107TH CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPORT
107–290

ANDEAN TRADE PROMOTION AND DRUG ERADICATION ACT

NOVEMBER 14, 2001.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. THOMAS, from the Committee on Ways and Means, submitted the following

R E P O R T

together with

ADDITIONAL AND DISSENTING VIEWS

[To accompany H.R. 3009]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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99–006

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Andean Trade Promotion and Drug Eradication Act".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Since the Andean Trade Preference Act was enacted in 1991, it has had a positive impact on United States trade with Bolivia, Colombia, Ecuador, and Peru. Two-way trade has doubled, with the United States serving as the leading source of imports and leading export market for each of the Andean beneficiary countries. This has resulted in increased jobs and expanded export opportunities in both the United States and the Andean region.

(2) The Andean Trade Preference Act has been a key element in the United States counternarcotics strategy in the Andean region, promoting export diversification and broad-based economic development that provides sustainable economic alternatives to drug-crop production, strengthening the legitimate economies of Andean countries and creating viable alternatives to illicit trade in coca.

(3) Notwithstanding the success of the Andean Trade Preference Act, the Andean region remains threatened by political and economic instability and fragility, vulnerable to the consequences of the drug war and fierce global competition for its legitimate trade.

(4) The continuing instability in the Andean region poses a threat to the security interests of the United States and the world. This problem has been partially addressed through foreign aid, such as Plan Colombia, enacted by Congress in 2000. However, foreign aid alone is not sufficient. Enhancement of legitimate trade with the United States provides an alternative means for reviving and stabilizing the economies in the Andean region.

(5) The Andean Trade Preference Act constitutes a tangible commitment by the United States to the promotion of prosperity, stability, and democracy in the beneficiary countries.

(6) Renewal and enhancement of the Andean Trade Preference Act will bolster the confidence of domestic private enterprise and foreign investors in the economic prospects of the region, ensuring that legitimate private enterprise can be the engine of economic development and political stability in the region.

(7) Each of the Andean beneficiary countries is committed to conclude negotiation of a Free Trade Area of the Americas by the year 2005, as a means of enhancing the economic security of the region.

(8) Temporarily enhancing trade benefits for Andean beneficiary countries will promote the growth of free enterprise and economic opportunity in these countries and serve the security interests of the United States, the region, and the world.

SEC. 3. ARTICLES ELIGIBLE FOR PREFERENTIAL TREATMENT.

(a) ELIGIBILITY OF CERTAIN ARTICLES.—Section 204 of the Andean Trade Preference Act (19 U.S.C. 3203) is amended—

(1) by striking subsection (c) and redesignating subsections (d) through (g) as subsections (c) through (f), respectively; and

(2) by amending subsection (b) to read as follows:

"(b) EXCEPTIONS AND SPECIAL RULES.—

"(1) CERTAIN ARTICLES THAT ARE NOT IMPORT-SENSITIVE.—The President may proclaim duty-free treatment under this title for any article described in subparagraph (A), (B), (C), or (D) that is the growth, product, or manufacture of an ATPDEA beneficiary country and that meets the requirements of this section, if the President determines that such article is not import-sensitive in the context of imports from ATPDEA beneficiary countries:

"(A) Footwear not designated at the time of the effective date of this Act as eligible for the purpose of the generalized system of preferences under title V of the Trade Act of 1974.

"(B) Petroleum, or any product derived from petroleum, provided for in headings 2709 and 2710 of the HTS.

"(C) Watches and watch parts (including cases, bracelets and straps), of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which HTS column 2 rates of duty apply.

"(D) Handbags, luggage, flat goods, work gloves, and leather wearing apparel that were not designated on August 5, 1983, as eligible articles for

purposes of the generalized system of preferences under title V of the Trade Act of 1974.

"(2) EXCLUSIONS.—Subject to paragraph (3), duty-free treatment under this title may not be extended to—

"(A) textiles and apparel articles which were not eligible articles for purposes of this title on January 1, 1994, as this title was in effect on that date;

"(B) rum and tafia classified in subheading 2208.40 of the HTS; or

"(C) sugars, syrups, and sugar-containing products subject to over-quota duty rates under applicable tariff-rate quotas.

"(3) APPAREL ARTICLES.—

"(A) IN GENERAL.—Apparel articles that are imported directly into the customs territory of the United States from an ATPDEA beneficiary country shall enter the United States free of duty and free of any quantitative restrictions, limitations, or consultation levels, but only if such articles are described in subparagraph (B).

"(B) COVERED ARTICLES.—The apparel articles referred to in subparagraph (A) are the following:

"(i) APPAREL ARTICLES ASSEMBLED FROM PRODUCTS OF THE UNITED STATES AND ATPDEA BENEFICIARY COUNTRIES OR PRODUCTS NOT AVAILABLE IN COMMERCIAL QUANTITIES.—Apparel articles sewn or otherwise assembled in 1 or more ATPDEA beneficiary countries, or the United States, or both, exclusively from any one or any combination of the following:

"(I) Fabrics or fabric components formed, or components knit-to-shape, in the United States, from yarns formed in the United States or 1 or more ATPDEA beneficiary countries (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in the United States).

"(II) Fabrics or fabric components formed or components knit-to-shape, in 1 or more ATPDEA beneficiary countries, from yarns formed in 1 or more ATPDEA beneficiary countries, if such fabrics (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in 1 or more ATPDEA beneficiary countries) or components are in chief weight of llama or alpaca.

"(III) Fabrics or yarn that is not formed in the United States or in one or more ATPDEA beneficiary countries, to the extent that apparel articles of such fabrics or yarn would be eligible for preferential treatment, without regard to the source of the fabrics or yarn, under Annex 401 of the NAFTA.

"(ii) ADDITIONAL FABRICS.—At the request of any interested party, the President is authorized to proclaim additional fabrics and yarns as eligible for preferential treatment under clause (i)(III) if—

"(I) the President determines that such fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner;

"(II) the President has obtained advice regarding the proposed action from the appropriate advisory committee established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155) and the United States International Trade Commission;

"(III) within 60 days after the request, the President has submitted a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate that sets forth the action proposed to be proclaimed and the reasons for such action, and the advice obtained under subclause (II);

"(IV) a period of 60 calendar days, beginning with the first day on which the President has met the requirements of subclause (III), has expired; and

"(V) the President has consulted with such committees regarding the proposed action during the period referred to in subclause (III).

"(iii) APPAREL ARTICLES ASSEMBLED IN 1 OR MORE ATPDEA BENEFICIARY COUNTRIES FROM REGIONAL FABRICS OR REGIONAL COMPONENTS.—(I) Subject to the limitation set forth in subclause (II), apparel articles sewn or otherwise assembled in 1 or more ATPDEA beneficiary countries from fabrics or from fabric components formed or from components knit-to-shape, in 1 or more ATPDEA beneficiary countries, from yarns formed in the United States or 1 or more ATPDEA beneficiary

countries (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in 1 or more ATPDEA beneficiary countries), whether or not the apparel articles are also made from any of the fabrics, fabric components formed, or components knit-to-shape described in clause (i).

"(II) The preferential treatment referred to in subclause (I) shall be extended in the 1-year period beginning December 1, 2001, and in each of the 5 succeeding 1-year periods, to imports of apparel articles in an amount not to exceed the applicable percentage of the aggregate square meter equivalents of all apparel articles imported into the United States in the preceding 12-month period for which data are available.

"(III) For purposes of subclause (II), the term 'applicable percentage' means 3 percent for the 1-year period beginning December 1, 2001, increased in each of the 5 succeeding 1-year periods by equal increments, so that for the period beginning December 1, 2005, the applicable percentage does not exceed 6 percent.

"(iv) HANDLOOMED, HANDMADE, AND FOLKLORE ARTICLES.—A handloomed, handmade, or folklore article of an ATPDEA beneficiary country identified under subparagraph (C) that is certified as such by the competent authority of such beneficiary country.

"(v) SPECIAL RULES.—

"(I) EXCEPTION FOR FINDINGS AND TRIMMINGS.—An article otherwise eligible for preferential treatment under this paragraph shall not be ineligible for such treatment because the article contains findings or trimmings of foreign origin, if such findings and trimmings do not exceed 25 percent of the cost of the components of the assembled product. Examples of findings and trimmings are sewing thread, hooks and eyes, snaps, buttons, 'bow buds', decorative lace, trim, elastic strips, zippers, including zipper tapes and labels, and other similar products.

"(II) CERTAIN INTERLINING.—(aa) An article otherwise eligible for preferential treatment under this paragraph shall not be ineligible for such treatment because the article contains certain interlinings of foreign origin, if the value of such interlinings (and any findings and trimmings) does not exceed 25 percent of the cost of the components of the assembled article.

"(bb) Interlinings eligible for the treatment described in division (aa) include only a chest type plate, 'hymo' piece, or 'sleeve header', of woven or weft-inserted warp knit construction and of coarse animal hair or man-made filaments.

"(cc) The treatment described in this subclause shall terminate if the President makes a determination that United States manufacturers are producing such interlinings in the United States in commercial quantities.

"(III) DE MINIMIS RULE.—An article that would otherwise be ineligible for preferential treatment under this subparagraph because the article contains fibers or yarns not wholly formed in the United States or in one or more ATPDEA beneficiary countries shall not be ineligible for such treatment if the total weight of all such fibers or yarns is not more than 7 percent of the total weight of the good.

"(C) HANDLOOMED, HANDMADE, AND FOLKLORE ARTICLES.—For purposes of subparagraph (B)(iv), the President shall consult with representatives of the ATPDEA beneficiary countries concerned for the purpose of identifying particular textile and apparel goods that are mutually agreed upon as being handloomed, handmade, or folklore goods of a kind described in section 2.3(a), (b), or (c) of the Annex or Appendix 3.1.B.11 of the Annex.

"(D) PENALTIES FOR TRANSSHIPMENT.—

"(i) PENALTIES FOR EXPORTERS.—If the President determines, based on sufficient evidence, that an exporter has engaged in transshipment with respect to apparel articles from an ATPDEA beneficiary country, then the President shall deny all benefits under this title to such exporter, and any successor of such exporter, for a period of 2 years.

"(ii) PENALTIES FOR COUNTRIES.—Whenever the President finds, based on sufficient evidence, that transshipment has occurred, the President shall request that the ATPDEA beneficiary country or countries through whose territory the transshipment has occurred take all necessary and appropriate actions to prevent such transshipment. If the President determines that a country is not taking such actions, the President shall reduce the quantities of apparel articles that may be

imported into the United States from such country by the quantity of the transshipped articles multiplied by 3, to the extent consistent with the obligations of the United States under the WTO.

"(iii) TRANSSHIPMENT DESCRIBED.—Transshipment within the meaning of this subparagraph has occurred when preferential treatment under subparagraph (A) has been claimed for an apparel article on the basis of material false information concerning the country of origin, manufacture, processing, or assembly of the article or any of its components. For purposes of this clause, false information is material if disclosure of the true information would mean or would have meant that the article is or was ineligible for preferential treatment under subparagraph (A).

"(E) BILATERAL EMERGENCY ACTIONS.—

"(i) IN GENERAL.—The President may take bilateral emergency tariff actions of a kind described in section 4 of the Annex with respect to any apparel article imported from an ATPDEA beneficiary country if the application of tariff treatment under subparagraph (A) to such article results in conditions that would be cause for the taking of such actions under such section 4 with respect to a like article described in the same 8-digit subheading of the HTS that is imported from Mexico.

"(ii) RULES RELATING TO BILATERAL EMERGENCY ACTION.—For purposes of applying bilateral emergency action under this subparagraph—

"(I) the requirements of paragraph (5) of section 4 of the Annex (relating to providing compensation) shall not apply;

"(II) the term 'transition period' in section 4 of the Annex shall mean the period ending December 31, 2006; and

"(III) the requirements to consult specified in section 4 of the Annex shall be treated as satisfied if the President requests consultations with the ATPDEA beneficiary country in question and the country does not agree to consult within the time period specified under section 4.

"(4) CUSTOMS PROCEDURES.—

"(A) IN GENERAL.—

"(i) REGULATIONS.—Any importer that claims preferential treatment under paragraph (1) or (3) shall comply with customs procedures similar in all material respects to the requirements of Article 502(1) of the NAFTA as implemented pursuant to United States law, in accordance with regulations promulgated by the Secretary of the Treasury.

"(ii) DETERMINATION.—

"(I) IN GENERAL.—In order to qualify for the preferential treatment under paragraph (1) or (3) and for a Certificate of Origin to be valid with respect to any article for which such treatment is claimed, there shall be in effect a determination by the President that each country described in subclause (II)—

"(aa) has implemented and follows; or

"(bb) is making substantial progress toward implementing and following,

procedures and requirements similar in all material respects to the relevant procedures and requirements under chapter 5 of the NAFTA.

"(II) COUNTRY DESCRIBED.—A country is described in this subclause if it is an ATPDEA beneficiary country—

"(aa) from which the article is exported; or

"(bb) in which materials used in the production of the article originate or in which the article or such materials undergo production that contributes to a claim that the article is eligible for preferential treatment under paragraph (1) or (3).

"(B) CERTIFICATE OF ORIGIN.—The Certificate of Origin that otherwise would be required pursuant to the provisions of subparagraph (A) shall not be required in the case of an article imported under paragraph (1) or (3) if such Certificate of Origin would not be required under Article 503 of the NAFTA (as implemented pursuant to United States law), if the article were imported from Mexico.

"(5) DEFINITIONS.—In this subsection—

"(A) ANNEX.—The term 'the Annex' means Annex 300-B of the NAFTA.

"(B) ATPDEA BENEFICIARY COUNTRY.—The term 'ATPDEA beneficiary country' means any 'beneficiary country', as defined in section 203(a)(1) of this title, which the President designates as an ATPDEA beneficiary coun-

try, taking into account the criteria contained in subsections (c) and (d) of section 203 and other appropriate criteria, including the following:

"(i) Whether the beneficiary country has demonstrated a commitment to—

"(I) 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

"(II) participate in negotiations toward the completion of the FTAA or another free trade agreement.

"(ii) 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.

"(iii) The extent to which the country provides internationally recognized worker rights, including—

"(I) the right of association;

"(II) the right to organize and bargain collectively;

"(III) a prohibition on the use of any form of forced or compulsory labor;

"(IV) a minimum age for the employment of children; and

"(V) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health;

"(iv) 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.

"(v) 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. 2291j) for eligibility for United States assistance.

"(vi) The extent to which the country has taken steps to become a party to and implements the Inter-American Convention Against Corruption.

"(vii) The extent to which the country—

"(I) 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

"(II) contributes to efforts in international fora to develop and implement international rules in transparency in government procurement.

"(C) NAFTA.—The term 'NAFTA' means the North American Free Trade Agreement entered into between the United States, Mexico, and Canada on December 17, 1992.

"(D) WTO.—The term 'WTO' has the meaning given that term in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501).

"(E) ATPDEA.—The term 'ATPDEA' means the Andean Trade Promotion and Drug Eradication Act.".

(b) DETERMINATION REGARDING RETENTION OF DESIGNATION.—Section 203(e)(1) of the Andean Trade Preference Act (19 U.S.C. 3202(e)(1)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by inserting "(A)" after "(1)"; and

(3) by adding at the end the following:

"(B) The President may, after the requirements of paragraph (2) have been met—

"(i) withdraw or suspend the designation of any country as an ATPDEA beneficiary country, or

"(ii) withdraw, suspend, or limit the application of preferential treatment under section 204(b)(1) or (3) to any article of any country,

if, after such designation, the President determines that, as a result of changed circumstances, the performance of such country is not satisfactory under the criteria set forth in section 204(b)(5)(B).".

(c) CONFORMING AMENDMENTS.—(1) Section 202 of the Andean Trade Preference Act (19 U.S.C. 3201) is amended by inserting "(or other preferential treatment)" after "treatment".

(2) Section 204(a) of the Andean Trade Preference Act (19 U.S.C. 3203(a)) is amended—

(A) in paragraph (1), by inserting "(or otherwise provided for)" after "eligibility"; and

(B) in paragraph (2), by striking "subsection (a)" and inserting "paragraph (1)".

SEC. 4. TERMINATION OF PREFERENTIAL TREATMENT.

Section 208 of the Andean Trade Preference Act (19 U.S.C. 3206) is amended to read as follows:

"SEC. 208. TERMINATION OF PREFERENTIAL TREATMENT.

"No duty-free treatment or other preferential treatment extended to beneficiary countries under this title shall remain in effect after December 31, 2006.".

SEC. 5. TRADE BENEFITS UNDER THE CARIBBEAN BASIN ECONOMIC RECOVERY ACT.

Section 213(b)(2)(A) of the Carribean Basin Economic Recovery Act (19 U.S.C. 2703(b)(2)(A)) is amended as follows:

(1) Clause (i) is amended by striking the matter preceding subclause (I) and inserting the following:

"(i) APPAREL ARTICLES ASSEMBLED IN ONE OR MORE CBTPA BENEFICIARY COUNTRIES.—Apparel articles sewn or otherwise assembled in one or more CBTPA beneficiary countries from fabrics wholly formed and cut, or from components knit-to-shape, in the United States from yarns wholly formed in the United States, (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are wholly formed and cut in the United States) that are—".

(2) Clause (ii) is amended to read as follows:

"(ii) OTHER APPAREL ARTICLES ASSEMBLED IN ONE OR MORE CBTPA BENEFICIARY COUNTRIES.—Apparel articles sewn or otherwise assembled in one or more CBTPA beneficiary countries with thread formed in the United States from fabrics wholly formed in the United States and cut in one or more CBTPA beneficiary countries from yarns wholly formed in the United States, or from components knit-to-shape in the United States from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are wholly formed in the United States).".

(3) Clause (iii)(II) is amended to read as follows:

"(II) The amount referred to in subclause (I) is as follows:

"(aa) 290,000,000 square meter equivalents during the 1-year period beginning on October 1, 2001.

"(bb) 500,000,000 square meter equivalents during the 1-year period beginning on October 1, 2002.

"(cc) 850,000,000 square meter equivalents during the 1-year period beginning on October 1, 2003.

"(dd) 970,000,000 square meter equivalents in each succeeding 1-year period through September 30, 2008.".

(4) Clause (iii)(IV) is amended to read as follows:

"(IV) The amount referred to in subclause (III) is as follows:

"(aa) 4,872,000 dozen during the 1-year period beginning on October 1, 2001.

"(bb) 9,000,000 dozen during the 1-year period beginning on October 1, 2002.

"(cc) 10,000,000 dozen during the 1-year period beginning on October 1, 2003.

"(dd) 12,000,000 dozen in each succeeding 1-year period through September 30, 2008.".

(5) Section 213(b)(2)(A) of such Act is further amended by adding at the end the following new clause:

"(ix) APPAREL ARTICLES ASSEMBLED IN ONE OR MORE CBTPA BENEFICIARY COUNTRIES FROM UNITED STATES AND CBTPA BENEFICIARY COUNTRY COMPONENTS.—Apparel articles sewn or otherwise assembled in one or more CBTPA beneficiary countries with thread formed in the United States from components cut in the United States and in one or more CBTPA beneficiary countries from fabric wholly formed in the United States from yarns wholly formed in the United States, or from components knit-to-shape in the United States and one or more CBTPA beneficiary countries from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS).".

SEC. 6. TRADE BENEFITS UNDER THE AFRICAN GROWTH AND OPPORTUNITY ACT.

Section 112(b) of the African Growth and Opportunity Act (19 U.S.C. 3721(b)) is amended as follows:

(1) Paragraph (1) is amended by amending the matter preceding subparagraph (A) to read as follows:

"(1) APPAREL ARTICLES ASSEMBLED IN ONE OR MORE BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES.—Apparel articles sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries from fabrics wholly formed and cut, or from components knit-to-shape, in the United States from yarns wholly formed in the United States, (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are wholly formed and cut in the United States) that are—".

(2) Paragraph (2) is amended to read as follows:

"(2) OTHER APPAREL ARTICLES ASSEMBLED IN ONE OR MORE BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES.—Apparel articles sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries with thread formed in the United States from fabrics wholly formed in the United States and cut in one or more beneficiary sub-Saharan African countries from yarns wholly formed in the United States, or from components knit-to-shape in the United States from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are wholly formed in the United States).".

(3) Paragraph (3) is amended—

(A) by amending the matter preceding subparagraph (A) to read as follows:

"(3) APPAREL ARTICLES FROM REGIONAL FABRIC OR YARNS.—Apparel articles wholly assembled in one or more beneficiary sub-Saharan African countries from fabric wholly formed in one or more beneficiary sub-Saharan African countries from yarns originating either in the United States or one or more beneficiary sub-Saharan African countries (including fabrics not formed from yarns, if such fabrics are classified under heading 5602 or 5603 of the HTS and are wholly formed in one or more beneficiary sub-Saharan African countries), or from components knit-to-shape in one or more beneficiary sub-Saharan African countries from yarns originating either in the United States or one or more beneficiary sub-Saharan African countries, or apparel articles wholly formed on seamless knitting machines in a beneficiary sub-Saharan African country from yarns originating either in the United States or one or more beneficiary sub-Saharan African countries, subject to the following:";

(B) in subparagraph (A)(ii)—

(i) by striking "1.5" and inserting "3"; and

(ii) by striking "3.5" and inserting "7"; and

(C) by amending subparagraph (B) to read as follows:

"(B) SPECIAL RULES FOR LESSER DEVELOPED COUNTRIES.—

"(i) IN GENERAL.—Subject to subparagraph (A), preferential treatment under this paragraph shall be extended through September 30, 2004, for apparel articles wholly assembled, or knit-to-shape and wholly assembled, or both, in one or more lesser developed beneficiary sub-Saharan African countries regardless of the country of origin of the fabric or the yarn used to make such articles.

"(ii) LESSER DEVELOPED BENEFICIARY SUB-SAHARAN AFRICAN COUNTRY.—For purposes of clause (i), the term 'lesser developed beneficiary sub-Saharan African country' means—

"(I) a beneficiary sub-Saharan African country that had a per capita gross national product of less than $1,500 in 1998, as measured by the International Bank for Reconstruction and Development;

"(II) Botswana; and

"(III) Namibia.".

(4) Paragraph (4)(B) is amended by striking "18.5" and inserting "21.5".

(5) Section 112(b) of such Act is further amended by adding at the end the following new paragraph:

"(7) APPAREL ARTICLES ASSEMBLED IN ONE OR MORE BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES FROM UNITED STATES AND BENEFICIARY SUB-SAHARAN AFRICAN COUNTRY COMPONENTS.—Apparel articles sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries with thread formed in the United States from components cut in the United States and one or more beneficiary sub-Saharan African countries from fabric wholly formed in the United States from yarns wholly formed in the United States, or from components knit-to-shape in the United States and one or more beneficiary sub-Saha-

ran African countries from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS).".

I. INTRODUCTION

A. PURPOSE AND SUMMARY

H.R. 3009, the "Andean Trade Promotion and Drug Eradication Act," would extend (through December 31, 2006) and enhance the Andean Trade Preference Act (ATPA), which expires on December 4, 2001. The purpose of the bill is to expand trade and promote economic development as a way to create viable alternatives to illicit trade in coca, thereby enhancing political security in the Andean region and the hemisphere.

B. BACKGROUND

The Andean Trade Preference Act (ATPA) was enacted on December 4, 1991 as title II of P.L. 102–182. Modeled after the Caribbean Basin Initiative (P.L. 98–67, title II), the Act authorized preferential trade benefits to four Andean countries—Bolivia, Colombia, Ecuador, and Peru. Because the ATPA's authority was limited to 10 years, it will expire on December 4, 2001, unless renewed.

The ATPA has been cornerstone of U.S. efforts to encourage the Andean countries to move out of illegal drug production and trafficking and into legitimate products. Its success is demonstrated by the growth in trade between the United States and the Andean nations. Between 1991 and 2000, total two-way trade nearly doubled: U.S. exports to the ATPA countries increased 66 percent, while imports more than doubled, rising from $5 billion to $11 billion. Although the Andean countries supply only a fraction of U.S. imports, the United States is the leading export market for each of these countries.

Another mark of the ATPA's success can be seen in the market reforms of the Andean countries. As these countries shift their polices to favor private enterprise and initiative and open their markets to the free flow of goods and services, they are realizing that legitimate trade creates jobs, reduces poverty, and decreases the incentive to trade in illegal narcotics.

C. LEGISLATIVE HISTORY

COMMITTEE ACTION

H.R. 3009, the Andean Trade Promotion and Drug Eradication Act, was introduced on October 3, 2001, by Congressman Crane, on behalf of himself, and Chairman Thomas. The bill was referred to the Committee on Ways and Means.

On October 5, 2001, the Committee on Ways and Means met to consider H.R. 3009. At that time, Chairman Thomas offered an amendment in the nature of a substitute which was adopted by voice vote. An amendment offered by Mr. Rangel to allow Namibia and Botswana to use third country fabric for the transition period under the regional fabric cap established in the Africa Growth and Opportunity Act (AGOA,) was accepted by voice vote. An amendment offered by Mr. Rangel to add tuna and tuna products to the list of items excluded from duty-free treatment under the bill was

defeated by a roll call vote of 17 yeas to 23 nays. The Committee then ordered the bill favorably reported, as amended, by voice vote.

LEGISLATIVE HEARING AND OVERSIGHT

On May 8, 2001 the Trade Subcommittee held a hearing on the prospects and timing for achieving the Free Trade Area of the Americas (FTAA) and on proposals to increase trade with Andean countries through the extension and expansion of the Andean Trade Preference Act. The Subcommittee received testimony from both invited and public witnesses, many of whom stressed the importance of expanding trade and investment relations with Andean countries in order to create legitimate economic alternatives to the illicit production of coca in the region. Testimony in favor of expanding trade benefits available under the Andean Trade Preference Act was received from the U.S. Trade Representative, Ambassador Robert Zoellick.

II. EXPLANATION OF THE BILL

Section 1: Short Title

PRESENT LAW

No provision.

EXPLANATION OF THE BILL

Section 1 of H.R. 3009, as amended, provides that the Act may be cited as the "Andean Trade Promotion and Drug Eradication Act."

REASONS FOR CHANGE

This section names the legislation for identification purposes.

Section 2: Findings

PRESENT LAW

No provision.

EXPLANATION OF PROVISION

Section 2 contains findings of Congress that:

(1) Since the Andean Trade Preference Act was enacted in 1991, it has had a positive impact on United States trade with Bolivia, Colombia, Ecuador, and Peru. Two-way trade has doubled, with the United States serving as the leading source of imports and leading export market for each of the Andean beneficiary countries. This has resulted in increased jobs and expanded export opportunities in both the United States and the Andean region.

(2) The Andean Trade Preference Act has been a key element in the United States counter narcotics strategy in the Andean region, promoting export diversification and broad-based economic development that provide sustainable economic alternatives to drug-crop production, strengthening the legitimate economies of Andean countries and creating viable alternatives to illicit trade in coca.

(3) Notwithstanding the success of the Andean Trade Preference Act, the Andean region remains threatened by political and eco-

nomic instability and fragility, vulnerable to the consequences of the drug war and fierce global competition for its legitimate trade.

(4) The continuing instability in the Andean region poses a threat to the security interests of the United States and the world. This problem has been partially addressed through foreign aid, such as Plan Colombia, enacted by Congress in 2000. However, foreign aid alone is not sufficient. Enhancement of legitimate trade with the United States provides an alternative means for reviving and stabilizing the economies in the Andean region.

(5) The Andean Trade Preference Act constitutes a tangible commitment by the United States to the promotion of prosperity, stability, and democracy in the beneficiary countries.

(6) Renewal and enhancement of the Andean Trade Preference Act will bolster the confidence of domestic private enterprise and foreign investors in the economic prospects of the region, ensuring that legitimate private enterprise can be the engine of economic development and political stability in the region.

(7) Each of the Andean beneficiary countries is committed to conclude negotiation of a Free Trade Area of the Americas by the year 2005 as a means of enhancing the economic security of the region.

(8) Temporarily enhancing trade benefits for Andean beneficiaries countries will promote the growth of free enterprise and economic opportunity in these countries and serve the security interests of the United States, the region, and the world.

REASON FOR CHANGE

Section 2 expresses the Committee's view that extension and enhancement of the Andean Trade Preference Act will promote free enterprise as an engine of economic development that will create viable alternatives to illicit trade in coca, thereby enhancing political security in the region.

Section 3: Articles eligible for preferential treatment

Articles (except apparel) eligible for preferential treatment

PRESENT LAW

The Andean Trade Preference Act (ATPA), enacted on December 4, 1991 as title II of Public Law 102–182, authorizes preferential trade benefits for the Andean nations of Bolivia, Colombia, Ecuador, and Peru, similar to those benefits granted to beneficiaries under the Caribbean Basin Initiative program. The ATPA authorizes the President to proclaim duty-free treatment for all eligible articles from Bolivia, Colombia, Ecuador, Peru. This authority applies only to normal column 1 rates of duty in the Harmonized Tariff Schedule of the United States (HTS); any additional duties imposed under U.S. unfair trade practice laws, such as the antidumping or countervailing duty laws, are not affected by this authority.

The ATPA contains a list of products that are ineligible for duty-free treatment. More specifically, ATPA duty-free treatment does not apply to textile and apparel articles that are subject to textile agreements; petroleum and petroleum products; footwear not eligible for duty-free treatment under the Generalized System of Pref-

erences; certain watches and watch parts; certain leather products; and sugar, syrups and molasses subject to over-quota rates of duty.

EXPLANATION OF PROVISION

Section 3(a) amends the Andean Trade Preference Act to authorize the President to proclaim duty-free treatment for any of the following articles which were previously excluded from duty-free treatment under the ATPA, if the President determines that the article is not import-sensitive in the context of imports from beneficiary countries:

(1) Footwear not designated at the time of the effective date of this Act as eligible for the purposes of the Generalized System of Preferences under title V of the Trade Act of 1974;

(2) Petroleum, or any product derived from petroleum, provided for in headings 2709 and 2710 of the HTS;

(3) Watches and watch parts (including cases, bracelets and straps), of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which HTS column 2 rates of duty apply;

(4) Handbags, luggage, flat goods, work gloves, and leather wearing apparel that—(i) are the product of any beneficiary country; and (ii) were not designated on August 5, 1983, as eligible articles for purposes of the Generalized System of Preferences under title V of the Trade Act of 1974.

Under H.R. 3009, textiles subject to textile agreements; sugar, syrups and molasses subject to over-quota tariffs; and rum and tafia classified in subheading 2208.40.00 of the HTS would continue to be ineligible for duty-free treatment, as would apparel products other than those specifically described below. Imports of tuna, prepared or preserved in any manner, in airtight containers would receive immediate duty-free treatment.

REASON FOR CHANGE

The Committee believes that extending and enhancing economic benefits to countries under the Andean Trade Preference Act, by authorizing duty-free treatment for products excluded from duty-free treatment under current law, as long as they are not import-sensitive, will promote economic alternatives to the production of illicit drugs, while encouraging these nations to make necessary economic reforms.

Eligible apparel articles

PRESENT LAW

Under the ATPA, apparel articles are on the list of products excluded from eligibility for duty-free treatment.

EXPLANATION OF PROVISION

Under Section 3, the President may proclaim duty-free and quota-free treatment for apparel articles sewn or otherwise assembled in one or more beneficiary countries exclusively from any one or any combination of the following:

(1) Fabrics or fabric components formed, or components knit-to-shape, in the United States (including fabrics not formed from

yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in the United States).

(2) Fabrics or fabric components formed, or components knit-to-shape, in one or more beneficiary countries, from yarns formed in one or more beneficiary countries, if such fabrics (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in one or more beneficiary countries) are in chief weight of llama, or alpaca.

(3) Fabrics or yarn not produced in the United States or in the region, to the extent that apparel articles of such fabrics or yarn would be eligible for preferential treatment, without regard to the source of the fabrics or yarn, under Annex 401 of the NAFTA (short supply provisions). Any interested party may request the President to consider such treatment for additional fabrics and yarns on the basis that they cannot be supplied by the domestic industry in commercial quantities in a timely manner, and the President must make a determination within 60 calendar days of receiving the request from the interested party.

(4) Apparel articles sewn or otherwise assembled in one or more beneficiary countries from fabrics or fabric components formed or components knit-to-shape, in one or more beneficiary countries, from yarns formed in the United States or in one or more beneficiary countries (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in one or more beneficiary countries), whether or not the apparel articles are also made from any of the fabrics, fabric components formed, or components knit-to-shape in the United States described in paragraph 1. Imports of apparel made from regional fabric and regional yarn would be capped at 3 percent of U.S. imports growing to 6 percent of U.S. imports in 2006, measured in square meter equivalents.

REASON FOR CHANGE

As described above, the Committee believes that extending and enhancing economic benefits to countries under the Andean Trade Preference Act, by authorizing duty-free treatment for certain products excluded from duty-free treatment under current law, will promote economic alternatives to the production of illicit drugs, while encouraging these nations to make necessary economic reforms. The Committee believes that an ATPA enhancement bill should be tailored to the nature of textile and apparel production in the region. Unlike the Caribbean Basin region, the Andean region produces much of its own fabric and yarn. A bill that made benefits contingent on U.S. fabric and yarn content would provide very little benefit to Andean countries. In addition, the region manufactures a considerable amount of woven fabric, so limiting the use of regional fabric to knit fabric made of U.S. yarn, as in Caribbean Basin Trade Partnership Act, would not provide meaningful benefits to Andean economies.

Penalties for transshipment

PRESENT LAW

The Tariff Act of 1930, as amended, provides for civil monetary penalties for unlawful transshipment. These include penalties

under section 1592 for up to a maximum of the domestic value of the imported merchandise or eight times the loss of revenue, as well as denial of entry, redelivery or liquidated damages for failure to redeliver the merchandise determined to be inaccurately represented. In addition, an importer may be liable for criminal penalties, including imprisonment for up to five years, under section 1001 of title 18 of the United States Code for making false statements on import documentation.

Under the North American Free Trade Agreement (NAFTA), Parties to the Agreement must observe Customs procedures and documentation requirements, which are established in Chapter 5 of NAFTA. Requirements regarding Certificates of Origin for imports receiving preferential tariffs are detailed in Article 502.1 of NAFTA.

EXPLANATION OF PROVISION

Section 3 requires that importers comply with requirements similar in all material respects to the requirements regarding Certificates of Origin contained in Article 502.1 of the North American Free Trade Agreement (NAFTA) for a similar importation from Mexico.

In addition, if an exporter is determined under the laws of the United States to have engaged in illegal transshipment of apparel products from an Andean country, then the President shall deny all benefits under the bill to such exporter, and to any successors of such exporter, for a period of two years.

In cases where the President has requested a beneficiary country to take action to prevent transshipment and the country has failed to do so, the President shall reduce the quantities of textile and apparel articles that may be imported into the United States from that country by three times the quantity of articles transshipped, to the extent that such action is consistent with World Trade Organization (WTO) rules.

REASON FOR CHANGE

The Committee believes these hard-hitting transshipment provisions will address concerns raised by the textile and apparel industry that increasing trade with the Andean countries could result in illegal transshipment of textile and apparel products through the region.

Import relief actions

PRESENT LAW

The import relief procedures and authorities under sections 201–204 of the Trade Act of 1974 apply to imports from ATPA beneficiary countries, as they do to imports from other countries. If ATPA imports cause serious injury, or threat of such injury, to the domestic industry producing a like or directly competitive article, section 204(d) of the ATPA authorizes the President to suspend ATPA duty-free treatment and proclaim a rate of duty or other relief measures.

Under NAFTA, the United States may invoke a special safeguard provision at any time during the tariff phase-out period if a NAFTA-origin textile or apparel good is being imported in such in-

creased quantities and under such conditions as to cause "serious damage, or actual threat thereof," to a domestic industry producing a like or directly competitive good. The President is authorized to either suspend further duty reductions or increase the rate of duty to the NTR rate for up to three years.

EXPLANATION OF PROVISION

Under Section 3(E) normal safeguard authorities under ATPA would apply to imports of all products except textiles and apparel. A NAFTA equivalent safeguard authorities would apply to imports of apparel products from ATPA countries, except that, United States, if it applied a safeguard action, would not be obligated to provide equivalent trade liberalizing compensation to the exporting country.

REASON FOR CHANGE

The Committee believes that NAFTA equivalent safeguard authority is appropriate in order to ensure that the domestic apparel industry is not damaged by increased imports from the Andean region.

Designation criteria

PRESENT LAW

In determining whether to designate any country as an ATPA beneficiary country, the President must take into account seven mandatory and 12 discretionary criteria, which are listed in section 203 of the ATPA.

Under Section 203 of the ATPA, the President shall not designate any country a ATPA beneficiary country if:

(1) The country is a Communist country;

(2) The country has nationalized, expropriated, imposed taxes or other exactions or otherwise seized ownership or control of U.S. property (including intellectual property), unless he determines that prompt, adequate, and effective compensation has been or is being made, or good faith negotiations to provide such compensation are in progress, or the country is otherwise taking steps to discharge its international obligations, or a dispute over compensation has been submitted to arbitration;

(3) The country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of U.S. citizens;

(4) The country affords "reverse" preferences to developed countries and whether such treatment has or is likely to have a significant adverse effect on U.S. commerce;

(5) A government-owned entity in the country engages in the broadcast of copyrighted material belonging to U.S. copyright owners without their express consent or the country fails to work toward the provision of adequate and effective intellectual property rights;

(6) The country is not a signatory to an agreement regarding the extradition of U.S. citizens;

(7) If the country has not or is not taking steps to afford internationally recognized worker rights to workers in the country;

In determining whether to designate a country as eligible for ATPA benefits, the President shall take into account (discretionary criteria):

(1) An expression by the country of its desire to be designated;

(2) The economic conditions in the country, its living standards, and any other appropriate economic factors;

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

(4) The degree to which the country follows accepted rules of international trade under the World Trade Organization;

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

(6) The degree to which the trade policies of the country are contributing to the revitalization of the region;

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

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

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

(10) The extent to which the country prohibits its nationals from engaging in the broadcast of copyrighted material belonging to U.S. copyright owners without their express consent;

(11) Whether such country has met the narcotics cooperation certification criteria of the Foreign Assistance Act of 1961 for eligibility for U.S. assistance; and

(12) The extent to which the country is prepared to cooperate with the United States in the administration of the Act.

Under the ATPA the President is prohibited from designating a country a beneficiary country if any of criteria (1)–(7) apply to that country, subject to waiver if the President determines that country designation will be in the U.S. national economic or security interest. The waiver does not apply to criteria (4) and (6). Under the ATPA criteria on (7) is included as both mandatory and discretionary.

The President may withdraw or suspend beneficiary country status or duty-free treatment on any article if he determines the country should be barred from designation as a result of changed circumstances. The President must submit a triennial report to the Congress on the operation of the program. The report shall include any evidence that the crop eradication and crop substitution efforts of the beneficiary country are directly related to the effects of the legislation

EXPLANATION OF PROVISION

Section 3 provides that the President, in designating a country as eligible for the enhanced ATPDEA benefits, shall take into account the existing eligibility criteria established under ATPA described above, as well as other appropriate criteria, including: whether a country has demonstrated a commitment to undertake

its WTO obligations and participate in negotiations toward the completion of the FTAA or comparable trade agreement; the extent to which the country provides intellectual property protection consistent with or greater than that afforded under the Agreement on Trade-Related Aspects of Intellectual Property Rights; the extent to which the country provides internationally recognized worker rights; whether the country has implemented its commitments to eliminate the worst forms of child labor; the extent to which a country has taken steps to become a party to and implement the Inter-American Convention Against Corruption; and the extent to which the country applies transparent, nondiscriminatory and competitive procedures in government procurement equivalent to those included in the WTO Agreement on Government Procurement and otherwise contributes to efforts in international fora to develop and implement international rules in transparency in government procurement.

In evaluating a potential beneficiary's compliance with its WTO obligations, the Committee expects the President to take account the extent to which the country follows the rules on customs valuation set forth in the WTO Customs Valuation Agreement. With respect to intellectual property protection, it is the intention of the conferees that the President will also take into account the extent to which potential beneficiary countries are providing or taking steps to provide protection of intellectual property rights comparable to the protections provided to the United States in bilateral intellectual property agreements.

The Committee has serious concerns about the Government of Colombia's compliance with the mandatory condition for eligibility in Section 203(c)(2) relating to protections of property and businesses owned by U.S. citizens. The Committee urges the Government to resolve its outstanding disputes with US corporations immediately. The Committee reminds the Government of Colombia it is obligated, as a beneficiary of the ATPA program, to fulfill its responsibility toward U.S. corporations which have received favorable arbitral awards from internationally recognized arbitration panels.

Unfortunately, the Committee is aware of several cases in which the Colombian Government has ignored these obligations, in clear violation of the ATPA. For example, despite a binding arbitration award by an official tribunal of the Government of Colombia to Nortel Networks, the Government of Colombia has not paid Nortel. Similarly, in December 2000, TermoRio, a power plant project which included Sithe Energies, received a $60.3 million award in a binding arbitration by a tribunal of Colombian legal scholars under the auspices of the Centro de Conciliacion y Arbitraje de la Camara de Comericio de Barranquilla and the International Chamber of Commerce. The Committee urges the Government of Colombia to comply with such decisions and compensate Nortel, Sithe Energies and other U.S. corporations appropriately in order to maintain its beneficiary status under status ATPA.

Since April 1995, Colombia has applied a variable import duty system, known as the "price band" system, on fourteen basic agriculture products such as wheat, corn, and soybean oil. An additional 147 commodities, considered substitutes or related products, are subject to the price band system which establishes ceiling, floor, and reference prices on imports. The Committee's view is that

the price band system is non-transparent and easily manipulated as a protectionist device. In early 2000, the United States reached agreement with Colombia in the WTO that Colombia would delink wet pet food, the only finished product in this system, from the price band system. In implementing the eligibility criteria relating to market access and implementation of WTO commitments, it is the Committees intent that USTR insist that Colombia implement its WTO commitment to remove pet food from the price band tariff system and to apply the 20 percent common external tariff to imported pet food.

With respect to whether beneficiary countries are following established WTO rules, the Committee believes it is important for Andean governments to provide transparent and non-discriminatory regulatory procedures. Unfortunately, the Committee knows of instances where regulatory policies in Andean countries are opaque, unpredictable, and arbritarily applied. As such, its is the Committee's view that Andean countries that seek trade benefits should adopt, implement, and apply transparent and non-discriminatory regulatory procedures. The development of such procedures would help create regulatory stability in the Andean region and thus provide mere certainty to U.S. companies that would like to invest in these countries.

Section 4: Termination of Duty-free treatment

PRESENT LAW

Duty-free treatment under the ATPA expires on December 4, 2001.

EXPLANATION OF PROVISION

Duty-free treatment terminates under the Act on December 31, 2006.

REASON FOR CHANGE

A termination date one year after the scheduled conclusion of negotiations to establish the Free Trade Area of the Americas will provide a necessary transition period to phase in reductions in duties pursuant to the larger hemispheric agreement.

Section 5. Trade Benefits under the Caribbean Basin Trade Partnership Act (CBTPA and the Africa Growth and Opportunity Act (AGOA)

Knit-to-shape apparel

PRESENT LAW

Draft regulations issued by Customs to implement P.L. 106–200 stipulate that knit-to-shape garments, because technically they do not go through the fabric stage, are not eligible for trade benefits under the act.

EXPLANATION OF PROVISION

Sec. 5 of H.R. 3009 amends AGOA and CBTPA to clarify that preferential treatment is provided to knit-to-shape apparel articles assembled in beneficiary countries.

REASON FOR CHANGE

Although the Committee believes that the AGOA and CBTPA language stated clearly that knit-to-shape apparel articles are to receive benefits, draft Customs regulations do not so provide. Accordingly, this provision gives effect to Congressional intent.

PRESENT LAW

Draft regulations issued by Customs to implement P.L. 106–200 deny preferential access to garments that are cut both in the United States and beneficiary countries, on the rationale that the legislation does not specifically list this variation in processing (the so-called "hybrid cutting problem").

EXPLANATION OF PROVISION

Sec. 5 of H.R. 3009 adds new rules in CBTPA and AGOA to provide preferential treatment for apparel articles that are cut both in the United States and beneficiary countries.

REASON FOR CHANGE

Although the Committee believes that the CBTPA and AGOA language stated clearly that articles that are both cut in the United States and beneficiary countries, draft Customs regulations do not so provide. Accordingly, this provision gives effect to Congressional intent.

CBI knit cap

PRESENT LAW

P.L. 106–200 extended duty-free benefits to knit apparel made in CBI countries from regional fabric made with U.S. yarn and to knit-to-shape apparel (except socks), up to a cap of 250,000,000 square meter equivalents (SMEs), with a growth rate of 16 percent per year for first 3 years.

EXPLANATION OF PROVISION

Sec. 5 of H.R. 2009 would raise this cap to the following amounts: 250,000,000 SMEs for the 1-year period beginning October 1, 2001; 500,000,000 SMEs for the 1-year period beginning on October 1, 2002; 850,000,000 SMEs for the 1-year period beginning on October 1, 2003; 970,000,000 SMEs in each succeeding 1-year period through September 30, 2009.

REASON FOR CHANGE

Now that P.L. 106–200 has been in effect for one year, the Committee believes it is appropriate to increase these caps.

CBI T-shirt cap

PRESENT LAW

P.L. 106–200 extends benefits for an additional category of CBI regional knit apparel products (T-shirts) up to a cap of 4.2 million dozen, growing 16 percent per year for the first 3 years.

EXPLANATION OF PROVISION

Section 5 of H.R 3009 would raise this cap to the following amounts: 4,200,000 dozen during the 1-year period beginning October 1, 2001; 9,000,000 dozen for the 1-year period beginning on October 1, 2002; 10,000,00 dozen for the 1-year period beginning on October 1, 2003; 12,000,000 dozen in each succeeding 1-year period through September 30, 2009.

REASON FOR CHANGE

Now that P.L. 106–200 has been in effect for one-year, the Committee believes it is appropriate to increase these caps in current law which will limit trade under the bill in the future

PRESENT LAW

Section 112(b)(3) of the AGOA provides preferential treatment for apparel made in beneficiary sub-Saharan African countries from "regional" fabric (i.e., fabric formed in one or more beneficiary countries) from yarn originating either in the United States or one or more such countries. Section 112(b)(3)(B) establishes a special rule for lesser developed beneficiary sub-Saharan African countries, which provides preferential treatment, through September 30, 2004, for apparel wholly assembled in one or more such countries regardless of the origin of the fabric used to make the articles. Section 112(b)(3)(A) establishes a quantitative limit or "cap" on the amount of apparel that may be imported under section 112(b)(3) or section 112(b)(3)(B). This "cap" is 1.5 percent of the aggregate square meter equivalents of all apparel articles imported into the United States for the year that began October 1, 2000, and increases in equal increments to 3.5 percent for the year beginning October 1, 2007.

EXPLANATION OF PROVISION

Section 5 would clarify that apparel wholly assembled in one or more beneficiary sub-Saharan African countries from components knit-to-shape in one or more such countries from U.S. or regional yarn is eligible for preferential treatment under section 112(b)(3) of AGOA. Similarly, Section 5 would clarify that apparel knit-to-shape and wholly assembled in one or more lesser developed beneficiary sub-Saharan African countries is eligible for preferential treatment, regardless of the origin of the yarn used to make such articles. Section 5 also would increase the "cap" by changing the applicable percentages from 1.5 percent to 3 percent in the year that began October 1, 2000, and from 3.5 percent to 7 percent in the year beginning October 1, 2007.

PRESENT LAW

AGOA was supposed to provide duty-free, quota-free treatment to sweaters knit in African beneficiary countries from fine merino wool yarn, regardless of where the yarn was formed. AGOA was supposed to provide duty-free, quota-free treatment to sweaters knit in African beneficiary countries from fine merino wool yarn, regardless of where the yarn was formed. However, due to a drafting problem, the wrong diameter was included, making it impossible to use the provision.

EXPLANATION OF PROVISION

Section 5 corrects the yarn diameter in the AGOA legislation so that sweaters knit to shape from merino wool of a specific diameter are eligible.

REASON FOR CHANGE

This provision gives effect to Congressional intent in the AGOA legislation.

Africa: Namibia and Botswana

PRESENT LAW

The GDBs of Botswana and Namibia exceed the LLDC limit of $1500 and therefore these countries are not eligible to use third country fabric for the transition period under the AGOA regional fabric country cap.

EXPLANATION OF PROVISION

Section 5 allows Namibia and Botswana to use third country fabric for the transition period under the AGOA regional fabric country cap.

REASON FOR CHANGE

Because, neither Botswana nor Namibia has regional fabric making capacity, both countries need the ability to use third country fabric for a limited period to assist in the development of their indigenous textile and apparel industries.

III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statements are made concerning the votes of the Committee on Ways and Means in its consideration of the bill, H.R. 3009.

VOTES ON AMENDMENTS

A rollcall vote was conducted on the following amendment to the Chairman's amendment in the nature of a substitute.

An amendment by Mr. Rangel, to the Chairman's amendment in the nature of a substitute to add tuna or tuna products to the list of items that are excluded from duty-free treatment under the bill, was defeated by a rollcall vote of 17 yeas to 23 nays. The vote was as follows:

Representatives	Yea	Nay	Present	Representatives	Yea	Nay	Present
Mr. Thomas		X		Mr. Rangel	X		
Mr. Crane		X		Mr. Stark	X		
Mr. Shaw		X		Mr. Matsui	X		
Mrs. Johnson		X		Mr. Coyne		X	
Mr. Houghton				Mr. Levin	X		
Mr. Herger		X		Mr. Cardin	X		
Mr. McCrery		X		Mr. McDermott	X		
Mr. Camp		X		Mr. Kleczka	X		
Mr. Ramstad		X		Mr. Lewis (GA)	X		
Mr. Nussle		X		Mr. Neal	X		
Mr. Johnson		X		Mr. McNulty	X		
Ms. Dunn		X		Mr. Jefferson	X		

Representatives	Yea	Nay	Present	Representatives	Yea	Nay	Present
Mr. Collins	X			Mr. Tanner	X		
Mr. Portman		X		Mr. Becerra	X		
Mr. English		X		Mrs. Thurman	X		
Mr. Watkins		X		Mr. Doggett	X		
Mr. Hayworth		X		Mr. Pomeroy	X		
Mr. Weller		X		.			
Mr. Hulshof		X		.			
Mr. McInnis		X		.			
Mr. Lewis (KY)		X		.			
Mr. Foley		X		.			
Mr. Brady		X		.			
Mr. Ryan		X		.			

MOTION TO REPORT THE BILL

The bill, H.R. 3009, was ordered favorably reported by voice vote (with a quorum being present).

IV. BUDGET EFFECTS

A. Committee Estimate of Budgetary Effects

In compliance with clause 3(d)(2) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of this bill, H.R. 3009 as reported: The Committee agrees with the estimate prepared by CBO which is included below.

B. Statement Regarding New Budget Authority and Tax Expenditures

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that enactment of H.R. 3009 would reduce customs duty receipts due to lower tariffs imposed on goods from Andean countries.

C. Cost Estimate Prepared by the Congressional Budget Office

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the Congressional Budget Office, the following report prepared by CBO is provided.

U.S. Congress,
Congressional Budget Office,
Washington, DC, October 11, 2001.

Hon. William "Bill" M. Thomas,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3009, the Andean Trade Promotion and Drug Eradication Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Erin Whitaker.

Sincerely,

Barry B. Anderson,
(For Dan L. Crippen, Director).

Enclosure.

H.R. 3009—Andean Trade Promotion and Drug Eradication Act

Summary: H.R. 3009 would extend the period in which preferential treatment provided to certain products of countries under the Andean Trade Preference Act (ATPC) is in effect. In addition, the bill would provide preferential treatment under ATPA for additional articles, including certain footwear and petroleum products. The bill also would extend preferential treatment to knit-to-shape apparel articles imported from countries under the Caribbean Basin Economic Recovery Act (CBERA) and the African Growth and Opportunity Act (AGOA).

The Congressional Budget Office estimates that enacting the bill would reduce revenues by $41 million in 2002, by $247 million over the 2002–2006 period, and by $263 million over the 2002–2011 period. Because enacting H.R. 3009 would affect receipts, pay-as-your-go procedures would apply. CBO has determined that H.R. 3009 contains no private-sector or intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 3009 is shown in the following table.

	By fiscal year, in millions of dollars—				
	2002	2003	2004	2005	2006
CHANGES IN REVENUES					
Estimated Revenues	−41	−47	−50	−53	−57

Basis of Estimate: ATPA is scheduled to expire on December 4, 2001. H.R. 3009 would extend the ATPA program until December 31, 2006. Several products of beneficiary countries would continue to receive preferential duty treatment if the bill were enacted. Based on information from the International Trade Commission and other trade sources, CBO estimates that extending the ATPA program would reduce revenues by $18 million in 2002, by $119 million over the 2002–2006 period, and by $126 million over the 2002–2007 period.

Under current law, ATPA does not extend preferential treatment to footwear that is ineligible for treatment under the generalized system of preferences (GSP), petroleum and certain products derived from petroleum, watches and watch parts containing material that is the product of countries not receiving normal trade relations (NTR) treatment, certain sugars and molasses, and certain leather goods. H.R. 3009 would allow the President to extend duty-free treatment to those products. CBO expects that all imports of these products would receive duty-free treatment.

Under current law, apparel articles that are the product or manufacture of an ATPA beneficiary country are entitled to preferential treatment. The bill would allow apparel articles assembled from fabrics formed or knit-to-shape in the United States and certain other apparel articles to receive duty-free treatment. Apparel articles assembled from regional fabrics would also receive preferential treatment if they do not exceed certain percentages of imports on apparel articles. All preferential treatment would expire after December 31, 2006. Based on information from the International Trade Commission, the Office of Textiles and Apparel in the Department of Commerce, and private-sector sources, CBO estimates

that if enacted, the provisions that expand ATPA treatment to new products would reduce revenues by $22 million in 2002, by $125 million over the 2002–2006 period, and by $132 million over the 2002–2011 period.

H.R. 3009 would extend preferential treatment to apparel articles formed from components knit-to-shape in the United States for beneficiary countries under CBERA and AGOA. It would also increase the amount of certain apparel articles assembled from regional fabrics that would receive preferential treatment. Preferential treatment for the beneficiary countries is scheduled to expire after September 30, 2008. Based on information from the International Trade Commission, the Office of Textiles and Apparel in the Department of Commerce and private-sector sources, CBO estimates that if enacted, these provisions would reduce revenues by $1 million in 2002, by $3 million over the 2002–2006 period, and by $5 million over the 2002–2008 period.

Pay-as-you-go-considerations: The Balanced Budget and Emergency Deficit Control Act sets up procedures for legislation affecting receipts or direct spending. The net changes in governmental receipts that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the budget year and the succeeding four years are counted.

	By fiscal year, in millions of dollars—									
	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Changes in receipts	−41	−47	−50	−53	−57	−16	−1	0	0	0
Changes in outlays	Not applicable									

Impact on State, local, and tribal governments: The bill contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Federal Revenues: Erin Whitaker. Impact on State, Local, and Tribal Governments: Elyse Goldman. Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: Robertson Williams, Assistant Director for Tax Analysis.

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. Committee Oversight Findings and Recommendations

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee, based on public hearing testimony and information from the Administration, concluded that it is appropriate and timely to consider the bill as reported.

B. Statement of General Performance Goals and Objectives

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill contains no measure that authorizes funding, so no statement of gen-

eral performance goals and objectives for which any measure authorizes funding is required.

C. CONSTITUTIONAL AUTHORITY STATEMENT

With respect to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, relating to Constitutional Authority, the Committee states that the Committee's action in reporting the bill is derived from Article 1 of the Constitution, Section 8 ("The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and to provide for * * * the general Welfare of the United States.")

VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ANDEAN TRADE PREFERENCE ACT

* * * * * * *

TITLE II—TRADE PREFERENCE FOR THE ANDEAN REGION

SEC. 201. SHORT TITLE.

This title may be cited as the "Andean Trade Preference Act".

SEC. 202. AUTHORITY TO GRANT DUTY-FREE TREATMENT.

The President may proclaim duty-free treatment *(or other preferential treatment)* for all eligible articles from any beneficiary country in accordance with the provisions of this title.

SEC. 203. BENEFICIARY COUNTRY.

(a) * * *

* * * * * * *

(e) WITHDRAWAL OR SUSPENSION OF DESIGNATION.—(1)*(A)* The President may—

[(A)] *(i)* withdraw or suspend the designation of any country as a beneficiary country, or

[(B)] *(ii)* withdraw, suspend, or limit the application of duty-free treatment under this title to any article of any country, if, after such designation, the President determines that as a result of changed circumstances such a country should be barred from designation as a beneficiary country.

(B) The President may, after the requirements of paragraph (2) have been met—

(i) withdraw or suspend the designation of any country as an ATPDEA beneficiary country, or

(ii) withdraw, suspend, or limit the application of preferential treatment under section 204(b)(1) or (3) to any article of any country,

if, after such designation, the President determines that, as a result of changed circumstances, the performance of such country is not satisfactory under the criteria set forth in section 204(b)(5)(B).

* * * * * * *

SEC. 204. ELIGIBLE ARTICLES.

(a) IN GENERAL.—(1) Unless otherwise excluded from eligibility *(or otherwise provided for)* by this title, the duty-free treatment provided under this title shall apply to any article which is the growth, product, or manufacture of a beneficiary country if—

(A)* * *

* * * * * * *

(2) The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out ⟦subsection (a)⟧ *paragraph (1)* including, but not limited to, regulations providing that, in order to be eligible for duty-free treatment under this title, an article must be wholly the growth, product, or manufacture of a beneficiary country, or must be a new or different article of commerce which has been grown, produced, or manufactured in the beneficiary country; but no article or material of a beneficiary country shall be eligible for such treatment by virtue of having merely undergone—

(A) simple combining or packaging operations, or

(B) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

* * * * * * *

⟦(b) EXCEPTIONS TO DUTY-FREE TREATMENT.—The duty-free treatment provided under this title shall not apply to—

⟦(1) textile and apparel articles which are subject to textile agreements;

⟦(2) footwear not designated at the time of the effective date of this Act as eligible for the purpose of the generalized system of preferences under title V of the Trade Act of 1974;

⟦(3) tuna, prepared or preserved in any manner, in airtight containers;

⟦(4) petroleum, or any product derived from petroleum, provided for in headings 2709 and 2710 of the HTS;

⟦(5) watches and watch parts (including cases, bracelets and straps), of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which HTS column 2 rates of duty apply;

⟦(6) articles to which reduced rates of duty apply under subsection (c);

⟦(7) sugars, syrups, and molasses classified in subheadings 1701.11.03, 1701.12.02, 1701.99.02, 1702.90.32, 1806.10.42, and 2106.90.12 of the HTS; or

⟦(8) rum and tafia classified in subheading 2208.40.00 of the HTS.

⟦(c) DUTY REDUCTIONS FOR CERTAIN GOODS.—(1) Subject to paragraph (2), the President shall proclaim reductions in the rates of duty on handbags, luggage, flat goods, work gloves, and leather wearing apparel that—

[(A) are the product of any beneficiary country; and

[(B) were not designated on August 5, 1983, as eligible articles for purposes of the generalized system of preferences under title V of the Trade Act of 1974.

[(2) The reduction required under paragraph (1) in the rate of duty on any article shall—

[(A) result in a rate that is equal to 80 percent of the rate of duty that applies to the article on December 31, 1991, except that, subject to the limitations in paragraph (3), the reduction may not exceed 2.5 percent ad valorem; and

[(B) be implemented in 5 equal annual stages with the first 1/5 of the aggregate reduction in the rate of duty being applied to entries, or withdrawals from warehouse for consumption, of the article on or after January 1, 1992.

[(3) The reduction required under this subsection with respect to the rate of duty on any article is in addition to any reduction in the rate of duty on that article that may be proclaimed by the President as being required or appropriate to carry out any trade agreement entered into under the Uruguay Round of trade negotiations; except that if the reduction so proclaimed—

[(A) is less than 1.5 percent ad valorem, the aggregate of such proclaimed reduction and the reduction under this subsection may not exceed 3.5 percent ad valorem, or

[(B) is 1.5 percent ad valorem or greater, the aggregate of such proclaimed reduction and the reduction under this subsection may not exceed the proclaimed reduction plus 1 percent ad valorem.]

(b) EXCEPTIONS AND SPECIAL RULES.—

(1) CERTAIN ARTICLES THAT ARE NOT IMPORT-SENSITIVE.—The President may proclaim duty-free treatment under this title for any article described in subparagraph (A), (B), (C), or (D) that is the growth, product, or manufacture of an ATPDEA beneficiary country and that meets the requirements of this section, if the President determines that such article is not import-sensitive in the context of imports from ATPDEA beneficiary countries:

(A) Footwear not designated at the time of the effective date of this Act as eligible for the purpose of the generalized system of preferences under title V of the Trade Act of 1974.

(B) Petroleum, or any product derived from petroleum, provided for in headings 2709 and 2710 of the HTS.

(C) Watches and watch parts (including cases, bracelets and straps), of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which HTS column 2 rates of duty apply.

(D) Handbags, luggage, flat goods, work gloves, and leather wearing apparel that were not designated on August 5, 1983, as eligible articles for purposes of the generalized system of preferences under title V of the Trade Act of 1974.

(2) EXCLUSIONS.—Subject to paragraph (3), duty-free treatment under this title may not be extended to—

(A) textiles and apparel articles which were not eligible articles for purposes of this title on January 1, 1994, as this title was in effect on that date;

(B) rum and tafia classified in subheading 2208.40 of the HTS; or

(C) sugars, syrups, and sugar-containing products subject to over-quota duty rates under applicable tariff-rate quotas.

(3) APPAREL ARTICLES.—

(A) IN GENERAL.—Apparel articles that are imported directly into the customs territory of the United States from an ATPDEA beneficiary country shall enter the United States free of duty and free of any quantitative restrictions, limitations, or consultation levels, but only if such articles are described in subparagraph (B).

(B) COVERED ARTICLES.—The apparel articles referred to in subparagraph (A) are the following:

(i) APPAREL ARTICLES ASSEMBLED FROM PRODUCTS OF THE UNITED STATES AND ATPDEA BENEFICIARY COUNTRIES OR PRODUCTS NOT AVAILABLE IN COMMERCIAL QUANTITIES.—Apparel articles sewn or otherwise assembled in 1 or more ATPDEA beneficiary countries, or the United States, or both, exclusively from any one or any combination of the following:

(I) Fabrics or fabric components formed, or components knit-to-shape, in the United States, from yarns formed in the United States or 1 or more ATPDEA beneficiary countries (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in the United States).

(II) Fabrics or fabric components formed or components knit-to-shape, in 1 or more ATPDEA beneficiary countries, from yarns formed in 1 or more ATPDEA beneficiary countries, if such fabrics (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in 1 or more ATPDEA beneficiary countries) or components are in chief weight of llama or alpaca.

(III) Fabrics or yarn that is not formed in the United States or in one or more ATPDEA beneficiary countries, to the extent that apparel articles of such fabrics or yarn would be eligible for preferential treatment, without regard to the source of the fabrics or yarn, under Annex 401 of the NAFTA.

(ii) ADDITIONAL FABRICS.—At the request of any interested party, the President is authorized to proclaim additional fabrics and yarns as eligible for preferential treatment under clause (i)(III) if—

(I) the President determines that such fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner;

(II) the President has obtained advice regarding the proposed action from the appropriate advisory

committee established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155) and the United States International Trade Commission;

(III) within 60 days after the request, the President has submitted a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate that sets forth the action proposed to be proclaimed and the reasons for such action, and the advice obtained under subclause (II);

(IV) a period of 60 calendar days, beginning with the first day on which the President has met the requirements of subclause (III), has expired; and

(V) the President has consulted with such committees regarding the proposed action during the period referred to in subclause (III).

(iii) APPAREL ARTICLES ASSEMBLED IN 1 OR MORE ATPDEA BENEFICIARY COUNTRIES FROM REGIONAL FABRICS OR REGIONAL COMPONENTS.—(I) Subject to the limitation set forth in subclause (II), apparel articles sewn or otherwise assembled in 1 or more ATPDEA beneficiary countries from fabrics or from fabric components formed or from components knit-to-shape, in 1 or more ATPDEA beneficiary countries, from yarns formed in the United States or 1 or more ATPDEA beneficiary countries (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in 1 or more ATPDEA beneficiary countries), whether or not the apparel articles are also made from any of the fabrics, fabric components formed, or components knit-to-shape described in clause (i).

(II) The preferential treatment referred to in subclause (I) shall be extended in the 1-year period beginning December 1, 2001, and in each of the 5 succeeding 1-year periods, to imports of apparel articles in an amount not to exceed the applicable percentage of the aggregate square meter equivalents of all apparel articles imported into the United States in the preceding 12-month period for which data are available.

(III) For purposes of subclause (II), the term "applicable percentage" means 3 percent for the 1-year period beginning December 1, 2001, increased in each of the 5 succeeding 1-year periods by equal increments, so that for the period beginning December 1, 2005, the applicable percentage does not exceed 6 percent.

(iv) HANDLOOMED, HANDMADE, AND FOLKLORE ARTICLES.—A handloomed, handmade, or folklore article of an ATPDEA beneficiary country identified under subparagraph (C) that is certified as such by the competent authority of such beneficiary country.

(v) SPECIAL RULES.—

(I) EXCEPTION FOR FINDINGS AND TRIMMINGS.—An article otherwise eligible for preferential treat-

ment under this paragraph shall not be ineligible for such treatment because the article contains findings or trimmings of foreign origin, if such findings and trimmings do not exceed 25 percent of the cost of the components of the assembled product. Examples of findings and trimmings are sewing thread, hooks and eyes, snaps, buttons, "bow buds", decorative lace, trim, elastic strips, zippers, including zipper tapes and labels, and other similar products.

(II) CERTAIN INTERLINING.—(aa) An article otherwise eligible for preferential treatment under this paragraph shall not be ineligible for such treatment because the article contains certain interlinings of foreign origin, if the value of such interlinings (and any findings and trimmings) does not exceed 25 percent of the cost of the components of the assembled article.

(bb) Interlinings eligible for the treatment described in division (aa) include only a chest type plate, "hymo" piece, or "sleeve header", of woven or weft-inserted warp knit construction and of coarse animal hair or man-made filaments.

(cc) The treatment described in this subclause shall terminate if the President makes a determination that United States manufacturers are producing such interlinings in the United States in commercial quantities.

(III) DE MINIMIS RULE.—An article that would otherwise be ineligible for preferential treatment under this subparagraph because the article contains fibers or yarns not wholly formed in the United States or in one or more ATPDEA beneficiary countries shall not be ineligible for such treatment if the total weight of all such fibers or yarns is not more than 7 percent of the total weight of the good.

(C) HANDLOOMED, HANDMADE, AND FOLKLORE ARTICLES.—For purposes of subparagraph (B)(iv), the President shall consult with representatives of the ATPDEA beneficiary countries concerned for the purpose of identifying particular textile and apparel goods that are mutually agreed upon as being handloomed, handmade, or folklore goods of a kind described in section 2.3(a), (b), or (c) of the Annex or Appendix 3.1.B.11 of the Annex.

(D) PENALTIES FOR TRANSSHIPMENT.—

(i) PENALTIES FOR EXPORTERS.—If the President determines, based on sufficient evidence, that an exporter has engaged in transshipment with respect to apparel articles from an ATPDEA beneficiary country, then the President shall deny all benefits under this title to such exporter, and any successor of such exporter, for a period of 2 years.

(ii) PENALTIES FOR COUNTRIES.—Whenever the President finds, based on sufficient evidence, that trans-

shipment has occurred, the President shall request that the ATPDEA beneficiary country or countries through whose territory the transshipment has occurred take all necessary and appropriate actions to prevent such transshipment. If the President determines that a country is not taking such actions, the President shall reduce the quantities of apparel articles that may be imported into the United States from such country by the quantity of the transshipped articles multiplied by 3, to the extent consistent with the obligations of the United States under the WTO.

(iii) TRANSSHIPMENT DESCRIBED.—Transshipment within the meaning of this subparagraph has occurred when preferential treatment under subparagraph (A) has been claimed for an apparel article on the basis of material false information concerning the country of origin, manufacture, processing, or assembly of the article or any of its components. For purposes of this clause, false information is material if disclosure of the true information would mean or would have meant that the article is or was ineligible for preferential treatment under subparagraph (A).

(E) BILATERAL EMERGENCY ACTIONS.—

(i) IN GENERAL.—The President may take bilateral emergency tariff actions of a kind described in section 4 of the Annex with respect to any apparel article imported from an ATPDEA beneficiary country if the application of tariff treatment under subparagraph (A) to such article results in conditions that would be cause for the taking of such actions under such section 4 with respect to a like article described in the same 8-digit subheading of the HTS that is imported from Mexico.

(ii) RULES RELATING TO BILATERAL EMERGENCY ACTION.—For purposes of applying bilateral emergency action under this subparagraph—

(I) the requirements of paragraph (5) of section 4 of the Annex (relating to providing compensation) shall not apply;

(II) the term "transition period" in section 4 of the Annex shall mean the period ending December 31, 2006; and

(III) the requirements to consult specified in section 4 of the Annex shall be treated as satisfied if the President requests consultations with the ATPDEA beneficiary country in question and the country does not agree to consult within the time period specified under section 4.

(4) CUSTOMS PROCEDURES.—

(A) IN GENERAL.—

(i) REGULATIONS.—Any importer that claims preferential treatment under paragraph (1) or (3) shall comply with customs procedures similar in all material respects to the requirements of Article 502(1) of the NAFTA as implemented pursuant to United States

law, in accordance with regulations promulgated by the Secretary of the Treasury.

(ii) DETERMINATION.—

(I) IN GENERAL.—In order to qualify for the preferential treatment under paragraph (1) or (3) and for a Certificate of Origin to be valid with respect to any article for which such treatment is claimed, there shall be in effect a determination by the President that each country described in subclause (II)—

(aa) has implemented and follows; or

(bb) is making substantial progress toward implementing and following,

procedures and requirements similar in all material respects to the relevant procedures and requirements under chapter 5 of the NAFTA.

(II) COUNTRY DESCRIBED.—A country is described in this subclause if it is an ATPDEA beneficiary country—

(aa) from which the article is exported; or

(bb) in which materials used in the production of the article originate or in which the article or such materials undergo production that contributes to a claim that the article is eligible for preferential treatment under paragraph (1) or (3).

(B) CERTIFICATE OF ORIGIN.—The Certificate of Origin that otherwise would be required pursuant to the provisions of subparagraph (A) shall not be required in the case of an article imported under paragraph (1) or (3) if such Certificate of Origin would not be required under Article 503 of the NAFTA (as implemented pursuant to United States law), if the article were imported from Mexico.

(5) DEFINITIONS.—In this subsection—

(A) ANNEX.—The term "the Annex" means Annex 300–B of the NAFTA.

(B) ATPDEA BENEFICIARY COUNTRY.—The term "ATPDEA beneficiary country" means any "beneficiary country", as defined in section 203(a)(1) of this title, which the President designates as an ATPDEA beneficiary country, taking into account the criteria contained in subsections (c) and (d) of section 203 and other appropriate criteria, including the following:

(i) Whether the beneficiary country has demonstrated a commitment to—

(I) 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

(II) participate in negotiations toward the completion of the FTAA or another free trade agreement.

(ii) The extent to which the country provides protection of intellectual property rights consistent with or greater than the protection afforded under the Agree-

ment on Trade-Related Aspects of Intellectual Property Rights described in section 101(d)(15) of the Uruguay Round Agreements Act.

(iii) The extent to which the country provides internationally recognized worker rights, including—

(I) the right of association;

(II) the right to organize and bargain collectively;

(III) a prohibition on the use of any form of forced or compulsory labor;

(IV) a minimum age for the employment of children; and

(V) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health;

(iv) 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.

(v) 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. 2291j) for eligibility for United States assistance.

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

(vii) The extent to which the country—

(I) 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

(II) contributes to efforts in international fora to develop and implement international rules in transparency in government procurement.

(C) NAFTA.—The term "NAFTA" means the North American Free Trade Agreement entered into between the United States, Mexico, and Canada on December 17, 1992.

(D) WTO.—The term "WTO" has the meaning given that term in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501).

(E) ATPDEA.—The term "ATPDEA" means the Andean Trade Promotion and Drug Eradication Act.

[(d)**]** *(c)* SUSPENSION OF DUTY-FREE TREATMENT.—(1) The President may by proclamation suspend the duty-free treatment provided by this title with respect to any eligible article and may proclaim a duty rate for such article if such action is proclaimed under chapter 1 of title II of the Trade Act of 1974 or section 232 of the Trade Expansion Act of 1962.

* * * * * * *

[(e)**]** *(d)* EMERGENCY RELIEF WITH RESPECT TO PERISHABLE PRODUCTS.—(1) If a petition is filed with the United States International Trade Commission pursuant to the provisions of section 201 of the Trade Act of 1974 regarding a perishable product and alleging injury from imports from beneficiary countries, then the

petition may also be filed with the Secretary of Agriculture with a request that emergency relief be granted pursuant to paragraph (3) of this subsection with respect to such article.

* * * * * * *

[(f)] *(e)* SECTION 22 FEES.—No proclamation issued pursuant to this title shall affect fees imposed pursuant to section 22 of the Agricultural Adjustment Act of 1933 (7 U.S.C. 624).

[(g)] *(f)* TARIFF-RATE QUOTAS.—No quantity of an agricultural product subject to a tariff-rate quota that exceeds the in-quota quantity shall be eligible for duty-free treatment under this Act.

* * * * * * *

[SEC. 208. EFFECTIVE DATE AND TERMINATION OF DUTY-FREE TREATMENT.

[(a) EFFECTIVE DATE.—This title shall take effect on the date of enactment.

[(b) TERMINATION OF DUTY-FREE TREATMENT.—No duty-free treatment extended to beneficiary countries under this title shall remain in effect 10 years after the date of the enactment of this title.]

SEC. 208. TERMINATION OF PREFERENTIAL TREATMENT.

No duty-free treatment or other preferential treatment extended to beneficiary countries under this title shall remain in effect after December 31, 2006.

SECTION 213 OF THE CARIBBEAN BASIN ECONOMIC RECOVERY ACT

SEC. 213. ELIGIBLE ARTICLES.

(a) * * *

(b) IMPORT-SENSITIVE ARTICLES.—

(1) IN GENERAL.—Subject to paragraphs (2) through (5), the duty-free treatment provided under this title does not apply to—

(A) * * *

* * * * * * *

(2) TRANSITION PERIOD TREATMENT OF CERTAIN TEXTILE AND APPAREL ARTICLES.—

(A) ARTICLES COVERED.—During the transition period, the preferential treatment described in subparagraph (B) shall apply to the following articles:

[(i) APPAREL ARTICLES ASSEMBLED IN ONE OR MORE CBTPA BENEFICIARY COUNTRIES.—Apparel articles assembled in one or more CBTPA beneficiary countries from fabrics wholly formed and cut in the United States, from yarns wholly formed in the United States, (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are wholly formed and cut in the United States) that are—

(i) APPAREL ARTICLES ASSEMBLED IN ONE OR MORE CBTPA BENEFICIARY COUNTRIES.—Apparel articles sewn or otherwise assembled in one or more CBTPA beneficiary countries from fabrics wholly formed and cut, or

from components knit-to-shape, in the United States from yarns wholly formed in the United States, (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are wholly formed and cut in the United States) that are—

(I) * * *

* * * * * * *

[(ii) APPAREL ARTICLES CUT AND ASSEMBLED IN ONE OR MORE CBTPA BENEFICIARY COUNTRIES.—Apparel articles cut in one or more CBTPA beneficiary countries from fabric wholly formed in the United States from yarns wholly formed in the United States (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are wholly formed in the United States), if such articles are assembled in one or more such countries with thread formed in the United States.

(ii) OTHER APPAREL ARTICLES ASSEMBLED IN ONE OR MORE CBTPA BENEFICIARY COUNTRIES.—Apparel articles sewn or otherwise assembled in one or more CBTPA beneficiary countries with thread formed in the United States from fabrics wholly formed in the United States and cut in one or more CBTPA beneficiary countries from yarns wholly formed in the United States, or from components knit-to-shape in the United States from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are wholly formed in the United States).

(iii) CERTAIN KNIT APPAREL ARTICLES.—(I) * * *

[(II) The amount referred to in subclause (I) is—

[(aa) 250,000,000 square meter equivalents during the 1-year period beginning on October 1, 2000, increased by 16 percent, compounded annually, in each succeeding 1-year period through September 30, 2004; and

[(bb) in each 1-year period thereafter through September 30, 2008, the amount in effect for the 1-year period ending on September 30, 2004, or such other amount as may be provided by law.

(II) The amount referred to in subclause (I) is as follows:

(aa) 290,000,000 square meter equivalents during the 1-year period beginning on October 1, 2001.

(bb) 500,000,000 square meter equivalents during the 1-year period beginning on October 1, 2002.

(cc) 850,000,000 square meter equivalents during the 1-year period beginning on October 1, 2003.

(dd) 970,000,000 square meter equivalents in each succeeding 1-year period through September 30, 2008.

* * * * * * *

[(IV) the amount referred to in subclause (III) is—

[(aa) 4,200,000 dozen during the 1-year period beginning on October 1, 2000, increased by 16 percent, compounded annually, in each succeeding 1-year period through September 30, 2004; and

[(bb) in each 1-year period thereafter, the amount in effect for the 1-year period ending on September 30, 2004, or such other amount as may be provided by law.

(IV) The amount referred to in subclause (III) is as follows:

(aa) 4,872,000 dozen during the 1-year period beginning on October 1, 2001.

(bb) 9,000,000 dozen during the 1-year period beginning on October 1, 2002.

(cc) 10,000,000 dozen during the 1-year period beginning on October 1, 2003.

(dd) 12,000,000 dozen in each succeeding 1-year period through September 30, 2008.

* * * * * * *

(ix) APPAREL ARTICLES ASSEMBLED IN ONE OR MORE CBTPA BENEFICIARY COUNTRIES FROM UNITED STATES AND CBTPA BENEFICIARY COUNTRY COMPONENTS.—Apparel articles sewn or otherwise assembled in one or more CBTPA beneficiary countries with thread formed in the United States from components cut in the United States and in one or more CBTPA beneficiary countries from fabric wholly formed in the United States from yarns wholly formed in the United States, or from components knit-to-shape in the United States and one or more CBTPA beneficiary countries from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS).

* * * * * * *

SECTION 112 OF THE AFRICAN GROWTH AND OPPORTUNITY ACT

SEC. 112. TREATMENT OF CERTAIN TEXTILES AND APPAREL.

(a) * * *

(b) PRODUCTS COVERED.—The preferential treatment described in subsection (a) shall apply only to the following textile and apparel products:

[(1) APPAREL ARTICLES ASSEMBLED IN BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES.—Apparel articles assembled in one or more beneficiary sub-Saharan African countries from fabrics wholly formed and cut in the United States, from yarns wholly formed in the United States, (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or

5603 of the Harmonized Tariff Schedule of the United States and are wholly formed and cut in the United States) that are—]

(1) APPAREL ARTICLES ASSEMBLED IN ONE OR MORE BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES.—Apparel articles sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries from fabrics wholly formed and cut, or from components knit-to-shape, in the United States from yarns wholly formed in the United States, (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are wholly formed and cut in the United States) that are—

(A) * * *

* * * * * * *

[(2) APPAREL ARTICLES CUT AND ASSEMBLED IN BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES.—Apparel articles cut in one or more beneficiary sub-Saharan African countries from fabric wholly formed in the United States from yarns wholly formed in the United States, (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the Harmonized Tariff Schedule of the United States and are wholly formed in the United States) if such articles are assembled in one or more beneficiary sub-Saharan African countries with thread formed in the United States.

[(3) APPAREL ARTICLES ASSEMBLED FROM REGIONAL AND OTHER FABRIC.—Apparel articles wholly assembled in one or more beneficiary sub-Saharan African countries from fabric wholly formed in one or more beneficiary sub-Saharan African countries from yarn originating either in the United States or one or more beneficiary sub-Saharan African countries (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the Harmonized Tariff Schedule of the United States and are wholly formed and cut in one or more beneficiary sub-Saharan African countries), subject to the following:]

(2) OTHER APPAREL ARTICLES ASSEMBLED IN ONE OR MORE BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES.—Apparel articles sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries with thread formed in the United States from fabrics wholly formed in the United States and cut in one or more beneficiary sub-Saharan African countries from yarns wholly formed in the United States, or from components knit-to-shape in the United States from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are wholly formed in the United States).

(3) APPAREL ARTICLES FROM REGIONAL FABRIC OR YARNS.—Apparel articles wholly assembled in one or more beneficiary sub-Saharan African countries from fabric wholly formed in one or more beneficiary sub-Saharan African countries from yarns originating either in the United States or one or more beneficiary sub-Saharan African countries (including fabrics not formed from yarns, if such fabrics are classified under heading 5602 or 5603 of the HTS and are wholly formed in one

or more beneficiary sub-Saharan African countries), or from components knit-to-shape in one or more beneficiary sub-Saharan African countries from yarns originating either in the United States or one or more beneficiary sub-Saharan African countries, or apparel articles wholly formed on seamless knitting machines in a beneficiary sub-Saharan African country from yarns originating either in the United States or one or more beneficiary sub-Saharan African countries, subject to the following:

(A) LIMITATIONS ON BENEFITS.—

(i) * * *

* * * * * * *

(ii) APPLICABLE PERCENTAGE.—For purposes of this subparagraph, the term "applicable percentage" means **[**1.5**]** *3* percent for the 1-year period beginning October 1, 2000, increased in each of the seven succeeding 1-year periods by equal increments, so that for the period beginning October 1, 2007, the applicable percentage does not exceed **[**3.5**]** 7 percent.

[(B) SPECIAL RULE FOR LESSER DEVELOPED COUNTRIES.—

[(i) IN GENERAL.—Subject to subparagraph (A), preferential treatment shall be extended through September 30, 2004, for apparel articles wholly assembled in one or more lesser developed beneficiary sub-Saharan African countries regardless of the country of origin of the fabric used to make such articles.

[(ii) LESSER DEVELOPED BENEFICIARY SUB-SAHARAN AFRICAN COUNTRY.—For purposes of this subparagraph the term "lesser developed beneficiary sub-Saharan African country" means a beneficiary sub-Saharan African country that had a per capita gross national product of less than $1,500 a year in 1998, as measured by the World Bank.**]**

(B) SPECIAL RULES FOR LESSER DEVELOPED COUNTRIES.—

(i) IN GENERAL.—Subject to subparagraph (A), preferential treatment under this paragraph shall be extended through September 30, 2004, for apparel articles wholly assembled, or knit-to-shape and wholly assembled, or both, in one or more lesser developed beneficiary sub-Saharan African countries regardless of the country of origin of the fabric or the yarn used to make such articles.

(ii) LESSER DEVELOPED BENEFICIARY SUB-SAHARAN AFRICAN COUNTRY.—For purposes of clause (i), the term "lesser developed beneficiary sub-Saharan African country" means—

(I) a beneficiary sub-Saharan African country that had a per capita gross national product of less than $1,500 in 1998, as measured by the International Bank for Reconstruction and Development;

(II) Botswana; and

(III) Namibia.

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(4) SWEATERS KNIT-TO-SHAPE FROM CASHMERE OR MERINO WOOL.—

(A) * * *

(B) MERINO WOOL.—Sweaters, 50 percent or more by weight of wool measuring [18.5] *21.5* microns in diameter or finer, knit-to-shape in one or more beneficiary sub-Saharan African countries.

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(7) APPAREL ARTICLES ASSEMBLED IN ONE OR MORE BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES FROM UNITED STATES AND BENEFICIARY SUB-SAHARAN AFRICAN COUNTRY COMPONENTS.—Apparel articles sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries with thread formed in the United States from components cut in the United States and one or more beneficiary sub-Saharan African countries from fabric wholly formed in the United States from yarns wholly formed in the United States, or from components knit-to-shape in the United States and one or more beneficiary sub-Saharan African countries from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS).

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VII. ADDITIONAL VIEWS

As a co-chair of the African Trade and Investment Caucus, and as an ardent supporter of the African Growth and Opportunity Act (AGOA), which was signed into law just over a year ago, I was very pleased to see the Committee take action to address some of the concerns raised regarding the implementation of AGOA.

The new provisions reported from the Committee would clarify and narrowly expand the trade opportunities for sub-Saharan Africa countries under AGOA, and are designed to encourage more investment in the region, particularly in the apparel sector. I along with Representatives Rangel, Royce, Crane, Payne, and McDermott, were in the process of developing AGOA II legislation to address these and other issues.

AGOA is the most significant U.S. policy statement to date on the U.S. commitment to assist the countries of sub-Saharan Africa (SSA) with their efforts to stimulate economic growth and development in the region. The bill was many years in the making, and enjoyed broad, bi-partisan support.

Increased international trade and investment is a key component leading to economic development and growth in sub-Saharan Africa. Economic growth is an integral element of any sub-Saharan strategy to overcome the many and severe social, health, political, environmental and other challenges. I have recently returned from a trip to the region and was pleased to find AGOA has demonstrated initial success in promoting greater commercial activity between the United States and sub-Saharan Africa. According to the Office of the United States Trade Representative, AGOA has resulted in nearly $4 billion dollars in expanded trade and investment in the region and has spurred and bolstered economic reform in several African countries.

Now that the bill is law, the U.S. must ensure that the objective of stimulating regional economic development and growth is achieved. The African Trade and Investment Caucus (ATIC) has been following closely the Administration's efforts to implement this bill as well as the efforts of sub-Saharan countries to comply with the bill's eligibility criteria. Two major issues have come to our attention. First, sub-Saharan beneficiary countries need additional assistance from the United States to meet the stringent customs and visa requirements in the legislation. Currently, only a handful of SSA countries designated as beneficiaries have been certified as eligible to ship apparel products since the effective date of October 1, 2000. Many of the countries are willing to upgrade their customs systems to comply with the law; however they need additional technical assistance from the United States to undertake this important task.

Second, we need to ensure that the authorized resources under the bill are available to assist U.S. companies and African compa-

nies in realizing the opportunities created by AGOA. Many U.S. and African companies are unaware that AGOA provides preferential treatment to many non-apparel items.

To make this information known and to spur participation of U.S. and African businesses in the AGOA program full support for AGOA-related programs is needed. The first step is ensuring that each agency with responsibility for AGOA has adequate personnel to carry out its duties. This is a priority for the Office of African Affairs at the Office of the U.S. Trade Representative in particular. Second, it is important for the Administration to make available the resources to provide technical assistance for AGOA-related programs.

In Committee, I offered an amendment that would have established a technical assistance fund designed to improve the trade capacity of sub-Saharan countries that would have ensured funding for the technical assistance authorized in Section 122(b) of AGOA to promote economic reforms and development in sub-Saharan Africa. Building trade capacity is essential for sub-Saharan countries to fully utilize the benefits provided under AGOA. While the amendment was not in order, I appreciated the commitments given by yourselves and Ambassador Zoellick to continue to work on ensuring resources to:

- Improve the trade capacity of sub-Saharan countries;
- Improve the ability of sub-Saharan countries to comply with the eligibility requirements of AGOA;
- Ensure proper implementation of AGOA provisions in beneficiary countries;
- Promote economic reform; and
- Improve capacity of WTO member-countries from the sub-Saharan region to implement and negotiate WTO agreements.

Without the appropriate resources, AGOA will fail to achieve its important goals; and the United States will have reneged on its commitment to the poorest region of the world.

WILLIAM J. JEFFERSON.

VIII. DISSENTING VIEWS

It is with great regret that we oppose H.R. 3009, the Andean Trade Promotion and Drug Eradication Act.

We believe that in the long term, an indispensable way we can assist the Andean region and help combat the scourge of illegal drugs is by promoting economic development and growth in these countries. As observed when we discussed benefits to the Caribbean countries and the African countries, the path and strategies that have proven the most successful are those that provide a framework to ensure that development benefits the greatest number of people in the entire hemispheric region.

Assisting economic development abroad must take into full account the needs of, and outcomes for, workers and businesses in the United States. In crafting unilateral preference programs like the existing Andean Trade Preferences Act (ATPA), and the Africa and Caribbean programs, Congress has sought to match the strengths of businesses and workers in the United States with the strengths of businesses and workers in the region.

And that is the approach we had hoped to take with respect to enhancement of the ATPA program. In fact, that is the direction in which we had been headed. For the last several months, the majority and the minority staff have been working on an ATPA renewal and expansion bill that would have expanded the trade benefits under the ATPA in a manner that would ensure benefits to the greatest number of people in the region *and* the United States, and that would have created the broadest coalition of support in the Congress.

The majority chose to abruptly end those discussions, however. Without any prior notice or consultation, the Chairman of the Trade Subcommittee introduced H.R. 3009, and Chairman Thomas scheduled a markup for about 36 hours later. The bill that they introduced does reflect several items from our discussions. But, the bill's approach to many key issues is not satisfactory. The bill does not effectively build upon the complementarities between the U.S. and Andean textile and apparel industries, rather, it would make them competitors on unequal terms.

Additionally, by bringing this bill up without any notice, Congress and the groups affected have been denied the opportunity to take one last look at other key concerns, the most serious of which is the very real issue of labor rights abuses in the Andean countries, particularly the murder with impunity of labor leaders in Colombia. The bill reported by the Committee does require the Administration to evaluate the extent to which each Andean country adheres to core workers rights in making the determination as to which countries are eligible for enhanced benefits. However, this Administration has not rigorously applied this eligibility criteria in

the past. We need a clear understanding that it will do so in this case, with particular attention paid to the situation in Colombia.

There are other important issues that were left unresolved because of the haste with which the Majority chose to bring this legislation to Committee. These include issues related to treatment of U.S. companies, such as Nortel, in Colombia, and the continued denial of non-discriminatory market access to U.S. goods in Andean markets.

We want to be clear. We are not opposing this bill only because of the fundamental process flaws that preceded this mark-up. Those flaws are troubling. But, those flaws also led to a bill that is flawed on policy. This situation is deeply regrettable, because we think with more time an agreement that advanced everyone's interests could have been achieved. We actively favor that result.

SANDER LEVIN.
MICHAEL R. MCNULTY.
JOHN LEWIS.
KAREN L. THURMAN.
JERRY KLECZKA.
RICHARD E. NEAL.

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