# The Expanded Andean Trade Preferences Act and a U.S. Free Trade Agreement With its Beneficiaries

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*As the United States begins negotiations with Colombia, Peru, Ecuador, and Bolivia for a United States-Andean free trade agreement, 86 percent of combined U.S. imports from these countries are already free of duty. For these Andean countries, the principal reason for desiring this trade agreement is to ensure that their preferential access to the U.S. market becomes permanent, thus it will contribute to more stable economic conditions and foreign investment inflows.*

In May, 2004, the United States launched negotiations in Cartagena, Colombia, towards a possible free trade agreement (FTA) with Colombia, Peru, and Ecuador, hoping to include Bolivia at a later stage.[2] These four Andean countries already enjoy duty-free treatment for 86 percent of their combined export value to the United States, including the duty-free privileges they have been granted by the expanded Andean Trade Preference Act (ATPA) in 2002.[3]

The original ATPA had been in effect since the early 1990s. The program expired on December 4, 2001, and was renewed and expanded by the Andean Trade Promotion and Drug Eradication Act (ATPDEA) on August 6, 2002. ATPDEA, which extended duty-free treatment to petroleum and petroleum derivatives, certain apparel, footwear, luggage, handbags, and some other imports from the beneficiaries that had been excluded under the original ATPA, was implemented on October 31, 2002. The expanded ATPA is scheduled to expire on December 6, 2006.[4]

Although this article will profile the major characteristics of U.S.-Andean trade, it focuses predominantly on the duty treatment of the Andean trade flow to the United States.

## *Principal Characteristics of U.S. Trade With ATPA Countries*

U.S. trade with ATPA countries is relatively small. ATPA countries combined received 1 percent of total U.S. exports and provided 0.9 percent of total U.S. imports in 2003 (table 1); nonetheless, they were major U.S. suppliers of certain products, including copper, asparagus, and flowers.

Since 1999, U.S. data have shown a collective U.S. deficit in merchandise trade with ATPA countries.[5] In

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[2] USTR, "Zoellick to Visit Peru and Ecuador June 7-9," *Press Release* 2004-50, June 4, 2004. Allan Wagner Tizon, the General Secretary of the Andean Community said on August 18, 2004, that he "considered Bolivia's immediate and full incorporation into the negotiations for a Free Trade Agreement between the Andean Community and the United States as fundamental." Found at Internet address *http://www.comunidadandina.org*, retrieved on Aug. 27, 2004.

[3] The four Andean countries will be referred to henceforth as ATPA countries.

[4] For more detail about ATPA and ATPDEA, see previous articles on the subject including Magda Kornis, "U.S. Trade with the Beneficiaries of the Andean Trade Preference Act," *International Economic Review*, Oct./Nov. 2000, United States International Trade Commission, USITC Publication 3379; Walker Pollard, "Renewal and Expansion of ATPA Could Enhance Effectiveness of the Program," *International Economic Review*, July/August 2001; Joanne Guth and Magda Kornis, "The Andean Trade Preference Act: An Update," *International Economic Review*, Nov./Dec. 2002, United States International Trade Commission, USITC Publication 3571; Magda Kornis, "An Atypical Year in the History of U.S. Imports under the Andean Trade Preference Act," *International Economic Review*, Sept./Oct. 2003, United States International Trade Commission, USITC Publication 3638; and Joanne Guth, "Implementation of ATPDEA Changes Composition of Imports under ATPA in 2003," *International Economic Review*, Nov./Dec. 2003, United States International Trade Commission, USITC Publication 3659.

[5] References in this report to exports, imports, and trade balances refer to merchandise trade and exclude trade in services.

**Table 1**
**U.S. trade with ATPA countries**

| Year | U.S. exports | Share of U.S. exports to the world | U.S. imports | Share of U.S. imports from the world | U.S. trade balance |
|---|---|---|---|---|---|
| | *Million dollars* | *Percent* | *Million dollars* | *Percent* | *Million dollars* |
| 1991 .......... | 3,798.2 | 0.9 | 4,969.5 | 1.0 | -1171.3 |
| 1992 .......... | 5,319.7 | 1.3 | 5,058.7 | 0.9 | 261.0 |
| 1993 .......... | 5,359.1 | 1.2 | 5,282.3 | 0.9 | 76.7 |
| 1994 .......... | 6,445.0 | 1.3 | 5,879.5 | 0.9 | 565.5 |
| 1995 .......... | 7,820.2 | 1.4 | 6,968.7 | 0.9 | 851.4 |
| 1996 .......... | 7,718.7 | 1.3 | 7,867.6 | 1.0 | -148.9 |
| 1997 .......... | 8,681.8 | 1.3 | 8,673.6 | 1.0 | 8.2 |
| 1998 .......... | 8,670.1 | 1.4 | 8,361.0 | 0.9 | 309.1 |
| 1999 .......... | 6,263.2 | 1.0 | 9,830.2 | 1.0 | -3,567.0 |
| 2000 .......... | 6,295.1 | 0.9 | 11,117.2 | 0.9 | -4,822.1 |
| 2001 .......... | 6,363.3 | 1.0 | 9,568.7 | 0.8 | -3,205.3 |
| 2002 .......... | 6,463.8 | 1.0 | 9,611.5 | 0.8 | -3,147.7 |
| 2003 .......... | 6,525.7 | 1.0 | 11,639.5 | 0.9 | -5,113.8 |

[1] Domestic exports, f.a.s.
[2] Imports for consumption, customs value.

Source: Compiled from official statistics of the U.S. Department of Commerce.

2003, this deficit was the largest on record, amounting to $5.1 billion (table 1, figure 1). The United States registered a trade deficit vis-à-vis each ATPA country, except Peru. U.S. imports from the region also reached record amounts in 2003, at $11.6 billion. In contrast, U.S. exports to ATPA countries, at $6.5 billion, remained largely unchanged since 1999, the year in which they dropped 28 percent from their 1998 value. In recent years, a continued volatile political environment, poor economic performance, and the weakness of exchange rates for several ATPA-country currencies depressed the region's demand for U.S. exports.

A major portion of U.S. trade with ATPA countries is related to petroleum and natural gas. On the U.S. export side, even though machinery, equipment, and parts account for some two-thirds of total U.S. exports to ATPA countries, a large portion of such exports is destined for use in the region's petroleum and natural gas sectors. In addition, two leading U.S. export products to the region are refined petroleum products — fuel oils and lubricating oils.

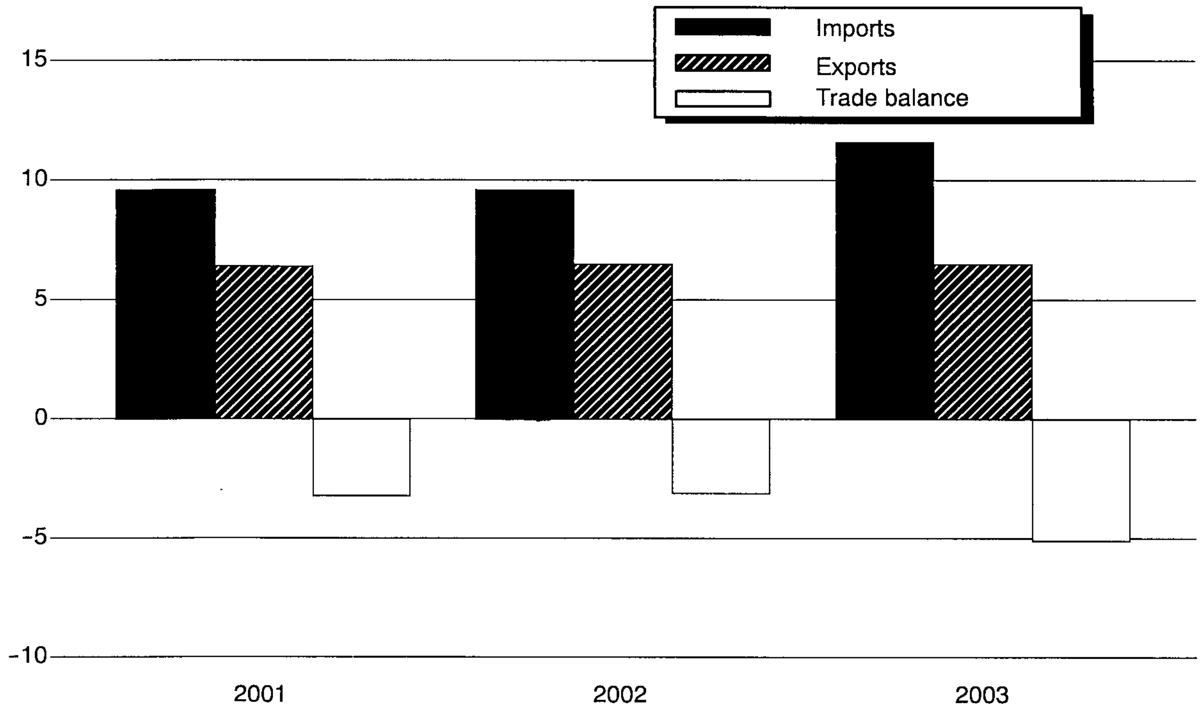
Petroleum and its derivatives accounted for over 40 percent of U.S. imports from ATPA countries in the last four years. In 2003, as petroleum and derivatives had become free of duty under ATPDEA for the entire year, their imports were responsible for over ninety percent of the 2003 U. S. trade deficit with ATPA countries, and came to constitute almost 60 percent of U.S. imports under the expanded ATPA.[6] The newly duty-free status of petroleum and derivatives from ATPA countries under ATPDEA was also responsible for most of the contraction in the dutiable value of U.S. imports and U.S. duty revenues from ATPA countries, as shown in table 1.

## *Duty Treatment of U.S. Imports from ATPA Countries*

Record U.S. imports from ATPA countries in 2003 resulted from a stronger U.S. economy than in the previous two years, the strength of the U.S. dollar in terms of most ATPA-country currencies, and higher oil prices. Most important, U.S. demand for the products of ATPA countries was boosted by the steep decline in the dutiable portion of U.S. imports from ATPA

[6] A report released in September 2004, *The Impact of the Andean Trade Preference Act,* Tenth Report, 2003, covering developments during the year 2003 in an annual series of reports of the United States International Trade Commission, will contain tables that include some data cited, but not shown, in this article.

**Figure 1**
**U.S. imports, exports, trade balance with ATPA countries**
*Billion dollars*




Source: Compiled from official statistics of the U.S. Department of Commerce.

countries. This decline of the dutiable portion was caused, in turn, by the reinstatement of ATPA and of the General System of Preferences (GSP) as well as by the implementation of extended ATPA preferences at the end of 2002. During 2002, both GSP and ATPA lapsed for several months.

Table 2 shows the dutiable portion of U.S. imports from ATPA countries, U.S. calculated duty revenues,

**Table 2**
**U.S. imports for consumption from ATPA countries: Dutiable value, calculated duties, and average duty, 1999-2003**

| Item | 1999 | 2000 | 2001 | 2002 | 2003 |
|---|---|---|---|---|---|
| Dutiable imports (thousand dollars)[1] | 3,459,748.0 | 4,517,161.0 | 3,798,848.0 | 4,598,474.0 | 1,612,727.0 |
| Dutiable as a share of total (percent) | 35.2 | 40.6 | 39.7 | 47.8 | 14.0 |
| Calculated duties (thousand dollars) | 123,263.0 | 142,367.0 | 144,098.0 | 169,498.0 | 63,209.0 |
| Average duty (percent)[2] | 3.6 | 3.2 | 3.8 | 3.7 | 3.9 |

[1] Dutiable value and calculated duty exclude the U.S. content entering under HTS heading 9802.00.80 and subheading 9802.00.60 and misreported imports. Data based on product eligibility corresponding to each year.
[2] Average duty = (calculated duty/dutiable value) x 100.

Note.—Commission staff adjusted official Census data to reflect trade believed to have been eligible for duty-free entry under ATPDEA. The adjustment was necessary because, when the original ATPA expired, no provision was made to allow duty-free entry to continue for eligible goods under appropriate bond while renewal was debated in the Congress. As a result, significant quantities of imports that would likely have entered free of duty under ATPDEA were in fact assessed duties.

Source: Compiled from official statistics of the U.S. Department of Commerce.

and the average rates of duty on such imports in 1999-2003. Duty revenues from ATPA countries, as calculated, dropped from $169 million in 2002 to only $63 million in 2003, or by 63 percent; they amounted to significantly less than half the U.S. duty revenues collected from ATPA countries in each of the previous 3 years.

In 2002, due to the long lapse of GSP and ATPA duty-free preferences, the dutiable share of imports from ATPA countries increased to 47.8 percent from some 40 percent in the two prior years. In contrast, the renewal and the expansion of preferences resulted in a sharp decline of the dutiable share of U.S. imports from ATPA countries to 14 percent in 2003 (see figure 2).

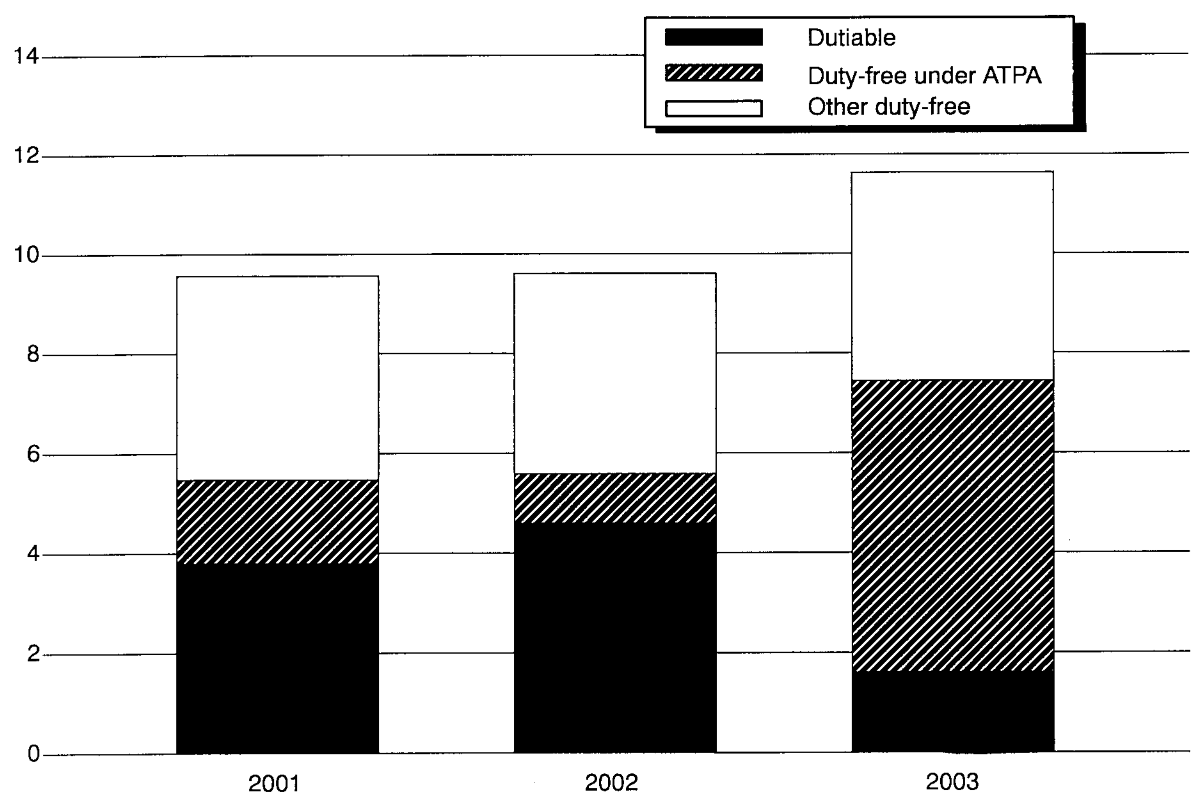
In 2003, the 14-percent dutiable portion of imports included tuna in metal cans,[7] rum and tafia, and above-quota imports of certain agricultural products subject to tariff-rate quotas that are not eligible for ATPDEA preferences. Notably, only one product–canned tuna–was dutiable among the twenty leading U.S. imports from ATPA countries. All the other products on the list were free of duty under ATPA or other U.S. provisions for duty-free entry.

Imports from ATPA countries entered free of duty in 2003 in one of the following ways: (1) unconditionally free under normal tariff rates (NTR) (32 percent of all imports); (2) conditionally free under GSP (3 percent); (3) conditionally free under the original ATPA (14 percent); and (4) conditionally free under ATPDEA (37 percent).[8] The 51 percent duty-free portion of imports under the expanded ATPA (original ATPA and ATPDEA combined) was the

[7] Pouched tuna, tuna packed in flexible pouches as an alternative to tuna packed in metal cans, became duty-free under ATPDEA; "loins," a semi-finished tuna product, had been duty-free under the original ATPA already.

[8] A report released in September 2004, *The Impact of the Andean Trade Preference Act,* Tenth Report, 2003, covering developments during the year 2003 as part of an annual series of reports of the United States International Trade Commission, will contain tables that include some data cited, but not shown, in this article.

**Figure 2**
**U.S. imports from ATPA countries by duty treatment, 2001-03**
*Billion dollars*




Source: Compiled from official statistics of the U.S. Department of Commerce.

largest duty-free category of U.S. imports from ATPA countries, as shown in figure 2. This compares with an only 10 percent share of ATPA (which already included some year-end imports under ATPDEA) of the total during the atypical U.S. duty treatment of Andean products in 2002,[9] and a 17 percent share of the total of the original ATPA in 2001. Leading imports from ATPA countries in 2003 entering under the expanded ATPA included original ATPA product categories, such as copper cathodes and flowers, and new (ATPDEA) product categories, such as oil derivatives and apparel products.

Next to the expanded ATPA, the largest duty-free category from ATPA countries in 2003 comprised those products that entered free of duty under NTR rates. This category contained mostly the traditional exports of the region: gold and silver bullion, bituminous coal, coffee, and bananas.

Table 3 shows the dutiable value of U.S. imports from ATPA countries in 2001-2003 in those leading ATPDEA product categories that contain significant portions of newly duty-free imports under the expanded ATPA. The contraction of dutiable import values of petroleum and derivatives, apparel, pouched tuna, footwear, and leather articles – all product groups containing significant portions of newly duty-free ATPDEA imports – averaged close to 70 percent in 2003, compared with 2002. In dollar terms, the total dutiable value of U.S. imports from ATPA countries dropped by some $3 billion in the same period, of which $2.5 million was accounted for by these six leading ATPA product groups shown in table 3, and by a $2.1 billion (70 percent) decline in imports of petroleum and petroleum derivatives alone.

## *Free Trade Negotiations with ATPA Countries*

As the United States and the ATPA countries begin negotiations for an FTA, only 14 percent of U.S. imports from ATPA countries are dutiable, as mentioned earlier — a *status quo* which would not change much at least through the end of 2006.[10] Thus, ATPA countries will likely center their negotiating positions on the small portion of their exports that are still dutiable or subject to U.S. tariff-rate quotas.[11] In

[9] See Magda Kornis, "An Atypical Year in the History of U.S. Imports under the Andean Trade Preference Act," *International Economic Review*, Sept./Oct. 2003, United States International Trade Commission, USITC Publication 3638.

[10] USTR, "Peru and Ecuador to Join with Colombia in May 18-19 launch of FTA Negotiations with the United States," *Press Release* 2004-35, May 3, 2004.

[11] U.S. tariff-rate quotas apply, for example, to imports of cane sugar, dairy products, and certain tuna from ATPA countries.

**Table 3**
**Dutiable values of leading imports from ATPA countries by major product categories that benefited from ATPDEA, by 2-digit HTS sectors, 2001, 2002, 2003**

| | Dutiable Value of Imports | | | Decline of Dutiable Value | |
|---|---|---|---|---|---|
| | 2001 | 2002 | 2003* | 2003/2002 | 2003/2002 |
| **HTS Chapter** | *Thousand dollars* | *Thousand dollars* | *Thousand dollars* | *Thousand dollars* | *Percent* |
| HTS27 Petroleum and derivatives | 2,599,933 | 2,891,713 | 816,663 | 2,075,050 | 71.8 |
| HTS61 Articles of Apparel, Knitted | 447,644 | 464,967 | 104,781 | 360,186 | 77.5 |
| HTS62 Articles of Apparel, Not Knitted | 217,347 | 230,411 | 164,557 | 65,854 | 28.6 |
| HTS16 Prepared Fish [mostly pouched tuna] | 51,382 | 130,186 | 101,625 | 28,561 | 21.9 |
| HTS42 Articles of Leather | 24,913 | 21,244 | 4,678 | 16,566 | 78.0 |
| HTS64 Footwear | 3,362 | 3,679 | 958 | 2,721 | 74.0 |
| Subtotal | 3,346,582 | 3,744,202 | 1,193,262 | 2,548,938 | 68.1 |
| Other | 452,266 | 854,272 | 419,465 | 434,807 | 50.9 |
| Total | 3,798,848 | 4,598,474 | 1,612,727 | 2983745 | 64.9 |

*Commission staff adjusted official Census data to reflect trade believed to have been eligible for duty-free entry under ATPDEA. The adjustment was necessary because, when the original ATPA expired, no provision was made to allow duty-free entry to continue for eligible goods under appropriate bond while renewal was debated in the Congress. As a result, significant quantities of imports that would likely have entered free of duty under ATPDEA were in fact assessed duties.

Source: Compiled from official statistics of the U.S. Department of Commerce.

addition, several officials in the region stressed that the key reason for negotiating this trade agreement is to ensure that the market-access provisions of the expanded ATPA extend beyond the program's December 2006 expiration date.

In his testimony before the United States International Trade Commission on February 10, 2004, Luis Alberto Moreno, Ambassador of Colombia, stated that a U.S.-Andean FTA should expand and make permanent the preferential access Colombia currently enjoys to the U.S. market; moreover, the FTA should boost foreign investment by improving the risk profile of doing business in Colombia. At the International Summit of the Americas in Quito, Ecuador, on June 8th, 2004,[12] the General Secretary of the Andean Community also named "attracting investment through long-term stability" as one of the Andean challenges, next to "access to markets under differential conditions."

For its part, the United States will examine the sensitivity of removing remaining U.S. duties and quotas applicable to Andean products, i.e. it will estimate the probable economic effect on U.S. interests of doing so. The United States will also seek that ATPA countries dismantle their own barriers to U.S. exports. At the third round of FTA talks in Lima Peru, in July 26 through July 30, Peru already offered a list of products on which it would eliminate tariffs for U.S. products immediately, or within 10 years after the trade pact is signed.[13]

ATPA countries, which are important markets for U.S. cereals and U.S. cotton, are most sensitive about access to their markets for U.S. agricultural products. Christian Espinosa, Ecuador's chief negotiator, had reportedly said that "The Andean countries will not cede ground on the agricultural front. We will defend our mechanisms to neutralize the effects of U.S. subsidies."[14] Currently, under the Andean Community's "price band " system, variable tariffs of up to 100 percent can be applied to agricultural imports to restore prices once they drop below specified levels.[15]

Peru's Agriculture Minister, Alvaro Quijandria commented that "The free trade agreement will be beneficial for Peru and Peruvian agriculture, but we need to ensure that sensitive products are not affected by subsidies granted by other countries."[16] Quijandria's office maintains a list of "sensitive products" that, according to him, need to be negotiated on a case-by-case basis. In any event, a phase-out period for duties by ATPA countries on agricultural imports from the United States with different duty staging periods is under consideration.[17] Peru's "Agricultural and Communities Front," which includes associations of small farmers, goes even further in asserting concern about expanded U.S. access, arguing that Peru should not offer any duty reductions until the United States agrees to eliminate agricultural subsidies.[18]

In addition to U.S. access for agricultural exports, rules and regulations affecting trade and investment in the area of intellectual property rights, labor, and the environment were the most important issues discussed at the third round of preparatory talks in Lima.[19]

12 Allan Wagner Tizon, General Secretary of the Andean Community, "Free Trade Agreements and the Andean Integration Process," Quito, June 8, 2004, found at Internet address *http://www.comunidadandina.org*, retrieved on June 18, 2004.

13 Lucien O. Chauvin, op. cit.

14 Karen Hansen-Kuhn, "Andean FTA: Threats to Development," *The Development Gap,* July, 2004, found at Internet address *http://www.developmentgap.org*, retrieved on Sept. 15, 2004.

15 Lucien O. Chauvin, "Farm tariffs, Intellectual Property Rights Seen as Main Obstacles to U.S.-Andean FTA," *International Trade Daily,* Bureau of National Affairs, July 30, 2004.

16 Dow Jones New Service Report from Quito, Ecuador, June 9, 2004.

17 "U.S.-Andean FTA Talks Progressing Well," *International Trade Daily,* July 30, 2004.

18 Lucien O. Chauvin, op.cit.

19 Negotiators at the Lima meeting once again included the United States, Colombia, Ecuador, and Peru. Bolivia sent observers.