

## Calendar No. 367

107<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION**S. 2485**

Entitled the “Andean Trade Promotion and Drug Eradication Act”.

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## IN THE SENATE OF THE UNITED STATES

MAY 8, 2002

Mr. MCCAIN (for himself, Mr. GRAMM, and Mr. NICKLES) introduced the following bill; which was read the first time

MAY 9, 2002

Read the second time and placed on the calendar

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**A BILL**

Entitled the “Andean Trade Promotion and Drug Eradication Act”.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Andean Trade Pro-  
5 motion and Drug Eradication Act”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1           (1) Since the Andean Trade Preference Act was  
2           enacted in 1991, it has had a positive impact on  
3           United States trade with Bolivia, Colombia, Ecua-  
4           dor, and Peru. Two-way trade has doubled, with the  
5           United States serving as the leading source of im-  
6           ports and leading export market for each of the An-  
7           dean beneficiary countries. This has resulted in in-  
8           creased jobs and expanded export opportunities in  
9           both the United States and the Andean region.

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

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

24          (4) The continuing instability in the Andean re-  
25          gion poses a threat to the security interests of the

1 United States and the world. This problem has been  
2 partially addressed through foreign aid, such as Plan  
3 Colombia, enacted by Congress in 2000. However,  
4 foreign aid alone is not sufficient. Enhancement of  
5 legitimate trade with the United States provides an  
6 alternative means for reviving and stabilizing the  
7 economies in the Andean region.

8 (5) The Andean Trade Preference Act con-  
9 stitutes a tangible commitment by the United States  
10 to the promotion of prosperity, stability, and democ-  
11 racy in the beneficiary countries.

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

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

23 (8) Temporarily enhancing trade benefits for  
24 Andean beneficiary countries will promote the  
25 growth of free enterprise and economic opportunity

1 in these countries and serve the security interests of  
 2 the United States, the region, and the world.

3 **SEC. 3. ARTICLES ELIGIBLE FOR PREFERENTIAL TREAT-**  
 4 **MENT.**

5 (a) ELIGIBILITY OF CERTAIN ARTICLES.—Section  
 6 204 of the Andean Trade Preference Act (19 U.S.C.  
 7 3203) is amended—

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

11 (2) by amending subsection (b) to read as fol-  
 12 lows:

13 “(b) EXCEPTIONS AND SPECIAL RULES.—

14 “(1) CERTAIN ARTICLES THAT ARE NOT IM-  
 15 PORT-SENSITIVE.—The President may proclaim  
 16 duty-free treatment under this title for any article  
 17 described in subparagraph (A), (B), (C), or (D) that  
 18 is the growth, product, or manufacture of an  
 19 ATPDEA beneficiary country and that meets the re-  
 20 quirements of this section, if the President deter-  
 21 mines that such article is not import-sensitive in the  
 22 context of imports from ATPDEA beneficiary coun-  
 23 tries:

24 “(A) Footwear not designated at the time  
 25 of the effective date of this Act as eligible for

1 the purpose of the generalized system of pref-  
2 erences under title V of the Trade Act of 1974.

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

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

13 “(D) Handbags, luggage, flat goods, work  
14 gloves, and leather wearing apparel that were  
15 not designated on August 5, 1983, as eligible  
16 articles for purposes of the generalized system  
17 of preferences under title V of the Trade Act of  
18 1974.

19 “(2) EXCLUSIONS.—Subject to paragraph (3),  
20 duty-free treatment under this title may not be ex-  
21 tended to—

22 “(A) textiles and apparel articles which  
23 were not eligible articles for purposes of this  
24 title on January 1, 1994, as this title was in ef-  
25 fect on that date;

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

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

“(3) APPAREL ARTICLES.—

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

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

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

any one or any combination of the following:

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

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

1 “(III) Fabrics or yarn that is not  
2 formed in the United States or in one  
3 or more ATPDEA beneficiary coun-  
4 tries, to the extent that apparel arti-  
5 cles of such fabrics or yarn would be  
6 eligible for preferential treatment,  
7 without regard to the source of the  
8 fabrics or yarn, under Annex 401 of  
9 the NAFTA.

10 “(ii) ADDITIONAL FABRICS.—At the  
11 request of any interested party, the Presi-  
12 dent is authorized to proclaim additional  
13 fabrics and yarns as eligible for pref-  
14 erential treatment under clause (i)(III)  
15 if—

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

21 “(II) the President has obtained  
22 advice regarding the proposed action  
23 from the appropriate advisory com-  
24 mittee established under section 135  
25 of the Trade Act of 1974 (19 U.S.C.



2155) and the United States International Trade Commission;

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

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

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

“(iii) APPAREL ARTICLES ASSEMBLED IN 1 OR MORE ATPDEA BENEFICIARY COUNTRIES FROM REGIONAL FABRICS OR REGIONAL COMPONENTS.—

1                   “(I) Subject to the limitation set  
2                   forth in subclause (II), apparel arti-  
3                   cles sewn or otherwise assembled in 1  
4                   or more ATPDEA beneficiary coun-  
5                   tries from fabrics or from fabric com-  
6                   ponents formed or from components  
7                   knit-to-shape, in 1 or more ATPDEA  
8                   beneficiary countries, from yarns  
9                   formed in the United States or 1 or  
10                  more ATPDEA beneficiary countries  
11                  (including fabrics not formed from  
12                  yarns, if such fabrics are classifiable  
13                  under heading 5602 or 5603 of the  
14                  HTS and are formed in 1 or more  
15                  ATPDEA beneficiary countries),  
16                  whether or not the apparel articles are  
17                  also made from any of the fabrics,  
18                  fabric components formed, or compo-  
19                  nents knit-to-shape described in clause  
20                  (i).

21                  “(II) The preferential treatment  
22                  referred to in subclause (I) shall be  
23                  extended in the 1-year period begin-  
24                  ning December 1, 2001, and in each  
25                  of the 5 succeeding 1-year periods, to

1 imports of apparel articles in an  
2 amount not to exceed the applicable  
3 percentage of the aggregate square  
4 meter equivalents of all apparel arti-  
5 cles imported into the United States  
6 in the preceding 12-month period for  
7 which data are available.

8 “(III) For purposes of subclause  
9 (II), the term ‘applicable percentage’  
10 means 3 percent for the 1-year period  
11 beginning December 1, 2001, in-  
12 creased in each of the 5 succeeding 1-  
13 year periods by equal increments, so  
14 that for the period beginning Decem-  
15 ber 1, 2005, the applicable percentage  
16 does not exceed 6 percent.

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

24 “(v) SPECIAL RULES.—

1                   “(I) EXCEPTION FOR FINDINGS  
2                   AND TRIMMINGS.—An article other-  
3                   wise eligible for preferential treatment  
4                   under this paragraph shall not be in-  
5                   eligible for such treatment because the  
6                   article contains findings or trimmings  
7                   of foreign origin, if such findings and  
8                   trimmings do not exceed 25 percent of  
9                   the cost of the components of the as-  
10                  sembled product. Examples of find-  
11                  ings and trimmings are sewing thread,  
12                  hooks and eyes, snaps, buttons, ‘bow  
13                  buds’, decorative lace, trim, elastic  
14                  strips, zippers, including zipper tapes  
15                  and labels, and other similar products.

16                  “(II) CERTAIN INTERLINING.—  
17                  (aa) An article otherwise eli-  
18                  gible for preferential treatment  
19                  under this paragraph shall not be  
20                  ineligible for such treatment be-  
21                  cause the article contains certain  
22                  interlinings of foreign origin, if  
23                  the value of such interlinings  
24                  (and any findings and trim-  
25                  mings) does not exceed 25 per-

cent of the cost of the components of the assembled article.

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

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

“(II) DE MINIMIS RULE.—An article that would otherwise be ineligible for preferential treatment under this subparagraph because the article contains fibers or yarns not wholly formed in the United States or in one or more ATPDEA beneficiary coun-

1                   tries shall not be ineligible for such  
2                   treatment if the total weight of all  
3                   such fibers or yarns is not more than  
4                   7 percent of the total weight of the  
5                   good.

6                   “(C) HANDLOOMED, HANDMADE, AND  
7                   FOLKLORE ARTICLES.—For purposes of sub-  
8                   paragraph (B)(iv), the President shall consult  
9                   with representatives of the ATPDEA bene-  
10                  ficiary countries concerned for the purpose of  
11                  identifying particular textile and apparel goods  
12                  that are mutually agreed upon as being  
13                  handloomed, handmade, or folklore goods of a  
14                  kind described in section 2.3(a), (b), or (c) of  
15                  the Annex or Appendix 3.1.B.11 of the Annex.

16                  “(D) PENALTIES FOR TRANSSHIPMENT.—

17                  “(i) PENALTIES FOR EXPORTERS.—If  
18                  the President determines, based on suffi-  
19                  cient evidence, that an exporter has en-  
20                  gaged in transshipment with respect to ap-  
21                  parel articles from an ATPDEA bene-  
22                  ficiary country, then the President shall  
23                  deny all benefits under this title to such  
24                  exporter, and any successor of such ex-  
25                  porter, for a period of 2 years.

1 “(ii) PENALTIES FOR COUNTRIES.—

2 Whenever the President finds, based on  
3 sufficient evidence, that transshipment has  
4 occurred, the President shall request that  
5 the ATPDEA beneficiary country or coun-  
6 tries through whose territory the trans-  
7 shipment has occurred take all necessary  
8 and appropriate actions to prevent such  
9 transshipment. If the President determines  
10 that a country is not taking such actions,  
11 the President shall reduce the quantities of  
12 apparel articles that may be imported into  
13 the United States from such country by  
14 the quantity of the transshipped articles  
15 multiplied by 3, to the extent consistent  
16 with the obligations of the United States  
17 under the WTO.

18 “(iii) TRANSSHIPMENT DESCRIBED.—

19 Transshipment within the meaning of this  
20 subparagraph has occurred when pref-  
21 erential treatment under subparagraph (A)  
22 has been claimed for an apparel article on  
23 the basis of material false information con-  
24 cerning the country of origin, manufacture,  
25 processing, or assembly of the article or

1 any of its components. For purposes of  
2 this clause, false information is material if  
3 disclosure of the true information would  
4 mean or would have meant that the article  
5 is or was ineligible for preferential treat-  
6 ment under subparagraph (A).

7 “(E) BILATERAL EMERGENCY ACTIONS.—

8 “(i) IN GENERAL.—The President  
9 may take bilateral emergency tariff actions  
10 of a kind described in section 4 of the  
11 Annex with respect to any apparel article  
12 imported from an ATPDEA beneficiary  
13 country if the application of tariff treat-  
14 ment under subparagraph (A) to such arti-  
15 cle results in conditions that would be  
16 cause for the taking of such actions under  
17 such section 4 with respect to a like article  
18 described in the same 8-digit subheading  
19 of the HTS that is imported from Mexico.

20 “(ii) RULES RELATING TO BILATERAL  
21 EMERGENCY ACTION.—For purposes of ap-  
22 plying bilateral emergency action under  
23 this subparagraph—

24 “(I) the requirements of para-  
25 graph (5) of section 4 of the Annex



1 (relating to providing compensation)  
2 shall not apply;

3 “(II) the term ‘transition period’  
4 in section 4 of the Annex shall mean  
5 the period ending December 31, 2006;  
6 and

7 “(III) the requirements to con-  
8 sult specified in section 4 of the  
9 Annex shall be treated as satisfied if  
10 the President requests consultations  
11 with the ATPDEA beneficiary country  
12 in question and the country does not  
13 agree to consult within the time pe-  
14 riod specified under section 4.

15 “(4) CUSTOMS PROCEDURES.—

16 “(A) IN GENERAL.—

17 “(i) REGULATIONS.—Any importer  
18 that claims preferential treatment under  
19 paragraph (1) or (3) shall comply with  
20 customs procedures similar in all material  
21 respects to the requirements of Article  
22 502(1) of the NAFTA as implemented  
23 pursuant to United States law, in accord-  
24 ance with regulations promulgated by the  
25 Secretary of the Treasury.

1 “(ii) DETERMINATION.—

2 “(I) IN GENERAL.—In order to  
3 qualify for the preferential treatment  
4 under paragraph (1) or (3) and for a  
5 Certificate of Origin to be valid with  
6 respect to any article for which such  
7 treatment is claimed, there shall be in  
8 effect a determination by the Presi-  
9 dent that each country described in  
10 subclause (II)—

11 “(aa) has implemented and  
12 follows; or

13 “(bb) is making substantial  
14 progress toward implementing  
15 and following,

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

20 “(II) COUNTRY DESCRIBED.—A  
21 country is described in this subclause  
22 if it is an ATPDEA beneficiary  
23 country—

24 “(aa) from which the article  
25 is exported; or

1 “(bb) in which materials  
 2 used in the production of the ar-  
 3 ticle originate or in which the ar-  
 4 ticle or such materials undergo  
 5 production that contributes to a  
 6 claim that the article is eligible  
 7 for preferential treatment under  
 8 paragraph (1) or (3).

9 “(B) CERTIFICATE OF ORIGIN.—The Cer-  
 10 tificate of Origin that otherwise would be re-  
 11 quired pursuant to the provisions of subpara-  
 12 graph (A) shall not be required in the case of  
 13 an article imported under paragraph (1) or (3)  
 14 if such Certificate of Origin would not be re-  
 15 quired under Article 503 of the NAFTA (as im-  
 16 plemented pursuant to United States law), if  
 17 the article were imported from Mexico.

18 “(5) DEFINITIONS.—In this subsection—

19 “(A) ANNEX.—The term ‘the Annex’  
 20 means Annex 300–B of the NAFTA.

21 “(B) ATPDEA BENEFICIARY COUNTRY.—  
 22 The term ‘ATPDEA beneficiary country’ means  
 23 any ‘beneficiary country’, as defined in section  
 24 203(a)(1) of this title, which the President des-  
 25 ignates as an ATPDEA beneficiary country,

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

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

6 “(I) undertake its obligations  
7 under the WTO, including those  
8 agreements listed in section 101(d) of  
9 the Uruguay Round Agreements Act,  
10 on or ahead of schedule; and

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

14 “(ii) The extent to which the country  
15 provides protection of intellectual property  
16 rights consistent with or greater than the  
17 protection afforded under the Agreement  
18 on Trade-Related Aspects of Intellectual  
19 Property Rights described in section  
20 101(d)(15) of the Uruguay Round Agree-  
21 ments Act.



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