



United States  
International Trade Commission

# Andean Trade Preference Act:

Impact on U.S. Industries and  
Consumers and on Drug Crop  
Eradication and Crop Substitution, 2015

Seventeenth Report

September 2016  
Publication Number: 4642  
Investigation Number: 332–352

# United States International Trade Commission

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# **Andean Trade Preference Act:**

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Consumers and on Drug Crop  
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# Chapter 1

## Impact of the ATPA Program in 2014–15

The Andean Trade Preference Act (ATPA)<sup>1</sup> was enacted in 1991 to promote the development of viable economic alternatives to coca cultivation and cocaine production by offering duty-free or other preferential treatment to imports of eligible goods from Bolivia, Colombia, Ecuador, and Peru. Section 206 of ATPA requires the U.S. International Trade Commission (USITC or the Commission) to submit biennial reports to the President and the Congress on the economic impact of the ATPA program on the U.S. economy generally, on U.S. industries and consumers, and on the effectiveness of the program in promoting drug-related crop eradication and crop substitution efforts of the beneficiary countries. The Commission is required to submit its report to the President and the Congress by September 30 of the year following the period covered in each report. This report is the Commission's 17th report on ATPA, fulfilling the Commission's reporting requirement for calendar years 2014 and 2015.<sup>2</sup>

The President's authority to provide preferential duty treatment under ATPA, the principal benefit of the program, expired on July 31, 2013, and it has not been renewed.<sup>3</sup> Thus, the ATPA program had no impact on the U.S. economy generally, on domestic industries producing products like or directly competitive with products from ATPA countries, on consumers, or on the drug-crop program during calendar years 2014–15. This was because there were no reported U.S. imports during the period that received preferential treatment under the

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<sup>1</sup> Pub. L. 102-182, title II, 105 Stat. 1236, December 4, 1991. ATPA, as amended, is codified at 19 U.S.C. § 3201 et seq. Throughout this report, the term "ATPA" refers to ATPA as amended by the Andean Trade Promotion and Drug Eradication Act (ATPDEA) and subsequent legislation. The ATPA program was expanded and renewed by ATPDEA (Public Law 107-210) and signed into law by the President on August 6, 2002. The ATPDEA expanded trade preferences for the Andean countries to include approximately 700 products that were previously excluded under ATPA, including certain textiles and apparel, footwear, petroleum and petroleum derivatives, watches and watch parts, and leather handbags, luggage, flat goods, work gloves, and leather wearing apparel. ATPA, as amended, also allows expanded benefits for certain tuna in smaller foil or other flexible packages (not cans). For further details, see previous reports in this series.

<sup>2</sup> Appendix A reproduces the *Federal Register* notice by which the Commission solicited public comments. No public comments were received. See appendix B for a list of Commission reports on ATPA.

<sup>3</sup> The Trade Preferences Extension Act of 2015 (Pub. L. 114-27, June 29, 2015) extended and/or expanded the President's authority to provide preferential treatment and other benefits for eligible goods from countries under several other trade preference programs and authorities, including the Generalized System of Preferences (GSP) program, the African Growth and Opportunity Act, and the Haitian Hemispheric Opportunity through Partnership and Encouragement Act, but it did not extend the President's authority to provide duty-free treatment under ATPA.

## Chapter 1: Impact of the ATPA Program

program (table 1.1). In addition, only one of the original four beneficiary countries, Ecuador, was potentially eligible for benefits under the program during the period covered by the report.

**Table 1.1** U.S. imports under ATPA, 1991–2015

Year	Bolivia	Colombia	Ecuador	Peru	Total ATPA imports	Share of total ATPA imports in total U.S. imports
						Percent
Million dollars						
1991	0.0	0.0	0.0	0.0	0.0	0.0
1992	2.1	95.0	0.0	0.0	97.1	( <sup>a</sup> )
1993	32.1	323.4	34.3	11.6	401.4	0.1
1994	91.8	411.6	72.9	107.4	683.8	0.1
1995	84.1	499.3	147.9	207.6	938.8	0.1
1996	105.8	560.5	218.4	385.3	1,270.1	0.2
1997	69.0	605.5	217.4	461.0	1,352.9	0.2
1998	69.6	709.9	233.0	632.7	1,645.2	0.2
1999	61.5	797.3	260.3	631.2	1,750.3	0.2
2000	61.5	826.6	247.6	846.0	1,981.6	0.2
2001	54.0	718.0	216.3	686.3	1,674.6	0.1
2002	37.1	404.1	177.7	381.8	1,000.8	0.1
2003	94.5	2,908.7	1,553.6	1,279.3	5,836.0	0.5
2004	120.4	3,888.9	2,747.3	1,602.7	8,359.3	0.7
2005	157.4	4,653.2	4,370.7	2,282.7	11,463.9	0.8
2006	166.2	4,791.2	5,325.2	3,201.9	13,484.4	0.8
2007	148.1	4,527.7	4,613.8	3,017.2	12,306.8	0.7
2008	140.0	7,339.2	6,594.8	3,168.7	17,242.7	0.9
2009	0.0	5,589.5	2,748.4	1,376.3	9,714.2	0.5
2010	0.0	9,472.9	4,179.1	759.4	14,411.4	0.9
2011	0.0	2,675.4	1,705.5	0.0	4,381.0	0.2
2012	0.0	5,313.6	5,869.5	0.0	11,183.1	0.5
2013	0.0	0.0	2,575.1	( <sup>b</sup> )	2,575.3	0.1
2014	0.0	0.0	0.0	0.0	0.0	0.0
2015	0.0	0.0	0.0	0.0	0.0	0.0

Source: Official trade statistics of the U.S. Department of Commerce, accessible via the USITC DataWeb (accessed July 18, 2016).

Note: Shares are based on rounded data.

<sup>a</sup> Less than 0.05 percent of total U.S. imports.

<sup>b</sup> Imports from Peru that claimed ATPA benefits in 2013 were \$0.2 million. Eligibility for ATPA benefits is based on date of entry into the United States, regardless of whether eligible imports enter the customs territory or free trade zones (FTZs). Therefore, imports can receive ATPA benefits for goods that move from FTZs into the customs territory, even if this occurs after the country is no longer ATPA eligible.

Three of the four Andean countries designated as beneficiaries under ATPA—Bolivia, Colombia, and Peru—ceased to be ATPA beneficiary countries at different times and for different reasons.<sup>4</sup> Bolivia lost its beneficiary status on December 15, 2008, after the U.S. President signed a proclamation suspending Bolivia as a beneficiary country as a result of Bolivia’s failure to cooperate with the United States on counternarcotics efforts, which was one criterion for ATPA and ATPDEA eligibility.<sup>5</sup> Any remaining duty-free treatment or other preferential treatment under ATPA with respect to Peru terminated on December 31, 2010,<sup>6</sup> after the U.S.-

<sup>4</sup> See appendix B for a timeline of significant events during the ATPA program.

<sup>5</sup> Statement by White House Press Secretary Dana Perino, November 26, 2008, and Proclamation No. 8323 of November 25, 2008.

<sup>6</sup> 19 U.S.C. 3206(a).



Peru Trade Promotion Agreement (TPA) entered into force.<sup>7</sup> The President terminated the designation of Colombia as a beneficiary country under ATPA on May 15, 2012, when the U.S.-Colombia TPA entered into force.<sup>8</sup> Finally, after July 31, 2013, when the President's authority to provide duty-free treatment under ATPA expired, U.S. imports from Ecuador ceased to receive preferential treatment under the program. In addition, Ecuador's National Secretary for Communications announced in a news release on June 27, 2013—about one month before the President's authority expired—that the government was unilaterally renouncing its tariff preferences under ATPDEA.<sup>9</sup>

## **Economic Impact of ATPA on the U.S. Economy, Industries, and Consumers**

Given that no imports entered into the United States under the ATPA program during the 2014–15 period covered by this report (table 1.1), there was no measurable effect on the U.S. economy or on U.S. consumers or specific U.S. industries that produce articles that are like, or directly competitive with, articles imported under ATPA. Similarly, there will be no probable future effect of ATPA on the U.S. economy and U.S. industries unless it is renewed.

Throughout this reporting series, the Commission has found that the effect of ATPA on the U.S. economy generally has been negligible, largely because U.S. imports under the ATPA program represented only 0.1–0.2 percent of total U.S. imports from the world in 1991–2002, and reached only 0.5–0.9 percent in 2003–2013 even with expanded product coverage under the ATPDEA. The Commission's series of reports also found that ATPA has had a minimal economic impact on the great majority of U.S. industries and consumers. This is largely because the small number of U.S. imports that were found to benefit exclusively from tariff preferences under ATPA<sup>10</sup> did not have a large enough share of the U.S. market to affect competing U.S. producers or the prices paid by U.S. consumers in the great majority of cases.

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<sup>7</sup> The TPA entered into force on February 1, 2009.

<sup>8</sup> The President terminated the designation of Colombia in accordance with section 201(a)(3) of the United States-Colombia Trade Promotion Agreement Implementation Act (19 U.S.C. 3805 note).

<sup>9</sup> Secretaría Nacional de Comunicación del Gobierno de Ecuador [Government of Ecuador National Communications Department], "En defensa de su soberanía, Ecuador renuncia" [In defense of its sovereignty, Ecuador withdraws], June 27, 2013.

<sup>10</sup> Imports that benefited exclusively from ATPA are those imported products that entered duty free under ATPA and were not eligible to enter free of duty under normal trade relations (NTR) rates or other programs, such as the Generalized System of Preferences (GSP) or a free trade agreement.

## Impact of ATPA on Drug Crop Eradication and Alternative Development

A key objective of the 1991 ATPA legislation was to promote broad-based economic development and export diversification among the four Andean countries to provide licit and sustainable economic alternatives to illicit drug-crop cultivation, production, and trafficking.<sup>11</sup> To help determine whether this objective was being met, ATPA required the Commission to report on the estimated effect of ATPA on drug crop eradication and crop substitution efforts in the beneficiary countries. To respond to this request, the Commission's series of reports on ATPA provided data on drug crop eradication and cultivation, based on the U.S. Department of State's (USDOS) yearly *International Narcotics Control Strategy Report (INCSR)*.<sup>12</sup> This report publishes survey information annually on major illicit drug-producing countries worldwide, including the four Andean countries designated under ATPA. In its reports, the Commission also provided information on "alternative development" projects in the region. These projects aim to help farmers transition from growing illicit crops for the illegal drug economy to licit crops by providing technical expertise on agriculture and small business development that allows farmers and others to earn a legal living.<sup>13</sup> Throughout its series of reports, the Commission found that the effectiveness of ATPA in reducing illicit coca cultivation and promoting crop substitution efforts in the beneficiary countries was indirect and small.

The State Department *INCSR* reports estimate that net coca cultivation in the Andes declined overall from over 200,000 hectares (ha.) annually in 1990–92, when the ATPA program first started, to a low point of 153,500 ha. in 2012.<sup>14</sup> However, despite the overall decrease between 1990 and 2012, large swings were reported in both area under cultivation and area

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<sup>11</sup> USTR, *Seventh Report to the Congress*, June 20, 2013, 1–3; U.S. House of Representatives, "Background," *Andean Trade Preference Extension Act of 2008*, House Report 110-529, February 25, 2008; USITC, *ATPA: 16th Report, 2013*, September 2014, 53, footnote 91.

<sup>12</sup> The USDOS prepares the *INCSR* report under the Foreign Assistance Act of 1961, as amended (the "FAA," 22 U.S.C. § 2291). The report provides the President with the basis to designate annually to Congress countries that are major drug-transit or major illicit drug-producing countries, as required under the Foreign Relations Authorization Act (Pub. L. 107-228) and related legislation.

<sup>13</sup> The U.S. Agency for International Development (USAID), as well as other governments and multilateral institutions, provide economic assistance separate from the ATPA program. Often called "alternative" or "integrated" development, these projects aim to substitute the cultivation of licit crops—such as cacao, coffee, flowers, forestry products, and other high-value export products—for the drug-producing crops that supply the illegal drug economy in these Andean countries. USITC, *ATPA: 15th Report, 2011*, September 2012, 4-2.

<sup>14</sup> The *INCSR* report publishes annual data by country for the major illicit crops grown worldwide—poppy, coca, and marijuana. Although estimating illicit crop production is not precise and is subject to variations over the years, the *INCSR* typically provides annual estimates for net cultivation (in hectares), which added to eradication measures reported by governments equals total cultivation.

eradicated.<sup>15</sup> In the two most recent years for which data are available (2013–14), net coca cultivation was reported to have increased to 167,000 ha. in 2013 and to 193,500 ha. in 2014.<sup>16</sup> Total annual coca eradication has also varied widely over the years, rising from less than 7,000 ha. annually in 1990–94, when manual eradication efforts first started, to peak annual eradication levels of over 220,000 ha. a year in 2006–08, when large-scale aerial eradication was employed (particularly in Colombia). More recently, eradication levels appear to have dropped substantially, being estimated at about 93,000 ha. in 2013 and 98,000 ha. in 2014.<sup>17</sup> Because the President’s authority to provide preferential duty treatment under ATPA had expired in 2014–15, ATPA had no effect on drug-related crop eradication and crop substitution efforts of the beneficiary countries in those years. In any case, its absence probably had little effect on net cultivation: Ecuador has been considered a drug transit country rather than a coca producer, and the major drug-producing countries in the region, Colombia and Peru, have entered into free trade agreements with the United States.

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<sup>15</sup> During 1990–2014, net coca cultivation varied from a high estimate of over 225,000 ha. in 2007 to a low estimate of 153,500 ha. in 2012. In addition, initial estimates reported Peru as the largest source of coca cultivation in the 1990s; as estimation methods improved, however, Colombia was considered the predominant source during the 2000s. Ecuador, while considered a major drug-transit country, has never been deemed a significant source of coca cultivation by the USDOS report. USDOS, *INCSR*, 2015, and previous issues.

<sup>16</sup> USDOS, *INCSR*, 2016, vol. 1, 30.

<sup>17</sup> USDOS, *INCSR*, 2015, vol. 1, 137, 269; USDOS, *INCSR*, 2014, vol. 1, 132, 270; USITC, *ATPA: 15th Report, 2011*, September 2012, 4-4. Eradication levels for 2013 and 2014 do not include Bolivia.



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# **Appendix A**

## **Federal Register Notice**





**FOR FURTHER INFORMATION CONTACT:** Jeff Zimpfer, National Park Service, Environmental Protection Specialist, Kaloko-Honokohau National Historical Park, 73-4786 Kanalani St., #14, Kailua Kona, HI 96740, telephone number (808) 329-6881, ext. 1500, or email [jeff\\_zimpfer@nps.gov](mailto:jeff_zimpfer@nps.gov).

**SUPPLEMENTARY INFORMATION:** The Park was established by Section 505(a) of Public Law 95-625, November 10, 1978, and the Commission was established by Section 505(f) of that same law. The Commission was re-established by Title VII, Subtitle E, Section 7401 of Public Law 111-11, the Omnibus Public Land Management Act of 2009, March 30, 2009. The Commission's current termination date is December 18, 2018.

The purpose of the Commission is to advise the Director of the National Park Service with respect to the historical, archeological, cultural, and interpretive programs of the Park. The Commission is to afford particular emphasis to the quality of traditional native Hawaiian cultural practices demonstrated in the Park.

The Commission consists of nine members, each appointed by the Secretary of the Interior, and four ex officio non-voting members. All nine members of the Commission must be residents of the State of Hawaii, and at least six of those appointees must be native Hawaiians. Native Hawaiians are defined as any lineal descendants of the race inhabiting the Hawaiian Islands prior to the year 1778. At least five members must be appointed from nominations provided by native Hawaiian organizations. The four ex officio members include the Park Superintendent, the Manager, Pacific Islands Office, Pacific West Region Honolulu Office, one person appointed by the Governor of Hawaii, and one person appointed by the Mayor of the County of Hawaii.

The Commission's nine voting members are appointed for five-year terms. No member may serve more than one term consecutively. The Secretary of the Interior designates one member of the Commission to be Chairman.

We are currently seeking nominations provided by native Hawaiian organizations.

Nominations should be typed and must include a resume providing an adequate description of the nominee's qualifications, including information that would enable the Department of the Interior to make an informed decision regarding meeting the membership requirements of the Commission and permit the Department of the Interior to contact a potential member.

Members of the Commission serve without compensation. However, while away from their homes or regular places of business in the performance of services for the Commission as approved by the Designated Federal Officer, members are allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed such expenses under 5 U.S.C. 5703.

Individuals who are Federally registered lobbyists are ineligible to serve on all Federal Advisory Committee Act (FACA) and non-FACA boards, committees, or councils in an individual capacity. The term "individual capacity" refers to individuals who are appointed to exercise their own individual best judgment on behalf of the government, such as when they are designated Special Government Employees, rather than being appointed to represent a particular interest.

All nominations must be compiled and submitted in one complete package. Incomplete submissions (missing one or more of the items described above) will not be considered.

**Alma Ripps,**  
*Chief, Office of Policy.*

[FR Doc. 2016-20083 Filed 8-22-16; 8:45 am]

**BILLING CODE 4310-EE-P**

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 332-352]

### Andean Trade Preference Act: Impact on U.S. Industries and Consumers and on Drug Crop Eradication and Crop Substitution

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice of opportunity to submit information relating to matters to be addressed in the Commission's 17th report on the impact of the Andean Trade Preference Act (ATPA).

**SUMMARY:** Section 206 of the ATPA (19 U.S.C. 3204) requires the Commission to report biennially to the Congress and President by September 30 of each reporting year on the economic impact of the Act on U.S. industries and U.S. consumers, as well as on the effectiveness of the Act in promoting drug related crop eradication and crop substitution efforts by beneficiary countries. The Commission prepares these reports under investigation No. 332-352, *Andean Trade Preference Act: Impact on U.S. Industries and*

*Consumers and on Drug Crop Eradication and Crop Substitution.*

**DATES:** September 6, 2016: Deadline for filing written submissions.

September 30, 2016: Transmittal of Commission report to Congress.

**ADDRESSES:** All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E Street SW., Washington, DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436. The public record for this investigation may be viewed on the Commissions electronic docket (EDIS) at <https://edis.usitc.gov>.

**FOR FURTHER INFORMATION CONTACT:** Information specific to this investigation may be obtained from Edward Wilson, Project Leader, Office of Economics (202-205-3268, or [Edward.Wilson@usitc.gov](mailto:Edward.Wilson@usitc.gov)). For information on the legal aspects of this investigation, contact William Gearhart of the Commission's Office of the General Counsel (202-205-3091 or [william.gearhart@usitc.gov](mailto:william.gearhart@usitc.gov)). The media should contact Peg O'Laughlin, Office of External Relations (202-205-1819 or [margaret.olaughlin@usitc.gov](mailto:margaret.olaughlin@usitc.gov)). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202-205-1810. General information concerning the Commission may also be obtained by accessing its Web site (<https://www.usitc.gov>). Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

Background: Section 206 of the Andean Trade Preference Act (ATPA) (19 U.S.C. 3204) requires that the Commission submit biennial reports to the Congress and the President regarding the economic impact of the Act on U.S. industries and consumers and, in conjunction with other agencies, the effectiveness of the Act in promoting drug-related crop eradication and crop substitution efforts of the beneficiary countries. Section 206(b) of the Act requires that each report include:

(1) The actual effect of ATPA on the U.S. economy generally as well as on specific domestic industries, which produce articles that are like, or directly competitive with, articles being imported under the Act from beneficiary countries;

(2) The probable future effect that ATPA will have on the U.S. economy generally and on such domestic industries; and

(3) The estimated effect that ATPA has had on drug-related crop eradication and crop substitution efforts of beneficiary countries.

The President's authority to provide preferential treatment under the ATPA provisions expired on July 31, 2013. During the period covered by this report, calendar years 2014 and 2015, no importations entering the United States should have received preferential treatment under the ATPA program. In addition, two of the four countries originally eligible for designation for ATPA benefits, Peru and Colombia, entered into free trade agreements with the United States prior to July 31, 2013, and were no longer eligible for designation. The initial notice announcing institution of this investigation for the purpose of preparing these reports was published in the **Federal Register** of March 10, 1994 (59 FR 11308). The Commission will submit its report by September 30, 2016.

**Written Submissions:** Interested parties are invited to file written submissions concerning this investigation. All written submissions should be addressed to the Secretary, and should be received not later than 5:15 p.m., September 6, 2016. All written submissions must conform with the provisions of section 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8). Section 201.8 and the Commission's *Handbook on Filing Procedures* require that interested parties file documents *electronically* on or before the filing deadline and submit eight (8) true paper copies by 12:00 p.m. eastern time on the next business day. In the event that confidential treatment of a document is requested, interested parties must file, at the same time as the eight paper copies, at least four (4) additional true paper copies in which the confidential information must be deleted (see the following paragraph for further information regarding confidential business information).

Persons with questions regarding electronic filing should contact the Office of the Secretary, Docket Services Division (202-205-1802).

**Confidential Business Information.** Any submissions that contain confidential business information must also conform to the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the "confidential" or "non-confidential" version, and that the confidential business information is clearly

identified by means of brackets. All written submissions, except for confidential business information, will be made available for inspection by interested parties.

The Commission will not include any confidential business information in the report that it sends to the Congress or the President or that it makes available to the public. However, all information, including confidential business information, submitted in this investigation may be disclosed to and used: (i) By the Commission, its employees and offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel for cybersecurity purposes. The Commission will not otherwise disclose any confidential business information in a manner that would reveal the operations of the firm supplying the information.

**Summaries Of Written Submissions:** The Commission intends to publish summaries of the positions of interested persons. Persons wishing to have a summary of their position included in the report should include a summary with their written submission. The summary may not exceed 500 words, should be in MSWord format or a format that can be easily converted to MSWord, and should not include any confidential business information. The summary will be published as provided if it meets these requirements and is germane to the subject matter of the investigation. The Commission will identify the name of the organization furnishing the summary and will include a link to the Commission's Electronic Document Information System (EDIS) where the full written submission can be found.

By order of the Commission.  
Issued: August 18, 2016.

**Lisa R. Barton,**

*Secretary to the Commission.*

[FR Doc. 2016-20079 Filed 8-22-16; 8:45 am]

**BILLING CODE 7020-02-P**

## **INTERNATIONAL TRADE COMMISSION**

### **Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Sleep-Disordered Breathing Treatment Mask Systems and Components Thereof, DN 3169*; the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing under § 210.8(b) of the Commission's Rules of Practice and Procedure (19 CFR 210.8(b)).

**FOR FURTHER INFORMATION CONTACT:** Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205-2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at <https://edis.usitc.gov>, and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205-2000.

General information concerning the Commission may also be obtained by accessing its Internet server at United States International Trade Commission (USITC) at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of ResMed Corp; ResMed Inc.; and ResMed Ltd. on August 17, 2016. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain sleep-disordered breathing treatment mask systems and components thereof. The complaint names as respondents Fisher & Paykel Healthcare Limited of New Zealand; Fisher Paykel Healthcare, Inc. of Irvine, CA; and Fisher & Paykel Healthcare Distribution Inc. of Irvine, CA. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders and impose a bond upon respondents'

# **Appendix B**

## **Background Information**



**Box B.1** Commission Reports on ATPA

United States International Trade Commission (USITC). *Annual Report on the Impact of the Andean Trade Preference Act: 1st Report, 1993*. Publication 2814. Washington, DC: USITC, 1994.

United States International Trade Commission (USITC). *Andean Trade Preference Act: Impact on U.S. Industries and Consumers and on Drug Crop Eradication and Crop Substitution: 2nd Report, 1994*. Publication 2926. Washington, DC: USITC, 1995.

United States International Trade Commission (USITC). *Andean Trade Preference Act: Impact on U.S. Industries and Consumers and on Drug Crop Eradication and Crop Substitution: 3rd Report, 1995*. Publication 2995. Washington, DC: USITC, 1996.

United States International Trade Commission (USITC). *Caribbean Basin Economic Recovery Act: Impact on the United States: 12th Report, 1996*, and *Andean Trade Preference Act: Impact on the United States: 4th Report, 1996*. Publication 3058. Washington, DC: USITC, 1997.

United States International Trade Commission (USITC). *Caribbean Basin Economic Recovery Act: Impact on the United States: 13th Report, 1997*, and *Andean Trade Preference Act: Impact on the United States: 5th Report, 1997*. Publication 3132. Washington, DC: USITC, 1998.

United States International Trade Commission (USITC). *Caribbean Basin Economic Recovery Act: Impact on the United States: 14th Report, 1998*, and *Andean Trade Preference Act: Impact on the United States: 6th Report, 1998*. Publication 3234. Washington, DC: USITC, 1999.

United States International Trade Commission (USITC). *Andean Trade Preference Act: Impact on U.S. Industries and Consumers and on Drug Crop Eradication and Crop Substitution: 7th Report, 1999*. Publication 3358. Washington, DC: USITC, 2000.

United States International Trade Commission (USITC). *Andean Trade Preference Act: Impact on U.S. Industries and Consumers and on Drug Crop Eradication and Crop Substitution: 8th Report, 2001*. Publication 3538. Washington, DC: USITC, 2002.

United States International Trade Commission (USITC). *Andean Trade Preference Act: Impact on U.S. Industries and Consumers and on Drug Crop Eradication and Crop Substitution: 9th Report, 2002*. Publication 3637. Washington, DC: USITC, 2003.

United States International Trade Commission (USITC). *Andean Trade Preference Act: Impact on U.S. Industries and Consumers and on Drug Crop Eradication and Crop Substitution: 10th Report, 2003*. Publication 3725. Washington, DC: USITC, 2004.

United States International Trade Commission (USITC). *Andean Trade Preference Act: Impact on U.S. Industries and Consumers and on Drug Crop Eradication and Crop Substitution: 11th Report, 2004*. Publication 3803. Washington, DC: USITC, 2005.

United States International Trade Commission (USITC). *Andean Trade Preference Act: Impact on U.S. Industries and Consumers and on Drug Crop Eradication and Crop Substitution: 12th Report, 2005*. Publication 3888. Washington, DC: USITC, 2006.

United States International Trade Commission (USITC). *Andean Trade Preference Act: Impact on U.S. Industries and Consumers and on Drug Crop Eradication and Crop Substitution, 2007: 13th Report*. Publication 4037. Washington, DC: USITC, 2008.

## Appendix B: Supplemental Materials

United States International Trade Commission (USITC). *Andean Trade Preference Act: Impact on U.S. Industries and Consumers and on Drug Crop Eradication and Crop Substitution, 2009: 14th Report*. Publication 4188. Washington, DC: USITC, 2010.

United States International Trade Commission (USITC). *Andean Trade Preference Act: Impact on U.S. Industries and Consumers and on Drug Crop Eradication and Crop Substitution, 2011: 15th Report*. Publication 4352. Washington, DC: USITC, 2012.

United States International Trade Commission (USITC). *Andean Trade Preference Act: Impact on U.S. Industries and Consumers and on Drug Crop Eradication and Crop Substitution, 2013: 16th Report*. Publication 4486. Washington, DC: USITC, 2014.

**Table B.1** Timeline of significant events during the ATPA program, 1991–2013

Nov. 26, 1991	The Congress passes the Andean Trade Preference Act (ATPA).
Dec. 4, 1991	The President signs ATPA into law (Pub. L. 102-182, title II, 105 Stat. 1236), which authorizes the President to proclaim duty-free treatment for eligible articles from Bolivia, Colombia, Ecuador, and Peru, for a 10-year period that expires December 4, 2001.
July 2, 1992	The President proclaims preferential duty treatment for Bolivia and Colombia.
Apr. 13, 1993	The President proclaims preferential duty treatment for Ecuador.
Aug. 11, 1993	The President proclaims preferential duty treatment for Peru.
Dec. 4, 2001	The original ATPA expires. The U.S. Generalized System of Preferences (GSP) also lapses during this period, making ATPA-eligible goods subject to U.S. duties.
Aug. 6, 2002	The President signs into law the Andean Trade Promotion and Drug Eradication Act (ATPDEA) (Pub. L. 107-210, title XXXI, 116 Stat. 1023), as part of the Trade Act of 2002. ATPA, as amended, retroactively renews the original ATPA program back to its December 4, 2001, expiration, and extends product coverage to include certain additional products.
Oct. 31, 2002	ATPA, as amended by the ATPDEA, enters into force. The President designates all four original ATPA beneficiary countries as ATPDEA beneficiary countries and designates most of the additional ATPDEA-eligible products as eligible for duty-free treatment.
Nov. 18, 2003	The United States Trade Representative formally notifies Congress of the Administration's intent to initiate negotiations for a free trade area with Colombia, Peru, Ecuador, and Bolivia.
May 2004	The United States initiates free trade agreement negotiations with Colombia, Ecuador, and Peru, with Bolivia participating as an observer.
Apr. 12, 2006	The United States and Peru sign the U.S.-Peru Trade Promotion Agreement (TPA).
Nov. 22, 2006	The United States and Colombia sign the U.S.-Colombia TPA.
Dec. 31, 2006	ATPA expires. Before expiration, the Congress enacts on December 20, 2006, the Andean Trade Preferences Extension Act (Pub. L. 109-432, 120 Stat. 3194), granting the first of a number of short-term extensions that continue preferential trade treatment—sometimes retroactively—under the program.
Sep. 25, 2008	The President announces his decision to suspend Bolivia as an ATPA beneficiary country, effective December 15, 2008, for failure to adhere to its obligations under international counternarcotics agreements.
Oct. 16, 2008	The President signs into law the Andean Trade Preference Extension Act of 2008 (Pub. L. 110-191, 122 Stat. 646) that enacts Congress' extension of ATPA preferences for Bolivia and Ecuador through June 30, 2009, contingent on U.S. Presidential review of their eligibility under the program; and through December 31, 2009, for Colombia and Peru.
Dec. 15, 2008	Bolivia is suspended as an ATPA beneficiary country for failure to adhere to its obligations under international counternarcotics agreements.
Feb. 1, 2009	The U.S.-Peru TPA enters into force.
Dec. 29, 2010	Enactment of the Omnibus Trade Act of 2010 (Pub. L. 111-344) renews ATPA and terminates ATPA preferences for Peru after December 31, 2010.
Feb. 12, 2011	The President's authority to provide duty-free treatment under ATPA expires.
Oct. 21, 2011	The President signs into law the United States-Colombia Trade Promotion Agreement Implementation Act (Pub. L. 112-42). The agreement also renews ATPA preferences retroactively to their expiration date on February 12, 2011 (Colombia and Ecuador are the only remaining beneficiaries).
May 15, 2012	The U.S.-Colombia TPA enters into force on May 15, 2012. Colombia loses its ATPA beneficiary status as a result.
June 27, 2013	Ecuador unilaterally renounces ATPA trade preferences.
July 31, 2013	The President's authority to provide duty-free treatment under ATPA expires.

Source: Compiled by the staff of the U.S. International Trade Commission from past Commission reports on ATPA.