SECTION 6 - TRADE ADJUSTMENT ASSISTANCE

CONTENTS

OVERVIEW

Federal assistance is offered to workers, firms and farmers that are directly affected adversely by foreign trade. This assistance is provided through 3 programs that are discussed below. The Trade Adjustment Assistance for Workers (TAA) aids workers displaced by trade and is administered by the U.S. Department of Labor (DOL). TAA originated in 1962 under the Trade Expansion Act of 1962, Public Law 87-794, approved October 11, 1962, and was revamped by the Trade Act of 1974, Public Law 93-618, approved January 3, 1975, and again by the Trade Act of 2002, Public Law 107-210, approved August 6, 2002. The second program, Trade Adjustment Assistance for Firms, offers technical assistance to firms designed to improve their capability to compete with imported goods and is administered by the U.S. Department of Commerce. The third program, Trade Adjustment Assistance for Farmers, aids farmers harmed by low farm prices caused at least partly by imports and is administered by the U.S. Department of Agriculture (USDA).

TRADE ADJUSTMENT ASSISTANCE PROGRAM FOR WORKERS

Sections 221-249 of the Trade Act of 1974, Public Law 93-618, approved January 3, 1975, as amended, contain the procedures, eligibility requirements, benefit terms and conditions, and administrative provisions of the TAA Program for Workers. The program is administered by the Employment and Training Administration (ETA) within DOL and consists of the following benefits for

certified and otherwise qualified workers: basic and additional trade readjustment allowances (TRA) (income support while workers are enrolled in approved training), employment services, training, job search and relocation allowances, wage insurance for workers 50 years and older, and assistance in paying health insurance premiums. The program is administered by the ETA 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 to determine whether an individual worker will receive TAA: (1) The Secretary of Labor must certify that a petitioning group of workers in a particular firm is eligible to apply; and (2) the State agency administering the program must approve the application for benefits of an individual worker covered by a certification. To obtain a group eligibility certification, a group of workers, their union or authorized representative, their employer, a one-stop operator or partner, or the State Dislocated Worker Unit may file a petition for certification with the DOL's Division of Trade Adjustment Assistance (DTAA) in ETA and the State TAA Coordinator or Dislocated Worker Unit relevant to the worker group's plant location. To certify a petitioning group of workers as eligible to apply for adjustment assistance, the Secretary must determine that the following eligibility requirements are met:

1. The workers' company produces a product (i.e., an article);
2. A significant number (3 or more workers in a firm of fewer than 50 workers or 5% of the workforce in a firm of 50 or more) has been totally or partially separated or is threatened with total or partial separation; and
3. One of the following:
    a. The firm's sales or production have decreased absolutely, and increased imports of articles like or directly competitive with articles produced by the firm or subdivision of the firm have "contributed importantly" both to the layoffs and to the decline in sales or production; or
    b. A shift in production has occurred to a foreign country by the workers' firm. Either (1) the shift in production was to a country with which the United States has a free trade agreement or to a country that is a beneficiary country under the Andean Trade Preference Act, Public Law 102-182, approved December 4, 1991; the African Growth and Opportunity Act, Public Law 106-200, approved May 18, 2000; or the Caribbean Basin Economic Recovery Act, Public Law 98-67, approved August 5, 1983; or (2) there is, has been, or is likely to be, an increase in imports of like or

directly competitive articles.

The Trade Act of 2002, Public Law 107-210, approved August 6, 2002, extended 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 article(s) that were the basis for a group of workers employed by the primary firm receiving certification of eligibility for TAA. Downstream workers must directly perform additional, value-added production processes, including final assembly or finishing, on the product(s) that were the basis for a group of workers employed by the primary firm receiving certification of eligibility for TAA. To qualify, the loss of business as a supplier of component parts, a final assembler, or a finisher for a TAA certified firm must have contributed importantly to an actual decline in sales or production, and to a layoff or threat of a layoff. Alternatively, workers at a supplier can qualify if the component parts it supplied to a TAA certified firm constituted at least 20 percent of the production or sales of the workers' 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.

In April 2005, DOL certified a group of software workers for TAA benefits. Prior to this ruling, DOL denied certification to software workers on the basis that software did not constitute an article, unless it was embodied in a physical medium. DOL has indicated that the production of software and similar intangible goods that would have been considered articles, for the purposes of the Trade Act, if embodied in a physical medium will now be considered to be articles regardless of their method of transfer.

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, Public Law 105-220, approved August 7, 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, the *impact date*, and 2 years following the date of certification or the certification termination date (if the Secretary issues one), whichever is sooner. Table 6-2 summarizes the number of workers certified by major industries since 1975.

Table 6-1 contains the number of petitions from 1975-2007 for which DOL initiated an investigation as the first part of the certification process and the number of petitions that DOL certified as meeting the eligibility requirements.

TABLE 6-1--NUMBER OF PETITIONS INSTITUTED AND CERTIFIED AND ESTIMATED NUMBER OF WORKERS PETITIONING AND CERTIFIED FOR TAA, FISCAL YEARS 1975-2007

Fiscal 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	338,701	1,674	65	245,003
2003	3,567	304,367	1,894	53	197,748
2004	2,992	210,567	1,812	61	149,705
2005	2,644	156,022	1,561	59	118,022
2006	2,465	169,017	1,444	59	119,602
2007	2,249	190,421	1,426	63	146,592

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

Note: The number of estimated workers certified in 2002 is higher than in previous years because 7 Boeing petitions, covering about 30,000 workers, were instituted in 2001 and certified in 2002. The lag between the time that a petition is instituted and when the petition is certified illustrates the reason that annual comparisons of petitions instituted and certified may be misleading.

Source: U.S. Department of Labor, Employment and Training Administration.

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 either 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--ESTIMATED NUMBER OF WORKERS CERTIFIED BY MAJOR INDUSTRIES, FISCAL YEARS 1975-2007

Industry	Fiscal Years 1975-2007 Workers (In Thousands)	Fiscal Years 2002-2007 Workers (In Thousands)
Total for all industries	4,048	732
Motor Vehicles (SIC 37xx)	1,025	87
Apparel (SIC 23xx)	685	68
Steel (SIC 331x)	241	20
Footwear (SICs 302x, 313x, 314x)	148	2
Electrical and Electronic Equip. (Incl. computers) (SICs 357x, 36xx)	470	125
Oil and Gas (SIC 13xx)	190	1
Fabricated metal products (SIC 34xx)	141	47
Textiles (SIC 22xx)	195	77
All others	953	305

Note: SIC refers to an industry's Standard Industrial Classification number.
Source: U.S. Department of Labor, Employment and Training Administration.

QUALIFYING REQUIREMENTS FOR TRADE READJUSTMENT ALLOWANCES

A worker may receive TRA for any week of unemployment, if the individual is an adversely affected worker covered by a certification, files an application with the State agency and meets all of 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 (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, 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 employment includes the week in which a layoff occurs. It also includes up to 7 weeks of employer-authorized leave for the purpose of vacation, sickness, injury, maternity, or military service for training, or service as a full-time union representative. Additionally, all weeks of disability covered by workers' compensation and all weeks of active duty in the military reserve 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 of section 202(a)(3) of the Federal-State Extended Unemployment Compensation Act of 1970, Public Law 91-373, approved August 10, 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 suitable work test does not apply to workers enrolled or participating in a TAA-approved training program. However, the test does apply to workers for whom TAA-approved training is certified as not feasible or appropriate.
5. To receive basic TRA payments, the worker must be enrolled in, or have completed 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." The Trade Act of 2002, Public Law 107-210, approved August 6, 2002, specified 6 reasons for granting a waiver from training: (1) notification of recall received, (2) possession of marketable skills, (3) proximity to retirement age, (4) poor health, (5) unavailability of timely enrollment or (6) 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), Public Law 100-418, approved August 23, 1988, amendments. This requirement replaced a 1986 amendment that instituted a job search requirement as a condition for receiving cash benefits. Waivers from the training requirement were granted at the discretion of the Secretary of Labor until the Trade Act of 2002, Public Law 107-210, approved August 6, 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. This amount is 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 UC 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 52 additional weeks of TRA benefits after collecting basic benefits (up to a total maximum of 104 weeks) if the worker is participating in approved training and a further 26 weeks for those in need of remedial education (for a maximum of 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 52-week or, if remedial education is needed, 78-week 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 is not eligible for additional TRA unless the worker is enrolled and participating in training; waivers do not apply.

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 30 days 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 provision for breaks in training count against the eligibility periods for both basic and additional TRA.

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, such as under the Workforce Investment Act of 1998, Public Law 105-220, approved August 7, 1998.

The following 6 conditions must be met in order for a worker to receive training:

1. No suitable employment is available;
2. The worker would benefit from appropriate training;
3. A reasonable expectation of employment following training completion exists;
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 a reasonable cost.

If training is approved, the workers are entitled to payment of the costs by the Secretary either 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 (e.g., the non-overtime work hours, wages or employment benefits of current employees are not reduced). The Trade Act of 2002, Public Law 107-210, approved August 6, 2002, authorized an additional 26 weeks of training and TRA support for remedial education.

Approved training is an entitlement in any case in which the 6 criteria for approval are reasonably met, up to a $220 million statutory ceiling on annual fiscal year training costs payable from TAA funds. 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.

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 who receives training under 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.

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

TABLE 6-3--TOTAL OUTLAYS FOR TRADE READJUSTMENT ALLOWANCES, NUMBER OF RECIPIENTS, AND AVERAGE WEEKLY PAYMENTS, FISCAL YEARS 1975-2007

Fiscal Year	Total Outlays (Millions)	New 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	254	37	234
2003	352	44	238
2004	530	81	262
2005	598	55	267
2006	529	53	289
2007	562	47	329

[1] Fiscal year 1976 is the first full year of experience under the program as amended by the Trade Act of 1974, Public Law 93-618, approved January 3, 1975.

[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.

Note: Center column is number of *new* recipients, not the total number of recipients. Data are not available on the total number of recipients.

Source: U.S. Department of Labor, Employment and Training Administration.

Table 6-4 provides a summary of training, job search, and relocation allowances from 1975 to 2007.

TABLE 6-4--TRAINING, JOB SEARCH, AND RELOCATION ALLOWANCES: TOTAL NUMBER OF WORKERS AND OUTLAYS, FISCAL YEARS 1975-2007

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	931	629	6.0
1981	20,366	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
2003	43,672	430	736	220.1
2004	50,929	467	817	258.2
2005	38,207	288	446	259.3
2006	37,426	454	531	259.4
2007	49,322	399	750	259.6

Source: U.S. Department of Labor, Employment and Training Administration.

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 365 days after certification or last total layoff, whichever is later, or within 182 days after concluding training (unless the certified worker received a training waiver). 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 $1,250. 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 separated from employment at the time of relocation who have been able to obtain an offer of suitable employment only outside their commuting area, who apply within 425 days after certification or last total layoff, whichever is later, or within 182 days after concluding training, and whose relocation occurs within 182 days after filing the application for the relocation allowance or the conclusion of training. 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 3 times the worker's average weekly wage, up to a maximum amount of $1,250. In fiscal year 2007, $6.6 million was appropriated for job search and relocation expenses.

HEALTH COVERAGE TAX CREDIT

The Trade Act of 2002, Public Law 107-210, approved August 6, 2002, authorized the Health Coverage Tax Credit (HCTC): a federal income tax credit to cover 65 percent of the cost of "qualified health insurance" for eligible taxpayers and their family members. The credit is refundable, so taxpayers may claim the full credit amount even if they have little or no federal income tax liability. The credit can also be advanced, so taxpayers need not wait until they file their tax returns in order to benefit from it.

Eligibility for the HCTC is limited to 3 groups of taxpayers. Two groups consist of individuals who are eligible for allowances (financial assistance) through the TAA program, because such individuals have lost manufacturing jobs due to increased foreign imports or shifts in production outside the United States. The third eligibility group consists of individuals whose defined benefit pension plans were taken over by the Pension Benefit Guaranty Corporation because of financial difficulties. To be eligible for the HCTC individuals cannot be enrolled in the following types of coverage: an employer-sponsored plan for which the employer pays at least half of the total premium, Medicare Part B, the Federal Employees Health Benefits Program, Medicaid, or the State Children's Health Insurance Program; nor entitled to Medicare Part A or a U.S. military health program.

The HCTC can be claimed for only 10 types of qualified health insurance specified in the statute, 7 of which require state action to become effective. For tax year 2007, 43 states and the District of Columbia made at least one of these seven types of state-qualified health plans available. In the remaining 7 states and Puerto Rico, only the 3 types of qualified health insurance not dependent on state action (automatically qualified health plans) were available, though not necessarily all who were eligible for the credit could avail themselves of these options.

The HCTC program has high administrative costs relative to other government-administered health programs. It has also suffered from low

participation due to a number of factors, including complex eligibility rules with conflicting deadlines that leave some potential recipients without the consumer protections and rights intended under the original law. In addition, some affected workers enroll in a spouse's employer health plan.

ALTERNATIVE TRADE ADJUSTMENT ASSISTANCE FOR OLDER WORKERS

The Trade Act of 2002, Public Law 107-210, approved August 6, 2002, 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 3 additional criteria must be met for ATAA certification:

1. A significant number of workers in the petitioning workers' firm are 50 years of age or older;
2. The 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 at the time of reemployment 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 is not eligible to receive retraining, job search allowances, and TRA. 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.

FUNDING OF TAA 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. To induce States to participate, a penalty first introduced by section 239 of the Trade Act of 1974, Public Law 93-618, approved January 3, 1975, provided for a 15 percent reduction of the credits for State unemployment taxes that 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, Public Law 97-248, approved September 3, 1982, reduced this penalty against employers to 7.5 percent.

TRADE ADJUSTMENT ASSISTANCE PROGRAM FOR FIRMS

Sections 251-264 of the Trade Act of 1974, Public Law 93-618, approved January 3, 1975, as amended, contain the procedures, eligibility requirements, benefit terms and conditions, and administrative provisions of the TAA Program for Firms. The program is administered by the Economic Development Administration (EDA) within the Department of Commerce. Program benefits consist exclusively of technical assistance for petitioning firms that demonstrate they have been adversely affected by increased import competition. Amendments in 1986 under Public Law 99-272, approved April 7, 1986, eliminated financial assistance benefits (direct loan or loan guarantee), increased government participation in technical assistance and expanded the criteria for firm certification. The program was reauthorized most recently in Title I of the Trade Act of 2002, Public Law 107-210, approved August 6, 2002. Authorization lapsed on December 31, 2007. EDA continues the program based on annual appropriations.

To qualify for assistance, firms complete 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 separated;
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 OTCA, amendments, Public Law 100-418, approved August 23, 1988, expanded potential eligibility coverage of the program to include firms that engage in exploration or drilling for oil or natural gas.

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: (1) is reasonably calculated to contribute materially to the economic adjustment of the firm; (2) gives adequate consideration to the interests of the firm's workers; and (3) demonstrates that the firm will make all reasonable efforts to use its own resources for economic development (adjustment).

TABLE 6-5--TRADE AJUSTMENT ASSISTANCE FOR FIRMS PROPOSALS, FISCAL YEARS 2002-2007

	2002	2003	2004	2005	2006	2007
Number of Firms Assisted	141	162	177	132	137	126
Avg. Firm Sales ($ millions)	$11.7	$7.2	$11.6	$8.4	$10.6	$11.2
Avg. Firm Employees	102	68	88	64	91	68
Govt Share ($ millions)	$7.6	$8.1	$8.5	$5.9	$6.7	$7.1
Firm Share ($ millions)	$7.1	$7.4	$8.1	$5.4	$6.0	$5.9
Total TAA ($ millions)	$14.7	$15.5	$16.6	$11.3	$12.7	$13.0
Avg TAA Per Firm (Govt)	$53,900	$50,000	$48,023	$44,697	$48,905	$56,449

Source: Economic Development Administration, Department of Commerce.

Firm trade adjustment assistance data for fiscal years 2002 through 2007 are presented in Table 6-5. The program assisted an average of 146 firms per fiscal year, with assistance provided by the regional Trade Adjustment Assistance Centers (TAACs) averaging $50,171 per firm. The federal government share averaged 52 percent of adjustment costs. Most assisted firms were small- to medium-sized manufacturing enterprises with an average of $10.1 million in sales and 80 employees.

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 the TAACs. In practice, the TAACs have provided most of the technical assistance to certified firms. As amended by Public Law 99-272, approved April 7, 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 for developing or implementing an economic adjustment proposal. Since 1996, assistance has been administratively capped at 50 percent of the total cost. Grants may also be made to intermediate organizations to defray up to 100 percent of their administrative expenses in providing technical assistance.

Subject to appropriations, the Secretary of Commerce is also authorized to 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. This program was authorized during much of this time, however, the Commerce Department has not awarded funding since 1995.

FUNDING

TABLE 6-6—TAA FOR FIRMS AUTHORIZATIONS AND APRPOPRIATIONS
FISCAL YEARS 1999-2008

Year	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Authorizations (millions)	$10.0	10.0	10.0	10.0	16.0	16.0	16.0	16.0	16.0	*
Appropriations (millions)	$9.5	10.5	10.5	10.5	10.0	11.9	11.0	12.8	12.8	14.1

* Program authorization lapsed on December 31, 2007.
Source: Economic Development Administration, Department of Commerce.

Funds to cover all costs of the program are subject to annual appropriations from general revenues to the Economic Development Administration of the Department of Commerce. The Trade Act of 2002, Public Law 107-210, approved August 6, 2002, authorized $16 million annually for the TAA for Firms program for fiscal years 2002 through 2007. Congress has not passed new authorization legislation, leaving the program's continuance to annual appropriations. Table 6-6 provides the authorized and appropriated funding levels for fiscal years 1999 – 2008.

TRADE ADJUSTMENT ASSISTANCE PROGRAM FOR FARMERS

The Trade Act of 2002, Public Law 107-210, approved August 6, 2002, established a new Trade Adjustment Assistance for Farmers (TAAF) program administered by USDA. The program's objective is to provide assistance to agricultural producers that have experienced low prices caused in part by increased imports. Support is available in the form of cash payments and technical assistance.

Eligible producers of raw and natural agricultural commodities (crops, livestock, farm-raised aquatic products and seafood that competes with aquaculture

products) must follow a two-part process to qualify for cash benefits. First, a group of producers can petition the Secretary of Agriculture to be certified as eligible for TAA. Two thresholds must be met to be certified: (1) the petition must show that the national average price in the most recent marketing year for the affected commodity or class of goods from that commodity was less than 80 percent of the average price for the 5 marketing years preceding the most recent year; and (2) the petition must present evidence that imports of "articles like or directly competitive" with the affected commodity "contributed importantly" to the price decline. The Secretary has 40 days to make a determination. If a group is certified as eligible for TAAF cash benefits, it may apply in the following year for recertification and again show that it continues to meet the two statutory thresholds.

Second, if the Secretary certifies that a group is eligible for assistance, each producer in the group has 90 days to apply for a cash payment equal to: one-half of the difference between the most recent year's national average price for the affected agricultural commodity and 80 percent of the national average price for the affected agricultural commodity for the preceding 5 marketing years, multiplied by his or her production for the most recent marketing year. A producer's benefits under the program are limited to $10,000 in any 12-month period. All claims are decreased proportionately, if necessary, to ensure that the annual cost of the program does not exceed $90 million. The 2002 Act authorized and appropriated funding for fiscal years 2003 through 2007. An extension, Public Law 110-89, approved September 28, 2007, authorized and appropriated $9 million for the first quarter of fiscal year 2008. USDA did not issue new payments under the extension (the appropriated funds were not requested by USDA). TAAF program authority expired on December 31, 2007 and any unused funds were rescinded.

Activity under the TAAF has been lower than authorized funding levels because of low producer participation and low payments, according to a 2006 review by the Government Accountability Office. Program spending totaled $44 million during the 4 year period that USDA received petitions. Of the 72 petitions filed by producer groups for assistance, USDA certified or approved 30 groups as eligible for assistance. Shrimp and salmon producers account for most of the cash benefits paid out. Producers of Concord grapes, lychees, olives, wild blueberries, fresh potatoes, Florida avocadoes, snapdragons and catfish were among others that USDA certified as eligible for assistance. About 8,400 producers are assumed to have qualified for cash payments (see table 6-7).

Table 6-7--ACTIVITY UNDER THE TRADE ADJUSTMENT ASSISTANCE FOR FARMERS PROGRAM, FISCAL YEARS 2002 - 2006

Fiscal Year	Spending (millions)	Petitions Filed	Petitions Certified	Number of Applicants Covered by Approved Petitions
2003	$2	0	NA	NA
2004	16	25	12	4,512
2005	21	20	14	3,686

2006	4	19	4	208
2007	1	8	0	NA

NA - not applicable.
Source: U.S. Department of Agriculture, Foreign Agricultural Service and U.S. International Trade Commission, recent year issues of The Year in Trade.

To receive a cash payment, an applicant's net farm income (as determined by 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. However, an applicant with an average adjusted non-farm gross income of more than $500,000 and an average adjusted farm income of more than $750,000 is ineligible. Also, an applicant 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 how to become more competitive in producing and marketing the import-affected commodity, or considering 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, Public Law 87-794, approved October 11, 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, approved January 3, 1975. The Omnibus Budget Reconciliation Act (OBRA) of 1981, Public Law 97-35, approved August 13, 1981, amended the program for workers. To sharply restrict access to the program and to cut program benefits, OBRA included the following changes to the TAA for Workers program: (1) to be certified, workers now had to show that imports were "substantial cause" of layoffs (which was defined as not only important, but "not less than any other cause"); previously, a "contributed importantly" standard applied; (2) it prohibited the concurrent receipt of employment and TRA benefits; and (3) required increased efforts to look for work. OBRA, Public Law 97-35, approved August 13, 1981, also made relatively minor modifications in the TAA for Firms 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. TAA enrollment declined dramatically after the OBRA amendments went into effect.[1]

[1] In 1980, an estimated 598,000 workers were certified under the TAA program. In 1981, an estimated 35,000 workers were certified and in 1982, an estimated 23,000 workers were certified. Department of Labor, Employment and Training Administration.

Public Law 98-120, approved October 12, 1983, extended the TAA for Workers and TAA for Firms programs for 2 years, until September 30, 1985. Public Law 98-120, approved October 12, 1983, also changed the criteria for certification of workers back to "contributed importantly" from the requirement that imports be a "substantial cause" of layoffs. Sections 2671-2673 of the Deficit Reduction Act of 1984, Public Law 98-369, approved July 18, 1984, included 3 provisions that amended the TAA for Workers program to increase the availability of worker training allowances and the level of job search and relocation benefits, and amended the TAA for Firms program to increase the availability of industry-wide 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 from September 30, 1985 to December 19, 1985 (Public Law 99-107, approved September 30, 1985; Public Law 99-155, approved November 14, 1985; Public Law 99-181, approved December 13, 1985; and Public Law 99-189, December 18, 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 the Omnibus Trade and Competitiveness Act (OTCA), Public Law 100-418, approved August 23, 1988, made significant amendments in the Worker TAA Program, particularly concerning the eligibility criteria for cash benefits, funding and administration. In addition, OTCA instituted a training requirement as a condition for income support to encourage and enable workers to obtain early reemployment; this provision became effective as of November 21, 1988. The requirement replaced a 1986 amendment that instituted a job search requirement as a condition for receiving cash benefits. Among the other changes to the TAA for Workers program included in OTCA were (1) an extension of TAA eligibility to some adversely affected secondary workers, (2) an extension of TRA benefits from 52 week to 78 weeks and (3) the creation of a wage insurance program. Public Law 100-418, approved August 23, 1988, 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 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, approved July 3, 1992, 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 the Omnibus Budget Reconciliation Act, 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 also reduced the level of the "cap" on training entitlement funding from $80 million to $70 million for fiscal year

1997 only.

Sections 501-506 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, Public Law 93-618, approved January 3, 1975. 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. 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, Public Law 107-210, approved August 6, 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, were eligible for services under the NAFTA-TAA program. Funds were made available to cover NAFTA-TAA-certified workers until their eligibility period ran out. No funds have been appropriated for NAFTA-TAA since fiscal year 2004.

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, approved 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, approved November 29, 1999. At the beginning of fiscal year 2002, eight continuing resolutions kept the programs funded 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, approved August 6, 2002, which became law on August 6, 2002, and authorized the TAA programs through fiscal year 2007. The Trade Act of 2002also created the Health Coverage Tax Credit. The Trade Act of 2002 also created the Alternative Trade Adjustment Assistance for Older Workers program, which was effective for petitions filed on or after August 6, 2003. Finally, the Trade Act of 2002 added sections 291-298 of the Trade Act of 1974 to create the TAA for Farmers program.

The Consolidated Appropriations Act, 2008, Public Law 110-161, fully funded the TAA for Workers and ATAA programs for fiscal year 2008. DOL considered the appropriations language sufficient to continue the operation of the TAA for Workers and ATAA programs throughout fiscal year 2008, including issuing new certifications for eligibility, although their authorization had expired on December 31, 2007. See Training and Guidance Letter No. 15-07, December 27, 2007 (Department of Labor, Employment and Training Administration). The Consolidated Appropriations Act, 2008 also prohibited any of the funds made available from being used to finalize or implement any proposed regulation related to TAA for Workers until the program is reauthorized. The Consolidated Security, Disaster Assistance and Continuing Appropriations Act, 2009, Public Law 110-329,

approved Sept. 30, 2008, fully funded the TAA for Workers and ATAA programs until enactment of the applicable regular appropriations bill or until March 6, 2009, whichever occurs first. The prohibition on the finalization or implementation of TAA for Workers regulations until the program is reauthorized remains in place. The authorization for the TAA for Firms and TAA for Farmers Programs expired on December 31, 2007. EDA continues to certify firms under the TAA for Firms program based on the enactment of appropriations. USDA is not issuing certifications under the TAA for Farmers program.