SECTION 6 - TRADE ADJUSTMENT ASSISTANCE

CONTENTS

OVERVIEW

Federal assistance is offered to workers, firms, and farmers that are affected adversely by foreign trade. This assistance is provided through four programs which are discussed below. Two of these programs aid displaced workers and are administered by the U.S. Department of Labor. The older of the two, Trade Adjustment Assistance for Workers (TAA), originated in 1962 and was revamped by the Trade Act of 1974 and again by the Trade Act of 2002. The North American Free Trade Agreement (NAFTA) Implementation Act in 1993 authorized a somewhat different version of this program to aid workers who lost their jobs because of trade with Canada or Mexico or plant relocation to either of those countries, but this program was closed to new participants when TAA was reformed in 2002. The third program, Trade Adjustment Assistance for Firms, is administered by the U.S. Department of Commerce and offers technical assistance to firms designed to improve their capability to compete with imported goods. Trade Adjustment Assistance for Farmers is a new program aimed at addressing low farm prices caused at least partly by imports.

TRADE ADJUSTMENT ASSISTANCE PROGRAM FOR WORKERS

Trade Adjustment Assistance for Workers under sections 221-49 of the Trade Act of 1974, as amended, consists of these benefits for certified and otherwise qualified workers: trade readjustment allowances (TRA), employment

services, training and additional TRA while in training, job search and relocation allowances, and assistance in paying health insurance premiums. (In general, benefits identified in this chapter as newly introduced by the Trade Act of 2002 are available only to workers in groups that submitted their petitions for certification on or after November 4, 2002, but the health insurance assistance was available to those eligible for TAA in December 2002.) The program is administered by the Employment and Training Administration (ETA) of the Department of Labor through State agencies under cooperative agreements between each State and the Secretary of Labor. ETA processes petitions and issues certifications or denials of petitions by groups of workers for eligibility to apply for TAA. The State agencies act as Federal agents in providing program information, processing applications, determining individual worker eligibility for benefits, issuing payments, and providing reemployment services and training opportunities.

CERTIFICATION REQUIREMENTS

A two-step process is involved in the determination of whether an individual worker will receive TAA: (1) certification by the Secretary of Labor of a petitioning group of workers in a particular firm as eligible to apply; and (2) approval by the State agency administering the program of the application for benefits of an individual worker covered by a certification. The process begins when a group of three or more workers, their union or authorized representative, their employer, or a one-stop operator or partner files a petition with the ETA and the Governor of the State for certification of group eligibility. To certify a petitioning group of workers as eligible to apply for adjustment assistance under prior law, the Secretary previously had to determine that three conditions were met:

1. A significant number or proportion of the workers in the firm or subdivision of the firm has been or is threatened to be totally or partially laid off;
2. Sales and/or production of the firm or subdivision have decreased absolutely; and
3. Increased imports of articles like or directly competitive with articles produced by the firm or subdivision of the firm have "contributed importantly" to both the layoffs and the decline in sales or production.

The Trade Act of 2002 expanded the potential eligibility coverage to include workers in any firm or subdivision of a firm that shifts production to certain other countries. This provision was previously extended by the NAFTA-Transitional Adjustment Assistance (NAFTA-TAA) program only to firms that moved to Canada or Mexico. The new law includes countries that have signed a free trade agreement with the United States and beneficiary countries receiving preferential treatment. It also extends eligibility to workers in these firms if there has been or is likely to be an increase in imports of articles like or directly competitive with those they produced.

TABLE 6-1--NUMBER OF PETITIONS INSTITUTED AND CERTIFIED AND ESTIMATED NUMBER OF WORKERS PETITIONING AND CERTIFIED FOR TAA, 1975-2002

Calendar Year	Cases Instituted		Cases Certified		
	Petitions	Estimated Workers	Petitions	Percent[1]	Estimated Workers
1975	559	216,173	141	25	59,330
1976	1,053	226,523	454	43	147,943
1977	1,317	229,842	437	33	145,285
1978	1,876	177,072	933	50	168,226
1979	2,307	346,714	1,006	44	238,220
1980	5,570	1,051,350	1,060	19	598,970
1981	1,159	133,924	377	33	35,545
1982	1,064	176,320	280	26	22,988
1983	976	166,604	517	53	60,986
1984	511	44,247	356	70	17,011
1985	1,439	131,102	510	35	34,538
1986	1,887	168,625	920	49	80,610
1987	1,650	194,654	824	50	93,572
1988	2,761	230,541	1,195	43	106,363
1989	1,856	151,744	1,430	77	85,500
1990	1,621	160,793	706	44	75,638
1991	1,784	152,942	793	44	64,040
1992	2,002	128,867	1,321	66	60,190
1993	1,375	168,442	740	54	78,496
1994	1,629	137,242	1,047	64	81,974
1995	1,506	136,029	1,122	75	89,398
1996	1,658	175,965	1,116	67	111,836
1997	1,335	151,000	842	63	109,904
1998	1,730	181,310	1,000	58	108,981
1999	2,321	220,483	1,587	69	156,998
2000	1,440	151,693	821	57	97,939
2001	2,406	304,596	1,164	48	144,293
2002	2,565	265,416	1,674	65	245,003

[1] Cases certified as a percent of petitions instituted.

Note - The number of estimated workers certified in 2002 looks very high. This occurred because seven Boeing petitions, covering about 30,000 workers, were instituted in 2001 and certified in 2002. This illustrates the problem with computing a percentage of petitions certified. The petitions instituted are not the same set of petitions as those certified.

Source: Department of Labor, Employment and Training Administration.

The newly expanded program also extends eligibility to adversely affected secondary workers in firms that are either upstream suppliers or downstream producers. The articles produced by upstream workers must be component parts of the articles that were the basis for the primary firm's certification of eligibility for TAA. Downstream workers must directly perform additional, value-added production processes, including final assembly or finishing, on the products of the primary firm. An additional eligibility requirement for downstream producers is that the primary firm's certification must be based on increased imports from or a shift

in production to Canada or Mexico.

Upon receipt of a petition, the State must ensure that rapid response assistance and appropriate core and intensive employment services are made available to the workers to the extent authorized under the Workforce Investment Act of 1998. The State also is required to assist the ETA in the review of the petition. The Secretary is required to make the eligibility determination within 40 days after a petition is filed. A certification of eligibility to apply for TAA covers workers who meet the requirements and whose last total or partial separation from the firm or subdivision before applying for benefits occurred within 1 year prior to the filing of the petition. Table 6-1 provides an overview of the number of petitions instituted and certified since 1975.

TABLE 6-2--ESTIMATED NUMBER OF WORKERS CERTIFIED BY MAJOR INDUSTRIES, FY 1975-2002

Industry	Workers (In Thousands)
Total for all industries	3,316
Motor Vehicles (SIC 37xx)	938
Apparel (SIC 23xx)	617
Steel (SIC 331x)	221
Footwear (SICs 302x, 313x, 314x)	146
Electrical and Electronic Equip. (Incl. computers) (SICs 357x,	345
Oil and Gas (SIC 13xx)	189
Fabricated metal products (SIC 34xx)	94
Textiles (SIC 22xx)	118
All others	648

Source: Department of Labor.

State agencies must give written notice by mail to each worker to apply for TAA where it is believed the worker is covered by a certification of eligibility and also must publish notice of each certification in newspapers of general circulation in areas where certified workers reside. State agencies also must advise each adversely affected worker, at the time that the worker applies for unemployment compensation (UC), of TAA benefits as well as the procedures, deadlines, and qualifying requirements for applying. State agencies must advise each such worker to apply for training before or at the same time that the worker applies for TRA benefits and promptly interview each certified worker and review suitable training opportunities that are available. Table 6-2 summarizes the number of workers certified by major industries since 1975.

QUALIFYING REQUIREMENTS FOR TRADE READJUSTMENT ALLOWANCES

In order to receive entitlement to payment of a TRA for any week of unemployment, an individual must be an adversely affected worker covered by a certification, file an application with the State agency, and meet the following qualifying requirements:

1. The worker's first qualifying separation from adversely affected employment occurred within the period of the certification applicable to that worker, i.e., on or after the "impact date" in the certification (the date on which total or partial layoffs in the firm or subdivision thereof began or threatened to begin, but never more than 1 year prior to the date of the petition), within 2 years after the date the Secretary of Labor issued the certification covering the worker, and before the termination date (if any) of the certification.
2. The worker was employed for at least 26 weeks during the 52-week period preceding the week of the first qualifying separation at wages of $30 or more per week in adversely affected employment with a single firm or subdivision of a firm. A week of unemployment includes the week in which layoff occurs and up to 7 weeks of employer-authorized vacation, sickness, injury, maternity, or military leave, or service as a full-time union representative. Weeks of disability covered by workers' compensation and weeks of active duty in a military reserve status also may count toward the 26-week minimum.
3. The worker was entitled to UC, has exhausted all rights to any UC entitlement, including any extended benefits or Federal supplemental compensation (if in existence), and does not have an unexpired waiting period for any UC.
4. The worker must not be disqualified with respect to the particular week of unemployment for extended benefits by reason of the work acceptance and job search requirements under section 202(a)(3) of the Federal-State Extended Unemployment Compensation Act of 1970. All TRA claimants in all States are subject to the provisions of the extended benefits "suitable work" test under that Act (i.e., must accept any offer of suitable work, actively engage in seeking work, and register for work) after the end of their regular UC benefit period as a precondition for receiving any weeks of TRA payments. The extended benefits work test does not apply to workers enrolled or participating in a TAA-approved training program; the test does apply to workers for whom TAA-approved training is certified as not feasible or appropriate.
5. In order to receive basic TAA payments, the worker must be enrolled in, or have completed following separation from adversely affected employment within the certification period, a training program approved by the Secretary of Labor unless the Secretary has determined and submitted a written statement to the individual worker certifying that approval of training is not "feasible or appropriate" for one of the six reasons specified in the 2002 Act: likelihood of recall, possession of marketable skills, proximity to retirement age, poor health, unavailability of timely enrollment, or unavailability of suitable training. No cash benefits may be paid to a worker who, without justifiable cause, has failed to begin participation or has ceased participation in an approved training program until the worker begins or resumes participation, or to a

worker whose waiver of participation in training is revoked in writing by the Secretary.

This training requirement to encourage and enable workers to obtain early reemployment became effective under the Omnibus Trade and Competitiveness Act (OTCA) amendments as of November 21, 1988. This 1988 amendment replaced a 1986 amendment that instituted a job search requirement as a condition for receiving cash benefits. Waivers from the training requirement were granted completely at the discretion of the Secretary of Labor until the Trade Act of 2002 specified criteria for the waivers and set the duration at 6 months unless the Secretary determines otherwise.

CASH BENEFIT LEVELS AND DURATION

A worker is entitled to TRA payments for weeks of unemployment beginning the later of (a) the first week beginning more than 60 days after the filing date of the petition that resulted in the certification under which the worker is covered, or (b) the first week after the employee is totally separated from work.

The TRA cash benefit amount payable to a worker for a week of total unemployment is equal to, and a continuation of, the most recent weekly benefit amount of UC payable to that worker preceding that worker's first exhaustion of UC following the worker's first total qualifying separation under the certification, reduced by any Federal training allowance and disqualifying income deductible under UC law.

The maximum amount of basic TRA benefits payable to a worker for the period covered by any certification is 52 times the TRA payable for a week of total unemployment minus the total amount of UC benefits to which the worker was entitled in the benefit period in which the first qualifying separation occurred. For example, a worker receiving 39 weeks of UC regular and extended benefits could receive a maximum 13 weeks of basic TRA benefits. UC and TRA payments combined are limited to a maximum 52 weeks in all cases involving extended compensation benefits. Thus, a worker who received 52 or more weeks of unemployment benefits would not be entitled to basic TRA. TRA benefits are not payable to workers participating in on-the-job training.

The eligibility period for collecting basic TRA is the 104-week period that immediately follows the week in which a total qualifying separation occurs. If the worker has a subsequent total qualifying separation under the same certification, the eligibility period for basic TRA moves from the prior eligibility period to 104 weeks after the week in which the subsequent total qualifying separation occurs.

A worker may receive up to 26 additional weeks of TRA benefits after collecting basic benefits (up to a total maximum of 78 weeks) if that worker is participating in approved training. The 2002 Act extends this additional period another 26 weeks for those in training and a further 26 weeks for those in need of remedial education (making the new maximum 130 weeks). To receive the additional benefits, the worker must apply for the training program within 210 days after certification or first qualifying separation, whichever date is later. Additional

benefits may be paid only during the 26-week (52-week or 78-week under the new program) period that follows either the last week of entitlement to basic TRA or the last week before training begins, if training begins after exhaustion of basic TRA.

A worker participating in approved training continues to receive basic and additional TRA payments during breaks in such training if the break does not exceed 14 days (30 days under the new TAA) and the worker was participating in the training before the beginning of the break, resumes participation in the training after the break ends, and the break is designated in the training schedule. Weeks when TRA is not payable because of this break provision count against the eligibility periods for both basic and additional TRA.

Annual outlays, number of recipients, and average weekly benefits for TRAs are presented in Table 6-3.

TRAINING AND OTHER EMPLOYMENT SERVICES, JOB SEARCH, AND RELOCATION ALLOWANCES

Training and other employment services and job search and relocation allowances are available through State agencies to certified workers whether or not they have exhausted UC benefits and become eligible for TRA payments.

Employment services consist of counseling, vocational testing, job search and placement, and other supportive services, provided for under any other Federal law.

Training, preferably on the job, must be approved for a worker if the following six conditions are met:

1. There is no suitable employment available;
2. The worker would benefit from appropriate training;
3. There is a reasonable expectation of employment following training completion;
4. Approved training is reasonably available from government agencies or private sources;
5. The worker is qualified to undertake and complete such training; and
6. Such training is suitable for the worker and available at reasonable cost.

If training is approved, the workers are entitled to payment of the costs by the Secretary directly or through a voucher system unless they have been paid or are reimbursable under another Federal law. On-the-job training costs are payable only if such training is not at the expense of currently employed workers. The OTCA amendments in 1988 added remedial education as a separate and distinct approvable training program, and the Trade Act of 2002 went further in authorizing an additional 26 weeks of training and TRA support for such education.

As of the 1988 amendments, approved training is an entitlement in any case in which the six criteria for approval are reasonably met, up to an $80 million statutory ceiling on annual fiscal year training costs (including job search and relocation allowances and subsistence payments) payable from TAA funds. The 2002 Act raised this ceiling to $220 million. Up to this limit, workers are entitled to have the costs of approved training paid on their behalf. If the Secretary foresees

that the $220 million ceiling will be exceeded in any fiscal year, the Secretary will decide how remaining TAA funds are apportioned among the States for the balance of that year.

TABLE 6-3--TOTAL OUTLAYS FOR TRADE READJUSTMENT ALLOWANCES, NUMBER OF RECIPIENTS, AND AVERAGE WEEKLY PAYMENTS AND DURATION, FY 1975-2002

Fiscal Year	Total Outlays (Millions)	Total Recipients (Thousands)	Average Weekly Payment Per Recipient
1975 (4th Quarter)	$71	47	$58
1976[1]	79	62	47
1977	148	111	57
1978	257	155	68
1979	256	132	70
1980	1,622	532	126
1981	1,440	281	140
1982	103	30	119
1983	37	30	120
1984	35	16	139
1985	40	20	133
1986	118	40	144
1987	208	55	155
1988	186	47	165
1989	125	24	175
1990	93	19	164
1991	116	25	169
1992[2]	43	9	163
1993	51	10	157
1994	120	31	181
1995	145	28	193
1996	160	31	200
1997	188	32	193
1998	151	24	191
1999	199	36	202
2000	239	33	218
2001	226	33	222
2002[3]	199	37	234

[1] Fiscal year 1976 is the first full year of experience under the program as amended by the Trade Act of 1974.

[2] The 1992 figures for TRA recipients and outlays are abnormally low because of emergency unemployment compensation (EUC) payments that were made to eligible workers in lieu of TRA payments.

[3] Preliminary.

Note: Center column is number of NEW recipients, not total number of recipients. There is no single number for total number of recipients, since that changes from week to week.

Source: Department of Labor.

Costs of approved TAA training may be paid solely from TAA funds, solely from other Federal or State programs or private funds, or from a mix of TAA and public or private funds, unless the worker in the case of a nongovernmental program

would be required to reimburse any portion of the costs from TAA funds. Duplicate payment of training costs is prohibited, and workers are not entitled to payment of training costs from TAA funds to the extent these costs are paid from or shared by other sources. Training still may be approved if the fiscal year TAA funding entitlement limit is reached, provided the training costs are paid from outside sources.

Supplemental assistance is available to defray reasonable transportation and subsistence expenses when training is not within the worker's commuting distance. This assistance is equal to the lesser of actual expenses or 50 percent of the prevailing Federal per diem rate for subsistence and 100 percent of the prevailing mileage rates under Federal regulations for travel expenses.

Job search allowances are available to certified workers who cannot obtain suitable employment within their commuting area, who are totally laid off, and who apply within 1 year after certification or last total layoff, whichever is later, or within 6 months after concluding training. The allowance for reimbursement is equal to 90 percent of necessary job search expenses, based on the same increased supplemental assistance rates described above, up to a maximum amount of $800 ($1,250 under the new TAA). The Secretary of Labor is required to reimburse workers for necessary expenses incurred to participate in an approved job search program.

Relocation allowances are available to certified workers totally laid off at time of relocation who have been able to obtain an offer of suitable employment only outside their commuting area, who apply within 14 months after certification or last total layoff, whichever is later, or within 6 months after concluding training, and whose relocation takes place within 6 months after application for the relocation allowance. The allowance is equal to 90 percent of reasonable and necessary expenses for transporting the worker, family, and household effects, based on the same increased supplemental assistance rates described above, plus a lump sum payment of three times the worker's average weekly wage, up to a maximum amount of $800 ($1,250 under the new TAA). Table 6-4 provides a summary of training, job search, and relocation allowances since 1975.

HEALTH COVERAGE TAX CREDIT

The Trade Act of 2002 created a Federal tax credit which subsidizes private health insurance coverage for displaced workers certified to receive TAA benefits. The tax credit covers 65 percent of the premiums paid by the worker for qualified health insurance. This credit is referred to as the Health Coverage Tax Credit (HCTC), and the Internal Revenue Service is responsible for its administration. The HCTC is advanceable, meaning that workers can receive the credit when purchasing insurance rather than receiving it after filing their tax returns. The HCTC is also refundable; eligible workers can receive the credit even if they have zero tax liability for the year. To be eligible for the HCTC, a worker must be (1) a recipient of a TRA; (2) an individual certified for TAA benefits who is not yet eligible to receive a TRA because she or he has not exhausted all rights to UC; or

(3) a participant receiving benefits under the new Alternative Trade Adjustment Assistance program described in the next section.

TABLE 6-4--TRAINING, JOB SEARCH, AND RELOCATION ALLOWANCES: TOTAL NUMBER OF WORKERS AND OUTLAYS, FY 1975-2002

Fiscal Year	Total Number			Total Outlays Including Administration (Millions)
	Entered Training	Job Search	Relocation	
1975 (4th Quarter)	463	158	44	-----
1976	823	23	26	$2.7
1977	4,213	277	191	4.0
1978	8,337	1,072	631	12.8
1979	4,456	1,181	855	13.5
1980	9,475[1]	931	629	6.0
1981	20,366[1]	1,491	2,011	2.4
1982	5,844	697	662	19.4
1983	11,299	696	3,269	36.0
1984	6,821	799	2,220	17.0
1985	7,424	916	1,692	30.2
1986	12,229	1,276	2,292	28.6
1987	22,888	1,709	1,537	49.9
1988	9,538	1,156	1,347	54.4
1989	17,042	863	989	62.6
1990	18,057	565	1,245	57.6
1991	20,093	525	759	64.9
1992	18,582	594	751	70.2
1993	19,467	802	2,063	80.0
1994	26,484	671	2,306	98.9
1995	26,514	869	1,572	97.8
1996	30,280	737	858	96.6
1997	22,840	481	706	85.1
1998	21,333	243	330	96.7
1999	28,113	255	398	94.3
2000	22,657	351	641	92.7
2001	24,106	242	369	94.3
2002	37,163	271	388	94.5

[1] Of total workers entering training, 5,640 (59 percent) in 1980 and 18,940 (94 percent) in 1981 self-financed their training costs.

Source: Department of Labor.

The HCTC can be used for limited types of health insurance. It can be applied towards premiums paid to continue employer-sponsored health insurance under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). The HCTC also can be used to purchase an individual health insurance policy (if the worker was covered by an individual policy at least 30 days before becoming unemployed) or to purchase a group policy offered through a spouse's employer. An eligible worker can use the credit to purchase various types of State-based insurance coverage, such as coverage through a State-sponsored high-risk pool, coverage through a health insurance program offered to State employees, and coverage

through an arrangement between private entities and the State. State-based coverage must be guaranteed issue (i.e., a plan must be offered to all who apply), cannot limit coverage due to pre-existing conditions, cannot charge higher premiums than those charged to individuals who do not receive the HCTC, and must offer the same benefits as those provided to individuals who do not receive the HCTC.

ALTERNATIVE TRADE ADJUSTMENT ASSISTANCE FOR OLDER WORKERS

The 2002 Act also established a 5-year demonstration project for alternative trade adjustment assistance (ATAA) for older workers. This program is effective for petitions filed on or after August 6, 2003. Petitioners who request that workers be certified for the ATAA program must request both certifications (TAA and ATAA) at the same time. ATAA is designed to allow TAA-eligible workers for whom retraining may not be appropriate and who find reemployment at a lower wage to receive a wage subsidy to help bridge the salary gap between their old and new employment.

In order to establish that petitioning workers are eligible to apply for the ATAA program, the Secretary of Labor first must determine that all of the criteria listed above for a regular TAA certification are met. The following three additional criteria must be met for ATAA certification:

1. A significant number of adversely affected workers in the petitioning workers' firm are 50 years of age or older;
2. The adversely affected workers in the petitioning workers' firm possess job skills that are not easily transferable to other employment; and
3. The competitive conditions within the affected workers' industry are adverse.

Once an individual worker's company has been certified for ATAA as well as TAA, there is another set of eligibility requirements to be met before the benefits will be paid to the worker. The individual must be at least 50 years of age and obtain full-time employment making less than $50,000 a year within 26 weeks of the date of separation from the adversely affected employment. The worker may not return to that affected employment.

An eligible worker is entitled to receive half the difference between the wages received from reemployment and the wages received at the time of the qualifying separation for a period up to 2 years, but the payments may not exceed $10,000 over the 2-year eligibility period. The participant may receive the relocation allowance and the tax credit for health insurance premiums, but all rights to retraining, allowances, and TRA are forfeited with receipt of the initial ATAA payment. A worker who wants to receive the HCTC and intends to choose the ATAA must apply for a waiver from the required training in order to maintain eligibility for TAA and the HCTC.

NAFTA WORKER SECURITY ACT

The NAFTA Worker Security Act, passed as part of the North American Free Trade Agreement Implementation Act in 1993, established a NAFTA Transitional Adjustment Assistance program for workers adversely impacted by the NAFTA. Import-impacted workers also were able to petition for assistance under TAA but could not obtain benefits under both programs. The NAFTA-TAA program was repealed by the TAA Reform Act of 2002. Petitions for NAFTA-TAA were accepted until November 3, 2002. Workers certified under any petitions received before November 4, 2002, even if the certifications were made after that date, are eligible for services under the NAFTA-TAA program. Funds will be available to cover NAFTA-TAA-certified workers until their eligibility period runs out.

FUNDING OF TAA AND NAFTA PROGRAMS

Federal funds, as an annual appropriated entitlement from general revenues under the Federal Unemployment Benefits and Allowances Account, cover the worker's total entitlement represented by the continuation of UC benefit levels in the form of TRA payments. Federal funds also cover payments for training, job search, and relocation allowances, as well as State-related administrative expenses. Funds made available under grants to States defray expenses of any employment services and other administrative expenses.

States are reimbursed from general revenues for benefit payments and other costs incurred under the program. A penalty first introduced by section 239 of the Trade Act of 1974 provided for reduction by 15 percent of the credits for State unemployment taxes which employers are allowed against their liability for Federal unemployment tax if a State has not entered into or has not fulfilled its commitments under a cooperative agreement. The Tax Equity & Fiscal Responsibility Act of 1982 reduced this penalty to 7.5 percent.

TRADE ADJUSTMENT ASSISTANCE PROGRAM FOR FIRMS

Sections 251-64 of the Trade Act of 1974, as amended, contain the procedures, eligibility requirements, benefit terms and conditions, and administrative provisions of the TAA Program for Firms adversely impacted by increased import competition. The program is administered by the Economic Development Administration within the Department of Commerce. Amendments in 1986 under Public Law 99-272 eliminated financial assistance (direct loan or loan guarantee) benefits, increased government participation in technical assistance, and expanded the criteria for firm certification.

Program benefits consist exclusively of technical assistance for petitioning firms which qualify under a two-step procedure: (1) certification by the Secretary of Commerce that the petitioning firm is eligible to apply; and (2) approval by the Secretary of Commerce of the application by a certified firm for

benefits, including the firm's proposal for economic adjustment.

To certify a firm as eligible to apply for adjustment assistance, the Secretary must determine that three conditions are met:

1. A significant number or proportion of the workers in the firm have been or are threatened to be totally or partially laid off;
2. Sales and/or production of the firm have decreased absolutely, or sales and/or production that accounted for at least 25 percent of total production or sales of the firm during the 12 months preceding the most recent 12-month period for which data are available have decreased absolutely; and
3. Increased imports of articles like or directly competitive with articles produced by the firm have "contributed importantly" to both the layoffs and the decline in sales and/or production.

The 1988 amendments expanded potential eligibility coverage of the program to include firms that engage in exploration or drilling for oil or natural gas. Unlike the TAA Worker Program, this extension applied only prospectively after August 23, 1988.

A certified firm may file an application with the Secretary of Commerce for TAA benefits at any time within 2 years after the date of the certification of eligibility. The application must include a proposal by the firm for its economic adjustment. The Secretary may furnish technical assistance to the firm in preparing its petition for certification or in developing a viable economic adjustment proposal.

The Secretary approves the firm's application for assistance only if it is determined that the firm's adjustment proposal: (a) is reasonably calculated to make a material contribution to the economic adjustment of the firm; (b) gives adequate consideration to the interests of the workers in the firm; and (c) demonstrates that the firm will make all reasonable efforts to use its own resources for economic development.

BENEFITS

Technical assistance may be given to implement the firm's economic adjustment proposal in addition to, or in lieu of, precertification assistance or assistance in developing the proposal. It may be furnished through existing government agencies or through private individuals, firms, and institutions (including private consulting services), or by grants to intermediary organizations, including regional TAA centers. As amended by Public Law 99-272 in 1986, the Federal Government may bear the full cost of technical assistance to a firm in preparing its petition for certification. However, the Federal share cannot exceed 75 percent of the cost of assistance furnished through private individuals, firms, or institutions for developing or implementing an economic adjustment proposal. Grants may be made to intermediate organizations to defray up to 100 percent of their administrative expenses in providing technical assistance.

The Secretary of Commerce also may provide technical assistance of up to $10 million annually per industry to establish industry-wide programs for new

product or process development, export development, or other uses consistent with adjustment assistance objectives. The assistance may be furnished through existing agencies, private individuals, firms, universities, and institutions, and by grants, contracts, or cooperative agreements to associations, unions, or other nonprofit organizations of industries in which a substantial number of firms or workers have been certified.

FUNDING

Funds to cover all costs of the program are subject to annual appropriations to the Economic Development Administration of the Department of Commerce from general revenues. The Trade Act of 2002 authorized $16 million per year through 2007 for this program.

TRADE ADJUSTMENT ASSISTANCE PROGRAM FOR FARMERS

A new TAA for Farmers program was established by the Trade Act of 2002. Although proposed rules have been issued by the U.S. Department of Agriculture (USDA), they had not yet been finalized at the time of publication of this chapter. Under this program, a group of agricultural producers can petition the Secretary of Agriculture to be certified as eligible for TAA. The Secretary will then have 40 days to determine whether the national average price for the affected commodity or class of goods from that commodity (for the most recent marketing year) was less than 80 percent of the average price for the 5 marketing years preceding the most recent year, and imports of "articles like or directly competitive with" the commodity in question "contributed importantly" to the price decline.

If a determination were so made, each member of the eligible group would have 90 days to apply to the Secretary for a cash payment equal to: one-half of the difference between the most recent year's national average price and 80 percent of the preceding 5 marketing years, times his or her production for the year. An individual commodity producer's benefits under the program will be limited to $10,000 in any 12-month period, and all claims are to be decreased proportionately, if necessary, to ensure that the total national cost of the program does not exceed the annual funding level, which the legislation sets at $90 million (for each fiscal year, 2003 through 2007).

An applicant's net farm income (as determined by the USDA) for the most recent year must be less than his or her net farm income for the latest year in which no adjustment assistance was received. Those with average adjusted gross income above $2.5 million per year are ineligible if less than 75 percent of that income is from farming, ranching, or forestry. The applicant also must certify that he or she has met with an Extension Service agent to obtain information and technical assistance on how to adjust to import competition, including improving competitiveness in producing and marketing the import-affected commodity, and possibly shifting to an alternative commodity. Payment recipients cannot receive cash benefits under any other TAA program. However, they are permitted (but not

required, as are other workers) to use other job training and related employment services offered through the TAA programs.

LEGISLATIVE HISTORY

The TAA Programs were first established under the Trade Expansion Act of 1962 for the purpose of assisting in the special adjustment problems of workers and firms dislocated as a result of a Federal policy of reducing barriers to foreign trade. As a result of limited eligibility and usage of the programs, criteria and benefits were liberalized under title II of the Trade Act of 1974, Public Law 93-618. The Omnibus Budget Reconciliation Act (OBRA) of 1981, Public Law 97-35, reformed the program for workers. The amendments, particularly in program eligibility and benefits, were intended to reduce program cost significantly and to shift its focus from income compensation for temporary layoffs to return to work through training and other adjustment measures for the long-term or permanently unemployed. The OBRA also made relatively minor modifications in the Firm Program. Most amendments became effective on October 1, 1981. Both programs were extended at that time for 1 year, to terminate on September 30, 1983.

Public Law 98-120, approved on October 12, 1983, extended the Worker and Firm TAA Programs for 2 years, until September 30, 1985. Sections 2671-2673 of the Deficit Reduction Act of 1984, Public Law 98-369, included three provisions which amended the Program for Workers to increase the availability of worker training allowances and the level of job search and relocation benefits, and amended the Program for Firms to increase the availability of industrywide technical assistance.

The termination date of the Worker and Firm TAA Programs was further extended under temporary legislation in the first session of the 99th Congress (Public Laws 99-107, 99-155, 99-181, and 99-189) until December 19, 1985. The Consolidated Omnibus Budget Reconciliation Act of 1985, Public Law 99-272, approved April 7, 1986, reauthorized the TAA Programs for Workers and Firms for 6 years retroactively from December 19, 1985, until September 30, 1991, with amendments.

Sections 1421-1430 of Public Law 100-418, the Omnibus Trade and Competitiveness Act (OTCA) of 1988, enacted on August 23, 1988, made significant amendments in the Worker TAA Program, particularly concerning the eligibility criteria for cash benefits, funding, and administration. A training requirement as a condition for income support to encourage and enable workers to obtain early reemployment became effective as of November 21, 1988. This replaced a 1986 amendment that instituted a job search requirement as a condition for receiving cash benefits. The amendments also expanded TAA eligibility coverage of workers and firms, contingent upon the imposition of an import fee to fund program costs. (Statutory preconditions for imposition of an import fee were never met.) Public Law 100-418 extended TAA Program authorization for an additional 2 years until September 30, 1993.

Section 136 of the Customs and Trade Act of 1990, Public Law 101-382,

approved on August 20, 1990, extended the completion and reporting period for the supplemental wage allowance demonstration projects for workers required by the 1988 amendments. Section 106 of Public Law 102-318, to extend the Emergency Unemployment Compensation Program, provided for weeks of active military duty in a reserve status (including service during Operation Desert Storm) to qualify toward the minimum number of weeks of prior employment required for TAA eligibility.

Section 13803 of OBRA 1993, Public Law 103-66, approved August 10, 1993, reauthorized the TAA Programs for Workers and Firms for an additional 5 years through fiscal year 1998, with assistance to terminate on September 30, 1998. Section 13803 of OBRA 1993 also reduced the level of the "cap" on training entitlement funding from $80 million to $70 million for fiscal year 1997 only.

Sections 501-6 of the North American Free Trade Agreement (NAFTA) Implementation Act, Public Law 103-182, approved December 8, 1993, set forth the "NAFTA Worker Security Act," establishing the NAFTA Transitional Adjustment Assistance Program for Workers as a new subchapter D (section 250) under chapter 2 of title II of the Trade Act of 1974. That special program went into effect on January 1, 1994, with a termination date of the earlier of September 30, 1998, or the date that a comparable comprehensive dislocated worker program became effective.

Following the expiration of the TAA Programs' authorizations on September 30, 1998, they were extended through June 30, 1999, by section 1012 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act for fiscal year 1999 (Public Law 105-277), enacted October 21, 1998. After this 9-month extension expired, the programs were continued through September 30, 2001, by section 702 of the Consolidated Appropriations Act for fiscal year 2000 (Public Law 106-113), enacted November 29, 1999. At the beginning of fiscal year 2002, eight continuing resolutions kept the programs authorized through January 10, 2002. Debate on TAA reform continued after this expiration until the passage of the Trade Act of 2002 (Public Law 107-210), which became law on August 6, 2002, and authorizes the TAA programs through fiscal year 2007.