



Ministerio de Comercio, Industria y Turismo
República de Colombia

2006 ELIGIBILITY AND CNL WAIVER REVIEW
Comments submitted by the Colombian government

TO: FR0052@USTR.EOP.GOV

FROM: COLOMBIAN GOVERNMENT – MINISTRY OF TRADE,
INDUSTRY AND TOURISM

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SUMMARY

As announced in August 8th, 2006 at the Federal Register, the Trade Policy Staff Committee (TPSC) is reviewing and requesting public comments on the operation of the Generalized System of Preferences (GSP). The TPSC is also conducting a review of existing competitive need limitation (CNL) waivers and requesting comments on whether any waivers should be terminated, pursuant to section 503(d)(5) of the Act (19 U.S.C).

As a beneficiary of GSP, the Government of Colombia strongly encourages the renewal of GSP. This program, over time has been a key instrument in promoting the creation of new market opportunities and job creation in many developing countries. Also, Colombia currently benefits from CNL Waivers for eight GSP – eligible products. As requested by TPSC, the Government of Colombia is submitting its comments on this regard.

1. RECENT TRENDS IN COLOMBIAN EXPORTS TO THE U.S.

Colombian exports to the U.S. market have shown a significant development during the last three years. Exports have been growing at rates over 15% per year. Preferential tariff programs of which Colombia is beneficiary – ATPDEA and GSP – explain partially this trend. As 2005, ATPDEA and GSP exports represent around 55% of all Colombian exports to the U.S. ATPDEA will expire on December 31st, 2006, leaving GSP as the only preferential program of which Colombia is eligible.¹

¹. Colombia and the United States have concluded free trade negotiations. The Agreement is expected to be signed by the end of November, and it is expected to come into force in 2007 and replace any preferential programs of which Colombia actually benefits.



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TABLE 1: U.S. imports from Colombia 2003 - 2005

(In 1,000 Dollars)

Import Program	2003	2004	2005	% 2003	% 2004	% 2005
ATPDEA	3.090.056	4.143.461	4.934.948	45,9%	52,9%	52,8%
No program claimed	3.478.583	3.487.217	4.208.078	51,6%	44,5%	45,0%
GSP	169.395	201.520	204.245	2,5%	2,6%	2,2%
Civil Aircraft	4	61	27	0,0%	0,0%	0,0%
Total	6.738.037	7.832.259	9.347.298	100,0%	100,0%	100,0%

Source: USITC

For the same period, Colombian exports under GSP have represented around 2.5% (US \$ 200 millions) of all Colombian exports to the United States. GPS - related exports have grown a mere 1.4%, contrasting with 19.3% of average growth for all Colombian exports to the U.S. This is basically due to ATPDEA being the most used preferential tariff program - since ATPDEA offers Colombian exporters additional benefits over GSP - but GSP is used in many cases as a complement to ATPDEA benefits.

TABLE 2.
U.S. IMPORTS FROM COLOMBIA. TOP 10 PRODUCTS (HTS10) UNDER GSP

(in 1.000 dollars)

HTS	2005	2005 YTD	2006 YTD	% Part
3921121950	29.490	15.784	13.271	12,6%
1701112000	13.352	1.895	13.641	13,0%
1703105000	11.561	4.576	0	0,0%
1701111000	9.813	9.563	1.575	1,5%
1704100000	7.905	3.537	4.241	4,0%
6905100000	7.711	3.137	4.050	3,9%
1704903550	6.214	2.353	2.064	2,0%
3924102000	4.861	2.737	438	0,4%
6910100020	4.425	2.066	1.033	1,0%
6910900000	3.991	2.727	974	0,9%
TOTAL	204.245	98.889	105.145	100,0%

Source: USITC

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2. COMPETITIVE NEED LIMITATION (CNL) WAIVERS

Colombia currently benefits from CNL Waivers for eight GSP – eligible products. For 2005, these eight products amounted for US \$24.2 millions – 11.9% of all Colombian exports under GSP. If ATPDEA results are added, total exports for these eight items increases to US\$ 82.4 millions.

TABLE 3. COLOMBIA: WAIVERS WARRANTED UNDER GSP. U.S. IMPORTS 2003 – 2005 – All Programs					
<i>In 1,000 Dollars</i>					
HTS	2003	2004	2005	2005 (World)	% XCol/ World
06031030	29.068	38.753	37.738	38.020	99,3%
07149020	821	818	2.458	39.902	6,2%
17011105	0	0	13	153	8,5%
17011110	10.708	11.892	21.425	580.632	3,7%
17011120	31.342	26.904	15.448	145.103	10,6%
20089928	140	78	140	1.264	11,1%
35030055	2.725	5.263	4.764	120.996	3,9%
39219011	0	571	457	48.453	0,9%
TOTAL	76.807	86.283	84.448	974.523	8,7%

Source: USITC

As seen in Table 3, Colombian items that received a waiver under GSP are in most cases under CNL. Only item 06031030 - Miniature (spray) carnations, fresh cut - has a share over 50%, but even in this case, its exports are well under the US\$ 120 millions limit. Moreover, total exports for these items decreased in 2005. It is reasonable to argue that there is not any significant change of conditions that justify a withdrawal of the waivers warranted to these products.

06031030 : Miniature (spray) carnations, fresh cut

Import Program	2003	2004	2005	Percent Change 2004 - 2005
	<i>In 1,000 Dollars</i>			
Andean Act (ATPA)	29,052	38,75	37,722	-2.7%
No program claimed	4	0	17	N/A
GSP	12	3	0	-100.0%
Total	29,068	38,753	37,738	-2.6%

Source: USITC



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As it was mentioned above, Colombian exporters tend to favor using ATPDEA, due to its extended coverage, instead of GSP. A good example for this situation is shown at HTS item 06031030. There are almost no exports under GSP, but around US\$ 38 millions under ATPDEA. There is clearly a commercial opportunity provided by the tariff exemption, and the Colombian exporters are making good use of it. But ATPDEA is also clearly favored over GSP. The main reason for such a trend is basically a better knowledge of ATPA preferences, which in turn are designed to favor more specifically the Andean countries industries.



3. ITEMS APPROACHING COMPETITIVE NEED LIMITS.

As Table 4 shows, for 2005 there are 8 items exported by Colombia that are approaching its CNL. These items account for almost US\$ 156 millions if considering exports under ATPDEA and GSP and also under non preferential treatment.

TABLE 4. COLOMBIA: ITEMS INCLUDED IN LIST II (ITEMS APPROACHING COMPETITIVE NEED LIMITS) <i>(in 1.000 dollars)</i>						
HTS	2003	2004	2005	2005 (World)	% Col/World 2005	Possible de Minimis designation
06031070	125.347	125.133	124.860	370.531	33,7%	
18061034	247	289	432	432	100,0%	D
18061065	0	0	2	2	100,0%	D
18069005	0	0	33	33	100,0%	D
20041040	7	81	153	201	76,1%	D
29280010	380	637	1	1	88,0%	D
39211219	29.273	31.048	30.366	77.819	39,0%	
76141050	71	68	44	118	37,3%	D
TOTAL	155.325	157.256	155.891	449.137	34,7%	

Source: USITC - USTR

Six of these eight items could qualify for de Minimis designations, as it has been already noticed by the USTR, since although its share is over the 50% CNL, amounts exported are quite low. However, two items – HTS 06031070 (Chrysanthemums, standard carnations, anthuriums and orchids, fresh cut) and HTS 39211219 (Non - adhesive plates, sheets, film, foil and strip, cellular, of polymers of vinyl chloride, combined with textile materials, nesoi), are not included among other possibly de Minimis designations.



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HTS 06031070 - Chrysanthemums, standard carnations, anthuriums and orchids, fresh cut						
Import Program	2003	2004	2005	2005 YTD	2006 YTD	Part %. 2005 / World
	<i>In 1,000 Dollars</i>					
Andean Act (ATPA)	124.933	124.755	124.403	68.033	70.892	33,57%
No program claimed	414	378	458	384	163	0,12%
Total (Col)	125.347	125.133	124.860	68.417	71.055	33,70%
Total (world)	319.339	391.844	370.531	224.769	232.859	100,00%

Source: USITC

The Colombian government wants to point out that exports for HTS item 06031070 have shown no significant variation on the quantities exported during the last three years. Since 2003, this item is around US\$ 125 millions – a 4% over the US\$ 120 millions CNL. Even so, its market share is around 33.5%, under the 40% limit. Almost all exports for this item are made through ATPDEA, and there is no use of GSP for the period observed. Due to these considerations, and also taking into account the importance of this sector in the creation of job opportunities in Colombia, the Colombian government respectfully requests the USTR to consider warranting a waiver for this particular item.

HTS - 39211219: Nonadhesive plates, sheets, film, foil and strip, cellular, of polymers of vinyl chloride, combined with textile materials, nesoi						
Import Program	2003	2004	2005	2005 YTD	2006 YTD	Percent Change YTD2005 - YTD2006
	<i>In 1,000 Dollars</i>					
GSP	26.617	30.503	29.490	15.784	13.271	-15.9%

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Andean Act (ATPA)	2.640	542	868	450	14	-96.9%
No program claimed	17	4	8	1	1	-14.6%
Total (Col)	29.273	31.048	30.366	16.236	13.286	-18.2%
Total (world)	62.447	67.984	77.819	39.071	42.627	9.1%

Source: USITC

HTS item 3921121950 appears to be a different case. As can be seen in the above table, for 2005 Colombia provided 39.02% (31.04 millions) of all U.S. imports. Most of Colombian exports for this item (98.2%) were made using GSP.

The Colombian Government considers that, according with CNL regulations, there will be no reason to exclude this item from GSP benefits. Not only amounts exported are under the U\$ 120 millions CNL, but also its market share is under the 50% rule.