

112TH CONGRESS
2D SESSION

H. RES. 745

Expressing concern regarding the conditions of democracy, freedom of the press, human rights, business and investment climate, counternarcotics cooperation, and the relationship with Iran, in Ecuador prior to the July 31, 2013, expiration of the Andean Trade Preference Act and the Andean Trade Promotion and Drug Eradication Act.

IN THE HOUSE OF REPRESENTATIVES

JULY 31, 2012

Mr. MACK (for himself, Mr. ENGEL, Ms. ROS-LEHTINEN, Mr. SIRES, Mr. DIAZ-BALART, Mr. RIVERA, Mr. BURTON of Indiana, Mr. HARPER, and Mrs. SCHMIDT) submitted the following resolution; which was referred to the Committee on Foreign Affairs, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

RESOLUTION

Expressing concern regarding the conditions of democracy, freedom of the press, human rights, business and investment climate, counternarcotics cooperation, and the relationship with Iran, in Ecuador prior to the July 31, 2013, expiration of the Andean Trade Preference Act and the Andean Trade Promotion and Drug Eradication Act.

Whereas since 2007, the Government of Ecuador has expropriated and fined magazines, newspapers, and radio and television stations, pursued criminal and civil legal action

against journalists, media outlets, and political opponents, and utilized legislation to broaden official censorship powers;

Whereas, as a result of a February 6, 2011, opinion column regarding President Correa’s involvement in a September 2010 protest by the National Police, Correa sued El Universo executives and an opinion editor for \$80,000,000 dollars for “defamatory libel”, and the lower court’s ruling against the El Universo defendants for 3-year jail terms and fines totaling \$40,000,000 was subsequently upheld by Ecuador’s National Court of Justice, while the precedent from this ruling remained intact, it was not enforced as a result of a pardon request made by President Correa;

Whereas the Inter American Press Association called the decision by Ecuador’s National Court of Justice on President Correa’s libel suit against El Universo “a serious attack on freedom of the press and gagging of independent journalism”, and denounced “a judicial and legal structure that is used to make reprisals against those who dissent from official policy”;

Whereas under President Correa, the Government of Ecuador has threatened and dismissed judges critical of or opposed to executive branch policies and legislatively altered the judicial system in a way that Human Rights Watch has cited “could lead to a significant increase in the government’s influence over the appointment and dismissal of judges”;

Whereas according to the United States Department of State’s 2011 Country Report on Human Rights Practices for Ecuador, the judiciary was “susceptible to outside pressure and corruption”, reaching “decisions based on

media influence or political and economic pressures” while “in some cases the outcome of trials appeared predetermined”;

Whereas the United States Department of State’s 2011 Country Report on Human Rights Practices for Ecuador described instances of “excessive force by public security forces, restrictions on freedom of speech and press, and official corruption” and “corruption and denial of due process within the judicial system”;

Whereas the Special Rapporteur for Freedom of Expression of the Organization of American States Inter-American Commission on Human Rights has stated that censures of expression through criminal laws like those in Ecuador “are unnecessary, disproportionate, and cannot be justified by any imperative social interest; they also constitute a form of indirect censorship given their intimidating and chilling effect on the discussion of matters in the public interest”;

Whereas according to asylum statistics provided by the United States Department of Justice Executive Office for Immigration Review, Ecuadoran citizens are increasingly turning to the United States for support and protection, applying for asylum 230 percent more in 2011 than in 2007, and Ecuador is consistently among the top 12 nationalities applying for asylum in the United States;

Whereas the Government of Ecuador has expropriated assets, including in the media and energy industries;

Whereas according to the United States Department of Commerce, “fundamental weaknesses in Ecuador’s judicial system and the rule of law are major challenges in doing business in Ecuador” and Correa has created a “chal-

lenging” and “uncertain” climate for business and foreign direct investment in Ecuador;

Whereas Ecuador has withdrawn from the World Bank’s Convention on the Settlement of Investment Disputes between States and Nationals of Other States and has stated its intention to terminate the United States–Ecuador Bilateral Investment Treaty (BIT);

Whereas Ecuador has not complied with the interim award issued by an international arbitration tribunal convened under Article 6 of the United States–Ecuador BIT, which enjoins Ecuador “whether by its judicial, legislative or executive branches) to take all measures necessary to suspend or cause to be suspended the enforcement and recognition within or without Ecuador” of the \$18,200,000,000 judgment by Ecuadoran courts against the Chevron Corporation;

Whereas according to the United States Department of State’s 2011 Investment Climate Statement on Ecuador, “systemic weakness in the judicial system and its susceptibility to political or economic pressures constitutes important problems faced by U.S. companies investing in or trading with Ecuador”, “corruption is a serious problem in Ecuador”, and “Transparency International consistently ranks Ecuador near the bottom among countries it surveys in the region”;

Whereas although the Ecuadoran authorities report seizing 21.5 metric tons of finished cocaine in 2011, according to the United States Department of State’s 2012 International Narcotics Control Strategy Report, “Ecuador is a major transit country for illegal narcotics”;

Whereas, according to October 19, 2011, testimony of the Department of State before the Senate Caucus on International Narcotics Control, “the closure of the Forward Operating Location in Manta in 2009, the expulsion of two Embassy officials in 2009, and the precipitous and unwarranted expulsion of Ambassador Hodges in April”, are “Ecuadorian actions [that] were not supportive of a positive and cooperative relationship” between the United States and Ecuador;

Whereas Ecuador’s relationship with Iran has become closer in recent years, most recently with the visit of Iranian President Mahmoud Ahmadinejad to Ecuador in January 2012;

Whereas sections 203(c) and (d) and 204(b)(6)(B) of the Andean Trade Preference Act (ATPA) (19 U.S.C. 3202(c) and (d) and 3203(b)(6)(B)), as amended by the Andean Trade Promotion and Drug Eradication Act (ATPDEA), list factors that serve as limitations, as well as other factors to be taken into account, in deciding whether to designate a country as a beneficiary under the ATPA; and

Whereas section 203(e) of the ATPA, as amended by the ATPDEA, makes clear the intention of Congress that these limitations and factors continue to be taken into account in determining whether a country receives benefits under the ATPA, given that the President may withdraw or suspend designation as a beneficiary country if the President determines that “as a result of changed circumstances,” a country “should be barred from designation as a beneficiary”: Now, therefore, be it

1 *Resolved*, That the House of Representatives—

1 (1) condemns the growing repression of democ-
2 racy and human rights in Ecuador, including the
3 suppression of the freedom of expression and in-
4 creased government control over the judiciary;

5 (2) calls on the Secretary of State to note in
6 the 2012 and future Country Reports on Human
7 Rights Practices for Ecuador the limited ability to
8 report on the full account of human rights abuses in
9 Ecuador due to a lack of transparency within gov-
10 ernment institutions in Ecuador;

11 (3) calls on the Secretary of State to provide to
12 the relevant committees of the United States Senate
13 and House of Representatives a budget and perform-
14 ance review of United States Department of State
15 and United States Agency for International Develop-
16 ment activities in Ecuador funded to promote strong
17 democratic institutions, the rule of law, and human
18 rights;

19 (4) expresses its concern regarding the lack of
20 high-level counternarcotics cooperation between the
21 United States and Ecuador and regarding aspects of
22 Ecuador's actions that fail to meet the intentions of
23 the Andean Trade Preference Act (ATPA) and An-
24 dean Trade Promotion and Drug Eradication Act
25 (ATPDEA);

1 (5) expresses its concern regarding the ex-
2 panded relationship between Ecuador and Iran; and

3 (6) expresses its disinclination to support a re-
4 newal of the ATPA, as amended by the ATPDEA,
5 for Ecuador based on the current status of the con-
6 cerns contained in this resolution, and calls for a
7 careful review of such concerns, in addition to Ecua-
8 dor's eligibility as a beneficiary country, when con-
9 sidering renewal of the ATPA, as amended by the
10 ATPDEA, which currently expires on July 31, 2013.

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