



United States  
International Trade Commission

# Andean Trade Preference Act:

Impact on U.S. Industries and  
Consumers and on Drug Crop  
Eradication and Crop Substitution, 2021

September 2022  
Publication Number: 5346  
Investigation Number: 332–352

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# **Andean Trade Preference Act:**

Impact on U.S. Industries and  
Consumers and on Drug Crop  
Eradication and Crop Substitution, 2021

20th Report

September 2022

Publication Number: 5346

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# Table of Contents

<b>Table of Contents</b> .....	<b>3</b>
<b>Impact of the Andean Trade Preference Act (ATPA) Program in 2020–21</b> .....	<b>5</b>
Economic Impact of the ATPA on the U.S. Economy, Industries, and Consumers.....	6
Impact of the ATPA on Drug Crop Eradication and Alternative Development .....	6
<b>Bibliography</b> .....	<b>9</b>
<b>Appendix A: <i>Federal Register</i> Notice</b> .....	<b>11</b>



# Impact of the Andean Trade Preference Act (ATPA) Program in 2020–21

The Andean Trade Preference Act (ATPA)<sup>1</sup> was first 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.<sup>2</sup> It authorized the President to designate such countries as beneficiary countries only after notifying Congress and subject to certain limitations and rules in sections 203 and 204 of the ATPA. Section 206 of the 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 in general, 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. Section 206 of the ATPA requires the Commission to submit such reports regardless of whether there are any countries receiving benefits under the ATPA or trade in goods eligible for preferences under the program. This report is the Commission’s 20th report on the ATPA and fulfills the Commission’s reporting requirement for calendar years 2020 and 2021. The Commission published a notice in the *Federal Register* on July 20, 2022 (87 FR 43295), inviting interested parties to file written submissions concerning this investigation with the Commission.<sup>3</sup> The Commission did not receive any submissions.

During 2020–21, there were no eligible beneficiary countries under the ATPA program, and there were no reported U.S. imports of goods that received preferential treatment under the program. The President suspended the beneficiary status of Bolivia in 2008.<sup>4</sup> Peru and

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<sup>1</sup> Pub. L. 102-182, title II, 105 Stat. 1236, December 4, 1991. Throughout this report, the term “ATPA, as amended” refers to the Andean Trade Preference Act as amended by the Andean Trade Promotion and Drug Eradication Act (ATPDEA) and subsequent legislation. The ATPA, as amended, is codified at 19 U.S.C. § 3201 et seq. 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 about 700 products that were previously excluded under the 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. The 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. The Commission’s previous reports on the ATPA, as amended, are listed in USITC, *ATPA: 18th Report, 2017*, September 2018, appendix B.

<sup>2</sup> USTR, “Andean Trade Preference Act”, n.d. (accessed August 4, 2022).

<sup>3</sup> A copy of the notice is reproduced in appendix A of this report.

<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. The proclamation followed a determination that Bolivia failed to cooperate with the United States on counternarcotics efforts, which was one criterion for ATPA and ATPDEA eligibility. Proclamation No. 8323, 73 Fed. Reg. 230 (November 25, 2008).

Colombia each entered into free trade agreements with the United States in 2009 and 2012, respectively, after which the eligibility for duty-free treatment under the ATPA program was terminated by statute for Peru in 2010 and for Colombia in 2012.<sup>5</sup> Ecuador's benefits under the ATPA expired when the President's authority to provide preferential duty treatment under the ATPA expired on July 31, 2013.<sup>6</sup> Congress has not renewed the President's authority to provide duty-free treatment under the ATPA. Hence, in the absence of authority to provide duty-free treatment under the program, there were no reported imports under the ATPA. The ATPA had no measurable impact on the U.S. economy generally, on U.S. industries or consumers, or on drug-crop eradication or crop substitution efforts during calendar years 2020–21.

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

Given that no imports under the ATPA program were recorded during the 2020–21 period covered by this report, there was no measurable effect on the U.S. economy or on U.S. consumers or on specific U.S. industries that produce articles that are like, or directly competitive with, articles imported under the ATPA. Similarly, there will be no probable future effect of the ATPA on the U.S. economy and U.S. industries unless the program is renewed.

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

No imports entered under the ATPA program or were eligible to receive preferential treatment under the program during the 2020–21 period covered in this report. Therefore, the ATPA had

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<sup>5</sup> The U.S.-Peru Trade Promotion Agreement (TPA) entered into force on February 1, 2009, and the U.S.-Colombia TPA entered into force on May 15, 2012. Although the U.S.-Peru Trade Promotion Agreement Implementation Act (Pub. L. 110-138) did not specify termination of the ATPA as applied to Peru, section 208 of the Andean Trade Preference Act (19 U.S.C. § 3206) was amended in 2010 (by Pub. L. 112-42) to terminate duty-free treatment under the ATPA for Peru effective December 31, 2010. Section 201(a)(3) of the United States-Colombia Trade Promotion Agreement Implementation Act (19 U.S.C. § 3805 note) required the President to terminate the designation of Colombia as a beneficiary country for purposes of the ATPA on the date the Agreement entered into force. See also USITC, *Andean Trade Preference Act: 15th Report, 2011*, September 2012, 1-3 to 1-4.

<sup>6</sup> After July 31, 2013, when the President's authority to provide duty-free treatment under the 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. Government of Ecuador, Secretaría Nacional de Comunicación, "En defensa de su soberanía, Ecuador renuncia de manera unilateral e irrevocable a las ATPDEA" (In defense of its sovereignty, Ecuador withdraws from ATPDEA unilaterally and irrevocably), June 27, 2013.



no effect on drug-related crop eradication and crop substitution efforts of the former beneficiary countries, as was also reported in the Commission’s last two ATPA reports.<sup>7</sup>

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<sup>7</sup> USITC, *Andean Trade Preference Act: 19th Report, 2019*, July 2020, 5–6; USITC, *Andean Trade Preference Act: 18th Report, 2017*, September 2018, 4.



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- U.S. Trade Representative (USTR). “Andean Trade Preference Act.” n.d. (accessed August 4, 2022). [https://ustr.gov/archive/Trade\\_Development/Preference\\_Programs/ATPA/Section\\_Index.html](https://ustr.gov/archive/Trade_Development/Preference_Programs/ATPA/Section_Index.html).



## **Appendix A: *Federal Register* Notice**

(Authority: 43 U.S.C. 1714(b)(1) and 43 CFR 2300)

**Raymond Suazo,**

*State Director.*

[FR Doc. 2022-15405 Filed 7-19-22; 8:45 am]

**BILLING CODE 3411-15-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 20th 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 the President by September 30 of each reporting year on the economic impact of the Act on U.S. industries and U.S. consumers, and 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:**

*August 8, 2022:* Deadline for filing written submissions.

*August 31, 2022:* Transmittal of Commission report to Congress and the President.

**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 Commission's electronic docket (EDIS) at <https://edis.usitc.gov>.

**FOR FURTHER INFORMATION CONTACT:** Wen Jin "Jean" Yuan, Project Leader, Office of Economics ([Wen.Yuan@usitc.gov](mailto:Wen.Yuan@usitc.gov) or 202-205-2383) for information specific to this investigation. For information on the legal aspects of this investigation, contact William Gearhart of the

Commission's Office of the General Counsel ([william.gearhart@usitc.gov](mailto:william.gearhart@usitc.gov) or 202-205-3091). The media should contact Jennifer Andberg, Office of External Relations ([jennifer.andberg@usitc.gov](mailto:jennifer.andberg@usitc.gov) or 202-205-3404). 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 website (<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.

Under the statute, the Commission is required to prepare this report regardless of whether duty-free treatment or other preferential treatment was provided during the period covered by the report. During the period to be covered by this report, calendar years 2020 and 2021, no imports entering the United States received preferential treatment under the ATPA program.

The Commission does not plan to hold a public hearing in this proceeding. The Commission will submit its report by August 31, 2022. 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). Notice providing opportunity to file written submissions in connection with the nineteenth report was published in the **Federal Register** of May 22, 2020 (85 FR 31209).

**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., August 8, 2022. All written submissions must conform to the provisions of section 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8), as temporarily amended by 85 FR 15798 (March 19, 2020). Under that rule waiver, the Office of the Secretary will accept only electronic filings at this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, <https://edis.usitc.gov>). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding electronic filing should contact the Office of the Secretary, Docket Services Division (202-205-1802) or consult the Commission's Handbook on Filing Procedures.

**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 "nonconfidential" 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 President and the Congress. 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 (a) for cybersecurity purposes or (b) in monitoring user activity on U.S. government classified networks. The Commission will not otherwise disclose any confidential business information in

a way that would reveal the operations of the firm supplying the information.

**Summaries of Written Submissions:** Persons wishing to have a summary of their position included in the report should include a summary with their written submission and should mark the summary as having been provided for that purpose. The summary should be clearly marked as “summary for inclusion in the report” at the top of the page. The summary may not exceed 500 words 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 list 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: July 15, 2022.

**William Bishop,**

*Supervisory Hearings and Information Officer.*

[FR Doc. 2022–15469 Filed 7–19–22; 8:45 am]

**BILLING CODE 7020–02–P**

## **INTERNATIONAL TRADE COMMISSION**

[Investigation No. 337–TA–1195]

### **Certain Electronic Candle Products and Components Thereof; Notice of a Commission Determination To Affirm the Remand Initial Determination With Certain Modifications and To Find No Violation; Termination of the Investigation**

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

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has, on review, determined to affirm the remand initial determination (“RID”) issued on December 29, 2021, finding that Complainants failed to establish the economic prong of the domestic industry requirement in the above-referenced section 337 investigation. The Commission has determined to modify the RID as explained in the Commission opinion issued herewith.

**FOR FURTHER INFORMATION CONTACT:** Panyin A. Hughes, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–3042. Copies of non-confidential documents filed in connection with this

investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email [EDIS3Help@usitc.gov](mailto:EDIS3Help@usitc.gov). General information concerning the Commission may also be obtained by accessing its internet server at <https://www.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:** On April 6, 2020, the Commission instituted this investigation based on a complaint filed by complainants L&L Candle Company LLC of Brea, California and Sotera Tschetter, Inc. of St. Paul, Minnesota (together, “Complainants”). 85 FR 19158–59 (Apr. 6, 2020). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 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 electronic candle products and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 8,550,660; 9,366,402; 9,512,971; 9,523,471; and 10,533,718. *Id.* The notice of investigation named as respondents: The Gerson Company of Olathe, Kansas; Gerson International (H.K.) Ltd. of Hong Kong; Sterno Home Inc. of Coquitlam, Canada; Ningbo Huamao International Trading Co., Ltd. of Ningbo City, China; Ningbo Yinzhou Langsheng Artware Co., Ltd. of Ningbo City, China; Lifetime Brands, Inc. of Garden City, New York; Scott Brothers Entertainment, Inc. of Las Vegas, Nevada; Nantong Ya Tai Candle Arts & Crafts Co., Ltd. of San Gabriel, California; NapaStyle, Inc. of Napa, California; Veraflame International, Inc. of Vancouver, Canada (“Veraflame”); MerchSource, LLC of Irvine, California; Ningbo Mascube Import Export Company of Ningbo City, China (“Ningbo Mascube”); Decorware International Inc. dba Decorware Inc. of Rancho Cucamonga, California; Shenzhen Goldenwell Smart Technology Co., Ltd. of Shenzhen City, China; Shenzhen Ksperway Technology Co., Ltd. of Shenzhen City, China; Ningbo Shanhuang Electric Appliance Co. of Ningbo City, China (“Ningbo Shanhuang”); Yiwu Shengda Art Co., Ltd. of Yiwu City, China (“Yiwu Shengda”); Shenzhen Tongfang Optoelectronic Technology Co., Ltd. of Shenzhen City, China; TFL Candles of Shenzhen City, China; Guangdong Tongfang Lighting Co., Ltd. of Hong Kong; Tongfang Optoelectronic

Company of Hong Kong; and Virtual Candles Limited of Kent, United Kingdom (“Virtual Candles”). *Id.* at 19159. The Office of Unfair Import Investigations (“OUII”) was also named as a party to the investigation. *Id.*

Of the twenty-two respondents, five were terminated based on consent orders, eight were terminated based on settlement agreements, three were terminated based on a voluntary withdrawal of the complaint due to an inability to serve, and one was terminated based on a summary determination of no importation. *See* Order No. 7 (May 4, 2020), *unreviewed by* Comm’n Notice (Jun. 3, 2020); Order No. 37 (Dec. 17, 2020), *unreviewed by* Comm’n Notice (Jan. 5, 2021); Order No. 12 (Jun. 15, 2020), *unreviewed by* Comm’n Notice (Jun. 20, 2020); Order No. 15 (Jul. 15, 2020), *unreviewed by* Comm’n Notice (Aug. 5, 2020); Order No. 29 (Oct. 19, 2020), *unreviewed by* Comm’n Notice (Nov. 2, 2020); Order No. 38 (Dec. 18, 2020), *unreviewed by* Comm’n Notice (Jan. 5, 2021); Order No. 39 (Dec. 18, 2020), *unreviewed by* Comm’n Notice (Jan. 5, 2021). The Commission found the following five remaining respondents in default for failing to respond to the complaint and notice of investigation and for failing to show cause why they had not done so, or for failing to participate in discovery: Veraflame, Ningbo Mascube, Ningbo Shanhuang, Yiwu Shengda, and Virtual Candles (“the Defaulting Respondents”). *See* Order No. 14 (Jul. 8, 2020), *unreviewed by* Comm’n Notice (Aug. 3, 2020) (finding Veraflame, Ningbo Mascube, and Virtual Candles in default); Order No. 33 (Nov. 12, 2020), *unreviewed by* Comm’n Notice (Nov. 30, 2020) (finding Yiwu Shengda and Ningbo Shanhuang in default).

On November 13, 2020, Complainants moved for a summary determination of violation as to the Defaulting Respondents and for a recommendation for the issuance of a general exclusion order. On December 4, 2020, OUII filed a response that questioned whether Complainants had satisfied the economic prong of the domestic industry requirement, but otherwise supported a finding of violation of section 337 and issuing a general exclusion order. On April 2, 2021, the ALJ issued an initial determination (“ID”), Order No. 41, granting Complainants’ motion for summary determination of violation by each of the five Defaulting Respondents. Order No. 41 (Apr. 2, 2021).

On May 19, 2021, the Commission determined on its own motion to review the ID’s finding that Complainants satisfied the economic prong of the

