

# WORLD TRADE ORGANIZATION

G/L/102

4 September 1996

(96-3478)

**COUNCIL FOR TRADE IN GOODS**  
**19 September 1996**

Original: English

## ANDEAN TRADE PREFERENCE ACT

### Request for Renewal of Waiver

The following communication has been received from the Permanent Mission of the United States.

By the Decision of the CONTRACTING PARTIES to the GATT 1947 of 19 March 1992 (L/6991, BISD 31S/385), the United States was granted a waiver of its obligations under paragraph 1 of Article 1 of the GATT 1947, for the provision of duty-free treatment to eligible products of beneficiary Andean countries under the Andean Trade Preference Act (ATPA). This waiver was granted for the period 4 December 1991 until 4 December 2001. Pursuant to paragraph 1(b)(iii) of the GATT 1994, the waiver became part of the GATT 1994 when the Marrakesh Agreement Establishing the World Trade Organization ("WTO Agreement") entered into force on 1 January 1995. As provided for in paragraph 2 of the Understanding in Respect of Waivers of Obligations under the General Agreement on Tariffs and Trade 1994, unless renewed, this waiver will expire on 31 December 1996, two years after entry into force of the WTO Agreement.

The ATPA, which was signed into law on 4 December 1991, authorizes the President to provide certain trade benefits to four Andean nations -- Bolivia, Colombia, Ecuador and Peru. The Act is intended to help the beneficiaries reduce the production and trafficking of illicit drugs by offering opportunities to expand trade in legitimate products. The ATPA provides almost the same benefits as the Caribbean Basin Economic Recovery Act, a waiver for which was granted by Decision of the General Council on 15 November 1995 (WT/L/104). Congress authorized the ATPA for a period of ten years, ending on 4 December 2001.

The United States requests that Members renew the waiver for the period ending on 4 December 2001, in order to enable the United States to continue to provide duty-free access for imports of eligible articles into the United States from beneficiary Andean countries, as provided in the Andean Trade Preferences Act (Public Law 102-182 of 4 December 1991).

A waiver of paragraph 1 of Article I of the GATT 1994 is necessary so that the United States can continue to provide such duty-free treatment consistent with its international obligations. This request is made in accordance with the Guiding Principles to be followed in considering applications for waivers adopted on 1 November 1956; the Understanding in Respect of Waivers of Obligations under the General Agreement on Tariffs and Trade 1994; and paragraphs 3 and 4 of Article IX of the WTO Agreement. The policy objectives of the ATPA and the exceptional circumstances justifying a waiver are described below.

## ***Discussion***

In September 1989, the Administration announced the Andean Trade Initiative (ATI) and established the interagency Andean Trade Task Force. The general guidance for this Task Force was to examine carefully US trade laws and policies for ways to expand trade opportunities between the United States and the drug-producing countries of the Andean region.

At the February 1990 Cartagena Drug Summit, President Bush agreed, inter alia, to facilitate access to the United States market. The ATPA is intended to fulfil this commitment.

On 23 July 1990, the Administration proposed to Congress a program of benefits for the four Andean nations of Bolivia, Colombia, Ecuador and Peru similar to those enjoyed by Caribbean Basin Initiative (CBI) beneficiaries. A bill providing such benefits was sent to Congress on 5 October 1990, and introduced later in January 1991. The ATPA passed Congress on 26 November, 1991. On 4 December 1991, the ATPA was signed into law.

## **Purpose**

The ATPA should be viewed in the context of the use of US trade policy in our efforts to encourage countries dependent on trade in narcotics to develop alternative legitimate crops and new industries capable of competing in the world market. Drug production and trafficking of cocaine presently inflicts far more serious economic and social consequences on the United States than any other illicit drug. Virtually all cocaine originates in the countries that benefit from the ATPA. The economies of this region have been seriously affected by the displacement of legitimate economic activity by that of narcotics producers and traffickers. The United States is using trade opportunities, such as those offered in the ATPA, as incentives for encouraging people in the Andean nations to move out of illicit drugs and into legitimate products.

The ATPA augments the benefits provided to the region under the GSP, as well as the efforts of other nations to promote trade and economic development in the region.

The United States is seeking a waiver from paragraph 1 of Article I in order to continue to implement the key provisions of the ATPA, which provide a temporary extension of one-way, reduced-tariff access for the Andean nations. Duty-free treatment is extended on all products, with the exception of textiles and apparel, footwear, petroleum and petroleum products, certain leather products, a minor category of watches and watch parts, canned tuna and rum. The tariffs of those leather products excluded from duty-free treatment were being reduced by 20 per cent, subject to certain limitations, phased-in over five years beginning from 4 December 1991. The preferences will last for ten years, having commenced on 4 December 1991.

## **Effect on other contracting parties**

The tariff preferences provided under the ATPA have not and will not create new barriers or otherwise impede the trade of contracting parties because beneficiary countries represent a very small share of US trade and because the program is limited in both scope and duration.

The trade figures provided in Annex 1 and in the information submitted by the United States for the 1991 waiver demonstrate that the preference given to ATPA imports has not resulted in displacement of like products from non-ATPA sources.

Effect on MFN and GSP

The ATPA program is a completely autonomous program which has never involved the binding of margins of preference. The program did not impede U.S. tariff negotiations in the Uruguay Round, in which a major objective was the zero-for-zero initiative for elimination of tariffs on a most-favoured-nation basis. The ATPA program is also independent of the U.S. GSP program as a matter of statute and a matter of policy.

On August 20, 1996, President Clinton signed legislation to reauthorize the GSP program, retroactive to August 1, 1995. Provision of ATPA benefits will not negatively affect GSP benefits.

Conclusion

The United States requests that the Members give its application for a waiver expeditious consideration. The United States is prepared to enter into consultations and to cooperate fully in providing additional information about the ATPA and discussing the specific terms of the waiver.

ANNEX 1

US Trade with the Andeans

(Values in millions of dollars)

	U.S. Imports									
	Volume	Share	Volume	Share	Volume	Share	Volume	Share	Volume	Share
<b>Source</b>	<b>1991</b>		<b>1992</b>		<b>1993</b>		<b>1994</b>		<b>1995</b>	
<i>Total U.S. Imports</i>	487,129	100.00%	532,665	100.00%	580,659	100.00%	663,256	100.00%	743,505	100.00%
<i>Bolivia</i>	208	0.04%	162	0.03%	191	0.03%	260	0.03%	263	0.04%
<i>Colombia</i>	2,736	0.53%	2,837	0.53%	3,032	0.52%	3,171	0.48%	3,755	0.51%
<i>Ecuador</i>	1,327	0.25%	1,344	0.25%	1,399	0.24%	1,726	0.26%	1,930	0.26%
<i>Peru</i>	776	0.14%	738	0.14%	754	0.13%	841	0.13%	1,035	0.14%
<i>Total ATPA</i>	5,047	0.96%	5,081	0.95%	5,376	0.92%	5,738	0.90%	6,983	0.95%