia formalized its recognition of the equivalence of the U.S. meat and poultry inspection systems. In August 2006, the U.S. Government and the Colombian government agreed on the contents of sanitary certificates to accompany shipments of U.S. beef and beef products to Colombia. In October, Colombia implemented this agreement, thereby reopening its market to all U.S. beef and beef products, except high risk materials, when accompanied by a sanitary certificate issued by the U.S. Department of Agriculture's Food Safety and Inspection Service (FSIS), consistent with international standards. In addition, in 2006, Colombia agreed to allow the importation of U.S. poultry and poultry products from all U.S. states accompanied by an FSIS Export Certificate of Wholesomeness. Work toward formalizing agreement on the specific contents of these and other U.S. sanitary certificates accompanying U.S. poultry and poultry products to Colombia is ongoing.

Participation in Free Trade Negotiations: On February 27, 2006, the United States and Colombia announced the conclusion of the negotiations on a comprehensive, state-of-the-art trade agreement. On November 22, 2006, the United States-Colombia Trade Promotion Agreement was signed in Washington, D.C. by Deputy U.S. Trade Representative John K. Veroneau and Jorge Humberto Botero, Colombia's Minister of Trade, Industry, and Tourism. The United States and Colombia are working towards securing approval of the CTPA by their respective legislatures.

Subsidies or Other Requirements that Distort International Trade: Colombia has notified the WTO that the free trade zone regime, the special import-export system for capital goods (SIEX), the Plan Vallejo program, and the tax reimbursement certificate CERT contain export subsidies. In light of WTO obligations, Colombia committed to eliminate several of the free trade zone tax benefits as of January 2007. In that regard, the government issued Law 1004 in December 2005, providing for a 15 percent income tax on industrial users operating in free zones (lower than the usual 35 percent tax) but maintaining the 35 percent tax for commercial users, from January 2007. Under Law 1004, businesses operating in the free trade zones maintained their exemption from the 7 percent remittance tax, tariffs and the value-added tax. Foreign currency exchange will remain unrestricted.

The Plan Vallejo program allows for duty exemptions on the import of capital goods and raw materials used to manufacture goods that are subsequently exported. While the Colombian government has eliminated duty exemptions on capital goods, it reportedly continues to permit duty exemptions for raw materials. The tax reimbursement certificate (CERT) program has been frozen since 2002. The program, intended to promote non-traditional export products, provided negotiable certificates to exporters based on the level of exports. Since 2002, however, the program has not been operational, but remains on the books.

Faced with a revaluation of the peso that affected flower and banana exports, the Uribe Administration enacted a program to help these exporters purchase mechanisms that would counter potential exchange risk. The program offers banana and flower exporters 200 pesos for every dollar of goods exported to the United States to purchase either options or dollars in the futures market to hedge against future exchange rate fluctuations. The eligibility period for this subsidy expired in September 2006. However, in January 2007 the Minister of Agriculture announced that the government would appropriate approximately $4.2 million for continuing with this type of export subsidy in 2007.

Trade Policies that Revitalize the Region: Colombia is a member of the Andean Community. According to the Colombian government, Colombian exports to Andean Community countries (including Venezuela) reached $4.6 billion in 2006, about 19 percent of Colombia's total exports. Imports from these countries were $3.4 billion in 2006, about 13 percent of total imports. Colombian exports to MERCOSUR were only $250 million in 2006, while imports, primarily from Brazil, reached $2.5 billion. Imports from Mexico reached $2.2 billion, up by over a quarter from 2005, while exports were only $566 million, down 7 percent from 2005.

The Colombian government already has or is pursuing trade accords with many of the countries in the region. It shares a common tariff and mostly free trade with Bolivia, Ecuador, Peru and Venezuela within the Andean Community arrangement. Colombia is a member of ALADI which promotes the creation of an area of economic preferences in the region, aiming at a Latin American common market through regional tariff preferences and trade agreements. Colombia signed a trade agreement with the members of MERCOSUR in 2004. Its trade agreement (G-3) with Mexico and Venezuela entered into force in 1995. (Venezuela is also pulling out of this arrangement.) Colombia signed a free trade agreement with Chile in 2006. Negotiations with three Central American countries, El Salvador, Guatemala and Honduras, should conclude in early to mid 2007. The Colombian government is also working actively to join APEC, in an effort to spur economic growth along its Pacific coast.

Narcotics and Counter-terrorism Cooperation: In recent years the Colombian government has met or exceeded all of its identified narcotics cooperation certification criteria under the U.S. Foreign Assistance Act of 1961. The Colombian government is firmly committed to fighting the production and trade in illicit drugs. The Colombian government's public security forces have set new illicit crop eradication records for the last six years and have sustained aggressive interdiction programs. Colombia is actively investigating and prosecuting cases against major drug traffickers and cooperating with U.S. judicial authorities to provide evidence and witnesses for prosecutions of extradited Colombian nationals facing trial in the United States. Colombia has received full certification for its cooperation with the United States on counter-narcotics issues under the Foreign Assistance Act every year since 2000.

In 2006, Colombia unilaterally expanded its aerial and manual illicit crop eradication efforts and urged the United States to help the Colombian government do more. The Colombian government fielded a temporary fourth spray package with rented aircraft to increase coca eradication and hired and deployed 100 31-member civilian manual eradication teams into remote areas. Following mid-year discussions, the U.S. and Colombia agreed to elevate the 2006 spray goal from 130,000 to 160,000 hectares. That revised goal was also surpassed and the

Colombian government finished the year with 171,613 hectares of coca sprayed and reported manual eradication of another 42,111 hectares of coca and 1,697 hectares of opium poppy. In addition, public security forces seized more than 174 metric tons of cocaine HCl and coca base combined in 2006 and bested previous records for drug laboratory destructions with 205 HCl processing laboratories destroyed.

The Colombian National Police also instituted a special judicial police group to gather evidence for asset forfeiture processes against property owners who use their land for the cultivation or processing of illegal crops. Starting at mid-year, this unit developed, investigated, and presented to the Prosecutor General's office 273 separate cases. Despite substantial bureaucratic, legal, and security obstacles, this asset seizure initiative is a crucial step towards real deterrence of cultivation and replanting after eradication. In 2006, the Colombian government organized all security forces that focus on High Value Targets (HVTs) within one Ministry of Defense office. Security forces continue to identify and arrest narcotics traffickers, many of whom have been, or are waiting to be, extradited to the United States.

ATPA/ATPDEA has fortified the fight against illegal crop production by creating jobs in the formal sector. The flower industry, which benefits greatly from ATPA, supports 110,000 jobs directly and 94,000 jobs indirectly. Most of the employees (65 percent) are women, most with relatively low educational attainment. Many are part of the displaced population; therefore, with a minimum of training, the cut flower industry is providing a stable and safe occupation. The textile and apparel industries, which are more urban-based, are also providing good jobs in the formal sector, including for displaced persons that have fled to urban centers like Bogotá and Medellín. Currently, the textile and apparel industry, which benefits a great deal from ATPDEA, supports 135,000 direct jobs. At the same time, the pool of unemployed or underemployed workers, particularly rural workers, is very large, and it will take a long period of sustained job creation before the source of workers for illegal narcotics production is significantly reduced.

The Colombian government remains a key ally of the United States in the fight against narco-terrorism and President Uribe has repeatedly emphasized in public that the narcotics threat is the single biggest enemy of democracy in Colombia. The United States works closely with Colombian law enforcement and military authorities to eradicate coca and opium poppy, detect and seize illegal drug shipments, prosecute narco-traffickers and terrorists, and extradite those who have violated U.S. law.

Colombia's increased law enforcement efforts and expansion of government control into previously hard-to-govern areas is a success story. Homicides in 2006 were the lowest in 20 years. Under the Uribe Administration, kidnappings have decreased about 80 percent, homicides by 40 percent and acts of terrorism by 63 percent. The Uribe Administration has supervised over 30,000 terrorist demobilizations and 11,000 desertions from all groups. Under the new accusatory system, 30,917 judges, investigators, public prosecutors and defenders have been trained. This system should enable Colombia to make great strides to protect human rights, erase impunity, and bring criminals to justice. Sustained eradication has reduced Colombian opium poppy cultivation by 68 percent since 2001, from 6,540 hectares to 2,100 hectares. While persistent replanting of sprayed fields remains the major threat to further coca eradication success, it is clear that the exponential growth of coca cultivation that commenced in the late 1990s has been halted.

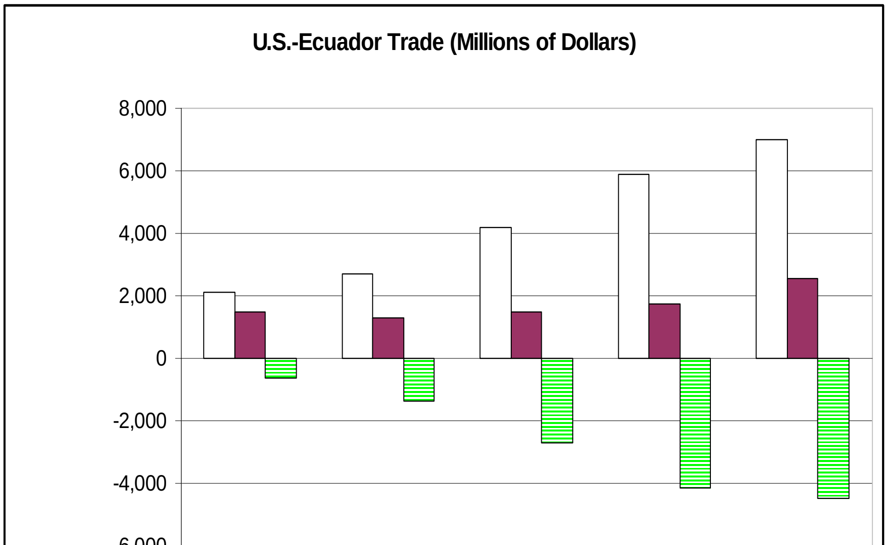
Government Procurement: Colombia is an observer but not a signatory to the WTO Agreement on Government Procurement.

The Colombian Congress is in the process of reforming the Government Procurement and Contracting Law (Law 80/93), which mainly calls for the use of public tenders. In order to quality as a potential supplier to the Colombian government, foreign firms must register with the local chamber of commerce and appoint a local representative. Foreign firms must demonstrate a commercial presence in Colombia in order to participate in government procurement, making the registration process particularly costly.

Law 816 mandates that all public entities accord preferential treatment to bids that incorporate Colombian goods or services. Under Law 816, national companies are given a 10 to 20 percent "bonus" in their evaluation score, and companies using Colombian goods or services are given a 5 percent to 15 percent "bonus." Bids without any local content component are scored between 5 percent and 20 percent lower than bids with such a component. Additionally, Law 816 requires that foreign suppliers without local headquarters in Colombia obtain certification from a Colombian mission in the supplier's home country that government procurement laws in the supplier's home country meet reciprocity requirements. This Law has created a barrier to participation by U.S. suppliers in Colombian government procurement. Under the CTPA, Colombia agreed to provide U.S. goods, services, and suppliers with national treatment. Once the CTPA enters into force, Colombia will not be able to apply its 2003 Law 816 to procurement covered by the CTPA. In addition, after the Agreement enters into force, there would also be no basis for requiring a reciprocity certification for U.S. suppliers because, based on the CTPA, the United States will provide access for Colombian goods, services, and suppliers to the U.S. government procurement covered under the Agreement.

ECUADOR

Population:13,547,510
(2006 est.)
GDP per capita,
purchasing power
parity: $4,500 (2006 est.)
Source:
2007 World Fact Book



	2002	2003	2004	2005	2006
US Imports	2,116	2,693	4,184	5,874	7,011
US Exports	1,496	1,306	1,484	1,733	2,548
Trade Balance	-620	-1,386	-2,700	-4,141	-4,463

Effect of the ATPA/ATPDEA: In 2006, U.S. goods imports from Ecuador totaled $7.1 billion, a 23.3 percent increase from 2005. Under the ATPA/ATPDEA, U.S. imports from Ecuador reached $5.3 billion in 2006, a 22 percent increase from $4.4 billion in 2005. While the ATPA's provision of duty-free entry to a wide range of Ecuadorian products has led to diversification of exports, the country's overall export figures in dollar terms remain concentrated in petroleum, which accounted for 92 percent of U.S. imports from Ecuador under the ATPA in 2006. One of the most economically significant nontraditional export products that has benefited from duty-free treatment under ATPA is cut flowers. In 2006, Ecuador exported $141.4 million in cut flowers to the United States, an increase of 107 percent during the last ten years of ATPA benefits. Exports of nontraditional products to the United States (i.e., exports excluding petroleum, bananas, coffee, cacao, shrimp, and wood) declined from 2004 to 2005, but increased again in 2006 to $907 million, with an overall upward trend for the four years between 2002 and 2006. Some products, including broccoli and mangoes, experienced double digit export increases to the U.S. in 2006.

Exports of some traditional products have also increased. Coffee exports to the United States rose by 115.6 percent in 2006, reaching $18.2 million dollars. Shrimp exports reached a peak of nearly $318 million dollars in 2006. Banana exports to the United States declined in 2004 and 2005, but increased over 20 percent in 2006, reaching $289.9 million. On the other hand, cacao exports to the United States fell substantially in 2006, leveling off at $35.3 million. Ecuador increased its exports of tuna in pouches to the United States after inclusion of the product in the ATPDEA in 2002, but tuna exports to the United States have been falling for several years, dropping to $105.9 million in 2006.

According to the Ecuadorian government, ATPA/ATPDEA has generated approximately 350,000 jobs in Ecuador. A study by Ecuador's Export and Investment Promotion Corporation maintains that ATPA has led to 70,000 direct jobs in the cut flower industry, 50,000 direct jobs in the tuna industry, and 20,000 direct jobs in the broccoli sector.

Expropriations: While cases of land expropriation have been infrequent, a number of U.S. investors have outstanding claims based on land and squatter disputes. In addition, one U.S. investor is seeking damages under the U.S.-Ecuador Bilateral Investment Treaty (BIT) for the alleged expropriation of its assets by Ecuador. Under Ecuadorian law, individuals have the right to petition a judge to establish the appropriate price for expropriated holdings. The Agrarian Development Law restricts the grounds for expropriation of agricultural land and provides for adjudication of disputes in the courts. Though foreign and domestic investors are treated equally under Ecuadorian law, the extent to which investors and lenders receive prompt, adequate and effective compensation may vary from case to case. Under the BIT, expropriation of U.S. investments can only be carried out for a public purpose, in a nondiscriminatory manner, in accordance with due process of law, and upon payment of prompt, adequate and effective compensation.

Arbitral Awards: The U.S.-Ecuador BIT provides for international arbitration of disputes at the investor's initiative. Ecuador is a member of the International Center for the Settlement of Investment Disputes (ICSID). In 2004 an investor-State tribunal considering a claim submitted by a U.S. company under the BIT awarded the company damages in relation to a dispute over the company's eligibility for value-added tax refunds. Shortly after the award was announced, Ecuador's solicitor general ("Procurador") launched an investigation of the company and sought a judicial review of the award, which is still pending. The Procurador subsequently declared there were legal grounds to void the company's contract and seize its substantial assets in Ecuador. The government nullified the company's contract and seized the company's assets in May 2006. Two days later, the company submitted a new damages claim under the BIT, alleging the expropriation of its investment.

Other high profile legal cases have been brought by and against foreign companies. In early 2005, Ecuador modified the Arbitration and Mediation Law to prohibit international arbitration of disputes affecting the national interest. Depending on how it is implemented and interpreted, the modified law could conflict with Ecuador's obligations under the BIT; at a minimum, it creates confusion among investors regarding their right to arbitration.

Reverse Preferences: The U.S. Government has no indication that Ecuador has granted such preferences to the products of a developed nation.

Intellectual Property: Ecuador's intellectual property regime is governed by the "Law on Intellectual Property" adopted in 1998. The law provides criminal and administrative relief to right holders. Patents, trademarks and industrial designs are protected by Andean Community Decisions 344 (the Common Industrial Property Regime) and 345 (the Common Regime to Protect Plant Varieties). Copyrights are protected by Andean Community Decision 351 (the Common Regime on Copyright and Neighboring Rights) and Decision 486 (the Common

Regime on Industrial Property).

The Ecuadorian government is a member of the following international conventions that concern intellectual property:

- Convention Establishing the World Intellectual Property Organization (WIPO);
- Berne Convention for the Protection of Literary and Artistic Works;
- Geneva Phonogram Convention; and
- Paris Convention for the Protection of Industrial Property.

In April 2001, the U.S. Trade Representative (USTR) removed Ecuador from its Special 301 Watch List to reflect improvements in Ecuador's intellectual property rights (IPR) regime. However, weakened enforcement efforts led to Ecuador's re-listing in 2003, and it has remained on the Watch list since that time.

Concerns remain over Ecuador’s lack of effective protection against unfair commercial use of undisclosed test and other data submitted by pharmaceutical companies seeking marketing approval for their products.

Intellectual property rights enforcement remains a serious problem in Ecuador. The Ecuadorian Intellectual Property Institute (IEPI) was established in January 1999 to handle patent, trademark and copyright registrations on the Ecuadorian government's behalf. The national police and the Customs Corporation of Ecuador (CAE) are responsible for carrying out IPR enforcement orders, but they often do not recognize the authority of, or enforce, IEPI orders. Ecuador has not made progress in establishing the specialized IPR courts required by Ecuador’s 1998 IPR law.

There is widespread local trade in pirated audio and video recordings, computer software and counterfeit activity regarding brand name apparel. On the other hand, local registration of unauthorized copies of well-known trademarks has been reduced.

The IPR law extends patent protection for 20 years from the date of filing. In a landmark 2006 decision, a Superior Court upheld the right of patent holders to have infringing copies of their patented products removed from the market. There are also concerns regarding the development of a backlog in processing patent applications.

Works are in theory protected under copyright law for the life of the author plus 70 years. A 2006 decision by Ecuador’s Supreme Court upheld the right of music composers to be compensated by television and radio stations who broadcast their compositions. However, pirated CDs and DVDs are often found on many street corners and in shops. Sellers of pirated goods sell their illegal wares with little fear of prosecution. Ecuador's Education Law appears to allow educational institutions to copy software without regard to such protections. While the Ecuadorian government has denied that the Education Law permits such copying, it has not clarified the law.

Trademark registration is permitted for renewable 10-year periods. The IPR law provides protections for well-known trademarks. However, the import and sale of products that infringe registered trademarks is common.

The IPR law provides protection for industrial designs and extends protection to industrial secrets and geographical indications. Semiconductor chip layouts are protected. Plant varieties and other biotechnology products are also, in theory, protected.

Extradition: An extradition treaty was signed on June 28, 1872, and entered into force on November 12, 1873. A supplementary extradition treaty was signed on September 22, 1939, and entered into force on May 29, 1941. The treaties permit the extradition of U.S. citizens.

Workers' Rights: Ecuador has ratified all eight of the ILO core labor conventions.

Most workers in the private and parastatal sectors have the constitutional right to form trade unions and local law allows for unionization of any company with more than 30 employees. Private employers are required to engage in collective bargaining with recognized unions. The Labor Code provides for resolution of conflicts through a tripartite arbitration and conciliation board process. The Code also prohibits discrimination against unions and requires that employers provide space for union activities.

Some companies have taken advantage of the law that prohibits unions from organizing at companies that have less than 30 employees by sub-contracting with several shell companies, each of which has less than 30 workers. A law enacted in June 2006, provides subcontracted workers with the right to freedom of association, the right to bargain collectively, and the right to legal protection against antiunion discrimination. The Ministry of Labor is responsible for enforcing the new law.

Except for public servants and workers in some parastatals, workers by law have the right to strike. Legally striking employees are entitled to full pay and benefits and may occupy the premises under police protection, although there are restrictions on solidarity strikes. Most public sector employees are technically prevented from joining unions, but many are members of a labor organization and most labor actions are in fact illegal strikes by public employees. Although trade union political influence has declined in recent years, labor groups occasionally attempt to stage national strikes to protest economic reform measures.

Most workers in export processing zones are hired on temporary contracts, and as such do not appear to be protected by key elements of the labor code.

Legal changes to modernize the country's Labor Code were passed by Congress in 2000 as part of omnibus economic reform legislation. However, the Constitutional Tribunal declared virtually all of the changes unconstitutional. In 2006, the Ministry of Labor worked with an ILO representative to draft a revised Labor Code to better comply with ILO standards. The draft is serving as a framework for ongoing discussions between the Ministry of Labor and the labor sector.

The Constitution and the labor code prohibit forced labor. The law also prohibits the employment of persons under the age of fifteen years old, except in special circumstances such as an apprenticeship. Enforcement of this provision is uneven, especially in rural communities. In the cities, it has been reported that many children under fifteen years old work in family businesses in the informal sector. A 2005 study conducted by the Ministry of Labor, the Institute for the Child and Family and the National Committee for the Progressive Eradication of Child Labor found that 550,000 children between ages 5 and 14 were engaged in labor not permitted under the Labor Code. The majority of these children work in rural areas in the informal agricultural sector. In August 2006, the Ministry of Labor took action to combat the problem by hiring 28 permanent child labor inspectors whose functions is to conduct company inspections nationwide, monitor whether children are employed, and impose fines for violations. Within three months, the inspectors conducted 1,486 workplace inspections.

Ecuador’s labor code provides for a 40-hour work week, 15 calendar days of annual paid vacation, restrictions on child labor, general protection of worker health and safety, minimum wages and bonuses, maternity leave, and employer-provided benefits. By law, companies must distribute at least 15 percent of pre-tax profits to their employees. Many employers rely on short-term outsourcing contracts since job tenure rules make it difficult to lay off permanent workers. New regulations restricting use of such contracts were issued in 2006.

The minimum wage was increased in 2007, but there are concerns that it remains inadequate as the sole means to provide a decent standard of living for most workers and their families. Most organized workers in state industries and in the formal sector (private enterprises) earn more than the minimum wage and are provided other significant benefits through collective bargaining. The majority of workers work in the large informal sector, without recourse to the minimum wage or legally mandated benefits.

Ecuador’s law provides general protection for workers’ health and safety on the job. However, a worker may not leave the workplace for health reasons, even if there is a hazardous situation. A worker may request that an inspector from the Ministry of Labor visit the workplace and the inspector may then close down the workplace if hazardous conditions are found.

Economic Conditions: In March 2000***,*** Ecuador adopted the U.S. dollar as its national currency in response to the most serious economic crisis in its history. Dollarization, combined with responsible fiscal policies, helped tame inflation and bring the country back to positive growth and economic stability. Since 2000, the economy has grown steadily, due largely to high oil prices, increased non-petroleum exports, growing remittances, and strong domestic demand. In April 2006, Ecuador revised its hydrocarbons law mandating revisions in contracts with many private petroleum companies, and in May 2006 the Ecuadorian government nullified a contract and seized the assets of the largest U.S. investor in Ecuador. The U.S. company has initiated arbitration proceedings under the BIT.

President Correa, who took office in January 2007, has said that the Ecuadorian government would only service its external debt obligations after funding domestic social priorities; he also said that Ecuador would not pay back "illegitimate" debt. The government has met its external debt obligations through March, but announced the creation of a commission to determine the legitimacy of the debt. The new government has increased income transfers for the poor and announced its intention to increase spending on health, education, and key infrastructure. It has also announced plans to increase low-cost loans to small businesses in parts of the country that are not well-served by the private banking sector, and is seeking to lower interest rates and commissions charged by the banking sector.

In 2006, Ecuador’s real GDP growth rate was estimated at 3.6 percent, and inflation was estimated at 3.4 percent.

Foreign direct investment (FDI) has risen moderately over the last few years. According to UNCTAD, the world stock of FDI increased from $2.0 billion in 1992 to $14.4 billion in 2005. Stock of U.S. FDI in Ecuador has been progressively increasing since it fell from $975 million in 2003. In 2005, U.S. FDI was $760 million, up from $720 million in 2004. Most of the increase is associated with the petroleum and mining sectors. FDI in other sectors remains modest and is focused on financial services, food processing, telecommunications, the chemical and pharmaceutical industries, and machinery and vehicle manufacturing. For Ecuador to take full advantage of the potential investment benefits associated with the ATPA/ATPDEA, it would need to improve its investment climate by providing greater transparency and certainty for foreign investors.

Market Access**:** Ecuador's accession to the WTO in 1996 was an important step in improving access to Ecuador's market. However, a number of trade barriers remain. For example, despite recent improvements, bureaucratic procedures are required to obtain clearance for imports from the Government’s standards-setting body. Also, corruption and inefficiency in the sanitary registration process have delayed and even blocked the entry of some agricultural imports from the United States.

Ecuador requires prior authorization from various government agencies, e.g., the Ministry of Agriculture and Aquaculture (MAGA) for importing most agricultural products. For certain sensitive products such as corn, soybean meal, dairy and poultry, the Minister himself or a designee must sign the import authorization. The Ministry of Health is required to provide prior authorization for imports of processed, canned, and packaged products in the form of a Sanitary Registration. Another administrative hurdle agricultural importers must overcome is the MAGA’s use of “Consultative Committees.” The committees, mainly composed of local producers, often advise the MAGA against granting import permits until local production has been absorbed. The MAGA often requires that all local production of corn, soybean, powder milk, fresh fruit and other commodities be purchased at high prices before authorizing imports.

Ecuador also continues to maintain a preshipment inspection (PSI) regime for imports with a free on board value of more than $4,000. Preshipment inspection by an authorized inspection company (both before shipment and after specific export documentation has been completed at the intended destination) and random spot-checks by customs authorities generally add six to eight weeks to shipping times.

As a member of the Andean Community, Ecuador grants and receives exemptions on tariffs for trade with its CAN partners. A common external tariff (CET) on some products for third party imports into the Andean Community was implemented on January 31, 2006.

Ecuador's foreign investment policy is governed largely by the national implementing legislation for Andean Community Decisions 291 and 292 of 1991 and 1993. Foreign investors are accorded the same rights of entry as Ecuadorian private investors, may own up to 100 percent of enterprises in most sectors without prior government approval, and face the same tax regime. There are no controls or limits on transfers of profits or capital. There are no performance requirements, with the exception of the auto regime.

Certain sectors of the economy are reserved to the state. All foreign investment in petroleum exploration and development in Ecuador must be carried out under a contract with the state oil company. In 2005, then-President Palacio issued a decree requiring that all petroleum exploration and production contracts be renegotiated. In 2006 the Ecuadorian government made this decree law by amending its hydrocarbons law, unilaterally modifying the terms of oil production sharing contracts. Ecuadorian law permits the sales of 51 percent of the state's electrical sector facilities and telephone companies. Foreign investment in domestic fishing operations, with exceptions, is limited to 49 percent of equity. Foreign companies cannot own more than 25 percent equity in broadcast stations and are not permitted to obtain broadcast concessions. Foreign investors must obtain approval from the President and the National Security Council to obtain mining rights in zones adjacent to international boundaries.

Participation in Free Trade Negotiations: In May 2004, the United States initiated free trade negotiations with Colombia, Ecuador, and Peru. Bolivia participated as an observer. To date, the United States has concluded free trade agreements with Peru and Colombia. Negotiations with Ecuador took place through March 2006, but no date has been set for future negotiations.

***Subsidies or Other Requirements that Distort International Trade*:** Ecuador does not use export subsidies.

Ecuador maintains a local crop absorption program based on Ministerial Agreement 067 of February 20, 1978. This ruling prohibits imports of soybean meal and corn during the local harvest season of the same. Ecuador committed to eliminate this ruling during its WTO accession. Nevertheless, it is still being implemented and enforced through Ministerial Agreement 347 of December 14, 2004. Through this program, the industry is obliged to purchase 100 percent of the local production of the aforementioned commodities, usually at high prices set by Consultative Committees that are often dominated by local producers, before imports of these commodities are allowed.

A new health code was approved in December 2006, and includes provisions regulating the importation and sale of products derived through biotechnology. As of early 2007 the biotechnology provisions, which could affect U.S. exports, had not been implemented pending issuance of implementing regulations.

***Trade Policies that Revitalize the Region*:** Ecuador is a member of the Andean Community. According to the Ecuadorian government, the Andean Community absorbed 16 percent of Ecuador's exports and provided 19 percent of its imports in 2006. Ecuador has signed a number of cooperation agreements with countries in the region, including Venezuela and Peru, on topics including energy and social development.

Ecuador is also a member of the Latin American Integration Association (ALADI). Ecuador has broad agreements for the liberalization of trade in goods with Chile and MERCOSUR. In 2006, the Ecuadorian government was working to deepen its accord with Chile. Ecuador also has agreements with Cuba and Mexico that establish tariff preferences for a limited number of products. In 2006 the Ecuadorian government began consultations to investigate deepening its trade agreement with Mexico and to investigate the possibility of a free trade agreement with Canada.

***Narcotics and Counter-Terrorism Cooperation*:** Ecuador has received full certification for its cooperation through 2005 with the United States on counter-narcotics issues under the Foreign Assistance Act, as described in the *International Narcotics Control Strategy Report* of March 2006. Ecuador is not a significant coca-producing country, but is significantly exploited as a transit zone and, to a lesser extent, for processing. With the support of the U.S. Government, Ecuador maintains an active drug detection and interdiction program. Its programs focus on interdiction, police training, drug detection, information sharing, demand reduction and control of money laundering. The U.S. Government has also supported the implementation of a new criminal procedures code adopted in 2001 with police and judicial training. In October 2005, Ecuador adopted a new money laundering law, and the U.S. Government is supporting its implementation. Notably, the Ecuadorian government is making progress in creating a Financial Intelligence Unit to better monitor financial transactions and identify illegal activities.

The reorganization and re-staffing of the National Drug Council (CONSEP) continued in 2006. Efforts also continued to revise the basic anti-drug law, Law 108, to harmonize it with the new money laundering law. CONSEP activity against trafficking in controlled precursor chemicals continued at a high level. However, CONSEP is still not funded at a level consistent with its broad responsibilities. Military and police forces generally cooperated at the local level, conducting some joint operations in 2006 to destroy illicit crops and seize precursor chemicals. The Ecuadorian government continued to reinforce its security presence in the northern border area.

The Counternarcotics Directorate (DNA) of the National Police was increased from 1,385 to 1,500 members in 2006. 1,538 police and other judicial operators throughout the country received training in the implementation of the new code of criminal procedures. New DNA bases and stations were opened with U.S. government assistance in 2006 in El Oro Province at Puerto Bolivar (Machala) and Y de Jobo, and in Pichincha Province at Santo Domingo de los Colorados.

The Ecuadorian government continues to work with the U.S. Government to reduce trafficking through Ecuador. Ecuador has criminalized the production, transport and sale of controlled narcotic substances. Although smuggling of precursor chemicals through Ecuador remains a problem, the Ecuadorian government is making efforts to monitor and control these chemicals and to interdict processing laboratories. Nonetheless, it appears that despite Ecuadorian efforts, transshipment of narcotics through Ecuadorian maritime and land routes to the United States has been increasing substantially in recent years.

Ecuadorian law enforcement agencies cooperated well with U.S. and certain other foreign law enforcement agencies in 2006. Maritime cooperation increased in response to a surge in maritime smuggling out of Ecuador. Ecuadorian cooperation with Colombia to address border issues has depended more on accommodation between local commanders than on the policy of the Ecuadorian government. Ecuador does not extradite its nationals, but it is taking steps with U.S. government assistance to establish a rapid method to confirm the validity of national ID cards (*cedulas*) of individuals detained on drug smuggling vessels on the high seas and claiming Ecuadorian citizenship to avoid extradition.

The Ecuadorian government agreed in 1999 to permit the U.S. government to operate a forward operating location (FOL) at the Ecuadorian Air Force base in Manta for counternarcotics surveillance for ten years. The FOL is in full operation, but an uneven fuel supply has posed occasional problems.

The ATPA/ATPDEA has played an important role in providing trade opportunities in agricultural industries in Ecuador. Such opportunities have provided the citizenry with jobs, thus deterring them from becoming involved in growing narcotics crops and, consequently, mitigating the entrenchment of narcotics trafficking in Ecuador. ATPA's contribution to the rapid growth of Ecuador’s cut flower industry has been particularly important. Cultivation of fresh fruits, vegetables and cereals in the highlands is also growing and offering similarly promising export and employment opportunities. Ecuador’s beneficiary status under the ATPA has helped to create the conditions for such opportunities.

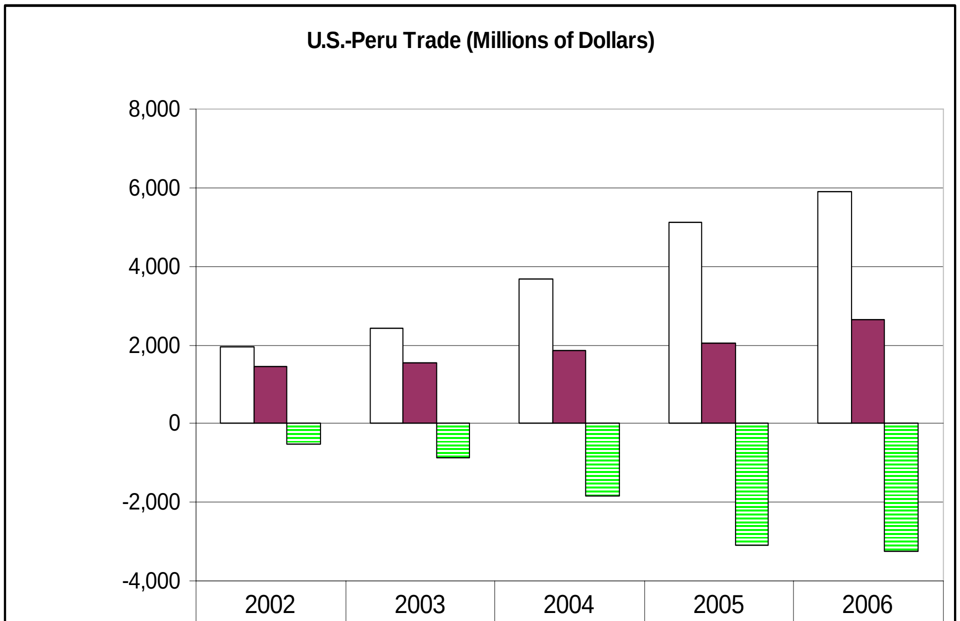
As did most Latin American nations in the wake of the September 11 attacks in the United States, Ecuador voiced strong support for U.S., Organization of American States and United Nations antiterrorism declarations and initiatives put forth in various international fora. Ecuador is a party to the UN Convention for the Suppression of the Financing of Terrorism, and in 2006 the Ecuadorian government ratified the Inter-American Convention against Terrorism. Ecuador is making efforts to improve control of its borders. Other issues of concern include Ecuador’s weak financial controls, widespread document fraud and reputation as a strategic corridor for arms, ammunition and explosives destined for Colombian terrorist groups.

In international rankings, Ecuador has been reported to suffer from high levels of corruption. Weak judicial institutions, sometimes susceptible to political influence and lack of transparency in regulatory bodies, are frequently cited as root causes of corruption in Ecuador. Efforts at reform have had mixed results to date. There is an independent anti-corruption agency, but it is under funded and has little authority. There are few non-governmental institutions that fight corruption. Fighting corruption was a key pillar of President Correa’s electoral platform.

Government Procurement: Government procurement of goods, equipment, and services is regulated by the Public Contracting Law, issued in 2001. Purchases made by the State-owned telephone and electric power distributors, and by military-owned companies are not subject to this law. Foreign bidders must be registered in Ecuador and have a local legal representative in order to participate in government procurement. The law does not discriminate against U.S. or foreign suppliers. However, bidding for government procurement contracts can be cumbersome and relatively non-transparent. Ecuador is not a signatory to the WTO Agreement on Government Procurement.

PERU

Population:
28,302,603
(July 2006 est.)
GDP per capita, Purchasing power parity:
$6,400 (2006 est.)
Source:
2007 World Fact Book



	2002	2003	2004	2005	2006
US Imports	1,953	2,416	3,685	5,123	5,897
US Exports	1,441	1,552	1,858	2,038	2,655
Trade Balance	-512	-864	-1,827	-3,085	-3,242

Effect of the ATPA/ATPDEA: In 2006, U.S. goods imports from Peru totaled $5.9 billion, a 14.8 percent increase ($757 million) from 2005. Just over half that amount entered the United States under ATPA/ATPDEA. Since 2005, U.S. imports under the ATPA/ATPDEA from Peru have increased 40 percent, from $2.3 billion in 2005 to $3.2 billion in 2006. Peru's exports under ATPA/ATPDEA have increased over nine-fold since 2002 from $382 million to $3.2 billion in 2006. The leading export under ATPA/ATPDEA continued to be refined copper cathodes, which increased 78 percent to $993 million in 2006. This product accounted for 31 percent of total ATPA/ATPDEA entries from Peru. The second largest U.S. import under ATPA/ATPDEA was apparel, which increased 5 percent to $826 million in 2006. Other ATPA/ATPDEA export-driven sectors in Peru continued to experience significant increases in 2006, such as petroleum products ($808 million), fresh asparagus ($130 million), and vegetable and fruit preparations, primarily artichokes and asparagus ($77 million).

The stimulation of Peruvian exports to the United States under ATPA/ATPDEA has enabled Peru to diversify its economy and expand job opportunities within its export sector. According to the Ministry of Trade, exports to the United States provided 874,000 direct and indirect jobs to Peruvians in 2006, compared with 562,000 jobs in 2002 and 250,000 jobs in 1994. Additionally, ATPA has improved the ability of Peruvian industries to export to more markets around the world. The value of the goods Peru exported worldwide in 2006 reached a record $23.4 billion, 36 percent higher than in 2005, and represented over a quarter of Peru's total GDP.

Expropriations: According to Peru's Constitution, the Government can only expropriate private property on public interest (e.g., for public works projects) or national security grounds. Any expropriation requires the passage of a specific act of the Congress. The Peruvian government has expressed its intention to comply with international standards concerning expropriations, and it has agreed to adhere to such standards in the U.S.-Peru Trade Promotion Agreement (PTPA). Adequate payment to owners of agricultural lands expropriated by the Peruvian Government in the late 1960s and early 1970s is still under discussion with some foreign investors. In 2006, the Peruvian government resolved one such claim involving an American company.

Arbitral Awards: Peru has consented to binding international arbitration of investment disputes between foreign investors and the state, in accordance with national legislation or international treaties in force. A law permitting international arbitration of disputes between foreign investors and the Government or state-controlled firms was issued by decree in December 1992, and recourse to such arbitration was provided for in the 1993 Constitution. Peru is a party to the 1958 New York Convention on Recognition and Enforcement of Foreign Arbitral Awards.

Peru's decision to become a contracting party to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID Convention) in 1993 has improved its ability to conclude bilateral investment agreements. Disputes between foreign investors and the state regarding contracts predating Peru's accession to the ICSID Convention must still be submitted to national courts. "Juridical stability agreements" between an investor and the government freeze tax and regulatory treatment of investments for extended periods, typically ten or more years, in exchange for a commitment to make an investment above a certain monetary threshold. The typical stability agreement permits investors to submit contract disputes with the Government to national or international arbitration.

Several private organizations, including the American Chamber of Commerce and the Lima Chamber of Commerce, operate private arbitration centers. The quality of these centers varies.

Reverse Preferences: The U.S. Government has no indication that Peru has granted such preferences to the products of a developed nation.

Intellectual Property: The Peruvian government is a member of the following international conventions that concern intellectual property:

- Convention Establishing the World Intellectual Property Organization (WIPO);
- WIPO Copyright Treaty;
- WIPO Performances and Phonograms Treaty;
- Berne Convention for the Protection of Literary and Artistic Works;
- Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations;
- Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of their Phonograms;
- Treaty on the International Registration of Audiovisual Works;
- Universal Copyright Convention of 1952;

- Paris Convention for the Protection of Industrial Property; and
- Brussels Satellites Convention.

Protection and enforcement of intellectual property rights (IPR) in Peru has improved significantly over the past decade, but concerns remain about the adequacy of IPR enforcement in Peru. Peru is currently on the U.S. Government's Special 301 Watch List, due to concerns about Peru's enforcement of its IPR laws, particularly with respect to the relatively weak penalties that have been imposed on IPR infringers. Another factor contributing to continued placement on the "Watch List" is Peru's lack of protection for confidential test data that is submitted for the marketing approval of pharmaceutical and agrochemical products.

Despite some Peruvian government efforts to improve enforcement, including increased raids on large-scale distributors and users of pirated material, piracy remains widespread, due notably to a failure to apply vigorously deterrent penalties. The government, in coordination with the private sector, has conducted numerous raids over the last few years on large-scale distributors and users of pirated goods and has increased other types of enforcement. However, lack of adequate prosecution and sentencing has allowed IPR infringers to resume their operations after these raids.

In an effort to improve enforcement and prosecution rates, at the end of 2006, the Peruvian government for the first time assigned intellectual property case responsibilities to four national courts and one appeals court. IPR judges were appointed to these courts. Peru also increased the number of prosecutors' offices that handle intellectual property issues.

Peru's 1996 Industrial Property Rights Law provides the framework for effective protection for patents and moves Peru closer to conformity with international obligations. In 1997, based on an agreement reached with the U.S. Government, Peru resolved several inconsistencies with the TRIPS Agreement provisions on patent protection and most-favored-nation treatment for patents. U.S. companies have had recent success in obtaining preliminary cease-and-desist orders and then winning court cases against patent violators.

U.S. drug manufacturers are concerned that Peru does not provide sufficient protection for data submitted to regulatory authorities in connection with marketing approval for pharmaceutical products.

The PTPA will provide for improved standards for the protection and enforcement of a broad range of intellectual property rights, which are consistent with U.S. standards of protection and enforcement and with emerging international standards.

Extradition: A new extradition treaty entered into force on August 25, 2003. It specifies a list of extraditable offenses and permits the extradition of nationals.

Workers' Rights: Peru has ratified all eight core conventions of the International Labor Organization (ILO).

Since the election of then-President Toledo in 2001, Peru has made significant labor reforms, and President Garcia's administration is committed to continuing the path of modernizing Peru's labor code and ensuring that Peru's labor laws are consistent with internationally recognized labor rights. In 2003, Peru passed a major law reform strengthening labor rights and addressing many of the observations raised by the ILO. The law included reforms such as reducing the number of workers needed to form a union, limiting the power of the labor authority to cancel a union's registration, and lessening the requirement to show "dual majority" support in order to conclude a collective bargaining agreement covering workers in a "branch of activity" or occupation.

Peru's Constitution and the Law of Collective Labor Relations provide for freedom of association for all citizens. Labor regulations provide that workers may form unions based on their occupation, employer affiliation or geographic territory. Workers are not required to seek authorization prior to forming a trade union, nor may employers legally condition employment on union membership or non-membership. The law does not prohibit temporary employees from joining a union, but they may not join the same union as permanent workers.

There are no restrictions on the affiliation of labor unions with international bodies. Several major unions and labor confederations belong to international labor organizations such as the International Confederation of Free Trade Unions (ICFTU), the international trade secretariats and regional bodies.

Peru's Constitution recognizes the right to strike, but there are limitations and exceptions based on public interest considerations. Peru's Law on Collective Labor Relations defines a strike as a collective suspension of work conducted in a peaceful and voluntary manner by workers who leave the work site. On July 8, 2006, President Toledo signed Supreme Decree No. 013-2006-TR clarifying that labor unions may declare strikes in accordance with internal union rules, as long as such a decision is approved by at least the majority of voting members, and when at least two thirds of all union members are present at the time of the vote.

Peru's Constitution provides for collective bargaining and ensures that the collective bargaining agreements are binding. Supreme Decree 013-2006-TR clarified that employers cannot unilaterally change previously agreed-upon collective bargaining agreements, and reduced arbitration costs for collective bargaining agreements. The Ministry of Labor and Employment Protection estimates that the new system will reduce the cost of arbitration for unions by at least 50 percent, by controlling the overall costs for this activity.

Peru's four Export Processing Zones (EPZs) are not exempt from national labor laws.

The Peruvian Congress unanimously passed a new General Labor Inspection Act on July 4, 2006, which went into effect on October 18, 2006. The law helps strengthen and professionalize labor inspections by establishing guidelines for labor inspections, setting up separate offices for investigations and for fines, establishing a National Bureau of Labor Inspections to oversee the inspections process, and adding more than 250 new labor inspectors. Additionally, the new law redefines acts of union interference as administrative violations, allowing acts of union interference by employers to be punishable with fines.

Peru’s Constitution prohibits forced or bonded labor. Despite recent government efforts to combat forced labor, in May 2006 the ILO reported that nearly 30,000 persons are involved in forced labor in Peru, particularly in the logging industry located in the Amazon River provinces. In January 2007, the Ministry of Labor created an interagency committee to combat forced labor. The law specifically prohibits forced or bonded labor by children. It has also been reported that child labor is found in certain sectors of the informal economy -- including in domestic services, among street vendors, and in work related to trafficking in persons. In January 2006, the Ministry of Labor created a special Office of Labor Protection for Minors, responsible for conducting on-site inspections to ensure that legal codes regarding child labor are enforced. Child labor previously found in the gold mining industry in the Madre de Dios area was eliminated in 2006. The Office of the Ombudsman for Children and Adolescents works with the Ministry of Labor and Employment Protection to document complaints regarding violations of child labor laws. More than one thousand offices are located in communities throughout the country.

The Constitution provides that the State promote social and economic progress and occupational education. It states that workers should receive a "just and sufficient" wage to be determined by the Government in consultation with labor and business representatives, as well as "adequate protection against arbitrary dismissal." In January 2006, the minimum wage was raised from $134 per month to $153 per month.

The Constitution also provides for a 48-hour workweek, a weekly day of rest, and an annual vacation. The law requires companies to pay overtime to employees who work more than 8 hours per day, to provide additional compensation for work at night, and to provide a 45-minute meal break to employees during their 8-hour shift. In May 2006, the Ministry of Labor and Employment Protection issued a decree requiring businesses to maintain a register of hours employees work in order to ensure that workers receive due compensation for working more than eight hours per day. The law also requires employers to document the 45-minute lunch break and to make these records available to workers and unions.

Occupational health and safety standards exist, but labor advocates argue that the government lacks the resources necessary to enforce compliance. The Ministry of Labor and Employment Protection conducts random inspections, and receives and responds to workers’ complaints regarding occupation safety and health. If a company is found to be in violation of the law, it is subject to fines and/or closure.

In cases of industrial accidents, compensation is usually determined by an agreement between the employer and worker. The worker does not need to prove an employer's culpability in order to obtain compensation for work-related injuries.

Economic Conditions: Over the past decade, Peru has been transformed by market-oriented economic reforms and privatizations that generated many of the conditions for long-term growth. Peru has posted stellar macroeconomic figures for the past five years, setting several records in 2006. Real GDP growth rate in 2006 was estimated at 6.5 percent, driven by exports, investment and domestic demand. GDP per capita reached an estimated $6,400 in 2006, up significantly from $2,100 in 2001. Mining, banking and retail services, manufacturing, agriculture, and fishing are key economic sectors.

Peruvian exports reached a record $23.4 billion in 2006, with imports of $15.4 billion, producing a trade surplus of $7.3 billion. Peru's major trading partners in 2006 were the United States, the European Union (led by Germany and Spain), China, Brazil, Chile, Ecuador, Colombia, Argentina, Canada, and Switzerland. Approximately 23 percent of Peruvian exports are destined for the United States and 16 percent of Peruvian imports come from the United States. Exported goods include copper, gold, zinc, textiles, petroleum derivatives, coffee, potatoes, and asparagus. Imports include petroleum and petroleum products, plastics, machinery, vehicles, iron and steel, wheat, and paper. According to UNCTAD, Peru's stock of FDI was over $15.9 billion in 2006. The United States and Spain were the leading investors. Stock of U.S. FDI in Peru was $3.9 billion in 2005, a 15 percent increase from 2004. FDI is concentrated in privatized sectors such as mining, electricity, telecommunications, and finance.

Peru's economy is one of the better-managed in Latin America, but challenges remain. The Peruvian government still faces strong social pressures to reduce its poverty and underemployment rates. Maintaining long-term growth will require improving the investment climate, reducing corruption and completing other reforms.

Market Access: Peru's average tariff rate was reduced from 10.1 percent to 8.3 percent in December 2006. Tariffs apply to most goods exported from the United States to Peru. Under the current system, a 12 percent tariff applies to 41 percent of the products imported into Peru; 20 percent tariffs apply to 15 percent; and the remaining 43 percent have no tariffs. The government maintains a 5 percent "temporary" tariff surcharge mostly on agricultural goods, in an effort to protect local production and promote domestic investment in the sector. In December 2006 the tariff rates for 2,894 line items, mostly capital goods, were reduced from 12 percent and 4 percent to 0. These items included machinery, equipment and animals used in the agricultural, medical, textile, construction, and transportation industries, as well as information technology items, gasoline originating outside the Andean Community, some agricultural inputs (such as soy products), and water-borne vessels.

Most products of interest to U.S. agricultural exporters are subject to high import duties. Additionally, imports of "sensitive" products, including corn, rice, sugar and powder milk, plus score of products derived from these sensitive products are subject to a price band. This levy is the difference between the minimum import price and an international reference price plus an adjustment for insurance, freight and other factors.

The PTPA will eliminate the tariff disparity that currently exists between the United States and Peru. Upon entry into force of the agreement, almost 90 percent of current U.S. agricultural trade with Peru will enter the Peruvian market duty-free. These products will include high quality beef, whey, cotton, wheat, soybean and soybean meal, vegetables and fruits such as apples, pears, peaches, and cherries, and processed food products.

In addition, Peru will immediately eliminate its price band system on trade with the United States upon implementation of the PTPA. Tariffs on other agricultural products will be eliminated gradually, most within five to fifteen years. Within 17 years, all U.S. agricultural exports entering the Peruvian market will be duty-free.

The PTPA will also immediately eliminate tariffs on 80 percent of U.S. industrial products exported to Peru on the first day the agreement enters into force. Within five years, an additional six percent of U.S. industrial products will become duty-free, and another four percent within seven years. Duties on remaining 10 percent will be phased-out over ten years. This will provide significant new opportunities for U.S. manufacturers of technology products, mining, agriculture and construction equipment, medical and scientific equipment, auto parts, paper products, and chemicals.

Additionally, the PTPA will enable U.S. exports to compete more favorably with those countries which already have preferential access to the Peruvian market through other trade agreements.

Participation in Free Trade Negotiations: On December 7, 2005 the United States and Peru announced the conclusion of the negotiations on a comprehensive, state-of-the-art trade agreement. On April 12, 2006, the United States-Peru Trade Promotion Agreement was signed in Washington, D.C. by U.S. Trade Representative Portman and Alfredo Ferrero Diez Canseco, Peru's Minister of Foreign Trade and Tourism. On June 28, 2006, the Peruvian Congress approved the PTPA by a vote of 79 to 14. The U.S. Administration is working towards securing Congressional approval of the PTPA.

Subsidies or Other Requirements that Distort International Trade: Almost all non-tariff barriers, including subsidies, import licensing requirements, import prohibitions, and other quantitative restrictions have been eliminated. However, the following imports are banned for a variety of reasons: several insecticides, fireworks, used clothing, used shoes, used tires, radioactive waste, cars over 5 years old, and trucks over 8 years old. Used cars and trucks that are permitted to be imported must pay a 45 percent excise tax – compared to 20 percent for a new car – unless they are refurbished in an industrial center in the south of the country upon entry, in which case they are exempted entirely from the excise tax.

In 2006, the Governments of the United States and Peru reached agreements addressing Peru's ban or restrictions on imports of U.S. beef and beef products (related to Bovine Spongiform Encephalopathy), poultry and poultry products related to avian influenza), pork and pork products, and rice. Peru has implemented these agreements through a series of resolutions and decrees. In addition, Peru formalized its recognition of the equivalence of the U.S. meat and poultry inspection systems, and eliminated a rice quality standard that discriminated against imports of U.S. rice.

Trade Policies that Revitalize the Region: Peru is a member of the Andean Community. According to the Peruvian government, Peruvian exports to Andean Community (CAN) countries reached $1.0 billion in 2006, representing only 4 percent of Peru's total exports. Imports from these three countries were under $2.2 billion in 2006, about 14 percent of total imports. Peruvian exports to outgoing CAN member Venezuela totaled $412 million, while imports from Venezuela reached $545 million. Peruvian exports to the four original MERCOSUR countries were $892 million in 2006, while imports, primarily from Brazil, reached $2.6 billion. Exports to Mexico were only $388 million, while imports were $520 million.

Peru is also a member of ALADI. Within the framework of ALADI, Peru has extended limited concessions to Argentina, Brazil, Chile, Cuba, Mexico, Paraguay, and Uruguay. In 2006, Peru and Chile broadened the scope of their agreement. The Andean Community is seeking a trade deal with the European Union. Peru is a member of the Asia-Pacific Economic Cooperation Forum (APEC), and will host the 2008 APEC activities. Peru is also pursuing trade deals with several Asian trading partners.

Narcotics and Counter-terrorism Cooperation: In 2004, Peru received full certification for its cooperation with the United States on counter-narcotics issues under the Foreign Assistance Act. Peru is the second largest cocaine producer in the world and a major exporter of high purity cocaine and cocaine base to markets in South America, Mexico, the United States, and Europe.

About 90 percent of the 110,000 metric tons of coca leaf harvested in Peru is used to produce cocaine or its intermediate products. The remainder is used by the local population or for legal medical and commercial consumption in the United States and Europe. Coca cultivation is expanding to new areas while densities are increasing in the traditional source zones. With U.S. Government support, Peru eradicated over 12,680 hectares of coca in 2006, keeping at least 34 metric tons of cocaine from being produced. Alternative development programs supported legal productive activities on almost 49,200 hectares since 2002. Opium latex seizures indicate poppy cultivation along Peru's Andean ridge, with 108.73 kilograms being seized in 2006, down from 500.73 kilograms in 2005. The U.S. Government is supporting an effort to develop a methodology to accurately measure the extent of opium poppy cultivation, although terrain, planting techniques and weather in the growing zones present substantial obstacles to this effort. Peruvian national police seized over one million opium poppy plants in 2006 (88 hectares, down from 95.5 hectares in 2005).

Drug traffickers continue to move coca products out of Peru by land, air, and sea, as well as opium latex and morphine across northern land borders, to U.S., South American and European markets. Mexican and Colombian trafficking organizations are implicated in using Peru as a primary source of cocaine base and cocaine hydrochloride (HCl). Maritime smuggling of larger cocaine shipments is the primary method of transporting multi-ton loads of cocaine base and HCl. Law enforcement efforts in 2006 focused on maritime and port investigations and interdictions that produced record-breaking cocaine seizures. In 2006, approximately 20 metric tons of cocaine base and cocaine HCl were seized. The U.S. Government and the Peruvian government have cooperated to improve port security and to address increased maritime smuggling at key Peruvian port locations. Importantly, the National Port Authority (APN) made very significant advances in promoting the timely attainment of International Ship and Port Security (ISPS) requirements. The U.S. Government is continuing to work with the Peruvian government to enhance its capacity to identify and inspect suspect cargo shipments.

Peru's Congress passed a new law in July 2004 to strengthen controls over precursor chemicals used in cocaine processing. This went into effect in early 2005.

The ATPA/ATPDEA has played a major role in creating jobs and promoting higher-value non-traditional exports that present an alternative to illicit coca growing. According to the Ministry of Trade, exports to the United States provided 874,000 direct and indirect jobs to Peruvians in 2006, compared with 562,000 jobs in 2002 and 250,000 jobs in 1994. More than 300,000 of the jobs created under the ATPDEA were in the labor-intensive textile/apparel and agricultural sectors. These new jobs, which are generally in the formal sector, are likely to be better paying and provide better working conditions. Prior to the ATPDEA, Peru's apparel exports entered the United States with tariffs averaging about 21 percent. With the duty-free treatment provided for under the ATPDEA, textile and apparel exports to the United States from Peru more than doubled from $404 million in 2002 to $866 million in 2006. Export job creation is vital to reducing Peru's poverty rate, which is now under 50 percent and to moving workers from the large informal labor sector into the formal sector where they receive better benefits.

The asparagus export boom has been the most significant agricultural alternative development benefit of the ATPA program. Peru's asparagus exports to the United States have increased tenfold since 1994 to more than $149 million in 2006. Asparagus producers estimate that more than 60,000 people now work directly in asparagus cultivation and processing in Peru. Employment in the export-oriented agricultural sector accounts for 20 percent of the agricultural labor force and has grown 35 percent in the past two years.

Peru is taking action against both international and domestic terrorism, and the government is seeking an integrated approach to eradicating the terrorism threat in the country. There continue to be indications that Sendero Luminoso (Shining Path) is allying itself with coca producers and narcotics traffickers, and is attempting to rebuild its base through expanding its influence in universities throughout Peru. The National Defense and Security fund provided $40 million to the police and military in 2005; some of this money was used to support counterterrorism interests. The Peruvian Congress created a national security system designed to improve intergovernmental cooperation and strengthen terrorism prosecutors. The National Police (PNP) Directorate of Counterterrorism works closely with the U.S. Embassy in counterterrorism activities. The PNP continues to break up Shining Path camps and capture leaders. Peru aggressively prosecutes terrorist suspects. After the Constitutional Tribunal overturned numerous provisions in Fujimori-era terrorism laws in 2003, then President Toledo issued new decree legislation and established the procedures for reviewing and retrying terrorism cases. Around 750 cases were retried in 2005. Peru is a party to all 12 of the international conventions and protocols relating to terrorism. Peru, Colombia and Brazil signed a border cooperation agreement that addresses terrorism and arms trafficking, along with other issues.

A June 2002 law passed by Peru’s Congress allows prosecution of money laundering related to terrorism and also created the Financial Intelligence Unit (FIU) as a means to identify money laundering. Peru further strengthened its anti-money laundering legislation in July 2004. The law: (1) included anti-terrorist finance activities among the FIU’s functions; (2) greatly expanded the FIU’s capacity to engage in joint investigations and information-sharing with foreign FIUs; (3) enhanced the FIU’s capacity to exchange information and pursue joint cases with other agencies of the Peruvian government; and (4) required that individuals and entities transporting more than $10,000 in currency or monetary instruments into or out of Peru file reports with Customs. The FIU has access to these reports upon request.

Government Procurement: There is no limitation on foreign participation in government solicitations. However, in an effort to support national companies, the government adds 20 points (on its rating scale of 100) to bids from firms located in Peru. U.S. pharmaceutical firms have raised concerns about this practice with regard to bidding on the Health Ministry's pharmaceutical purchases. There is draft legislation pending before the Peruvian Congress that would eliminate this preference. Under the PTPA, Peru has agreed to provide U.S. goods, services, and suppliers with national treatment in the procurements covered by the Agreement. As a consequence, Peru will not be able to apply preferences to procurement covered by the Agreement upon the PTPA's entry into force. Peru is not a signatory to the WTO Agreement on Government Procurement.

Chapter 4

SUMMARY OF FEDERAL REGISTER SUBMISSIONS

Pursuant to section 203(f) of the ATPA as amended, USTR requested the views of interested parties (72 Fed. Reg. 6622, February 12, 2007) on whether the countries designated as ATPDEA beneficiary countries in Presidential Proclamation 7616 of October 31, 2002, are meeting the eligibility criteria under the ATPA as amended.

USTR received two comments in response to its request. The full texts of the submissions are available at the Office of the United States Trade Representative Reading Room, 600 17th Street, NW, Washington, D.C. A summary of each submission follows.

International Intellectual Property Alliance (IIPA) asserts that all four Andean countries have failed to adequately and effectively enforce their current copyright laws and are, therefore, not satisfying the IPR criteria contained in ATPA/ATPDEA, the Generalized System of Preferences (GSP), the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) or the WIPO "Internet" Treaties. According to the IIPA, U.S. companies lost an estimated $248 million in 2006 in all four Andean countries due to copyright piracy. The IIPA notes that in recent years, the challenges faced by copyright industries and national governments have grown due to the shift in piracy from hard goods to the unauthorized "burning" of digital media and unauthorized electronic transmissions. The IIPA also raises concerns that weak border enforcement and inefficient criminal and civil justice systems have hampered IPR enforcement efforts in beneficiary countries. Further, the IIPA states that Peru and Colombia have not fully implemented decrees that provide for government use of legally procured software, IIPA reiterated its support for the Peru and Colombia Trade Promotion Agreements stating that the agreements will strengthen the protection and enforcement of copyright law in those countries.

Peruvian Connection, Ltd. believes that continuing the enhanced trade benefits under ATPA for Bolivia, Colombia, Ecuador and Peru is essential to promoting stability, democracy, and the growth of free enterprise in all four countries. Peruvian Connection, Ltd. is concerned that the removal of ATPA benefits will lead to an economic downturn in those Andean countries and argues that the ATPA has successfully provided viable economic alternatives to illicit drug production and trafficking. For example, the Andean textile industry has played a critical role in the legitimate economy of both Peru and Bolivia. Peruvian Connection Ltd. also asserts that without ATPA, many export sectors will not be able to compete with third country exports. For example, the Andean textile industry, which relies heavily on their textile exports to the United States, would not be able to compete with the textile trade from the Far East. Lastly, Peruvian Connection, Ltd. is concerned that businesses in the U.S. will look elsewhere for cheaper imports if the ATPA program is not maintained for all four current beneficiary countries.

Chapter 5

OPERATION OF THE PETITION PROCESS

Pursuant to the procedures outlined in Chapter 1 – Description of the ATPA, USTR has administered a petition process under the program. A description of the initial period of operation of the petition process can be found in the Second Report to Congress on ATPA as amended. That report can be found at:
http://www.ustr.gov/Trade_Development/Preference_Programs/ATPA/Section_Index.html

Since that report, in November 2005, USTR published a list of responsive petitions filed pursuant to the 2005 annual review of the program. One petition, involving a dispute between Exxon-Mobil and the Government of Peru, was accepted for review. In February 2006, USTR announced that due to developments in the matter raised by Exxon-Mobil, that petition did not require further action and the review was terminated. The same notice indicated that a petition filed pursuant to the 2004 review by Electrolux Home Products concerning Ecuador did not warrant further action and that the review was being terminated. In October 2006 , USTR announced that the issues raised in the petition filed by LeTourneau of Peru, Inc. with respect to Peru under the 2003 review had been resolved, that and accordingly the petition did not require further action and its review was being terminated.

Seven petitions from the 2003 and 2004 reviews have remained pending in order to monitor progress. These include three petitions relating to worker rights in Ecuador (filed by the AFL-CIO, Human Rights Watch and U.S./LEAP), two petitions involving gold trading companies in a dispute with Peru (Engelhard and Princeton Dover), one matter currently in international arbitration (Duke Energy versus Peru) and one involving Chevron Texaco and Ecuador.

In light of the potential expiration of the ATPA program, the TPSC announced in October 2006 that the review period for all pending petitions was extended until December 31, 2006. The seven pending petitions continue to be under review while the program is in effect and countries remain as beneficiaries.

A number of the Federal Register notices relating to the ATPA reviews can be found at http://www.ustr.gov/Trade_Development/Preference_Programs/ATPA/Section_Index.html.