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COMMITTEE ON WAYS AND MEANS  
U.S. HOUSE OF REPRESENTATIVES

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REPORT

ON

**TRADE MISSION TO COLOMBIA,  
ECUADOR, AND PERU**



**SEPTEMBER 2005**

Prepared for the use of Members of the Committee on Ways and Means  
by members of its staff. This document has not been officially approved  
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**LETTER OF TRANSMITTAL**  
U.S. HOUSE OF REPRESENTATIVES  
COMMITTEE ON WAYS AND MEANS  
SUBCOMMITTEE ON TRADE  
*Washington, DC, September 9, 2005*

The Honorable Bill Thomas  
Chairman  
Committee on Ways and Means  
1102 Longworth House Office Building  
Washington, D.C. 20515

Dear Mr. Chairman:

I am pleased to transmit to you the enclosed congressional delegation report on the recent Committee mission to Colombia, Ecuador, and Peru. This report contains an overview of the mission as well as summaries of meetings with foreign officials.

The report describes the trade, investment, and security issues which were investigated during the trip.

Sincerely,

Angela Paolini Ellard  
*Staff Director and Counsel*  
*Subcommittee on Trade*

Enclosure

## **MEMBERS OF THE DELEGATION**

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## **INTRODUCTION AND BACKGROUND**

On July 3–9, 2005, a bipartisan delegation of Members of the Committee on Ways and Means traveled to Colombia, Ecuador, and Peru. The purpose of the delegation's trip was to focus on the ongoing negotiations for a free trade agreement with the countries and to discuss investment and security issues in the region. The delegation in particular emphasized that current unilateral trade preferences under the Andean Trade Promotion and Drug Eradication Act (ATPDEA) are set to expire in December 2006, and the only way that the Andean countries can replicate their access to the U.S. market after these benefits expire is through a comprehensive bilateral free trade agreement providing reciprocal market access.

Congress first granted unilateral trade preferences to the region in 1991 under the Andean Trade Preference Act (ATPA), and the law identifies Bolivia, Colombia, Ecuador, and Peru as potential beneficiaries. Colombia and Bolivia were designated for benefits in 1992; Ecuador and Peru were designated in 1993. Each of these designations has been reviewed annually and renewed. The original ATPA did not allow duty-free treatment for several sensitive products such as certain textile and apparel articles. In 2002, Congress enacted the ATPDEA to extend and enhance ATPA trade benefits as a way to create additional alternatives to illicit drug production, thereby enhancing political security in the Andean region and the hemisphere. In general, the ATPDEA extended trade benefits until December 31, 2006, and expanded coverage to include additional products such as apparel made of U.S. fabric, Andean apparel made of regional fabric subject to a cap, and certain tuna.

During the Ministerial for the Free Trade Area of the Americas in Miami, Florida in November 2003, the Administration notified Congress of its plans to negotiate a free trade agreement (FTA) with Colombia, Peru, Ecuador, and Bolivia. FTA negotiations began in May 2004 with Colombia, Peru, and Ecuador, and eleven negotiating rounds have been held. Bolivia is currently an observer in the negotiations.

## **OUTLINE OF CODEL CONCLUSIONS**

### **General comments:**

- *FTAs must be comprehensive:* The delegation supports the negotiation of a comprehensive free trade agreement with the Andean countries, in compliance with the objectives of Trade Promotion Authority, which provides commercially meaningful market access for goods, services, and agriculture, without exclusions, and includes strong protections in areas such as investment and intellectual property rights. The Andean market holds tremendous opportunity for U.S. interests but only if a comprehensive agreement is struck.
- *Congressional passage of an Andean FTA dependent on content:* The Administration and Congress have developed a successful structure for FTAs, and the Andean FTA must contain the elements of that structure to maximize support.
- *Unilateral preferences to expire:* The ATPDEA provides preferences to the region that are temporary and expire at the end of 2006. These preferences have successfully served their purpose of supporting the Andean countries through unilateral access to the U.S. market. The relationship between the Andean countries and the United States, however, has matured, and such unilateral preferences are no longer appropriate after 2006. Instead, a reciprocal, mutually beneficial arrangement must take the place of the unilateral access. Accordingly, the only way for these countries to guarantee permanent preferential access to the U.S. market is through a comprehensive FTA.
- *Colombia's negotiating efforts lagging:* Commercially, Colombia's market holds the greatest potential in the region for the U.S. private sector, but Colombia's government is finding it politically challenging to agree to a comprehensive FTA, particularly regarding agriculture. The delegation believes that Colombia expects special treatment because of its valuable role in counternarcotics and counterterrorism efforts. Despite the strategic importance of the relationship between the United States and the Andean community, the U.S. Congress will judge an Andean FTA on its merits; Congressional support for trade deals—even with Colombia—cannot be assumed, as evident during Congressional con-

sideration of the United States-Dominican Republic-Central America Free Trade Agreement (CAFTA).

- *Ecuador struggling with democratic institutions and an unfavorable investment climate:* Ecuador's economy is strong, but its political institutions are unstable and face tremendous challenges. The environment for business is unfavorable and even perceived as hostile, and it is not clear that Ecuador's government institutions have the confidence of the U.S. business community that they would comply with FTA obligations. Nevertheless, the business community supports the FTA as a mechanism for pushing the government to be transparent and enact reforms and as an opportunity for dispute settlement to enforce Ecuador's commitments.
- *Peru making good progress, but more work needed:* Peru has been the most forward-leaning Andean country in the negotiations. It began the negotiations with a relatively more open trade regime, and as a result it is more focused in its priorities. In some areas Peru has broken ranks with Colombia and Ecuador in stating that it could accept U.S. proposals, and the delegation appreciates Peru's leadership in the negotiations. However, Peru also has a lot of ground to cover to close the agriculture negotiations.
- *FTA could include fewer countries:* The delegation supports including in an FTA only those countries that are ready and have made the requisite concessions. At the same time, an effort to conclude a smaller FTA must be balanced with the reality of obtaining U.S. Congressional support. While negotiations with Peru are the most advanced, the delegation encouraged Peruvian officials to work with their counterparts particularly in Colombia to reach agreement on a comprehensive FTA to maximize Congressional support; it will be difficult for Congress to pass an FTA with Peru alone. If Peru and Colombia are united in presenting commercially significant opportunities to U.S. interests through the agreement, Ecuador would have a strong incentive to join in order to protect its ability to compete commercially with its neighbors, and this combination increases the chances for Congressional approval.
- *Window is closing:* There is very little time left to finish negotiations and obtain Congressional approval for an FTA, particularly given Congressional interest in the WTO negotiations and FTAs with Middle Eastern countries as well as upcoming Presidential elections in the region. While the Andean countries hope that the negotiations will conclude in October, the delegation is somewhat pessimistic that the negotiations will finish and be implemented before the preferences expire, given that negotiators have held 11 rounds without resolution of critical agriculture issues. The delegation intends to work with USTR negotiators to make sure that there is no delay on the U.S. side in presenting offers and responding to Andean requests.

#### **Sector-specific comments:**

- *Narcotics:* The delegation shares the concerns of the Andean countries about the serious problems posed by narcotics production and trafficking in the region. Free trade is compatible with counter-narcotics objectives, and the United States should be prepared to allow for transition periods where warranted. Consequently, the delegation believes that U.S. negotiators should take into account requests for flexibility if there is credible proof that an FTA provision would negatively impact counternarcotics efforts, particularly whether the specific agricultural products for which the Andean countries are seeking protection are crops targeted as alternatives to drug production. More generally, the United States should also help in the development of alternative crops. However, the specter of narcotrafficking cannot be used as a broad brush excuse for exceptional treatment to protect sectors from competition.
- *Agriculture:* The delegation is very concerned that Colombia and some elements of the government in Ecuador insist on perpetuation of their price bands in the FTA and is encouraged that Peru is willing to eliminate such distorting mechanisms. The delegation notes that the WTO has found such price bands to violate WTO obligations, and Chile eliminated its price bands through its FTA with the United States without adverse effects. The delegation is also opposed to using safeguards in perpetuity as a means for the Andean countries to protect their agriculture sectors. Negotiators should instead work with USTR to identify sensitivities and to craft a path to liberalization for each product.
- *Agriculture subsidies/supports:* The delegation firmly believes that the United States must not negotiate agriculture domestic support or subsidies in this or any other FTA. The appropriate forum to negotiate domestic support is in the WTO because it is a multilateral issue affecting third countries.



- *Intellectual property rights:* Because support from the U.S. IPR community is essential to passage of the FTA, the delegation believes that the FTA must contain a strong IPR chapter with commitments that go beyond the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs), to which the Andean countries are already party. Support from the U.S. IPR community is essential to passage of the FTA.
- All three negotiating partners are on USTR's Special 301 watch list, which means IPR problems in each country merit bilateral attention.
- Colombia is the only Andean country to provide a full five years of data protection for pharmaceuticals. In the copyright context, Colombia has increased criminal penalties for copyright infringement and has established a specialized IPR unit in the Prosecutor General's office. Notwithstanding these improvements, however, high levels of piracy continue to dominate the Colombian market. Efforts to combat piracy through raids and other enforcement measures are hindered by a judicial system that fails to actively prosecute cases or issue deterrent criminal sentences.
- Although Ecuador generally has an adequate IPR law, enforcement remains a problem. Copyright piracy is rampant. The delegation is also concerned about Ecuador's lack of effective protection for undisclosed test data.
- A major concern of U.S. industry in Peru is the lack of IPR protection relating to both copyrights and patents. In particular, the lack of data protection is of concern.
- *Investment:* The Andean countries risk losing support from the private sector and Congress if they are viewed as not serious in establishing a good investment regime with fair and transparent dispute settlement.
  - The delegation was particularly struck by the lack of confidence of the U.S. business community with respect to investment protection in Ecuador. Ecuador must resolve its disputes with U.S. investors in order to demonstrate that it can be a viable FTA partner. While the delegation welcomes the creation of an office to look into these issues, resolution will require political will and potentially significant judicial reforms, and tangible results are essential.
  - Peru: The delegation appreciates that since 2002, Peru has committed to resolve or take steps to resolve several longstanding investment disputes. Despite some recent progress, several of the most difficult disputes remain unresolved. Peru cannot afford the liability these disputes represent if it wishes to be included in an FTA with the United States.
- *Sanitary and phytosanitary measures:* Several countries raised concerns regarding the U.S. application of sanitary and phytosanitary (SPS) rules. The delegation agrees with U.S. negotiators that the United States must not negotiate food safety and animal and plant health in FTAs because the WTO rules binding all WTO countries are already comprehensive. Instead, U.S. trading partners should engage in specific bilateral problem-solving discussions. The delegation supports U.S. efforts to provide technical capacity building, but the Andean countries, particularly Colombia, must demonstrate more willingness to engage in problem solving discussions on specific bilateral SPS issues during the negotiations.
- *Labor:* Ecuador's labor code must be modernized to ensure consistency with the core International Labor Organization (ILO) labor standards, particularly with respect to the right to organize. Ecuador's labor laws and practices, and their enforcement, will be closely scrutinized by the international community and the U.S. Congress. Congress will particularly demand that Ecuador improve enforcement of its child labor laws. The delegation is willing to explore technical assistance to Ecuador in these areas.
- *Biodiversity:* The delegation recognizes that biodiversity is an important issue for the Andean countries. The delegation observed that these countries have some of the greatest numbers of species in the world. However, the protections that the Andean countries seek in the FTA do not fit within the U.S. intellectual property regime. Instead, biodiversity should be protected through contract enforcement.
- *Peruvian debt prepayment:* The delegation will investigate options with the Administration to permit Peru to prepay its debt without penalty.

## DISCUSSION OF CODEL MEETINGS

### COLOMBIA

#### **Country Team Briefing with U.S. Ambassador William Wood, Deputy Chief of Mission Milton Drucker, and other U.S. Embassy Staff**

Ambassador Wood and his team gave the delegation a briefing on the political and economic issues facing Colombia with special attention on the ongoing Andean free trade agreement (FTA) negotiations and the fight against narcotrafficking and terrorism. The primary U.S. objectives in Colombia are to prevent the flow of illegal drugs into the United States and to help Colombia promote peace and economic development. The Ambassador noted that the U.S. Embassy in Colombia is the largest American Embassy in the world, with 2,100 employees.

The United States and Colombia, Ecuador, and Peru are seeking to consolidate and make permanent a preferential trade relationship through the conclusion of a free trade agreement (FTA). Current unilateral trade preferences under the Andean Trade Promotion and Drug Eradication Act (ATPDEA) expire in December 2006, and the countries seek to conclude and implement the FTA before those preferences end to provide a seamless transition. An FTA would increase bilateral trade, ease unemployment and underemployment, stimulate business, and help to create a modern private sector in Colombia.

The Colombians are eager to conclude the FTA negotiations as quickly as possible, and before the political cycle in Colombia begins. Colombian elections for the Congress will be held in March 2006, and for the President in May 2006. At the same time, Colombia's government is finding it politically challenging to agree to a comprehensive FTA, particularly regarding agriculture. FTA talks with Colombia are lagging behind the other two countries, and it does not appear that Colombia is prepared to reduce all tariffs, particularly on sensitive agriculture products.

Colombia's economy has been recovering over the past two years despite serious internal armed conflict. The economy continues to improve as a result of Uribe government budgets, focused efforts to reduce public debt levels, and export-oriented growth. Several international financial institutions have praised the economic reforms introduced by President Uribe, which include measures to reduce government debt to 40% of gross domestic product by 2015. The government's economic policy and democratic security strategy have fostered a growing sense of confidence in the economy, particularly within the private sector.

Colombia is one of South America's richest sources of natural resources (including petroleum, coal, coffee, flowers, fruits, gold, and emeralds). Unfortunately, Colombia is also home to decades of political-criminal insurrection. For over 40 years, several terrorist organized organizations (FARC, AUC, and ELN are the largest three) have taken advantage of a lack of state presence in outlying rural areas to wage extremely violent campaigns for control of parts of the country. Drug trafficking has replaced leftist and rightist ideologies as the prime motivators to control the specific regions. The drug trade (coca, opium poppy, and some marijuana) and kidnappings are major income streams. The Embassy estimates that 3,000–4,000 civilians are killed each year as a result of the conflict. In addition, Colombia has the world's third largest internally displaced population, after Sudan and Congo.

The United States has aggressively pursued the fight against narcotrafficking and terrorism in Colombia by supporting Plan Colombia. Plan Colombia was developed by former Colombian President Andres Pastrana (1998–2002) and continued under current Colombian President Alvaro Uribe as a six-year plan to end Colombia's long armed conflict, eliminate drug trafficking, and promote economic and social development. The Andean Counterdrug Initiative (ACI) is the primary U.S. program that supports Plan Colombia. ACI funding for Plan Colombia from FY2000 through FY2005 totals approximately \$2.8 billion. In addition, Colombia receives assistance from the Foreign Military Financing (FMF) program and the Department of Defense's central counter-narcotics account. With the inclusion of FMF and DOD assistance, the total level of U.S. support to Colombia is \$4.5 billion.

There has been measurable progress in Colombia's internal security, as indicated by decreases in violence and in the eradication of drug crops. In 2004, the United States fumigated 160 tons of cocaine and seized 325 tons for a total of 485 tons. This was the first time that more than half of Colombia's production was prevented from reaching market. Unfortunately, despite these efforts, no effect has been seen with regard to price and purity of cocaine and heroin in the United States.

The United States Agency for International Development (USAID) has a large mission in Colombia with \$460 million in funds, \$83 million of which goes to alternative crop development. Other USAID programs include: improving the efficiency and transparency of the justice system, strengthening democracy, promoting human

rights, and providing support for more than 1.4 million Colombians displaced by violence. USAID is also strengthening a center to support an estimated 3,000 to 7,000 children who were forced to serve as child combatants and is investigating whether to assist in the demobilization and reintegration of adult combatants. Since President Uribe came into power, USAID has provided alternative development aid to 38,000 small farm families, built 18 justice houses handling over 1,700,000 cases, built 22 oral trial courtrooms, and developed over 770 infrastructure projects.

**Meeting with Colombian Minister of Agriculture and Rural Development,  
Dr. Andres Arias**

Minister Arias opened the meeting by confirming that Colombia is committed to free trade and must maintain a long-term view. At the same time, he said that some issues are very difficult and sensitive, such as market access for rice, chicken leg quarters, wheat, and corn, and Colombia fears that granting too much market access could create instability and increase the terrorist threat in rural areas. Minister Arias emphasized the importance of gaining special treatment for Colombian agriculture to help rural areas in the fight against drugs and terrorism. Minister Arias said that Colombia needs “real” access to the U.S. market and a clear and agile mechanism for handling sanitary and phytosanitary (SPS) issues. Finally, Minister Arias raised concerns that the United States has not responded to Colombia’s recent proposal in agriculture.

Chairman Thomas responded by noting that there are many countries asking for special treatment for different reasons, but any FTA will have to fit into the overall framework of what the United States has agreed with other countries. For example, the Chile FTA is a good indicator of what Congress expects in a free trade agreement. As long as Colombia is making proposals that do not fall within the framework of what was done previously in other U.S. FTAs, then the United States cannot move forward. He also noted that Colombia cannot insist on maintaining price bands and then expect U.S. negotiators to engage technically. SPS restrictions, he said, have to be based on sound science. Chairman Thomas said that delaying the FTA negotiations is not to the advantage of Colombia. Colombia has had a window of opportunity to negotiate the FTA, but this is closing fast, and Colombia needs to show leadership in the negotiations. ATPDEA preferences will not, he said, be renewed beyond December 2006 because the U.S.-Colombia relationship has evolved and matured. The price of permanent access is giving up protections. A good FTA, he said, is mutually beneficial.

Congresswoman Tubbs Jones asked about support for trade in Colombia. Minister Arias responded that there is growing anti-trade and anti-American sentiment, and the Government of Colombia is trying to stop that movement. She also asked about alternative crops in Colombia. Minister Arias responded that it is difficult to start growing new crops, and the new crops need to be just as lucrative or there will be no incentive to change.

Congressman Shaw said that sugar will be a difficult issue in the FTA negotiations, and he noted that Colombia has an abundance of sugar. Mr. Shaw was interested to hear whether Colombia will consider making ethanol from sugar. Minister Arias noted that U.S. sensitivities regarding sugar are similar to Colombia’s sensitivities regarding rice.

Congressman Weller noted that corn, soy, and livestock are important agriculture industries in Illinois, and the FTA would need to provide market access for those products. He also noted that Colombia’s price bands would have to be eliminated as part of an agreement, as Chile had done in its FTA with the United States.

Congressman Nunes asked about Colombia’s capacity for value-added crops. Minister Arias responded that Colombia successfully exports dairy, beef, horticulture, fruits, palm oil, sugar, rubber, and cocoa.

**Meeting with Colombian Minister of Commerce, Industry, and Tourism  
Jorge H. Botero, Colombia’s Chief Negotiator for the Free Trade Agreement  
Hernando Gómez, and Colombia’s Vice Minister for Foreign Trade  
Eduardo Muñoz**

Minister Botero began the meeting by thanking the delegation for the unilateral preferences provided under the Andean Trade Promotion and Drug Eradication Act (ATPDEA). The positive results from ATPDEA have been significant. Minister Botero also stated that he sees an FTA as a cornerstone for the U.S.-Colombian relationship, and it has political significance as well as commercial meaning. Colombia is anxiously watching the outcome of U.S. Congressional consideration of the Dominican Republic-Central America Free Trade Agreement (CAFTA). While CAFTA is still pending, it is difficult for the Andean FTA negotiations to move forward, he said, particularly on agriculture, sanitary and phytosanitary measures, and intellec-

tual property rights. Once the CAFTA is approved, Colombia hopes that the Andean FTA negotiations can move forward expeditiously and conclude by the end of the year. Botero said it is his hope that the FTA talks can conclude by the end of October, at the latest.

Minister Botero also noted that, just as in the United States, Colombia has to be mindful of its political process and negotiate a deal that could pass in its Congress. Botero stated his belief that while Colombia has demonstrated political will to move the agreement forward, he has not seen comparable will on the part of U.S. negotiators due to the CAFTA approval process. Botero, like Minister Arias, pointed out that the United States has yet to respond to many offers on the table. He said that until Colombia sees U.S. engagement, it is difficult to put anything but the most conservative offers on the table. Botero also said that Colombian agriculture must have "real access" to the U.S. market, including some movement toward an SPS permanent committee.

Chairman Thomas committed that he would obtain a response from the U.S. negotiators on Colombia's proposals. At the same time, he commented that it is difficult to move forward in the negotiations if Colombia is not offering real market access. For example, the United States sent 2.2 million tons of corn to Colombia last year, but Colombia's latest proposal offered a tariff rate quota of only a small fraction of that level. Chairman Thomas also said that the best window of opportunity for negotiating an Andean FTA was really in late 2003 and early 2004. After a tough CAFTA fight, he explained, it is difficult to imagine much support for pushing through the Andean FTA, with its similarities to CAFTA on sugar, textiles, labor, and agriculture. As a result, the Andean agreement will likely need to be better in these areas.

Chairman Thomas also noted that ATPDEA is a temporary grant from Congress to the Andean countries. It would be wise, he said, for Colombia to conclude an FTA in time for its benefits to replace ATPDEA benefits when they expire in December 2006. Otherwise, it would be very difficult for Congress to renew ATPDEA if it sees that Colombia is unwilling to open its market to U.S. exports, particularly if Congress turns its focus to other regions of the world such as the Middle East, which have shown great interest in concluding comprehensive trade agreements. For example, an FTA with Bahrain is awaiting implementation, and trade negotiations are ongoing with Oman and the United Arab Emirates. Egypt has also introduced several economic reforms which improve its prospects for an FTA with the United States. The Chairman reiterated that the Andean FTA must follow the template established by the United States in previously concluded FTAs to maximize Congressional support, and holding out for more will not produce gains, only delay.

FTA chief negotiator Gómez added that Colombia is worried about the timetable and the lack of U.S. responses. He and Botero stated that Colombia is looking for pragmatic solutions to the remaining issues, but both sides have to engage to achieve results. The key is a balanced agreement where both sides see positive benefits. Gómez added that Colombia understands it has to open up its market on many products, but in some areas of agriculture, Colombia has to ensure the survival of some domestic production to maintain populations in the rural sector. Otherwise, he believes that increasing instability and insecurity will result.

Congresswoman Tubbs Jones noted that the FTA should have a strong labor chapter and raised concerns about the deaths of labor leaders in Colombia. Vice Minister Muñoz said that Colombia has tried to include unions in the FTA process, but unions in Colombia are opposed to the FTA, both philosophically and practically, even with the inclusion of a strong labor chapter. He said unions represent a tiny and declining portion of the Colombian workforce—mostly in large corporations and the government. Minister Botero responded that Colombia is trying to stop all crimes and murders, including those of labor leaders. He also noted that crime in Colombia is declining.

The delegation noted that sugar is sensitive in both Colombia and the United States, and the discussion turned to the potential of agriculture production, particularly value-added production, in both Colombia and the United States. The participants agreed that any trade deal has to be beneficial for all parties.

#### **Meeting with Members of the Colombian American Chamber of Commerce**

The delegation met with representatives of the American business community in Colombia to discuss the Colombian business climate and the ongoing FTA negotiations. Representatives of the insurance, consumer product, manufacturing, accounting, legal services, and energy sectors were among those present at the meeting. The business community expressed strong support for an FTA and emphasized its hope that the negotiations would result in an expeditious and successful conclusion of a comprehensive free trade agreement. They agreed that the signing of an FTA

requires a satisfactory agricultural agreement which will need to balance Colombia's sensitivities and U.S. priorities on a handful of agricultural products. Business representatives underscored the great economic progress that has taken place in Colombia under President Uribe, and they expressed confidence in the Uribe Administration's economic policies to attract more investment and economic opportunity in Colombia. They noted that, unlike Ecuador and Peru, Colombia has already resolved its outstanding investment disputes—thanks to the personal and persistent dedication of President Uribe. They said that Colombia's market holds the greatest potential in the region for American businesses.

**Meeting with Colombian President Alvaro Uribe, Minister of Agriculture and Rural Development Andres Arias, Minister of Commerce, Industry, and Tourism Jorge H. Botero, and Colombian Ambassador to the United States Luis Alberto Moreno**

President Uribe welcomed the delegation and thanked them for their efforts to support Colombia, including through passage of trade preferences. The President said he would like to conclude a free trade agreement, but he argued that there is an important link between agricultural employment and security so that Colombia needs additional flexibility to protect a basic group of products (corn, chicken leg quarters, rice, beans, and sorghum) in an FTA. The rural sector is also important because a quarter of the Colombian population lives in rural areas. President Uribe said that he understands that a bilateral FTA cannot hinder the United States' ability to use domestic supports for agriculture, but the agreement should then provide countries some mechanism to offset the distortionary effects of those subsidies. President Uribe proposed a tool that would be applied to a handful of very sensitive products for which the United States provides domestic supports.

President Uribe made a geopolitical argument about the importance of the FTA, stating that Colombia is a strong supporter of the United States, while Brazil is trying to supplant American leadership in South America and Venezuela is trying to buy a leadership role with inexpensive oil. The President also emphasized that instability in the region would increase if the United States were unable to conclude an FTA with as strong an ally as Colombia. With so many political uncertainties in the region, President Uribe said, a positive American presence is critical.

Chairman Thomas said that he is very concerned about the pace of the FTA negotiations, noting that the ATPDEA will expire in December 2006 but there is a real possibility that there will not be an FTA in force to replace ATPDEA benefits. He emphasized that Colombia is a very important friend and ally of the United States, and he does not want to see this happen. Therefore, it is critical that Colombia show leadership in the negotiations and work with U.S. negotiators to conclude a comprehensive and commercially meaningful trade agreement that benefits all parties. On domestic supports, Chairman Thomas responded that the U.S. Congress simply would not approve offset mechanisms, but he pledged to work with Colombia to find solutions within the existing framework created by previous agreements.

Congresswoman Tubbs Jones raised concern regarding labor violence in Colombia. President Uribe responded that security for everyone, including labor leaders, is a cornerstone of his administration. The President said that when he took power in 2002, 161 labor leaders were killed and 400 (of 1,096) mayors could not exercise their duties because of guerilla threats. Today, there might be one or two mayors that are having security problems, and the Colombian government is doing everything in its power to eliminate these problems. The President added that this year, five labor leaders have been killed, and that is five too many. Uribe's goal is to eliminate violence and stop all assassinations—against labor leaders, against mayors, and against the civilian population.

Other Members asked President Uribe about implementation of the peace and justice law. The President responded that 12,700 members of terrorist groups have turned themselves in, of which 55 percent were from paramilitary groups and 45 percent guerillas. The President defended the law, stating that this time there would be penalties and no amnesty. Moreover, those who are solely narcotraffickers would not have any benefits under the law, and those who commit human rights abuses would have to serve sentences and would have no amnesty or pardon. The President also stated that extradition would be permitted under the law.

## **ECUADOR**

**Country Team Briefing with Chargé Kevin Herbert, Economic Officer Larry Memmott, and other U.S. Embassy Staff**

Chargé Kevin Herbert and representatives of the Embassy staff provided a broad overview of the political, economic, and security challenges facing Ecuador. With a

population of approximately 13 million, Ecuador's GDP in 2003 was \$26.5 billion with exports making up 40 percent. Top exports from Ecuador include petroleum, bananas, shrimp, cut flowers, and tourism. In spite of Ecuador's petroleum and other natural resources, 70 percent of the population lives below the poverty line.

The Chargé and country team outlined U.S. policy priorities and actions in five areas: (1) democracy, (2) economic development, (3) combating narcotrafficking, (4) fighting terrorism, and (5) promoting regional stability. On democracy, the Chargé noted that over the last several years, governance in Ecuador has been under siege with frequently changing presidential administrations undermining the ability of basic government institutions to move forward. The new Palacio Administration does not have strong political backing and has not yet voiced a consistent ideological approach. In particular, the new administration's early comments on the FTA, a U.S.-funded facility at Manta that monitors drug trafficking, and Plan Colombia have all raised concern. The Embassy is working to engage the new government further to clarify its position on these issues.

On economic development, President Palacio has emphasized social spending, and there is heavy pressure to waive government spending controls. Bondholders have shown concern about the economic direction of the country, and Ecuador risks losing foreign investment. Questions remain as to whether the new Administration will be able to conclude the FTA negotiations and what position it will take on key issues. Most U.S. companies operating in Ecuador have disputes with the government, including Occidental Petroleum, the country's largest investor, which has been threatened with expropriation. The U.S. Embassy continues to press the Government of Ecuador to resolve its investment disputes expeditiously. Labor reform is another important issue, and while the new Labor Minister is committed to reform, it is unclear whether he will have the ability to advance new measures. On the FTA, some government officials have indicated that Ecuador should conclude an agreement but then reevaluate whether it is in the best interests of the country to ratify it. Yet the Embassy believes that Ecuador will feel pressure to move quickly if Colombia and Peru appear to be moving forward in an FTA without Ecuador.

On combating illicit drugs, Ecuador is challenged by its location between the world's two largest narcotics producers and is a major transshipment point. U.S. efforts have focused on improving border and port enforcement capabilities and providing assistance and training to the Ecuadorian police and military.

Combating terrorism is another priority area, and Ecuador's alien smuggling industry (which funnels large numbers of illegal immigrants into the United States) has been a focus of U.S. efforts, with special attention on aliens from the Middle East and China. Immigration has a large domestic impact in Ecuador, as there are 2 million Ecuadorians living in the United States, 80 percent illegally. Ecuadorians living abroad provided over \$1.52 billion in remittances to Ecuador in 2003, and remittances are the third largest source of income.

Finally, promoting regional stability has been a key U.S. interest, especially given the ongoing conflict in Colombia. Narcoterrorists frequently transit Ecuador's Northern provinces, and Colombian migration creates the potential for individuals and combatants to attempt to seek a safe haven in Ecuador. One of the Embassy's key messages to the Palacio Administration is to urge cooperation with Colombia to implement Plan Colombia.

In terms of U.S. development assistance, USAID briefed on the broad range of its efforts, including work to strengthen government institutions and justice reforms, provide infrastructure in the border regions, build economic opportunities with programs such as micro-finance and trade capacity building, and support biodiversity conservation. The Peace Corps program in Ecuador is one of the oldest and largest in the world with over 120 volunteers in country and remains an important part of U.S. engagement with Ecuador.

In response to Chairman Thomas' question about the social and economic makeup of Ecuador and how it impacts the government, the Chargé indicated that a small group, fewer than 20 families, owns most of the land in Ecuador, and that this group makes up most of the political elite of the country. Congressman Weller inquired about the new government's position on the conflict in Colombia, and the Embassy team indicated that Ecuador had a strong desire to avoid having the conflict spread across its borders and has worked closely with the U.S. Government on counter-drug and counterterrorism efforts.

#### **Meeting with Ecuadorian President of Congress Wilfrido Lucero and Other Representatives of the Ecuadorian Congress**

The President of Congress, Wilfrido Lucero, opened the meeting by welcoming the U.S. delegation. Chairman Thomas noted that the United States had just celebrated Independence Day and that there has been recent movement in the area of free

trade, including the recent passage of CAFTA in the Senate. The next round of negotiations for the Andean FTA in Miami offers an opportunity to continue to build momentum. The current Andean preference program is designed to give access to U.S. markets in order to promote reforms, and Chairman Thomas noted that the delegation appreciates Ecuador's effort to help in the fight against terror and drug trafficking. He noted, however, that like other trade preference programs, the Andean preference program is not intended to be permanent, and these benefits will expire in December 2006.

The Chairman added that his goal is to move from this preference program to a more permanent relationship through a free trade agreement. The primary mission of the delegation is to determine how important Ecuador believes it is to have permanent access to the U.S. market, which can be achieved only by reaching agreement on a comprehensive FTA, including the key provisions which the United States requires in all FTAs. All previously concluded FTAs have uniform standards, such as in labor, agriculture, and sanitary and phytosanitary standards. He emphasized that if the negotiators do not move with some degree of alacrity, there will be no seamless transition to an FTA. The Chairman stressed the importance of engagement by the Ecuadorian Congress on the FTA, noting that Ecuador's legislative branch cannot afford to wait on the side while the agreement is driven forward and then decide at the end it was not worth the trip. On the U.S. side, he emphasized that the U.S. Congress is the entity that would say yes or no to an agreement, while the Congress delegates to USTR the responsibility to negotiate only. The Chairman noted that the new USTR Robert Portman comes from the Ways and Means Committee. Perhaps more than any recent time, the Administration and the Congress are closely linked in advancing a common agenda, but time is short and the negotiators need to move quickly. The United States is willing to move forward with all the countries of the region, or with one or two of the countries, depending on whether a country is willing to take the steps necessary to conclude a comprehensive FTA.

Guillermo Landazuri, the President of the Democratic Left party, emphasized that the United States is Ecuador's most important trading partner, with an important trade surplus. Yet it would be a mistake to see the FTA under the lens of a commercial relationship only. There will be sectors that win and sectors that lose from an FTA, and Ecuador's market is not of great significance for the United States. For this reason, the geopolitical aspects loom large, such as Ecuador's agreement to host a base to monitor counter-narcotics activity at Manta and other efforts along its border with Colombia. Turning to the business relationship, Deputy Landazuri said he recognizes that every country has a right to support its companies, and that the U.S. Government has the right to subsidize agriculture. Yet Ecuador is a poor country and cannot support subsidies, so it needs quotas and price bands to protect its internal production. He believes that the United States should be willing to discuss subsidies in the context of the negotiations, and this would help make progress possible.

Chairman Thomas responded that there is no question of Ecuador's strategic importance in efforts such as those against narco-terrorism. He said that despite the size of Ecuador's economy, imports from Ecuador do have an impact on U.S. interests; for example cut flowers will hurt U.S. producers. In addition, Ecuador's efforts on human rights, labor, intellectual property rights, and protection of investor rights are extremely important for U.S. consideration of the FTA. Chairman Shaw noted that Deputy Landazuri's statement on the need to protect agriculture is one that he hears from U.S. Members of Congress, showing the universal nature of politics and the issues involved in pushing forward new trade agreements.

Alfredo Serrano, a deputy from the Social Christian Party who serves as the President of the International Affairs Commission of the Ecuadorian Congress, noted that the World Trade Organization (WTO) calls for differential treatment of developed and developing nations, and he said similar differential treatment should be granted in an FTA. He believes that an FTA is not necessarily a good or bad thing, and the Ecuadorian Congress will have to look at the final product and make a decision whether it would benefit Ecuador. He also said he believes it would be a very serious issue if an FTA is signed with Peru and Colombia, yet Ecuador is not included.

Chairman Thomas responded that he is very well aware of the WTO's Doha Agenda, and he hopes that all the nations involved would make strong efforts to ensure that it remains on track. On the Andean FTA, he stressed that it is up to the Andean nations to work together towards a common position, and while there is a profound respect for the geopolitical situation facing the Andean countries, negotiators should not overplay the issue. Free trade agreements are negotiated to be mutually beneficial. There are difficult issues to resolve such as intellectual property rights and labor, but they are not insurmountable. Failure to conclude an FTA may be

more damaging to Ecuador's economy than to the U.S. economy, he said, but it would be a sad, missed opportunity for both nations if it does not succeed.

Deputy Andreas Paez of the Democratic Left noted that he had been appointed by the Ecuadorian Congress to visit the U.S. Congress to address what he believes are misunderstandings about labor law and policy in Ecuador. He cited labor law reforms of the 1990s as being progressive modernization efforts that have been followed up with new procedures. For example in July 2004, new procedures reduced the trial time from three years to three months to protect labor rights and provide full access to the court system. He highlighted labor as an area where there should be mutual cooperation, and he requested aid, even if only in the form of used equipment, to build on a \$1.3 million program USAID funded last year.

Chairman Thomas thanked Deputy Paez for his comments on labor, which he noted is very important to both the U.S. majority and minority parties. He commented that the amount of aid cited as needed for labor capacity building seemed small compared with Ecuador's large oil revenue, but he stated that the United States should explore this issue. Labor is an area in which Ecuador needs to show results as the FTA process advances, he emphasized.

Deputy Jorge Sanchez of the Democratic Left noted that FTA comes at a very difficult time for Ecuador with the impact of a new monetary system and dollarization, which has increased production costs. After expressing concern about the expiration of ATPDEA preferences, he added that Ecuadorian markets could collapse if U.S. agricultural exports are allowed to come into Ecuador in sensitive sectors. He suggested that Ecuador be allowed to keep protection on these areas, perhaps based on the productivity of different Ecuadorian groups, with reductions in tariffs if the groups become more competitive.

Congressman Weller expressed his belief that Ecuador has so much potential and has a great opportunity for development, while recognizing that political uncertainties make it difficult to move forward. He encouraged Ecuador to look at Chile's performance following its FTA with the United States. Chile also had a price band system prior to the FTA but has done quite well after removing it under the agreement. Finally, Congressman Weller stressed the importance of border issues, particularly along Ecuador's border with Colombia.

President Wilfrido Lucero made closing remarks for the Ecuadorian legislators. He said that the FTA is difficult for Ecuador because Ecuador has to deal with the great asymmetry between the political, economic, and social realities of the two nations and a fear by Ecuador's people that they may be absorbed by the FTA. In particular, he highlighted agricultural subsidies, where he believes Ecuador is negotiating from a position of weakness when dealing with the United States or Europe, as these nations have the ability to subsidize crops. He also highlighted labor as a sensitive issue, raising questions as to how the FTA could impact the implementation of local laws. He stressed his fundamental belief in the government working to satisfy basic human rights, including providing education and work for people. Finally, he stressed the great pressure that the people of Ecuador experience as a result of problems nearby in Colombia. While there is great sympathy for their sister nation, there is also a desire to make sure that the problem does not spread throughout the region.

#### **Meeting with Ecuador's Minister of Trade, Industrialization, Fisheries and Competitiveness, Dr. Oswaldo Molestina**

Chairman Thomas opened the meeting by emphasizing the delegation's mission to energize the Andean FTA negotiations. He stressed that the existing Andean trade preferences will expire in December 2006, and now is the time to move toward a more permanent trading relationship. He noted that the U.S. Administration and Congress are completely united in their desire to advance this FTA and that the U.S. Government is willing to do so with all, some, or one of the Andean countries.

Minister Molestina thanked Chairman Thomas for his remarks and expressed a strong belief that the FTA is a benefit to both Ecuador and the United States. He said the day before, he had presented a report to the Ecuadorian Congress on the progress on the FTA and pledged that the Palacio Administration would work to keep it on track. He cited the fact that Ecuador sent the former Deputy Secretary of the United Nations to negotiate at the recent bilateral discussions on agriculture as a sign of the importance that Ecuador places on the FTA. Minister Molestina noted that he recently traveled to the United States, where he met with senior officials throughout the U.S. Government, to stress Ecuador's commitment. He foresees another trip to the United States when the FTA negotiations are further along, and he expressed concern that U.S. Congressional consideration of CAFTA might delay discussions of key issues such as agriculture and intellectual property. Minister Molestina recognizes that the existing trade preferences have allowed Ecuador and



the United States to deepen their relationship, and he knows that unilateral preferences would not be renewed. He said that it is his government's desire to embody these preferences in an FTA that is of much greater scope. He stressed that while there are many issues outstanding, among the most important for Ecuador are those related to agriculture, and he is disappointed that agriculture is not on the agenda in more detail for the next negotiating round in Miami. While he anticipates the need for another round of negotiations in the United States, he expressed optimism that obstacles can be overcome and the negotiations concluded then.

Chairman Shaw noted that Minister Molestina's tone conveys an optimism and understanding that was missing from the meeting with Ecuador's Congress, and many of the representatives in that meeting did not appear to see the need to maintain access to the U.S. market. Given this situation, it is clear that Ecuador would proceed with sensitivity to domestic concerns, and the commitment expressed by Minister Molestina is important to conclude an FTA.

Congressman Weller also expressed concern regarding the tone taken by Ecuador's Congressional representatives, noting that trade agreements are a give and take for both sides, and everyone should work together to compete against nations such as China. He added that the treatment of investors in Ecuador is a very important issue, citing Occidental Petroleum's investment of over \$1 billion in Ecuador and ongoing concerns regarding threatened expropriation. Treatment of companies such as Occidental impacts the constituents of U.S. Congressman and Senators who support free trade and can have a serious impact on the U.S. ability to conclude an FTA, he emphasized.

Minister Molestina thanked the Members for their frank comments and noted that in his two months in office, Ecuador has moved to address investment concerns by creating a special unit to deal with international commercial disputes. He also pointed out that Ecuador has signed a bilateral investment treaty with the United States—which he noted other nations in Latin America have been hesitant to do—that provides additional protections for U.S. investors. The Ecuadorian government has been holding meetings with these companies to resolve the disputes. While expressing that there may be limits as to how far certain of the disputes can be moved by his Ministry (because under Ecuador's governmental system several of the disputes are under processes within other governmental units such as the Attorney General's office), he stated that the U.S. delegation should be assured that Ecuador intends to demonstrate progress and resolve the disputes as quickly as possible.

Chairman Thomas noted that he sees many obstacles that must be overcome to move quickly on an FTA, including the difficulty in maintaining continuity in the negotiations when governments change. Labor is a key issue, and while Ecuador has signed core International Labor Organization conventions, there can be a distinction between paper and practice, and the U.S. Congress will be looking for real world results. Standardization of FTAs, so that they are comprehensive and contain core language, is another important point, and overall standardization on key issues is critical to efforts in the World Trade Organization. He further noted that agriculture is an important area for both Ecuador and the United States, as imports such as cut flowers and livestock will compete with U.S. interests. He concluded that despite these issues, the differences between the United States and Ecuador pale in comparison to those that the United States and Ecuador have with China, and they are not insurmountable.

Congressman Nunes stressed the importance of agriculture to his district and asked the Minister to describe the most sensitive areas in the agriculture negotiations. In response, Minister Molestina noted that Ecuador's offers to the United States have been delayed by political events in Ecuador, but Ecuador has submitted offers and has received counteroffers in various areas. Key products of concern for Ecuador are rice, cattle, milk and dairy, and corn. Congressman Nunes added that Ecuador is not a major producer of sugar and does not appear to raise the same level of concern as the CAFTA did with U.S. sugar producers.

Chairman Thomas urged Minister Molestina to find creative solutions to the banded tariff system and mechanisms for phasing out existing protections. He stressed that the United States is under a tight timeframe with the expiration of Trade Promotion Authority, and negotiators need to move quickly between now and 2006, which is the window for action.

Manuel Chiriboga, the lead agriculture negotiator for Ecuador, added that the range of agriculture grown in Ecuador and the Andean region is much wider than Central America, and, in fact, the Andean countries produce virtually everything that the United States does, as well as some other items. He stated that he could foresee moving away from the price band mechanism, but there would need to be a transition. In addition, he suggested that the negotiators explore a special agricultural safeguard and consider how this might be used to address sensitive issues. He

noted that Ecuador has put on the table items such as wheat and soy where Ecuador is looking for access to the United States and, just as sugar is sensitive for the United States, rice is sensitive for Ecuador. Overall, he remains confident that an agreement can be reached. While hesitant to set a conclusion date, Mr. Chiriboga indicated that he believes that an agreement could be reached by December 2005.

Cristian Espinoza, an Ecuadorian official involved in the FTA negotiations, asked the delegation to pay special attention to two issues. First, concerning tuna, which he described as particularly sensitive for Ecuador, he hopes that through the FTA negotiations Ecuador would be able to achieve benefits beyond those available under existing preference programs, which only apply to tuna caught on flag vessels of Andean countries and the United States, and he cited more favorable treatment that the United States has provided to Mexico and Costa Rica. Secondly, he stressed the importance of U.S. trade capacity building assistance to Ecuador, such as programs provided by USAID in helping with Ecuador's development. Chairman Thomas responded that he has worked closely on the issue of tuna in the current trade preference programs, and he would review this issue with an eye towards not only the immediate impact of preferences but in terms of how the issue is likely to develop moving forward.

In closing, Minister Molestina thanked the delegation for their useful exchanges. Chairman Thomas said that he is encouraged by the optimism and commitment shown in the meeting, concluding that a primary goal of the delegation's visit is to encourage Ecuadorian negotiators to move forward.

#### **Meeting with Members of the Ecuador-U.S. Chamber of Commerce Executive Committee**

The President of the Ecuador-United States Chamber of Commerce, Mauricio Robalino, welcomed the delegation and opened with a presentation on the challenges facing U.S. businesses operating in Ecuador. Major U.S. investors are operating in the energy, pharmaceuticals, water, flowers, and consumer products and sales sectors. While Ecuador's advantages of a dollarized economy, low inflation, relatively non-violent society, and rich natural resources were cited, the company representatives described deep, systemic problems that threaten Ecuador's commercial environment and the prospects of future investments. Serious problems with the rule of law, including political interference in judicial decisions, ineffective law enforcement and little respect for contracts, force companies to rely on international arbitration. In addition, government control of key sectors such as energy and communications, fragmented government processes, corruption, and constantly shifting governments make Ecuador an extraordinarily difficult commercial environment.

In addition to these overall concerns, representatives from key industry sectors provided details on the specific problems they encountered. In the petroleum sector, the constant change of energy ministers, with six since 1993 alone, along with the lack of respect for contracts was cited as leading to a decline in state oil company's output and discouraging much-needed new investment. In electricity, companies experience problems related to non-payment and discriminatory treatment, and Ecuador is likely to face an electricity shortfall in the fall that would lead it to rely on imported energy. Pharmaceutical representatives noted that while Ecuador has an excellent intellectual property rights (IPR) law, enforcement is weak, and copy-cat companies, many of whom are based outside of Ecuador, have launched an aggressive anti-FTA, anti-IPR campaign. In addition, a U.S. company that obtained a water concession has been unable to obtain financing because its contract is not being honored by the Ecuadorian government. Yet this same company is then subjected to government fines when the lack of financing makes it impossible for the company to meet the contract's performance requirements. Other representatives cited instances where their companies were approached by judges requesting bribes or subjected to judicial proceeding without notice or the chance to represent themselves. While the group supports the FTA as a way to promote reforms and as a means to protect the rights of U.S. companies operating in Ecuador, many representatives expressed concern about whether the Ecuadorian government would honor its FTA commitments.

Chairman Thomas thanked the group for its presentation. He noted that in the delegation's meetings with deputies from Ecuador's Congress, it seems as though the deputies are weighing whether they really want access to the U.S. market and investment. The meeting with Trade Minister Molestina was much more encouraging, and his team appears to be moving towards solutions. The Chairman added that in many cases it seems as if there are legal or regulatory provisions that are good on paper but have no effective enforcement or implementation. Given the wide array of problems the companies described, the Chairman asked what had led the companies to invest in Ecuador. Many of the business leaders replied that their

companies are in Ecuador because they have been in the country for a very long time and had entered into long term contracts when the business climate was more promising. Others noted the great natural resources that Ecuador possesses, ranging from oil to an ideal growing climate for crops such as bananas.

Chairman Shaw inquired whether there are impediments to companies pulling out of Ecuador and whether Ecuador is likely to enact policies similar to those in Venezuela under President Chavez. Business representatives responded that while there was conflicting rhetoric in the first days of the Palacio government, they generally do not believe that the Ecuadorian government is moving toward policies similar to those of President Chavez, and, instead, the new government has been reaching out to the business community.

Congressman Weller asked whether, given the billions of dollars in investment the group represents, the companies act collectively to address their concerns, while Congresswoman Tubbs Jones asked if this group is reaching out to other business groups to address these issues. The Chamber representative responded that in terms of collective action, the companies have worked to coordinate efforts on disputes. The Chamber is also reaching out to other foreign investors and business groups to coordinate efforts, such as a chamber of commerce focused on industrial companies in Ecuador. Yet, Ecuador has not yet shown a high level commitment within the government to resolve the disputes.

Congresswoman Tubbs Jones noted that many business leaders cite the constant turnover in governments as a problem and wondered whether there is a contingent of career civil servants retained between administrations to maintain continuity. The business leaders replied that almost all key decision makers, down to the middle levels, tend to shift with the change in government, making it difficult to predict behavior or know with whom to deal on various issues.

Chairman Thomas inquired whether, given the constant change in governments and the previous track record, the United States could expect commitments reached in individual contracts or FTA negotiations to be honored. Members of the business community agreed that honoring commitments is a major problem. One representative noted that when his company cited the U.S.-Ecuador Bilateral Investment Treaty (BIT) commitments as supporting its rights, Ecuadorian officials began looking for ways to get out of the BIT rather than try to address the company's concerns.

Congressman Nunes emphasized that the delegation has heard many different opinions on the direction that President Palacio and the new government are likely to take and asked for opinions. Many of the business leaders responded that are heartened by the new President's explicit statement that he would adhere to Ecuador's international commitments and by the recent greater access to government officials. They believe the President is generally independent and less beholden to traditional political interests, but at the same time he is dealing with many of these issues for the first time. In addition, some problems reside in offices that the President does not directly control. While the FTA would not solve all of the problems cited, the business representatives believe that the FTA would bolster and strengthen reforms while giving them more leverage and tools for protecting their rights. In closing, Chairman Thomas thanked the group for their frank and lively discussion, noting that they gave the delegation a vivid description of the difficulties they face while doing business in Ecuador.

#### **Meeting with Ecuadorian President, Dr. Alfredo Palacio**

President Palacio welcomed the delegation, and expressed his desire to establish a strong relationship with the United States. He sees the people of the United States as the brothers and sisters of the people of Ecuador.

Chairman Thomas said that while it is cliché to say that "we are from the United States and we are here to help," that is part of the delegation's mission—to help advance the FTA. He noted that he is impressed by Minister Molestina, and if he is representative of President Palacio's Cabinet, the President has established an excellent team. Chairman Thomas stated that the delegation believes it is important to come to Ecuador to personally deliver the message that time is short and that the current trade preference programs, which have helped Ecuador, will soon expire and will not be renewed. The desire of the Chairman is to transition to an FTA as soon as possible, and he will seek to do so in a spirit of compromise, but it is important to recognize that the negotiations must meet the standards necessary for an FTA. The delegation seeks to help and work with Ecuador to advance these issues, and sometimes it is those who are thrust into responsibility rather than those who seek it who are most able to get things done. President Palacio thanked Chairman Thomas for his comments and stated that Ecuador and the United States need to work together to resolve differences.

Congresswoman Tubbs Jones noted that the President's training in the United States gives him a familiarity with America and an ability to build stronger ties. President Palacio agreed, noting that the time he spent in the United States, including during his educational training, gives him a strong appreciation for the importance of the bilateral relationship.

Chairman Shaw noted that expanding free trade will be important to all of the Americas, and in listening to Ecuador's deputies, he heard many of the same arguments about protecting or shielding particular sensitive industries that he has heard in the U.S. Congress. While it would not be easy for either country to push forward with an FTA, he believes strongly in leading the way.

Congressman Weller, noting his work as the Vice Chair of the Western Hemisphere Subcommittee of the International Relations Committee, stated that one of the two countries' common values is democracy. He asked for clarification and thoughts from the President on recent comments from Ecuador's Foreign Minister that indicate that Ecuador is neutral in the ongoing conflict within Colombia. President Palacio said he does not believe that the people of Ecuador should refer to the conflict in Colombia as a "civil war" because this implies that there are two equally democratic sides. He stated that those who oppose the current government of Colombia are not democratic; they are paramilitaries and narco-traffickers. When the Foreign Minister spoke of neutrality, the President indicated that he was not speaking of treating the groups in Colombia as two equally democratic sides. Ecuador has a policy of not intervening in Colombia, and this is the policy to which the Foreign Minister was referring. Nevertheless, the Ecuadorian government opposes terrorism and narco-terrorism. The President stated that he remains very concerned about Ecuador's Northern Border and when individuals have been killed in border clashes, he has mourned with President Uribe and offered to send senior military officials to work with the Colombians. Ecuador has eight thousand men along the border to help stop infiltration, and the border is an issue of on-going concern.

Congressman Nunes noted that the delegation has heard deep concerns expressed from the business community about making any future investment in Ecuador. He asked the President to reflect on this and to describe what is being done to address investment disputes. President Palacio said the question raises many underlying political and economic issues. For a long time Ecuador had problems that eroded its democratic institutions. These problems have a much longer history than the last two years, but some of them worsened during that time, and it became difficult for the executive branch to govern other than to survive over short periods of time. It is now time to strengthen democratic institutions in a way that is more responsive to the people. Ecuador is moving toward a more representative democracy, he said, and the people want more direct information on policies such as how oil revenue is spent, social security, and the FTA. Oil revenue provides billions to Ecuador's economy but not in a way that allows the country to develop, as it is simply exported with no value added. The budget remains billions of dollars in debt. Subtracting oil revenues, economic growth is minimal and non-oil production is tiny. To reverse this trend, President Palacio believes that Ecuador must have a social policy that invests in health, medicine, and social protection. President Palacio stated that he became Vice President for one reason, to promote universal health insurance, although budget tightening has made this difficult. As President he has pledged to continue to work to build democratic institutions and improve Ecuador's social policy. President Palacio said he has the advantage of being independent, and he does not answer to any special political interests.

In closing, Chairman Thomas stated that the members of the delegation leave Ecuador feeling better about the prospects for moving forward. The United States itself has great resources, but all democracies know that people are the greatest resource. Knowledge and transparency are critical for democracy, and those that oppose democracy know this, which is why they strive to limit knowledge and transparency. The FTA will help build the economy, and President Palacio's plans can help plant the seeds of development. Chairman Thomas concluded that he hopes these seeds will grow so that tomorrow will be better and Ecuador's people, many of whom have sought opportunities in foreign lands, will experience stable democracy and economic opportunity in Ecuador.

#### **FUNDEPORTE Peace Corps Site Visit (Congresswoman Tubbs Jones and Spouse Program)**

Congresswoman Tubbs Jones and the spouses visited FUNDEPORTE, a Peace Corps site in southern Quito. During the visit, Ms. Claire Lederman, a volunteer at FUNDEPORTE and a constituent in Congresswoman Tubbs Jones' district in Ohio, briefed the group on the extreme poverty that exists in many areas of Quito and the foundation's efforts to provide assistance to at-risk youth in the area. Ms.

Lederman stated that FUNDEPORTE is a foundation that provides traditional schooling and sports training to over 400 at-risk children, many of whom lived or worked on the streets prior to participating in the program. The organization emphasizes the use of sports as a tool to increase self-esteem and life skills.

## PERU

### Country Team Briefing with U.S. Ambassador J. Curtis Struble and U.S. Embassy Staff

Ambassador Struble gave the delegation a briefing on the political and economic issues currently facing Peru. The Ambassador began by discussing the fluctuation in Peru's GDP over the past 25 years. He noted that GDP growth has been strong under President Toledo, reaching 4.8 percent in 2004. However, there has been very little progress in alleviating poverty in the country. More than 50 percent of the Peruvian population lives in poverty, including more than 20 percent who live in extreme poverty.

The Ambassador noted that political institutions in Peru need strengthening. There are 27 political parties, most of which have a very limited presence. Additionally, there is little public confidence in the government. Recent polls indicate that public support in Lima for the President, Prime Minister, Congress, and the Judiciary is below 20 percent.

With respect to trade, the Ambassador stated that Peru has benefited more than any other country from the provisions of the Andean Trade Preference Act and the Andean Trade Promotion and Drug Eradication Act (ATPDEA). Peru's exports to the United States have grown from \$716 million in 1993, when it first became eligible for ATPA benefits, to \$3.587 billion in 2004. According to Ambassador Struble, the economic growth generated by such exports has contributed to broader political and public support in Peru for a free trade agreement (FTA) with the United States than in other countries in the region. For example, a recent DATUM International poll suggests that 64 percent of Peruvians are in favor of an FTA with the United States, while only 24 percent are opposed.

Ambassador Struble stated U.S. exports to Peru exceeded \$2 billion in 2004. Leading exports included nuclear reactor supplies, boilers, machinery parts, electronic machinery, and plastics. According to the Ambassador, U.S. exports of mining equipment, machinery, information technology, electronic equipment, cotton, corn, rice, deciduous fruit, and soybeans would increase if an FTA with Peru is concluded.

The Ambassador stated that an important benefit of an FTA with Peru is that it would provide greater protections for U.S. investors in the region. In 2004, total U.S. foreign direct investment in the country reached \$10 billion (current value).

Ambassador Struble noted that in order to remain eligible for ATPDEA benefits, the Peruvian government committed in 2002 to resolving nine outstanding commercial disputes involving U.S. companies. However, four of the nine disputes remain. The Ambassador stated that he has emphasized to the Government of Peru that the remaining cases must be resolved before the United States will conclude an FTA with Peru.

Ambassador Struble also noted that an FTA with Peru would help promote protection for intellectual property rights, which remains a serious problem in the country. In 2004, IPR losses totaled almost \$200 million, with pharmaceutical losses of \$63 million and optical disc losses of \$118 million. He noted that an FTA will combat optical disc piracy and ensure data and patent protections for medicines. Ambassador Struble said that Peruvian negotiators understand the importance of intellectual property rights protections in the FTA, but at the same time, he said that some government officials are concerned about the inclusion in the FTA of data protections for data relied on in obtaining marketing approvals for drugs. He indicated that these concerns were fueled by recent studies by two government agencies that suggested that the price of medicines could increase under an FTA.

For Peru, agriculture is a sensitive issue in the negotiations. According to the Ambassador, producers of dairy, rice, sugar, meat, poultry, corn, wheat, and cotton in Peru are pressuring the Government of Peru not to fully eliminate tariffs on their products. However, Peru does not produce enough of these products to satisfy domestic demand, and most Peruvian imports of these products (except cotton and wheat) come from countries other than the United States such as Bolivia and Argentina.

Finally, the Ambassador discussed coca production in Peru. The country is the second largest cocaine producer in the world and received \$114 million in counter-narcotics assistance from the United States in 2004. Approximately 80 percent of the coca leaf harvested in Peru goes to narco-trafficking, with the rest being used for industrial or traditional purposes. Peru exports 120 metric tons of coca leaf an-

nually to satisfy world demand for licit coca. Meanwhile, an estimated 43,760 metric tons of coca goes to narco-trafficking each year. The United States and Peru cooperate on counter-narcotics objectives, and there is a four-prong approach to the problem: promote alternative development, interdict to reduce flow of illegal drugs from Peru, eradicate illegal coca, and promote prevention and treatment programs. The Ambassador noted that all eradication efforts in Peru are done by hand as it is illegal in Peru to spray chemicals to kill coca.

Ambassador Struble noted that one of the difficulties in combating illicit coca production and trafficking is the Peruvian public's perception of coca growth. According to a recent poll, 44 percent of Peruvians believe coca is good, primarily because it generates revenue and is a traditional crop.

#### **Meeting with First Vice President of Congress, Natale Aprimo**

The First Vice President of the Peruvian Congress Natale Aprimo opened the meeting by noting the importance of the Andean FTA. He stated that the FTA is not a panacea but is a positive step. He noted that agriculture and pharmaceuticals are areas of difficulty for Peru in the negotiations. He expressed hope that U.S. and Peruvian negotiators could find common ground on these issues to foster support for the agreement.

Mr. Aprimo informed the delegation that although the Peruvian constitution gives primary authority for negotiating trade agreements to the executive branch of the government, the Peruvian Congress has the power to approve or disapprove the agreement. He noted that representatives from the Congress have been present during each of the rounds of FTA negotiations. Mr. Aprimo stated that while he is not a supporter of President Toledo, the FTA is a national issue.

Mr. Aprimo thanked the U.S. delegation for the support of the United States in fighting against coca production and in helping to promote alternative crops.

Chairman Thomas responded by stating that working with Peru on programs to combat narco-trafficking is in the best interests of the United States. With regard to the Andean FTA, Chairman Thomas emphasized that the rapid conclusion of the negotiations is critical. He stated that he does not expect Congress to extend ATPDEA unilateral benefits to the Andean countries. Additionally, Chairman Thomas stated that passage of the agreement in both Peru and the United States is likely to become more difficult as the April 2006 presidential and congressional elections in Peru and November 2006 congressional elections in the United States approach.

Chairman Thomas and Chairman Shaw also noted that Peru is in a position to play a leadership role in the FTA negotiations and can work with Colombia and Ecuador to create greater momentum in the ongoing talks.

#### **Meeting with Peruvian Congressional Leaders (Luis Iberico, Rosa Yanarico, Fabiola Morales, Jorge Mera Ramirez, and Mercedes Cabanillas)**

Peruvian Congressman Luis Iberico opened the meeting by acknowledging the cooperative relationship between the United States and Peru and thanking the United States for providing ATPDEA trade benefits to Peru. ATPDEA has provided great benefits and opportunities for Peru, including for poor peasants who found new opportunities in modern agriculture. The success of ATPDEA shows the potential of an FTA in promoting alternatives to growing coca. Congressman Iberico stated that he believes an FTA with the United States is important for reasons beyond trade, including security. At the same time, he noted that the agreement is likely to meet some opposition and that some farming sectors already are mobilizing against it.

Chairman Thomas remarked that he traveled to the region because he believes it is important for him to convey his expectation that the U.S. Congress will not extend the ATPDEA benefits when they expire in December 2006. He said the Andean nations are important U.S. allies, and he doesn't want to see ATPDEA expire without an FTA to replace it. He also expressed hope that Peru will play more of a leadership role in the Andean FTA negotiations, working with Colombia and Ecuador to move the talks forward.

Peruvian Congresswoman Rosa Yanarico expressed her support for the FTA. She said she represents very poor regions in Peru, and her constituents need opportunities. Some of her constituents have emigrated to the United States, and she would instead like to create jobs for them at home. She also emphasized that it will be important that officials in Peru and the United States work to educate their populations about the agreement.

Peruvian Congresswoman Fabiola Morales and others stated that they are excited by the prospect of an FTA with the United States. In particular, Congresswoman Morales hopes the agreement would bring additional foreign investment and jobs to

the country to encourage Peruvian youth and professionals to stay in Peru. She also believes an FTA will help Peru to improve education, health, and tourism.

Congresswoman Tubbs Jones noted that the promotion of adequate labor standards and their effective enforcement by Peru would be important factors in securing support for the Andean FTA among many of her colleagues in Congress, and she urged the Peruvian Congress to focus on these issues, noting that she is “not so sure” she supports an FTA.

**Meeting with President Alejandro Toledo, Foreign Affairs Minister Manuel Rodriguez, Finance Minister Pedro Pablo Kuczynski, Trade Minister Alfredo Ferrero, Production Minister David Lemor, Peru's Chief FTA Negotiator Pablo de la Flor, Foreign Ministry Undersecretary for the Americas Pablo Portugal, FTA Coordinator Eduardo Ferreyros, Peru's Ambassador to Spain Fernando Olivera, Peru's Ambassador to the United States Eduardo Ferrero, and Congressman Luis Iberico**

President Toledo opened the meeting by stating that Peru is in a state of transition. After 10 years of dictatorship and corruption, the country is making progress, both socially and economically. President Toledo stated that part of the country's current strength comes from its diversity and policy of social inclusion, noting that he is the first democratically-elected president of indigenous background in 500 years.

President Toledo stated that one of the most pressing questions for Peru today is how can it best benefit from globalization—both in terms of spreading the benefits of globalization to all the people of Peru and maintaining respect for Peru's diversity. President Toledo cited a troubling survey in which 54 percent of the Latin American population said it would prefer an authoritarian regime over a democratic one if that regime could ensure economic growth, showing that Latin Americans are desperate for jobs. President Toledo believes that trade is synonymous with jobs, and this is why he wants to conclude an FTA with the United States as quickly as possible.

Chairman Thomas stated that he believes the United States and its neighbors should work to ensure that the democratically elected nations of the Western Hemisphere, and not just China, prosper in the 21st century. He stated that knowledge and transparency in business and government are critical for such prosperity. Chairman Thomas also emphasized that Peru's ATPDEA benefits will end in December 2006, and therefore it is important to replace the unilateral program with a quality, permanent free trade agreement.

President Toledo noted that Peru has experienced 47 months of sustained economic growth, and in 2004, its GDP grew by 4.5 percent. However, he stated that 23 percent of the country's population continues to live in extreme poverty, earning less than \$1 per day. As one of sixteen children, seven of whom died before their first birthday, President Toledo emphasized that he feels strongly about helping the nation's poor.

President Toledo stated that trade is linked with job growth and the fight against narco-trafficking in Peru. He urged his Minister of Trade to conclude the FTA with the United States by the end of September and asked for the delegation's help in meeting this goal. President Toledo expressed concern that the longer the delay in concluding an agreement, the more politicized the issue would become. President Toledo also noted that he would not be President after July 2006, so he could sow the seeds of Peru's future development only by promoting the FTA and other pro-growth economic policies.

Chairman Thomas welcomed President Toledo's ambitious goal of concluding the FTA in September. Chairman Thomas stated that the United States is prepared to conclude an FTA with any Andean country with which it can come to agreement, although it would prefer that the final agreement include at least Colombia, Peru, and Ecuador. He noted that based on his conversations with President Toledo and other officials in Peru, Peru appeared much more prepared to conclude an FTA with the United States than either Colombia or Ecuador. Chairman Thomas asked President Toledo to urge Colombia and Ecuador to move more quickly to bring the negotiations to a conclusion.

President Toledo responded that he would do everything he could to work with Colombia and Ecuador to conclude a cohesive Andean FTA. He also noted that if a broader Andean FTA is not possible, Peru is prepared to sign a U.S.-Peru FTA.

Congresswoman Tubbs Jones stated that her biggest concern is labor conditions in Peru. She urged President Toledo to bear in mind that the views of many Democratic Members of Congress concerning an FTA with Peru would be heavily influenced by the country's labor laws and the labor provisions included in the FTA.

Chairman Shaw noted that U.S. and Andean negotiators would soon be meeting in Miami for the 11th round of trade negotiations. He urged President Toledo to work with the other Andean countries so that they could speak with one voice during the talks, which would help the negotiations progress more rapidly.

Congressman Weller congratulated President Toledo on Peru's economic growth and the completion of the Camisea liquefied natural gas export plant. He expressed support and appreciation for the help of Peruvian troops in Haiti, as well as Peru's cooperation with the International Law Enforcement Academy to strengthen the effort against narco-trafficking and criminal gangs.

Finance Minister Kuczynski stated that the Government of Peru is trying to spread the message that Peru is moving forward and wants to maintain this momentum. The FTA is a key element of this strategy and the fight against poverty. He stated that Peru has doubled its exports in the last four years and created thousands of new jobs. Minister Kuczynski stated that ATPDEA benefits are not sufficient to secure future growth, and Peru is looking to the FTA as a way to better foster investment and security.

Minister Kuczynski also stated that Peru has high labor standards, despite a decline in the size of the formal workforce and labor union participation during the Fujimori government. The Minister stated that the Toledo government is focusing on increasing the number of formal jobs; currently more than 60 percent of workers operate in the informal economy. Minister Kuczynski stated that the ATPDEA program has helped to promote more jobs in the formal economy, and he cited the example of one agricultural facility, the Campo Sol operation, which he visited in the northern city of Trujillo. The facility has hired an additional 6,000 workers in the last year, each of whom receives social security and pension benefits.

Peru's Chief FTA Negotiator Pablo de la Flor stated that Peru would like to conclude the FTA in September, but some difficult issues, particularly related to agriculture, still need to be resolved. He noted that Peru has only a few sensitive agricultural products: corn, rice, chicken hind-quarters, and certain dairy products. He indicated that Peru would need flexibility in these areas in the FTA.

Chairman Thomas responded by stating that with its favorable climate and ability to grow a wide variety of crops, Peru should focus on specialty market products with high value in the marketplace. He pointed to the sale of specialty coffees, which have grown dramatically in the United States, as an example of a niche market.

#### **Meeting with American Chamber of Commerce of Peru (Am Cham Peru)**

The delegation met with representatives of Am Cham Peru to learn about challenges facing U.S. companies operating in Peru. The Am Cham representatives highlighted the unpredictable judicial system and constantly changing rules for doing business in the country. The company representatives noted that an FTA with Peru would bring an improved investment climate, among other opportunities.

Chairman Thomas thanked the representatives of Am Cham for providing useful information to U.S. policymakers about the investment environment in Peru and urged their continued assistance as the FTA negotiations proceed.

#### **Visit to Iquitos and Briefing by Howell Howard, Deputy Economic Counselor of U.S. Embassy in Peru, Regarding Peru's Environment**

The delegation traveled to Iquitos on the Amazon River in Peru's northeastern jungle area to view the massive volume of timber logged in Peru's forests that is transported through Iquitos, the U.S. Naval Medical Research Center, PetroPeru's oil refinery, and Peruvian Naval and Police riverine bases along a 40 kilometer stretch of river, part of a vast area where the Government of Peru has limited resources and capacity to patrol.

During the visit, Mr. Howard briefed the delegation about the environmental and economic issues facing the region. Mr. Howard told the delegation that Peru's forests cover 60 percent of the country. Eighty-three percent of Peru's forests are tropical and are some of the most biodiverse areas in the world. Peru is home to 10 percent of the world's plant species, nearly one-fifth of the world's bird species and the most varieties of fish of any nation.

Mr. Howard explained that Peru faces several threats to its biodiversity and lacks the capacity to implement stronger environmental protections. Environmental government authorities in Peru are weak, have very limited budgets, and have little influence in regions outside of Lima.

According to Mr. Howard, the most serious threat to Peru's biodiversity is deforestation, which is occurring at a rate of 250,000 hectares annually. Thirteen percent of the country's tropical forests have been deforested. Coca cultivation, urban development, agriculture, and logging are the major causes of such deforestation. Mr.



Howard stated that the vast majority of logging in the region, including an estimated 80 percent of mahogany logging, is illegal.

Mr. Howard said that other environmental problems facing Peru include heavy urban air and water pollution, limited water supplies in Peru's major coastal cities due to receding snowpacks in the Andean mountains, ocean pollution, and over-fishing. The Governments of Peru and the United States are working together to address Peru's environmental problems through aid for capacity building, sustainable development, combating illegal logging, and forest concessions, and through the eventual implementation of an FTA.

According to Mr. Howard, Iquitos and the surrounding region known as the Loreto Department could benefit from an FTA with the United States because the agreement would promote exports of agricultural goods and forest products from the area. The primary products harvested in the region include timber, pijuayo (an Amazon palm), beans, yucca, and fish.

The delegation learned about U.S. Government assistance to the Loreto Department through the U.S. Agency for International Development (USAID). USAID commitments to Loreto for 2002–2008 amount to approximately \$16 million. USAID supports several programs in Peru to limit coca cultivation; promote additional licit economic opportunities for marginalized populations, conservation and the sustainable management of natural resources; and improve the capacity of Peruvian institutions to enforce existing environmental laws and policies.

USAID also supports the Peru-Ecuador Border Development Program, which helps to improve the quality of life for more than 50,000 indigenous people living along the Peru-Ecuador border by promoting more productive agricultural practices, healthy practices such as boiling water, the establishment of additional medical facilities, and increased knowledge of human rights, among other things.

The delegation was also briefed on other USAID programs in the region, including the provision of food for pregnant women and children pursuant to the P.L. 480 Title II Food Security Program. USAID figures indicate that the agency has distributed 513 metric tons of food under this program. Additionally, USAID supports the Parks in Peril Program in Loreto to promote the protection and appropriate management of natural resources in Pacaya Samiria National Reserve; and the Certificacion y Desarrollo Forestal (CEDEFOR) Project, which provides technical assistance to logging interests and government entities regarding the bidding process leading to grants of forest concessions, boundary demarcation, land tenure issues, and forest management.

Finally, the delegation observed the U.S. Naval Medical Research Facility, which was established in Iquitos in 1983, to conduct research on infectious diseases that affect human health in Central and South America. Mr. Howard stated that the Center is particularly important for researching diseases affecting military personnel stationed in the region.