



# Trade Adjustment Assistance (TAA) and Its Role in U.S. Trade Policy

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## Summary

Congress created Trade Adjustment Assistance (TAA) in the Trade Expansion Act of 1962 to help workers and firms adjust to economic dislocation caused by trade liberalization. Although most economists agree that there are substantial national gains from trade, supporters of TAA argue that the government has an obligation to help those hurt by policy-driven trade opening. In addition, as an alternative to policies that might otherwise restrict imports, it can provide assistance, while supporting freer trade. Often controversial, it is still strongly debated some 50 years later on equity, efficiency, and budgetary grounds. Despite disagreement, TAA still appears to be important for forging a compromise on national trade policy.

Nonetheless, the legislative fortunes of TAA have ebbed and flowed. When TAA remained a cornerstone of major trade legislation as it was in 1962, 1974, and 2002, it received long reauthorizations and increased programmatic and funding support from Congress. When isolated from its main policy rationale, as was the case at times during the budget-cutting 1980s, TAA sometimes struggled to achieve short-term extensions and maintain funding levels when faced with strong political opposition. TAA was most recently expanded in the American Recovery and Reinvestment Act (ARRA) of 2009, although the higher funding levels and program enhancements expired in February 2011, leaving TAA programs to operate at pre-ARRA levels until 2012, when all TAA program authorizations are scheduled to expire.

The 112<sup>th</sup> Congress is considering legislative action to extend TAA. Congressional views of TAA reauthorization range from repeal to support for the higher ARRA program and funding levels. Supporters see TAA as vital to addressing the costs of freer trade; opponents view it as costly and ineffective. This issue has become part of the debate on passage of implementing legislation for the proposed FTAs with Colombia, Panama, and South Korea. As Congress seeks to resolve this debate, two issues dominate the discussion: (1) reauthorization of TAA programs; and (2) procedural issues on how to enact TAA legislation.

At present, a bipartisan compromise is being considered on TAA that would allow for extension through December 31, 2013, of many, but not all, of the enhanced programs and funding levels contained in the ARRA. The language incorporated in the KORUS FTA draft implementing bill provides a preliminary view of this compromise. Procedural issues are still under discussion. As a first cut, the two houses of Congress debated whether to attach TAA to the KORUS FTA draft implementing bill. The Senate Finance Committee completed a “mock markup” of the KORUS FTA draft implementing bill on July 7, 2011, that included TAA. The House, in a simultaneous mock markup, approved a draft bill without it.

Including TAA as part of a trade agreement implementing bill has presented two issues. First, rules governing the treatment of FTA implementing bills under TPA require that they contain only provisions changing laws or providing new statutory authority that are “necessary or appropriate” to implementing the agreement, raising the question for some as to whether TAA provisions meet this standard. Ultimately, the language is subject to congressional interpretation. Second, because TAA and the three FTAs are controversial issues, Members also have differing viewpoints on each of the four possible bills. Many, therefore, would like the chance to vote separately on each of them. Congress is now considering the possibility of taking up TAA in a separate bill. This option has presented a sequencing issue, with congressional leaders still debating the order in which the various bills might be taken up to ensure that all are considered simultaneously. A final determination has not been announced.

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## **Introduction**

A “national trade policy” promoting trade liberalization emerged after a period of protectionism with passage of the Reciprocal Trade Agreements Act (RTAA) of 1934. It continues to be the dominant, but hardly uncontested, trade position of the United States. The substantial and widely recognized national gains to trade have long been recognized, yet trade liberalizing legislation often faces strong political opposition because related costs, although much smaller, affect a vocal and concentrated constituency. Congress first addressed this inherent tension with legislation that allowed for the re-imposition of tariffs and other trade barriers when domestic industries were threatened or hurt by imports. In 1962, however, Congress adopted an additional approach by providing trade adjustment assistance (TAA) directly to trade-affected firms and workers. It remains a controversial pillar of U.S. trade policy today.

The 112<sup>th</sup> Congress is considering reauthorization of TAA and two issues dominate the discussion. First, Members disagree on reauthorization of TAA programs. Second, procedural issues over how to move the TAA and FTA implementing bills are still under discussion, including whether to consider TAA as part of an implementing bill for the U.S.-South Korea Free Trade Agreement (KORUS FTA), or in separate legislation.

This report discusses the role of TAA in U.S. trade policy, from its inception as a legislative option in the early 1950s, to its core role as an alternative to import relief that many argue has served to promote the long-term U.S. trade liberalization agenda. It will also consider the extent to which TAA has been linked to both renewal of trade agreements authority,<sup>1</sup> and passage of trade agreement implementing legislation. TAA has become an integral part of an increasingly complex U.S. trade policy. Understanding the origins of TAA, the historical congressional debate, and legislative options taken by Congress over the past 50 years may help inform the debate over TAA in the 112<sup>th</sup> Congress.

## **TAA Programs and Rationale**

TAA began with two programs covering workers (retraining, relocation allowances, extended unemployment benefits) and firms (loans, loan guarantees, technical assistance, tax benefits). Congress added a communities program (loans and grants) in 1974, which was subsequently terminated in 1982, and a farmers program (technical assistance and cash benefits) in 2000. Congress authorized another communities program in 2009. All TAA programs are usually reauthorized at one time. This report does not address details of the four programs, which are available in other CRS reports. Rather, it takes a holistic policy approach to the issue of assistance for adjusting to import penetration, with occasional reference to the large workers and much smaller firms programs, which have formed the core of TAA since its inception in 1962.

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<sup>1</sup> Trade agreements authority refers to the authority Congress conveys to the President to enter into reciprocal trade agreements. It began in 1934, and as the negotiation process became more complex, so too did this statutory authority. The complexity may be seen in the fast track rules created in the Trade Act of 1974, and further modifications made in subsequent trade bills, including the Trade Act of 2002, which provides for what is now referred to as trade promotion authority (TPA). For details, see CRS Report RL33743, *Trade Promotion Authority (TPA) and the Role of Congress in Trade Policy*, by J. F. Hornbeck and William H. Cooper.

Nearly eight decades after passage of the RTAA, the pending FTAs and President Obama's National Export Initiative stand as current reminders of the importance that the United States places on trade expansion, particularly of exports. The pursuit of export growth, however, generally cannot be done without conceding to a reciprocal increase in imports, and the tradeoff does not affect stakeholders equally. While freer trade can benefit exporters, consumers, and the economy as a whole, it can place hardship on some import-competing industries facing increased competition.<sup>2</sup> This is the cost of economic adjustment, and supporters of TAA argue that workers (especially the permanently displaced) and firms hurt by imports increased in part by changes in trade policy have more severe adjustment problems than others affected by different types of economic dislocation. From this reasoning, it is argued that they deserve their own category of assistance, rather than rely on broader programs designed to address all types of economic dislocation.<sup>3</sup>

The issues raised by this policy were identified early on in the postwar economic policy debate. Justification rested on arguments for (1) economic efficiency, by speeding the adjustment process and returning idle resources to work more quickly; (2) equity, by compensating for lost income while spreading the cost of freer trade to society as a whole; and (3) political pragmatism, by defusing opposition to trade liberalizing legislation. Additionally, the costs of trade liberalization were at first managed through temporary protection (e.g., escape clause and peril point provisions—see next section) to maintain a coalition in favor of free trade. TAA was viewed as a more constructive alternative. It would provide for positive adjustment rather than negative reaction to tariff reduction, with expectations that costs would be temporary for an adjustment period, and much less than those of more protectionist measures.<sup>4</sup>

The logic of these claims was challenged in the past, as it is today. Opponents argued that economic efficiency was far from guaranteed given that subsidies can operate to reduce worker and firm incentives to relocate, take lower-paying jobs, or in other ways seek a solution to being idled. Equity issues arose because many economic groups hurt by changing economic circumstances caused by other than trade policies were not afforded similar economic assistance. A frequently cited alternative argues that if society has a responsibility to help all those dislocated by economic change, then policies should not be narrowly restricted to trade-related or other categories of harm.<sup>5</sup>

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<sup>2</sup> For a brief but comprehensive summary, see J. David Richardson, "Uneven Gains and Unbalanced Burdens? Three Decades of American Globalization," in *The United States and the World Economy*, ed. C. Fred Bergsten (Washington, DC: Institute for International Economics, 2005), pp. 111-118.

<sup>3</sup> An early assessment may be found in Clair Wilcox, "Victims of Tariff Cuts," *The American Economic Review*, vol. 40, no. 5 (December 1950), pp. 884-889. See also C. Michael Aho and Thomas O. Bayard, "Costs and Benefits of Trade Adjustment Assistance," in *The Structure and Evolution of Recent U.S. Trade Policy*, ed. Robert E. Baldwin and Anne O. Krueger (Chicago: University of Chicago Press, 1984), pp. 154-155 and J. David Richardson, "Comment," in *The Structure and Evolution of Recent U.S. Trade Policy*, pp. 192-193, and more recently, I. M. Destler, *American Trade Politics*, 4<sup>th</sup> ed. (Washington, DC: Institute for International Economics, 2005), p. 327.

<sup>4</sup> For early renditions of TAA justification, see Richard A. Givens, "The Search for an Alternative to Protection," *Fordham Law Review*, vol. 30, no. 1 (January 1, 1961), p. 20, William Diebold, Jr., *The United States and the Industrial World: American Foreign Economic Policy in the 1970s* (New York: Praeger Publishers, 1984), p. 150 and 153, and J. David Richardson, "Comment," pp. 192-193.

<sup>5</sup> Katherine Baicker and M. Marit ReHAVI, "Policy Watch: Trade Adjustment Assistance," *Journal of Economic Perspectives*, vol. 18, no. 2 (Spring 2004), pp. 251-252, Wilcox, *Victims of Tariff Cuts*, p. 889, Matthew J. Slaughter and Robert Z. Lawrence, "More Trade and More Aid," *The New York Times*, June 10, 2011, and George F. Will, "Obama and Free Trade: Appease Big Labor," *The Washington Post*, June 8, 2011.

Administrative hurdles and costs were also considered high. Economists, among others, pointed to the methodological difficulties in defining and measuring injury from tariff reduction, arguing that solutions would be inexact, if not arbitrary.<sup>6</sup> Previous studies suggest that many firms, even smaller ones, could adjust on their own, and that workers could just as well rely on more broadly available unemployment and retraining programs. In addition, over time, the costs of TAA would rise, diluting political support.<sup>7</sup>

Perhaps the strongest case for TAA is its potential political effect, despite being difficult to estimate precisely. Nonetheless, even many of the most ardent skeptics of TAA are reluctant to dismiss the likelihood that it may have helped garner support for important trade agreements going back to the General Agreement on Tariffs and Trade (GATT)<sup>8</sup> multilateral trade talks of the 1960s and 1970s. That support is often directly attributed to the TAA provisions provided in the Trade Expansion Act of 1962 and the Trade Act of 1974, which authorized the President to enter into important tariff-cutting agreements negotiated respectively in the GATT Kennedy and Tokyo Rounds.<sup>9</sup> It was also a quid pro quo for providing President Bush with TPA in 2002, the most recent granting of such authority (see the **Appendix** for a legislative chronology).

## Antecedents to TAA

TAA was a product of a time in which there was a major shift in U.S. domestic, trade, and foreign policies. The seeds were planted with the Reciprocal Trade Agreements Act (RTAA) of 1934, a response to the tariff-raising Smoot-Hawley Act of 1930. The shift from protectionism toward trade opening was rooted in a concern for domestic economic welfare, in recognition that inhibiting imports could have resulted in retaliation, possibly hurting U.S. producers, particularly at a time when the economy needed a lift out of the Great Depression. The RTAA provided time-limited authority to the President to enter into reciprocal tariff-reducing agreements, without the need for congressional approval afterward. It is the early precursor to the now-expired Trade Promotion Authority (TPA). The legislation was controversial, prompting resistance not only to the trade provisions, but to what some considered to be a concession to the President of traditional congressional authority over tariffs.<sup>10</sup>

Within a few years, increased trade openness took on a stronger foreign policy rationale. By 1940, President Franklin D. Roosevelt's State of the Union address had elevated U.S. trade policy to an "indispensible part of the foundations for any stable and durable world peace,"<sup>11</sup> even as the

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<sup>6</sup> Wilcox, *Victims of Tariff Cuts*, p. 8845-889, C. Michael Aho and Thomas O. Bayard, "Costs and Benefits of Trade Adjustment Assistance," pp. 153-155, 168-169, and 177, and George F. Will, "Obama and Free Trade, Appease Big Labor," *The Washington Post*, June 8, 2011.

<sup>7</sup> TAA costs rose dramatically with the automobile retrenchment in the early 1980s, providing the Reagan Administration with ample room to reduce funding significantly. Aho and Bayard, "Costs and Benefits of Trade Adjustment Assistance," pp. 184-185. It is also an issue for the 112<sup>th</sup> Congress.

<sup>8</sup> GATT was the precursor to the World Trade Organization (WTO).

<sup>9</sup> Destler, *American Trade Politics*, pp. 296-298 and Congressional Quarterly, *CQ Almanac 1998*, pp. 18-3-18-9.

<sup>10</sup> Douglas A. Irwin, "From Smoot-Hawley to Reciprocal Trade Agreements: Changing the Course of U.S. Trade Policy in the 1930s," in *The Defining Moment: the Great Depression and the American Economy in the Twentieth Century*, ed. Michael D Bordo, Claudia Goldin, and Eugene N. White (Chicago: University of Chicago Press, 1998), pp. 340-346.

<sup>11</sup> Robert E. Baldwin, *U.S. Trade Policy Since 1934: An Uneven Path Toward Greater Trade Liberalization*, National Bureau of Economic Research, Working Paper 15397, Cambridge, October 2009, p. 2.

approaching world war was about to devastate international commerce. As a result, trade re-emerged as a key ingredient of a foreign economic policy geared toward rebuilding the post-war economic system in support of international stability, and particularly as a counterweight to encroaching Soviet communism. This stance took on even greater importance as the United States became the undisputed leader of the “free world” during the Cold War.<sup>12</sup>

Yet, trade liberalization was contentious because a foreign economic policy of cooperation based on minimizing international tension ran headlong into concerns over protecting domestic industry from imports. As much as congressional testimony in the 1940s tilted toward protectionism, public opinion appeared to be more indifferent for two reasons. First, U.S. imports in a war-torn world were not large enough to be a serious threat to U.S. jobs and production. Second, trade was viewed as a key element of the Cold War strategy. The lack of public reaction to liberalizing commerce made it easier for the United States to make the transition to multilateral trade negotiations (MTNs) under the newly created GATT.<sup>13</sup>

Despite the foreign policy imperative of trade with other nations, the success of the trade agreements program would again inspire responses to harmful imports. Two policies dominated: the escape clause, first instituted by executive order under President Truman and later established in legislation; and the peril point provision.<sup>14</sup> The escape clause allowed for the temporary re-imposition of tariffs when fairly priced imports were proven or threatened to harm domestic industry. The peril point provision required the United States Tariff Commission (USTC) to evaluate the effects of tariff reductions, and determine a point at which tariffs might be reduced without doing harm to domestic producers.<sup>15</sup>

Although President Eisenhower would continue to receive renewed trade agreements authority that allowed him to pursue tariff-reducing agreements, domestic pressure resulted in shorter extensions and more limited tariff cuts. Trade as foreign economic policy again found itself in tension with a domestic policy aimed at securing and maintaining the economic welfare of U.S. citizens at home. This policy tension opened the door to the earliest legislative vestiges of TAA in the early 1950s. While it would take more than a decade to become law, TAA legislation would eventually serve, at least in part, to reconcile sometimes competing foreign and domestic economic policy priorities.

## **The Randall Commission**

At the end of the Truman Administration, the Public Advisory Board for Mutual Security (the Bell Committee) made first mention of assistance to firms and workers facing increased competition from imports.<sup>16</sup> Although little came from this proposal at the close of the Truman

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<sup>12</sup> As quoted in, Robert E. Baldwin, *U.S. Trade Policy since 1934: An Uneven Path Toward Greater Trade Liberalization*, p. 2. In fact, President Eisenhower would later write that trade expansion meant expansion in the “free world,” as a response to the Soviet Bloc. Dwight D. Eisenhower, “Document #908; To John Foster Dulles,” *Department of State Bulletin*, vol. 30, no. 763 (February 8, 1954), p. 187.

<sup>13</sup> Robert A. Pastor, *Congress and the Politics of U.S. Foreign Economic Policy* (Berkeley: University of California Press, 1980), pp. 94-95; Diebold, *The United States and the Industrial World*, p. 151, and Destler, *American Trade Politics*, p. 7, 12-13.

<sup>14</sup> Pastor, *Congress and the Politics of U.S. Foreign Economic Policy*, p. 100

<sup>15</sup> Baldwin, *op. cit.*, pp. 5-7 and Irwin, *op. cit.*, pp 347-349.

<sup>16</sup> Diebold, *The United States and the Industrial World*, p. 152.

presidency, a year later TAA hit the spotlight in the report prepared by the 1953 Commission on Foreign Economic Policy, created by Congress as part of a one-year extension of the trade agreements authority legislation. Known as the Randall Commission, its appointed task was to recommend a long-term strategy for U.S. foreign economic policy. In addition to recommending a three-year extension of the Trade Agreements Act, it evaluated a proposal for “government assistance to communities, employers, and workers.” The report found TAA noteworthy in theory, but criticized and ultimately rejected it as too narrow an approach to economic dislocation by limiting assistance to groups affected only by lower import tariffs.<sup>17</sup>

The proposal, drafted by commissioner David J. McDonald, President of the United Steel Workers, expressed concern that “unemployment caused by government action, as in the lowering of tariffs, should be of particular concern to the government,” particularly in times of economic slowdown.<sup>18</sup> The plan called for temporary assistance to communities, companies, and workers threatened by imports, to be given in the form of technical and financial assistance. This approach would presumably encourage import-affected industries to diversify their output, and encourage communities to explore ways to expand employment opportunities with additional financing for privately supported industrial development corporations.<sup>19</sup>

In a formal critique of the Randall Commission report, a group of noted economists acknowledged the historical precedent for government assistance in cases of policy-induced economic change, but reiterated a preference for responses that addressed the larger problem of economic dislocation rather than just the tariff issue. They also raised a number of pragmatic questions related to operating TAA programs.<sup>20</sup> Two important legislative initiatives emerged from this effort. First, a report evaluating TAA was called for in legislation extending trade agreements authority to the President. Second, the following year, the first of a series of TAA bills would be introduced in the 83<sup>rd</sup> Congress.

## **Early TAA Legislation**

Senator John F. Kennedy, who would eventually see TAA put into practice during his presidency, was an avid supporter of assistance to those affected by trade. He introduced in the 83<sup>rd</sup> Congress the Trade Adjustment Act of 1954 (S. 3650), which acknowledged the importance of international trade, but also the potential for localized adjustment problems, even when trade benefited the nation as a whole. Congress did not act on the bill, and an identical version was introduced in the 84<sup>th</sup> Congress by Senator Hubert Humphrey. Originally introduced as a stand alone bill, it was offered as an amendment to H.R. 1, the bill extending trade agreements authority to the President, linking TAA to the authority of the President to enter into reciprocal trade agreements.<sup>21</sup>

The Kennedy/Humphrey bills, among others, proposed that where a reduction in tariffs on competing articles “have been found either to threaten or to have caused serious injury to a

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<sup>17</sup> U.S. Congress, House, *Report to the President and the Congress*, Commission of Foreign Economic Policy, prepared by Chairman Clarence B. Randall, 83<sup>rd</sup> Cong., 2<sup>nd</sup> sess., January 23, 1954, H. Doc. 290 (Washington: GPO, 1954), p. 54.

<sup>18</sup> *Ibid.*, p. 55.

<sup>19</sup> *Ibid.*

<sup>20</sup> Klaus Knorr and Gardner Patterson, *A Critique of the Randall Commission Report* (Princeton: Princeton University Press, 1954), pp. 29-33.

<sup>21</sup> Other bills would be introduced in the 86<sup>th</sup> Congress before becoming law in the 87<sup>th</sup> Congress.



domestic industry,” that a board consider application for assistance from firms, communities, industrial development corporations, employees, or organizations representing employees. Aid would be limited to a period of adjustment and was not to be considered a permanent subsidy. The goal was to respond to negative effects of a liberal trade policy without resorting to protectionist policies.<sup>22</sup> As would be the fate of future TAA bills in the 1950s, Congress took no action, but TAA became increasingly solidified as part of the U.S. trade policy debate.

Both the Democratic and Republican platforms of the 1960 election placed foreign economic relations at the center of their agendas. The Democratic platform included a specific appeal for TAA as part of an expanded trade policy. The Republican platform, by contrast, had no such proposal, giving added weight to the escape clause and peril point provision.<sup>23</sup> By 1961, the GATT Dillon Round was concluded and it was revealed that the United States had cut the tariffs of 61 items below their peril point.<sup>24</sup> This development marked a departure from earlier more cautious policies which, coupled with high U.S. unemployment, created an environment conducive to assisting trade-affected constituents.<sup>25</sup>

## Trade Expansion Act of 1962

The global market expanded briskly following World War II, and the growing importance of the then-European Economic Community (EEC) nudged U.S. policy further toward trade liberalization. Forming a trade pact with one of the most important markets in the world was not only considered an economic imperative, but central to achieving lasting world peace by defusing tension over protectionist policies. The United States also faced balance of payments pressures, modest unemployment, and the growing Communist threat, so trade policy had become an essential ingredient of foreign economic policy. In this light, many considered the Trade Expansion Act of 1962 to be the most important legislative initiative of the 87<sup>th</sup> Congress.<sup>26</sup>

The 1962 Trade Act not only gave the President unprecedented “tariff-cutting authority,” particularly with respect to a critical trade partner, but added a whole new approach to dealing with domestic resistance to trade liberalization—trade adjustment assistance. TAA stood in contrast to the escape clause and peril point (the latter dropped in the 1962 Act). These options were well honed in the 1950s, despite pressure by the Executive Branch to limit their use. TAA was also a different and more highly targeted approach than the escape clause, focusing on specific firms and workers rather than an entire industry. TAA was offered in the form of increased and extended unemployment benefits, retraining and relocation allowances, loans and technical assistance for firms, and special tax deductions.<sup>27</sup>

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<sup>22</sup> S. 3650, The Trade Adjustment Act of 1954, and Sen. Humphrey, “Extension of the Trade Agreements Act-Amendments,” Senate bill introduction, *Congressional Record*, vol. 101, part 3 (March 30, 1955), pp. 3997-3998.

<sup>23</sup> John T. Woolley and Gerhard Peters, *The American Presidency Project*, Santa Barbara, CA. Available at <http://www.presidency.ucsb.edu/ws/?pid29602>.

<sup>24</sup> Congressional Quarterly. “The Trade Expansion Act: President Receives Unique Tariff-Cutting Rights and Adjustment Program After Carefully Planned Campaign,” *CQ Almanac 1962* p. 259.

<sup>25</sup> *Ibid.*, 261.

<sup>26</sup> *Ibid.*, p. 263-264.

<sup>27</sup> *Ibid.*, pp. 249, 255-256.

TAA shifted the trade debate by acknowledging more fully in legislation the costs of trade liberalization. It was also politically effective, generating support from labor constituencies without turning to more protectionist responses. It is notable that a relatively lengthy and broad “negotiating authority” was achieved in a bill that also included TAA for the first time. Despite passage with bipartisan support, it was, nonetheless, the most controversial aspect of the bill. The House mounted stiff resistance to TAA from Republicans and some conservative Democrats, who objected to special treatment for tariff-affected workers and firms, and who sought a separate vote on TAA. Despite this effort, the bill was debated under a closed rule, prohibiting amendments, and passed with bipartisan support, despite a majority of Republicans voting against it. The Senate rejected attempts to delete or modify the TAA provisions, and proceeded to pass the bill with broad support and only minor amendments.<sup>28</sup>

The 1962 Trade Act also changed the nature of trade legislation. In recognizing the need to address domestic concerns as part of trade liberalization, Congress and President Kennedy incorporated TAA into broader trade policy. Previously, Congress concerned itself with (1) conveying a specific trade agreements authority to the President, which in turn (2) would lead to new trade agreements, without the need for further congressional action. After 1962, it would become difficult to consider new trade agreements authority without taking up TAA, and it became increasingly likely that prospects for congressional support for new trade agreements would also hinge on such an accommodation.

## **The Failure of TAA: 1963-1974**

TAA initially achieved one goal: greater support from labor groups for trade liberalization. By 1971, as the U.S. balance of trade turned to deficit for the first time since 1888, and perceptions of lost income and jobs to foreign competition grew, this support eroded. The failure of TAA to provide significant relief from imports in its first decade of operation added to labor’s concerns. From 1963 until 1969, none of the 6 worker or 12 industry-wide petitions for TAA led to assistance. The eligibility criteria were tough to meet, requiring demonstration that the imported article was increasing, that the increase “was caused in major part” by the tariff reduction, and that the increase was the “major cause” of injury to the firm or worker. The multistep process also took months to complete and was costly for the applicants.<sup>29</sup>

In hindsight, the inability to demonstrate injury and the laborious administrative procedures combined with strict U.S. Tariff Commission (USTC) rulings led to a deepening dissatisfaction with TAA.<sup>30</sup> Although USTC adjudication would become more relaxed in the early 1970s, and the number of affirmative rulings would rise, they were still only a fraction of total petitions, and the political tide had already turned on TAA.<sup>31</sup> Pressure mounted to address programmatic

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<sup>28</sup> Ibid., p. 277.

<sup>29</sup> Charles R. Frank, Jr., *Foreign Trade and Domestic Aid* (Washington, DC: The Brookings Institution, 1977), pp. 4-5 and 40-47. Other administrative relief from imports such as the escape clause and anti-dumping rules also proved to be difficult to obtain.

<sup>30</sup> Another criticism argued that the lack of positive TAA rulings only encouraged the practice of trade-affected parties seeking relief through political contacts in both the legislative and executive branches. Gary Clyde Hufbauer and Howard F. Rosen, *Trade Policy for Troubled Industries* (Washington, DC: Institute for International Economics, 1986), p. 35.

<sup>31</sup> Dominic Sorrentino, “Trade Adjustment Assistance to Workers Displaced by Imports, Fiscal 1963-73,” U.S. Department of Labor, *Monthly Labor Review*, Washington, DC, January 1974, pp. 63-65.

deficiencies, but by 1972 organized labor formally rejected the program for the time being. In hearings before the House Subcommittee on Foreign Economic Policy of the House Committee on Foreign Affairs, leaders of the AFL-CIO came out against the program, as well as trade liberalization in general. The sentiment is reiterated by one trade expert: “So in the first 30 postwar years, import-affected industries that played the trade policy games by the legal rules generally lost out” and pressure mounted for Congress to intervene directly for constituents, an option that the trade remedy rules “were intended to avoid.”<sup>32</sup>

Critics called for major adjustments to the TAA eligibility criteria and administrative procedures, but the Nixon Administration offered a trade bill that actually diminished TAA. As the bill wound its way through Congress, however, both the House and the Senate not only restored all TAA benefits, but also added to them and made changes that would help make it easier to implement the programs. This was accomplished in one of the most far-reaching trade bills in U.S. history, the Trade Act of 1974.<sup>33</sup>

## **Trade Act of 1974**

Unlike in 1962, TAA was not the most controversial trade issue in 1974, although Congress still paid it considerable attention. Despite intentions to the contrary, TAA had so far done little to encourage retraining or relocation of workers, and few firms capable of recovery received meaningful assistance. Providing additional unemployment insurance was its most noted accomplishment, and not one deemed by some as particularly effective in addressing injury from imports. Although numerous bills were introduced that would address many of TAA’s perceived weaknesses, Congress passed none of them until TAA was once again united with the major 1974 trade bill providing for renewal of trade agreements authority. Originally crafted by the Nixon Administration, the draft trade bill acknowledged the deficiencies of the TAA program, and effectively gutted it. Congress, however, decided to re-tool rather than terminate the program.<sup>34</sup>

Among the major changes, the eligibility criteria were made less stringent so that imports no longer had to be the “major cause” of dislocation, meaning more important than all other causes combined. Congress replaced this test with criteria requiring demonstration that a significant number of workers had lost their jobs, that a firm’s sales had decreased, imports had increased, and that the imports “contributed importantly” to the declines. Determinations also were moved to the U.S. Department of Labor and the U.S. Department of Commerce for workers and firms, respectively, leaving escape clause determination to the newly named U.S. International Trade Commission (USITC). Requiring the two departments to act within 60 days versus six months for the USITC made TAA preferable to escape clause action.<sup>35</sup>

Other notable changes included adding a new program for communities, increasing worker and firm benefits, and providing special assistance for older displaced workers, or those who tend to make up a larger portion of plant closings, rather than layoffs.<sup>36</sup> Congress also included strong

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<sup>32</sup> I. M. Destler, *American Trade Politics*, p. 140.

<sup>33</sup> Charles R. Frank, Jr., *Foreign Trade and Domestic Aid*, p. 5.

<sup>34</sup> *Ibid.*, pp. 70-71 and Congressional Quarterly, “Congress Clears Trade Bill on Final Day,” *CQ Almanac 93<sup>rd</sup> Congress*, 1974, pp. 553-562, and Pastor, *Congress and the Politics of U.S. Foreign Economic Policy*, p. 143.

<sup>35</sup> *Ibid.*

<sup>36</sup> Plant closings do not discriminate among employees, and so capture older and more experienced workers who often (continued...)

language indicating its intent that the program be used as a meaningful form of relief from imports.<sup>37</sup> In the end, the Trade Act of 1974, known for its dramatic changes in how trade agreements would be considered under new expedited procedures, also provided a congressional imprint of support for TAA by carefully considering ways to enhance the program, and ensuring its prominence by linking it to the major trade bill providing renewed trade agreements authority to the President.

## **The Trade Agreements Act of 1979 and the 1980s**

In 1979, U.S. trade policy took a major step with ratification of the GATT Tokyo Round of multilateral trade negotiations. For TAA, however, it marked the beginning a long period of decline. Separate legislation to extend and expand the program passed the House, but failed to move through the Senate.<sup>38</sup> Although Congress eventually reauthorized the program, by the early 1980s, TAA had become a victim of its own growth, negative program evaluations, and changing political and economic priorities. The declining automobile industry proved to be one catalyzing factor in its demise. The slowing economy and increased Japanese imports led to large layoffs and related “explosion of TAA claims,” which at the time resulted in historically generous benefits. This combination multiplied TAA program costs, so that President Carter, generally a supporter, expressed concern over the budgetary impact. Although he agreed to a two-year extension, TAA could not escape the impending deep budget cutting of the incoming Reagan Administration.<sup>39</sup>

Congress extended TAA in the Omnibus Budget Reconciliation Act of 1981, but the act reduced benefits and eliminated \$2.6 billion from the budget. Detractors cited as cause, a General Accounting Office (GAO) report that challenged the program’s effectiveness to bring about adjustment rather than simply pay out additional benefits.<sup>40</sup> High unemployment provided a reason for Congress to support TAA, but Congress extended it only through fiscal year 1983, again with much diminished finances and tightened standards for eligibility, particularly for unemployment benefits. By 1983, the Reagan Administration openly sought to terminate the program (as did his successor President George H. W. Bush), which was spared in reduced form by a congressional extension through fiscal year 1985.<sup>41</sup>

After two very short extensions and a three-month lapse, TAA was finally extended for six years, through fiscal year 1991, as part of deficit-reduction legislation passed in 1986. Its programs were again trimmed with, for example, the elimination of all loans, loan guarantees, and other direct financial assistance to firms, providing only technical assistance, the basis of the firm program today. It received additional extensions first through fiscal year 1993 in the Omnibus Trade and Competitiveness Act (OTCA) of 1988, and second, through fiscal year 1998 in the budget

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(...continued)

make up much of the work force. Layoffs, by contrast, tend to affect younger workers disproportionately because layoffs are generally based on seniority.

<sup>37</sup> Charles R. Frank, Jr., *Foreign Trade and Domestic Aid*, pp. 63-67.

<sup>38</sup> Congressional Quarterly, Inc., “Trade Adjustment Assistance,” *CQ Almanac 1979*, pp. 327-328.

<sup>39</sup> *Ibid.*, and Destler, *American Trade Politics*, p. 150.

<sup>40</sup> Congressional Quarterly Inc., *Trade: U.S. Trade Policy Since 1945*, Washington, DC, 1984, pp. 23-69.

<sup>41</sup> Congressional Quarterly, Inc., “Trade Adjustment Aid Cut,” *CQ Almanac 1983*, pp. 251.

reconciliation bill of 1993 (see the **Appendix**).<sup>42</sup> The lengthy extensions appeared to be inversely proportional to the budgetary effort in the bills.

In short, beginning in the 1980s, TAA came under severe pressure. Evaluations criticized the program's effectiveness and rising costs, making it more difficult to support, even as a form of leverage to promote trade liberalization. TAA was also caught up in the deficit reduction negotiations, losing much of the clout it may have had years before, when it was part of finding compromise in broader trade and foreign policy debates. Two of its longest extensions were for much reduced program commitments, both done in budget rather than trade bills, where it was divorced from its primary policy rationale. But even within the trade policy debate, emphasis was shifting back toward import relief, as seen in the rise of special protection in the form of voluntary export restraints (VERs), and countervailing duty (CVD) and antidumping (AD) petitions. These became core negotiating objectives during future GATT rounds, temporarily relegating TAA to the back seat of trade policy.<sup>43</sup>

## **NAFTA and the Trade Act of 2002: TAA Expansion**

The major trade events of the 1990s, occurring relatively early in the decade, were passage of the North American Free Trade Agreement (NAFTA) and the GATT Uruguay Round. Negotiations to implement NAFTA were well underway during the 1992 presidential campaign and were highlighted in the debates. Newly elected President Clinton oversaw the implementation of NAFTA, but did so only after a number of conditions were attached, including TAA.<sup>44</sup> NAFTA reinvigorated TAA by producing a separate program (NAFTA-TAA) that applied to dislocation related to increased trade with Mexico and Canada. This limited case was the only time that TAA was directly linked to a specific FTA implementing bill, which Congress passed in December 1993. Four months earlier, Congress had already extended the general TAA programs for a five-year period as part of the omnibus budget reconciliation bill.<sup>45</sup>

In 1999, TAA was extended through 2001, at which point it lapsed until reauthorized for five years as part of the Trade Act of 2002. TAA played a major role again in the 2002 debate over the extension of trade agreements authority (renamed Trade Promotion Authority—TPA) to President Bush. President Bush and the Republicans pushed hard to renew the long-expired trade agreements authority. The Democrats were unwilling to provide such authority unless TAA was reauthorized. With the apparent need for a quid pro quo, the House Ways and Means Committee, under Republican leadership, offered a TAA bill first. The Senate Finance Committee drafted its own TAA bill, and agreement was tentatively struck to keep the votes separate on the two issues.<sup>46</sup>

After a lengthy and exhaustive legislative process, however, the final bill that would become the Trade Act of 2002 incorporated TAA, TPA, and a host of other trade issues. Despite some Republican opposition to the TAA language, revised and expanded TAA programs were

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<sup>42</sup> Congressional Quarterly Inc., "Trade Adjustment Aid," *CQ Almanac 1986*, p. 351.

<sup>43</sup> Destler, *American Trade Politics*, p. 128 and Hufbauer and Rosen, *Trade Policy for Troubled Industries*, pp. 36-39.

<sup>44</sup> John M. Rothgeb Jr., *U.S. Trade Policy: Balancing Economic Dreams and Political Realities* (Washington, DC: Congressional Quarterly Inc., 2001), p. 205.

<sup>45</sup> Congressional Quarterly Inc., *CQ Almanac 1993*, pp. 137-175.

<sup>46</sup> Congressional Quarterly, Inc., "Victory for Bush on Fast Track," *CQ Almanac 2002*, pp. 18-3 - 18-5.

reauthorized for five years. Among the key new features, the bill merged NAFTA-TAA with the general program, created government-subsidized health insurance (Health Care Tax Credit) for dislocated workers, altered eligibility criteria to include secondary or downstream workers affected by imports, and added a new program for farmers. The bill as a whole passed in a tense, close, but bipartisan vote.<sup>47</sup> At this juncture, TAA had once again worked its way into the center of the trade policy debate and trade-related legislation.

## **The American Recovery and Reinvestment Act (ARRA) of 2009 and TAA Revision**

In the intervening years since the Trade Act of 2002, some in Congress debated TAA reform with an eye on making it more responsive to the complex economic challenges brought about by “globalization.” In the 110<sup>th</sup> Congress, a bipartisan understanding was formulated that included expansion of eligibility and funding for all TAA programs. The House passed a version of TAA expansion in December 2007, but the Senate did not take up the bill and program authorizations expired on December 31, 2007. TAA apparently also failed to move because of a Senate attempt to link TAA to an implementing bill for the proposed U.S.-Colombia free trade agreement. The 110<sup>th</sup> Congress instead provided short-term funding through consolidated appropriation bills to keep the TAA programs running.<sup>48</sup>

In the 111<sup>th</sup> Congress, consideration of TAA reauthorization coincided with the U.S. economy falling into a deep recession following an unprecedented financial crisis. Congress responded with passage of the American Recovery and Reinvestment Act (ARRA) of 2009. This act became the legislative and budgetary vehicle to move TAA revisions that had been developed over the last few years. Despite continued disagreement on TAA expansion, Congress reauthorized it as part of the large ARRA bill. It extended the programs through December 31, 2010, and revamped them using a revised version of the framework developed in the 110<sup>th</sup> Congress. This framework included eligibility for service workers and firms, a new communities program, an increase in the Health Care Tax Credit for dislocated workers, and additional funding for all programs, among other changes.

As TAA programs were about to expire again at the close of 2010, Congress extended them through February 12, 2012, as part of the Omnibus Trade Act of 2011. Higher authorization levels and expanded provisions of the ARRA, however, were only extended through February 12, 2011. This outcome presented Congress with a controversy when the ARRA provisions expired. Supporters of the expanded TAA see the ARRA-passed reforms as long-sought permanent changes needed to modernize TAA for the 21<sup>st</sup> Century. TAA detractors view the lapsed expansion of TAA reforms under the ARRA as the appropriate outcome of a limited-life stimulus bill. TAA programs continue to operate at their pre-ARRA levels until early 2012, and legislation has been introduced in the 112<sup>th</sup> Congress that ranged from terminating TAA to reauthorizing it at the higher ARRA levels, reflecting these varied viewpoints.

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<sup>47</sup> Ibid., and U.S. Congress, House Committee on Ways and Means, Subcommittee on Trade, *Trade Act of 2002*, Conference Report to accompany H.R. 3009, 107<sup>th</sup> Cong., 2<sup>nd</sup> sess., July 26, 2002, H.Rept. 107-624 (Washington: GPO, 2002), pp. 14-25.

<sup>48</sup> Inside U.S. Trade, *Stimulus Package May Include TAA Reauthorization and Expansion*, January 9, 2009.

## Reauthorization in the 112<sup>th</sup> Congress

TAA program authorizations are set to expire in early 2012 and the 112<sup>th</sup> Congress is considering legislative action to extend them. This issue has become part of the debate on passage of implementing legislation for the proposed FTAs with Colombia, Panama, and South Korea. As Congress seeks to resolve this debate, two issues dominate the discussion: (1) reauthorization of TAA programs; and (2) procedural issues on how to move TAA legislation.

Congressional views of TAA reauthorization range from repeal to support for the higher ARRA program and funding commitments. Supporters see TAA as vital to addressing the costs of freer trade; opponents view it as costly and question its effectiveness. At present, a bipartisan compromise is being considered on TAA that would allow for extension through December 31, 2013, of many, but not all, of the enhanced programs and funding levels contained in the ARRA.<sup>49</sup> The language incorporated in the KORUS FTA implementing bill provides a preliminary view of this compromise.<sup>50</sup>

Procedural issues over how to move the TAA and FTA implementing bills are still under discussion. As a first cut, the two houses of Congress debated whether to attach TAA to the KORUS FTA draft implementing bill. The Senate Finance Committee completed a “mock markup” of the KORUS FTA draft implementing bill on July 7, 2011, that included TAA. The House Ways and Means Committee, in a simultaneous mock markup, approved a draft bill without it. Including TAA as part of a trade agreement implementing bill has proven problematic for at least two reasons.

First, rules governing the treatment of FTA implementing bills under TPA require that they contain only provisions changing laws or providing new statutory authority that are “necessary or appropriate” to implementing the agreement, raising the question for some as to whether TAA provisions meet this standard. Supporters note that the NAFTA implementing bill included TAA provisions. Detractors point out that it was a TAA program specific to NAFTA and not a reauthorization of the program in its entirety, which has never been done in an implementing bill. The “necessary or appropriate” language, however, is subject to congressional interpretation, and opinions differ as to whether the NAFTA-TAA example constitutes an exception or precedent for inclusion of TAA in an FTA implementing bill.<sup>51</sup>

Because TAA and the three FTAs are controversial issues, Members also have differing viewpoints on each of the four possible bills. Many, therefore, would like the chance to vote separately on each of them.<sup>52</sup> Congress is now considering the possibility of taking up TAA in a separate bill. This option has presented a sequencing problem, with congressional leaders still debating the order in which the various bills might be taken up to ensure that all are considered simultaneously.<sup>53</sup> A final determination has not been announced.

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<sup>49</sup> “Congressional Staff Close to Deal on How to Move FTAs, TAA,” *Inside U.S. Trade*, July 27, 2011.

<sup>50</sup> U.S. Congress, Senate Committee on Finance, *United States-South Korea Free Trade Agreement Implementation Act Statement of Administrative Action*, Draft, 112th Cong., 1st sess., June 28, 2011, pp. 32, 36-39.

<sup>51</sup> “Finance Approves FTAs, TAA at Mock Markup, Rejects All Amendments,” *Inside U.S. Trade*, July 8, 2011. The customs reauthorization language in the NAFTA bill is also cited, but arguments on either side can be heavily nuanced.

<sup>52</sup> “Some Progress on FTAs,” *Washington Trade Daily*, July 14, 2011.

<sup>53</sup> “Congressional Staff Close to Deal on How to Move FTAs, TAA,” *Inside U.S. Trade*, July 27, 2011.

## Outlook

Congress created TAA in 1962 to help workers and firms adjust to dislocation that may be caused by increased trade liberalization. It is justified now, as it was then, on grounds that the government has an obligation to help the “losers” of policy-driven trade liberalization. In addition, TAA is presented as an alternative to policies that would restrict imports, and so provides assistance while bolstering freer trade and diminishing prospects for potentially costly tension (retaliation) among trade partners. As in the past, it is still strongly debated on equity, efficiency, and budgetary grounds. Despite disagreement, TAA still appears to serve what is now a historically pragmatic legislative function: it remains important for forging a compromise on national trade policy.

Nonetheless, the legislative fortunes of TAA have ebbed and flowed. When TAA remained a cornerstone of major trade legislation as it was in 1962, 1974, and 2002, it received long reauthorizations and increased programmatic funding support from Congress. When isolated from its main policy rationale, as was the case at times during the budget-cutting 1980s, TAA struggled sometimes to achieve even short-term extensions and maintain funding levels when faced with political opposition.

TAA is again at the center of the U.S. national trade policy debate. Historically, TAA has been reauthorized separately from trade agreement implementing bills, in part because it had already been accomplished by the time such a bill was presented to Congress, but also because when TAA was addressed in a trade bill, it tended to be one focused on broader trade policy. On occasion, attempts have been made to include TAA provisions as amendments to draft implementing bills during “mock markups,” but generally they have not been reported out of committee. In 2005, TAA amendments were offered in the Senate to a draft implementing bill for the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR), but it was not included by the Bush Administration’s final bill sent to Congress. The TAA programs, however, had already been reauthorized through fiscal year 2007, so there was no immediate need for legislative action.

The situation is perhaps different in the 112<sup>th</sup> Congress, in part because the ARRA-based TAA expansion has lapsed and the rest of the program authorizations will expire in early 2012. Supporters see the implementing bill as an opportunity to reauthorize TAA, particularly given the divided attitudes toward TAA in Congress and increased pressure to prioritize deficit reduction. Others disagree on whether or how to move TAA legislation. Still, as in many cases in the past, it appears as though congressional action on trade policy is unlikely to be completed without consideration of TAA reauthorization.



## Appendix. TAA Reauthorization, 1962-2011

| Year | Bill  | Public Law   | Extension Date | Length    |
|------|---|--------------|----------------|-----------|
| 1962 | Trade Expansion Act of 1962   | P.L. 87-794  | Permanent      |           |
| 1974 | Trade Act of 1974   | P.L. 93-618  | Sept. 30, 1982 | 8 years   |
| 1981 | Omnibus Budget Reconciliation Act of 1981   | P.L. 97-35   | Sept. 30, 1983 | 1 year    |
| 1983 | A bill to Amend the International Coffee Agreement Act of 1983                                    | P.L. 98-120  | Sept. 30, 1985 | 2 years   |
| 1984 | Deficit Reduction Act of 1984   | P.L. 98-369  | Nov. 15, 1985  | 10 weeks  |
| 1985 | Emergency Extension Act of 1985<br>Lapses until March 1986  | P.L. 99-107  | Dec. 19, 1985  | 5 weeks   |
| 1986 | Deficit Reduction Amendments Act of 1985  | P.L. 99-272  | Sept. 30, 1991 | 6 years   |
| 1988 | Omnibus Trade & Competitiveness Act   | P.L. 100-418 | Sept. 30, 1993 | 2 years   |
| 1993 | Omnibus Budget Reconciliation Act of 1993   | P.L. 103-66  | Sept. 30, 1998 | 5 years   |
| 1998 | District of Columbia Appropriations   |              | June 30, 1999  | 9 months  |
| 1999 | Consolidated Appropriations Act of 2000<br>Lapses Sept. 30, 2001, to August 6, 2002               | P.L. 106-113 | Sept. 30, 2001 | 2¼ years  |
| 2002 | Trade Act of 2002   | P.L. 107-210 | Sept. 30, 2007 | 5 years   |
| 2007 | TAA Extension Act<br>Lapses Dec. 31, 2007, to Feb. 17, 2009                                       | P.L. 110-89  | Dec. 31, 2007  | 3 months  |
| 2008 | Consolidated Appropriations Act of 2008 <sup>a</sup>  | P.L. 110-161 | Dec. 31, 2008  | 1 year    |
| 2009 | Consolidate Security, Disaster Assistance, and Continuing Appropriations Act of 2009 <sup>a</sup> | P.L. 110-329 | Feb. 2009      | 2 months  |
| 2009 | American Recovery & Reinvestment Act (ARRA) of 2009 <sup>b</sup>                                  | P.L. 111-5   | Dec. 31, 2010  | 2 years   |
| 2010 | Omnibus Trade Act of 2010   | P.L. 111-344 | Feb. 12, 2012  | 13 months |

**Source:** CRS from various sources.

- a. Appropriations only.
- b. Expanded provisions under the ARRA expired on February 12, 2011. Most TAA programs were authorized at pre-ARRA levels until February 12, 2012. The workers program expires on December 31, 2011.

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