



White Paper: Modernizing Trade Adjustment Assistance

A report published by The Northeast-Midwest Institute



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About the Institute

The Northeast-Midwest Institute is a Washington, D.C.-based, nonprofit, nonpartisan public policy organization committed to economic vitality, environmental quality, and regional equity for the 18 states of the Northeast and Midwest. As a policy-focused institute with a 40-year track record of producing first-rate research, developing policy options, and building and supporting regional coalitions, the Institute has unique standing in that it was founded in response to calls by the Congressional Northeast-Midwest Coalition for a stable and trusted source of regional data and research as well as policy options and analysis. It is precisely these roots and relationships on Capitol Hill that now position the Northeast-Midwest Institute to chart a future that encompasses an expanded agenda of critical regional issues and to embark on a strategy to achieve increased impact.

Executive Summary

As the world has grown more interconnected, the way nations do business with one another has evolved. International trade has opened new universes of possibility for business opportunity, substantially reduced the cost of goods for global consumers, and pulled underdeveloped countries out of poverty and into modernity. But these advances have not come without a cost. When one country opens its borders to another country's exports, it leaves its industries vulnerable to enhanced competition. This has an overall benefit to the economies of both trading partners, but the detriments are felt sharply by the losing industries.

To remedy these growing pains, the U.S. has developed a web of assistance programs designed to support the industries and individuals that suffer losses at the hands of liberalized trade and a global economy. The most prominent of these programs is Trade Adjustment Assistance. But these programs have unfortunately not managed to stem the tide of job losses and economic harm in certain industries. The trade safety net needs an overhaul, and that is exactly what this report recommends.

Beginning with the background of this safety net, this report begins by exploring its history and program breakdown. It then moves on detail the key shortcomings with the current system, specifically looking at issues relating to applying for TAA, participation outcomes, the receiving of benefits, performance outcomes, and future reauthorization.

Finally, the report delves into ten key policy recommendations to improve and enhance the program to more effectively mitigate the harms and costs associated with the expansion of global trade.

I. Introduction

The widespread reduction of barriers to trade in the mid-20th century and emergence of free trade agreements (FTA) in global affairs was symptomatic of a collective global effort to liberalize trade. This enabled trading partners to capitalize on their respective comparative advantages in production while opening their markets to the flow of imports. The expansion of global trade precipitated the growth of export-driven businesses albeit at the cost of certain domestic industries in the United States, such as the textile and manufacturing sectors' struggle to remain competitive with foreign producers.¹ The prevailing sentiment within Congress during the 1960's was to embrace the economic opportunities of trade partnerships with other nations while committing to a program that would provide aid to eligible industries that were adversely impacted by trade-related imports.²

This study will examine Trade Adjustment Assistance (TAA) in its role of providing a means to alleviate economic hardship to those harmed by trade-related import competition. First, the history of TAA since its inception will be reviewed to illustrate the legislative context of TAA programs. Second, the TAA program for workers will be studied under the 2015 reauthorization through a policy breakdown of the program in its current form. Third, this paper will observe the policy shortcomings of the current program by addressing the issues that exist today. Fourth, this report will propose solutions to reform TAA pertaining to areas such as the application process and provisional benefits. Finally, this study will conclude by offering recommendations on how the proposed solutions may be reconciled with the current program to sustain and improve the future of TAA.

II. Background

A. History

Congress introduced the first TAA program in 1962 as a mandatory spending program in response to the economic repercussions of liberalized trade on certain industries.³ TAA was passed with bipartisan consensus and prioritized addressing the communities disadvantaged by import competition as an alternative to enacting protectionist policies to curb trade liberalization.⁴ The program was designed to extend benefits to firms and workers that could demonstrate economic harm to a business or individual caused by increased import competition. Due to stringent eligibility criteria and a tedious application process, TAA was not adequately implemented until Congress passed the Trade Act of 1974.⁵

¹ J.F. Hornbeck, Trade Adjustment Assistance and Its Role in U.S. Trade Policy R41922, Congressional Research Service (2013) at 4, <https://fas.org/sgp/crs/misc/R41922.pdf>.

² *Id.*

³ *Id.* at 7.

⁴ *Id.*

⁵ Benjamin Collins, Trade Adjustment Assistance for Workers and the TAA Reauthorization Act of 2015 R44153, Congressional Research Service (2018) at 12, <https://fas.org/sgp/crs/misc/R44153.pdf>.

With the eligibility requirements relaxed, the program drew an increase in petitions before being scrutinized again in the 1980's by the Reagan Administration.⁶ Critics argued TAA's budgetary impact was too costly, and benefits were reduced as a result of deficit reduction negotiations.⁷ TAA was relegated to relative obscurity through the late 1980's and early 1990's despite being extended by Congress five times.⁸ The passage of NAFTA restored the public's attention to TAA in the form of the newly established component known as NAFTA-TAA.⁹ This offered dedicated benefits to workers whose job dislocation was attributable to increased trade with Mexico and Canada. The Trade Act of 2002 merged NAFTA-TAA with the general TAA program and extended eligibility criteria to cover secondary or downstream workers affected by imports.¹⁰ The Trade Act of 2002 also created government-subsidized health insurance in the form of the Health Coverage Tax Credit.¹¹

In the following years, TAA has been subject to fluctuations in benefits and funding in large part due to the Great Recession and the passage of the American Recovery and Reinvestment Act of 2009 (ARRA). ARRA reforms temporarily expanded TAA eligibility to service sector workers and increased funds for training programs.¹² These reforms were subsequently rolled back in the Trade Adjustment Assistance Employment Agreement of 2011 (TAAEA).¹³ In 2015, Congress passed the Trade Adjustment Assistance Reauthorization Agreement (TAARA). TAARA reinstated eligibility to service workers and provided an increase in funding to pre-TAAEA levels despite not reauthorizing extended benefits provisions implemented during the recession through ARRA.¹⁴ In July 2021, TAARA will revert to a more limited set of eligibility and benefit provisions that will be followed by a complete phase-out of the entire program.¹⁵

1. The 1960's

The commencement of the GATT Kennedy round in 1962 affirmed the United States' commitment to forming a comprehensive trade pact with the European Economic Community (EEC).¹⁶ Access to the European market was a critical element in combating the unemployment rate at home and the ascent of Communism abroad.¹⁷ The tariff reductions that were negotiated with the EEC resulted in mutually-assured access to domestic markets and in turn freer trade. To mitigate the costs of the reduced barriers to trade, Congress included in the legislation a program designed to help domestic industries recover from the economic shock of foreign import penetration—trade adjustment assistance.¹⁸ The bill passed with bipartisan support and solidified TAA as a key component of future trade pacts.¹⁹

⁶ Hornbeck, *supra* note 1, at 9.

⁷ *Id.*

⁸ *Id.* at 10.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.* at 11.

¹² *Id.* at 12.

¹³ *Id.* at 13.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.* at 6.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.* at 7.

In 1963-1969, six worker and twelve industry-wide petitions for TAA were filed.²⁰ Of these, zero led to assistance. This outcome is attributed to stringent eligibility criteria that required TAA petitioners to demonstrate that importation of a particular product “was caused in major part” by the tariff reductions.²¹ The arduous administrative procedures and vague eligibility provisions limited firms and workers in receiving assistance and costed applicants significant time and money.²² Mired in its own ineffectiveness, TAA would not return to relevance on the legislative agenda until Congress passed the Trade Act of 1974.

2. Trade Act of 1974

The Trade Act of 1974 set forth two hallmarks in trade policy that would shape future trade agreements for generations. First, the act expedited the legislative procedures in how trade agreements would be considered, including the renewal of trade agreement authority to the President.²³ Moreover, Congress rebuffed President Nixon’s attempt to gut the TAA program of all of its funds in his initial draft proposal by choosing instead to “retool rather than retire the program.”²⁴ In doing so, Congress added a new program for communities, increased worker and firm benefits, and provided special benefits for older displaced workers.²⁵ Most notably, Congress expressed its collective support for TAA by “[ensuring] its prominence by linking it to the major trade bill providing renewed trade agreements authority to the President.”²⁶ In the end, these changes to the program “indicated [Congress’] intent that the program be used as a meaningful form of relief from imports.”²⁷

3. The 1980’s

During the 1980’s, the costs of the program had risen significantly.²⁸ Mass layoffs and competitive Japanese imports led to an influx of TAA petitions.²⁹ This development caused the collective amount of TAA’s benefit awards to put strain on the federal budget.³⁰ Moreover, despite the persistently high unemployment rate, the Reagan and Bush I administrations “openly sought to terminate the program.”³¹ Congress would go on to extend TAA multiple times through FY1991 although the program’s loans, loan guarantees, and direct financial assistance to firms were cut from the program altogether.³² Despite the extensions by Congress, the focus of trade policy shifted away from TAA and back “toward import relief, as seen in the rise of special protection in the form of voluntary export restraints (VER’s), countervailing duties (CVD’s), and

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.* at 8.

²⁴ *Id.*

²⁵ *Id.* at 9.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

antidumping (AD) petitions.”³³ It would not be until the passage of NAFTA that TAA would be thrust back into the main policy debate on trade.

4. NAFTA-TAA

Although Congress had already extended TAA four months prior to the passage of NAFTA, a separate program known as NAFTA-TAA was included as a provision in the agreement to address “[job] dislocation related to increased trade with Mexico and Canada.”³⁴ This was the only instance in which TAA had been authorized as a formal condition within an FTA bill.³⁵ Despite its limitation to import-affected industry, NAFTA-TAA signaled that addressing the firms and workers hurt by free trade was a more feasible policy option than implementing restraints on foreign imports.

5. Trade Act of 2002

The transition from the Clinton administration to the Bush administration would further establish the significance of TAA within the greater debate on trade policy. During negotiations of the trade bill that would become the Trade Act of 2002, the Bush administration pushed hard along with Republicans to renew the long-expired trade agreement authority provision.³⁶ Renamed to the Trade Promotion Authority (TPA), President Bush sought the renewal of the trade agreement authority provision that previous administrations had used in negotiating trade deals.³⁷ The administration’s demand for TPA renewal along with demands by Democrats in the 107th Congress to renew TAA meant that TAA and TPA would be used as leverage in negotiations by each party.³⁸ In the end, the Trade Act of 2002 included both TAA and TPA in an apparent instance of quid pro quo.³⁹

New provisions pertaining to TAA were also included within the bill. “Among the key new features, the bill merged NAFTA-TAA with the general program, created government-subsidized health insurance (Health Coverage Tax Credit) for dislocated workers; altered eligibility criteria to include secondary or downstream workers affected by imports, and added a new program for farmers.”⁴⁰ These consolidated features strengthened TAA as a program that supplemented other existing unemployment programs.

6. ARRA and TAA Revision

The TAA program was invigorated with increased funding and extended benefits through the passage of the American Recovery and Reinvestment Act of 2009. The Great Recession gave Congress the opportunity to enact certain TAA provisions that had already been considered but never finalized in previous negotiations.⁴¹ The expanded benefits included “eligibility for service

³³ *Id.* at 10.

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.* at 11.

⁴¹ *Id.* at 13.

workers and firms, a new communities program, an increased Health Coverage Tax Credit for dislocated workers, and additional funding for all programs.”⁴² Proponents of the expanded TAA program argued that the reforms should have been made permanent while TAA detractors considered the reforms as “the appropriate outcome of a limited-life stimulus bill.”⁴³ Nonetheless, the expanded ARRA provisions expired in February 2011.

7. TAA Reauthorization in 2011 & 2015

In October 2011, the 112th Congress passed TAAEA. Negotiations for the reauthorization of TAA were reminiscent of the leveraging maneuvers used between Democrats in the 107th Congress and the Bush administration. TAAEA’s passage was aligned with three FTA implementing bills to ensure the survival of the program.⁴⁴ TAAEA temporarily reinstated benefits to near-ARRA levels before expiring in January 2014 due to sunset provisions.⁴⁵ In 2015, TAARA once again reinstated benefits that had been reauthorized with the passage of TAAEA.⁴⁶ However, these provisions are scheduled to revert to a more limited set of eligibility and benefit provisions beginning in 2021 before TAARA expires in 2022.⁴⁷

B. Program Breakdown

1. Appropriations and Administration

TAARA served as the 2015 reauthorization of TAA and was aligned with the extension of TPA in a separate reauthorization.⁴⁸ Under the current reauthorization, TAA is funded by mandatory appropriations and jointly administered by the U.S. Department of Labor (DOL) and cooperating state agencies.⁴⁹ DOL administers determinations of group eligibility, allots appropriated funds to state agencies, and provides grant oversight.⁵⁰ State workforce agencies and state unemployment insurance systems provide individual benefits.⁵¹ States are responsible for collecting data on participation and reporting the data to DOL.⁵²

Congress appropriated \$790 million to the TAA for Workers Program in FY 2018.⁵³ \$450 million of this amount was allocated for training and reemployment services, and the remaining \$340 million was for income support and wage insurance.⁵⁴ Due to mandated sequestration set forth by the Budget Control Act of 2011, the Office of Management and Budget (OMB)

⁴² *Id.* at 12.

⁴³ *Id.*

⁴⁴ Collins, *supra* note 5, at 13.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.* at 2.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.* at 3.

⁵⁴ *Id.*

determined that non-exempt, non-defense spending would be reduced by 6.6 percent.⁵⁵ For TAA, this figure equates to a \$52.14 million spending cut in which DOL applied solely to the training and reemployment services funding, amounting to \$397.86 million in funds left over.⁵⁶ The \$340 million in funds for income support and wage insurance remained unchanged.⁵⁷

2. Application and Eligibility

The process for firms and workers that petition to receive TAA has remained the same since the virtual rebirth of the program in 1974. Although eligibility and provisional benefits have been altered with reauthorizations of TAA, the original framework for filing petitions has remained unchanged. A group of workers or company, union, or state acting on their behalf must submit a petition requesting certification to the Office of Trade Adjustment Assistance (OTAA).⁵⁸ If the petition is deemed to have met the eligibility criteria,⁵⁹ a group certification is issued. Once a group certification is issued, individual workers covered by the certification become eligible to apply for TAA benefits at a local American Job Center (AJC).⁶⁰

3. Benefits

Approved applicants are eligible for the following benefits:

- Training and reemployment services
- Trade Readjustment Allowance (TRA)
- Reemployment Trade Adjustment Assistance (RTAA)
- The Health Coverage Tax Credit (HCTC)

4. Training and Reemployment Services

Benefits and services such as case management, reimbursement for qualified job searches, and relocation expenses are available to workers through TAA-sponsored training programs.⁶¹ Case

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ Investing in Trade Affected Workers, Department of Labor (2019), <https://www.doleta.gov/tradeact/petitioners/petitionprocess.cfm>.

⁵⁹ Collins, *supra* note 5, at 4.

The statutory criteria for determining that foreign trade was a factor in job dislocation is as follows: (1) an increase in competitive imports, (2) a shift in production to a foreign country, (3) adversely affected secondary or “downstream” workers, (4) workers identified by the United States Trade Commission (USITC) as injured by a market disruption or other qualified action.

⁶⁰ Investing in Trade Affected Workers, *supra* note 58. There are 2,500 American Job Centers nationwide that are administered through individual state workforce systems and provide an array of reemployment services, from resume preparation for job searches, to placement and supportive services. For more information on AJC’s, see <http://jobcenter.usa.gov/>.

⁶¹ Collins, *supra* note 5, at 6. “Eligible programs include, but are not limited to, employer-based training, any training program provided by a state under Title I of the Workforce Innovation Opportunity Act of 2014, any

management services include “a comprehensive assessment of a worker’s skills and needs, assistance in developing and individual employment objective and identifying the training and services necessary to achieve that goal, and guidance on training and other services for which a worker may be eligible.”⁶²

States may also choose to use their reemployment services funding to issue job search and relocation allowances.⁶³ These allowances are designed to assist workers who “are unable to obtain suitable employment within their commuting areas.”⁶⁴ The allowances may equal 90 percent of a worker’s job search and relocation expenses, up to a maximum of \$1,250.⁶⁵ The job search allowance may subsidize transportation costs related to job search activities within the mileage rate set by federal regulations.⁶⁶ The relocation allowance is “available to workers who have secured permanent employment outside their local commuting area.”⁶⁷ As an alternative, “workers may be eligible for a lump sum payment of up to three times their weekly wage, though the total relocation benefit may not exceed \$1,250.”⁶⁸

5. Trade Readjustment Allowance (TRA)

TRA is issued to unemployed workers who are still enrolled in training at the time that their Unemployment Compensation (UC) benefits have been exhausted.⁶⁹ To be eligible, workers must meet the following conditions: “(1) separation from the firm on or after the impact date specified in the certification but within two years of DOL certification, (2) employment with the affected firm in at least 26 of the 52 weeks preceding layoff, (3) entitlement to state [UC] benefits, and (4) no disqualification for extended unemployment benefits.”⁷⁰ Workers may obtain a training waiver in limited circumstances.⁷¹

There are three types of TRA, which are issued in the form of a weekly income support payment.⁷²

Basic TRA- TRA payment begins one week after a worker’s UC benefits expire.⁷³ The amount of the TRA benefit is equal to 52 times the weekly TRA benefit minus the total amount of UC

program of remedial education, any program of prerequisite education or coursework required to enroll in an approved training program, any training program or coursework at an accredited institution of higher education, or any other training program approved by the Secretary of Labor.”

⁶² *Id.* at 8.

⁶³ *Id.*

⁶⁴ *Id.* 19 U.S.C. 2296(e) defines suitable employment as “work of a substantially equal or higher skill level than the worker’s past adversely affected employment, and wages for such work at not less than 80 percent of the worker’s average weekly wage.”

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.* at 5.

⁷¹ *Id.* at 9.

⁷² *Id.* at 8.

⁷³ *Id.* at 9.

benefits.⁷⁴ For example, a worker who received 10 weeks of UC benefits would be eligible for 42 weeks of basic TRA.

Additional TRA- If basic TRA has been exhausted and a worker is still enrolled in a TAA-approved training program, they are eligible for an additional 65 weeks of income support.⁷⁵ “In cases where a worker’s training program is shorter than the maximum TRA duration, the worker is not entitled to the maximum number of TRA weeks.”⁷⁶ Workers who have received a training waiver are not eligible for additional TRA.⁷⁷

Completion TRA- If a worker has collected 117 weeks of combined TRA and UC, respectively, and is enrolled in a TAA-approved training program that leads to a degree or industry-recognized credential, the worker is eligible to receive TRA for an additional 13 weeks for a combined total of 130 weeks.⁷⁸

6. Reemployment Trade Adjustment Assistance (RTAA)

Workers age 50 and over that are certified for TAA benefits and obtain employment at a lower wage are eligible for RTAA entitlements.⁷⁹ “RTAA payments may total 50 percent of the difference between adversely affected wages and new employment wages.”⁸⁰ The payment is capped at \$10,000 over a two-year period.⁸¹ To be eligible, workers must be employed on a full-time basis or be reemployed at least 20 hours a week and be enrolled in a TAA-sponsored training program.⁸²

7. Health Coverage Tax Credit (HCTC)

Workers who receive TRA, UC, or RTAA benefits may also be eligible for a tax credit that covers a percentage of eligible health insurance premiums.⁸³ The HCTC is equal to 72.5 percent of qualified health insurance premiums.⁸⁴ TAARA provisions state that a worker must choose between the HCTC and premium credits under the Patient Protection and Affordable Care Act.⁸⁵ “Unlike other provisions of TAARA, which are in effect through June 30, 2021, the HCTC is authorized through December 31, 2019.”⁸⁶

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.* at 10.

⁸⁰ Participant Data Primary Indicators of Performance, Department of Labor (2018) at 5, https://www.doleta.gov/tradeact/docs/taa_management_q4_2018.pdf.

⁸¹ Collins, *supra* note 5, at 10.

⁸² *Id.*

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Id.*

III. Issues with the Status Quo

The TAA Program for workers has produced mixed results. From FY 2013 to FY 2017, the program generally met or exceeded performance goals pertaining to employment retention rate (ERR),⁸⁷ but has generally fallen short of performance goals based on other performance indicators.⁸⁸ Further, demographic factors such as a worker's age, gender, and level of education affect TAA's performance outcomes.⁸⁹ Given that TAA participants are generally older, more diverse, and less likely to obtain higher education than the American workforce at large; each of these demographic factors has a negative impact on a TAA participant's employment and earnings.⁹⁰ In turn, the TAA Program illustrates several areas of opportunity to improve wage outcomes and reduce barriers to suitable employment for adversely affected workers.

A. Applying for TAA

The bifurcated process in which TAA petitions are filed results in complications due to delays and a lengthy bureaucratic process. The current framework for applying requires that a worker must stand by until the worker's company, union, or state agency acting on a worker's behalf files a group petition first. If the petition is certified, DOL will issue an "impact date" on which trade-related layoffs are expected to commence.⁹¹ This date can be as early as one year prior to the group petition, and workers that are laid off between the impact date and two years after the certification are covered by the petition.⁹²

Workers may begin to apply for TAA benefits only once the initial petition is certified. The median average processing time for petitions certified in FY 2017 was 64 days.⁹³ The processing time for denied petitions was nearly double with an average length of 121 days.⁹⁴ In some instances, companies that petitioned for TAA waited up to 18 months for a group determination after undergoing mass layoffs.⁹⁵ Further, a large proportion of workers already covered by an industry-wide certification do not follow-up with an individual application for benefits. These factors result in thousands of workers not participating in TAA despite technically being eligible.⁹⁶

B. Participation Outcomes

⁸⁷ Trade Adjustment Assistance for Workers Program, Department of Labor (2018) at 26, Table 19, Footnote 6, <https://www.doleta.gov/tradeact/docs/AnnualReport17.pdf>.

⁸⁸ *Id.* at 24, Table 18.

⁸⁹ *Id.* at 16.

⁹⁰ *Id.* ACLF Data for March 2018 show that 77.9% of the workforce was white, 66.8% had pursued higher education, and the median age was 42 years. TAA participant data for FY 2017 show that 63.1% of participants were white, 42.7% had pursued higher education, and the median age was 51.0 years.

⁹¹ Collins, *supra* note 5, at 5.

⁹² *Id.*

⁹³ Trade Adjustment Assistance for Workers Program, *supra* note 87, at 10 Table 2.

⁹⁴ *Id.*

⁹⁵ America's Programme to Help Trade's Losers Needs Fixing, The Economist (2017) at 2, <https://www.economist.com/finance-and-economics/2017/06/29/americas-programme-to-help-trades-losers-needs-fixing>.

⁹⁶ 2017 State Program Statistics, Department of Labor (2018), https://www.doleta.gov/tradeact/taa-data/2017-state-program-statistics/TAPR_2017.cfm?state=US.

During FY 2017, nearly 70 percent of petitions for TAA were associated with Rapid Response services.⁹⁷ This indicates that most workers spend the entirety of the certification process working with State agencies when petitioning for benefits and services. However, workers are not eligible for TRA and RTAA benefits or HCTC until their TAA petition is certified.⁹⁸ Table 1 shows the rate of services provided by Rapid Response over the past five years.

Table 1: Rapid Response Rates FY 2013 – FY2017

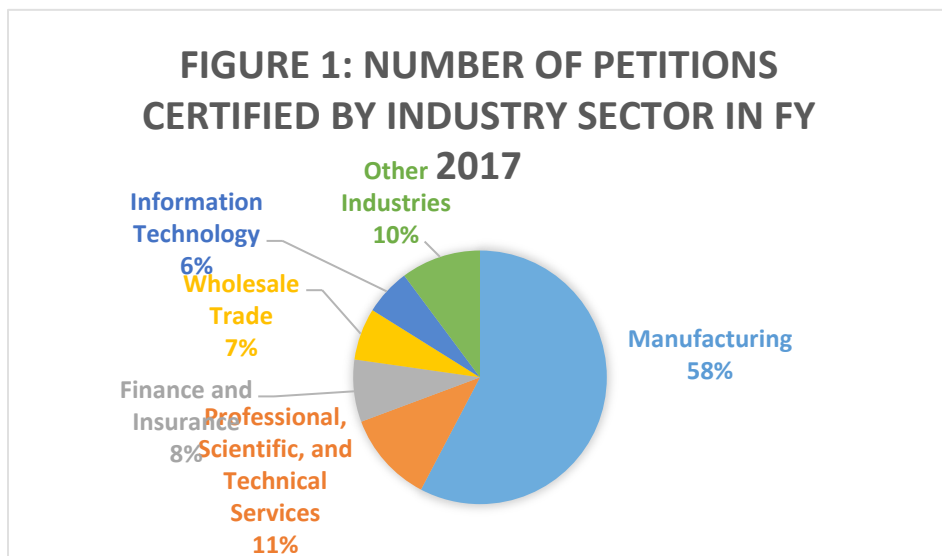
Fiscal Year	Participant Rapid Response Rate¹	Petition Rapid Response Rate¹
2013	56.3%	58.2%
2014	64.3%	59.2%
2015	64.2%	60.7%
2016	71.8%	70.6%
2017	70.0%	69.5%

⁹⁷ Trade Adjustment Assistance for Workers Program, *supra* note 87, at 17 Table 9. Under section 221 (a)(2)(A) of the Trade Act (19 U.S.C. 2271(a)(2)(A)), as amended, States are mandated to provide rapid response services “to workers for whom a petition for TAA has been filed.” These services are offered by each state’s Dislocated Worker Unit and provide immediate assistance to adversely affected companies as well as their workers.

⁹⁸ *Id.* at 17.

While Rapid Response services aid workers awaiting the application process to run its course, an automatic determination of eligibility for workers who are displaced because of trade-affected mass-layoffs would allow workers to receive TAA benefits and services immediately. Further, Rapid Response could utilize its resources towards helping displaced workers adjust instead of remaining mired in the petition process. By streamlining the application process to reduce the amount of time required to get a TAA petition certified, the provision of Rapid Response services can be diverted towards AJC's and/or training programs to help improve performance outcomes.

In FY 2017, DOL issued certifications that covered 17 industry sectors nationwide.⁹⁹ Manufacturing industries accounted for nearly 58 percent of total certifications, covering an estimated 60,346 workers in FY 2017.¹⁰⁰ This total represents nearly two-thirds of all workers eligible to be served under TAA. Figure 1 provides a breakdown of all industry sectors with petition certifications in FY 2017.



⁹⁹ Trade Adjustment Assistance for Workers Program, *supra* note 87, at 11.

¹⁰⁰ *Id.* at 12.

The majority of certifications were based on a shift in production to a foreign country, covering nearly 40 percent of all workers eligible for TAA.¹⁰¹ The second highest certification type was due to foreign competition of import articles, covering nearly 15 percent of all certified workers.¹⁰² The third most frequent certification type was attributed to a shift in services to a foreign country, accounting for nearly 14 percent of workers.¹⁰³

The high rate of petitions filed due to a shift in production to a foreign country from a trade-affected company indicates that a large portion of TAA beneficiaries are adversely affected by global value chains (GVCs) and the emergence of automated means of production globally.¹⁰⁴ Nevertheless, many workers in the U.S. have been displaced because companies have replaced labor in favor of capital and automated production, yet are currently ineligible for TAA. TAA's eligibility provisions should be streamlined to include workers adversely affected by the rise of automation domestically and abroad.

Arguably the most important step a TAA beneficiary may take in finding reemployment is to enroll in a TAA-sponsored training program. DOL data provides a glimpse of the participation outcomes for TAA-sponsored training programs. In FY 2017, a total of 94,017 workers became eligible for TAA benefits and services.¹⁰⁵ Of those eligible, over 46 percent of workers received TAA services.¹⁰⁶ In total, 23,214 workers participated in TAA-sponsored training programs and 6,499 of the 9,803 training participants that exited the TAA program in FY 2017 completed their training.¹⁰⁷

C. Receiving Benefits

TRA payments are the staple benefit of TAA and provide workers income subsistence in the form of a weekly allowance. Since the number of training participants and TRA beneficiaries is relatively intertwined, both groups have similar participation outcomes.¹⁰⁸ Despite this, the average duration of training programs in FY 2013 – FY 2017 was 31 weeks longer than the average duration of workers receiving TRA in the same time span.¹⁰⁹ Figure 2 illustrates the average duration of training programs and TRA benefits in FY 2013 – FY 2017.

¹⁰¹ *Id.* at 11 Table 3.

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ Fefer, *infra* note 135.

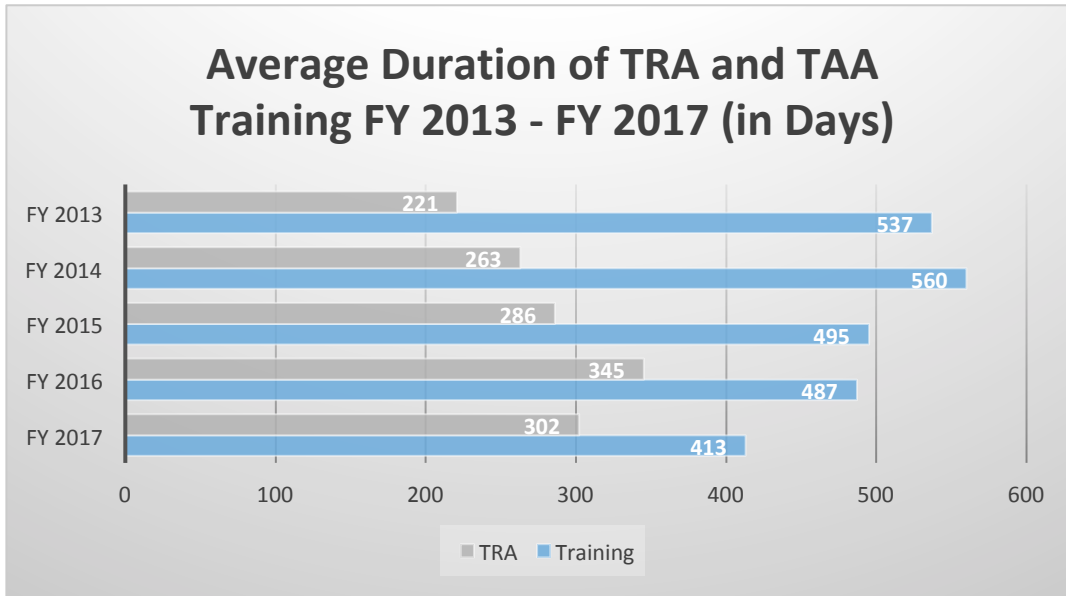
¹⁰⁵ Trade Adjustment Assistance for Workers Program, *supra* note 87, at 3.

¹⁰⁶ 2017 State Program Statistics, *supra* note 96.

¹⁰⁷ 2017 State Program Statistics, *supra* note 96 and Trade Adjustment Assistance for Workers Program, *supra* note 87, at 22 Table 14.

¹⁰⁸ Some TRA beneficiaries receive training waivers.

¹⁰⁹ The average duration of training was 498.4 days during FY 2013 – FY 2017 while the average duration of TRA benefits was 283.4 in the same period; a difference of 30.7 weeks.



Although the average duration of training has decreased through the years, workers still must dedicate a significant amount of time towards completing a training program. Therefore, TRA is a valuable benefit that helps alleviate the financial costs for displaced workers looking for reemployment. However, not all workers who seek to enroll in a training program are eligible for TRA. Eliminating the condition that limits TRA eligibility to workers who were employed for at least six months at their trade-affected employment may incentivize more workers to enroll in a training program.

In FY 2018, participants aged 50 or older at exit who had participated in RTAA were more likely to retain employment than those who had not.¹¹⁰ However, RTAA benefits were underutilized by those seeking reemployment. In FY 2018, only 26.3 percent of TAA participants aged 50 and older were receiving R/TAA.¹¹¹

Additionally, workers age 50 or older had the lowest wage-replacement percentage among all TAA participants. Given that the median age of TAA participants is 51, this outcome demonstrates a disparity in earning power between the younger portion of TAA workers and those ages 50 and up, highlighting the importance of the R/TAA benefit for older workers.

D. Performance Outcomes

In FY 2017, the average duration of completed training programs was 449 days and the average cost of completed training programs was \$13,116.43.¹¹² The six-month average earnings for TAA participants were \$19,129, although female participants earned significantly less than males.¹¹³ The six-month average earnings for female participants were \$16,059 and the six-

¹¹⁰ Participant Data Primary Indicators of Performance, *supra* note 80, at 5.

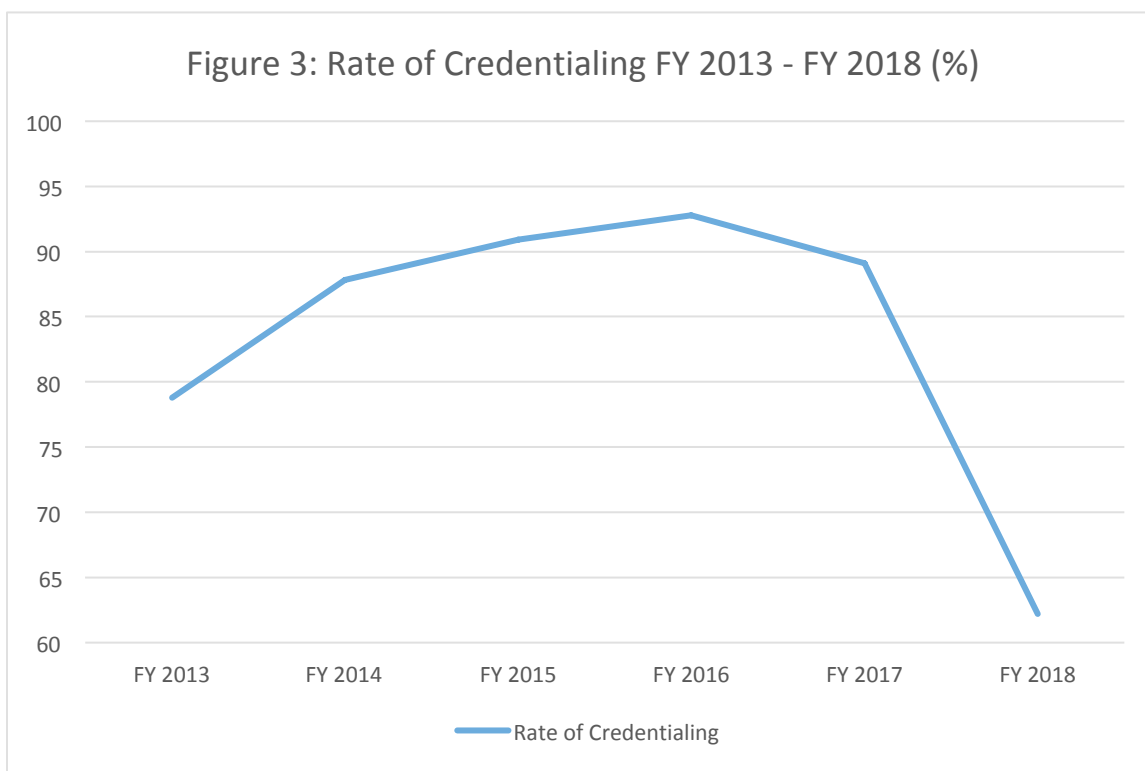
¹¹¹ *Id.*

¹¹² Trade Adjustment Assistance for Workers Program, *supra* note 87, at 22, Table 14, and Table 16.

¹¹³ Trade Adjustment Assistance for Workers Program, *supra* note 87, at 24, Table 18, Footnote 3.

month average earnings for male participants were \$21,357.¹¹⁴ No further data is available to demonstrate what factors cause the difference in earnings; however, local AJC's could incorporate a narrowed focus on gender outcomes within their reports to elucidate the reasons behind a gender pay-gap amongst TAA participants.

The most recent TAA data available illustrates that most people that obtain employment after exiting the program continue to be employed after 12 months. Despite favorable employment retention rates, recent data shows that credential attainment rates for those who completed training have not been as promising.¹¹⁵ Figure 3 shows the six-year trend of credential attainment FY 2013 – FY 2018.



¹¹⁴ *Id.* at 3.

¹¹⁵ For more detail on the methodology used to determine credentialing rates, visit <https://doleta.gov/tradeact/taa-data/participant-reporting/performance.cfm>.

After an increase of 10 percentage points in credential attainment from FY 2013 through FY 2017, credential attainment among TAA participants decreased from 89.1 percent to 62.3 percent through the end of FY 2018 Q4.¹¹⁶ Since credential attainment is an integral part of America’s workforce strategy, the 26.8 percent decrease in credential attainment over the span of 12 months is substantial given that 69 percent of workers changed industry sectors in FY 2017.¹¹⁷ Moreover, 53 percent of the U.S. job market features openings in sectors that require post-high school credentials while 30 percent of all jobs require a license as condition of employment.¹¹⁸ This illustrates that worker training must be geared towards helping job seekers meet the skills and qualifications that employers demand in the current state of the labor market.

While most workers who find reemployment must change industry sectors, the average tenure of employment for workers’ previous (trade-affected) employment in FY 2017 was 11.7 years.¹¹⁹ This amplifies the significance of attaining industry credential since workers have been out of the job market for nearly 12 years on average. Therefore, workers should earn industry credentials to align with the demands of the labor market and enhance their prospects for reemployment.

An analysis of TAA participants and the American Civilian Labor Force (ACLF) illustrates that TAA participants on average are considerably older and lack higher education experience compared to the ACLF.¹²⁰ The median age of TAA participants in FY 2017 was 51.0 years compared to the median age of 42.2 years for ACLF.¹²¹ In addition, 67 percent of the ACLF had post-secondary education while less than 43 percent of TAA participants entered the program with post-secondary education.”¹²² Furthermore, the median tenure of employment of adversely affected workers participating in TAA is significantly higher in relation to the ACLF. “In FY 2017, new participants entered the TAA program with a median of 8 years of experience in the adversely affected employment from which they were separated, doubling the median tenure of employment for ACLF of only 4 years.”¹²³ Since TAA participants are on average older, less likely to have attained higher education, and have worked in their previous (trade affected) employment for a longer term relative to ACLF, TAA participants may have difficulty in finding suitable reemployment compared to ACLF at large.

As of Q4 2018, the median quarterly earnings of America's 115.9 million full-time and salary workers were \$11,700.¹²⁴ TAA data for Q4 2018 show that median earnings for participants six months after exit are \$8,891.50.¹²⁵ This indicates that the average American worker earns more in the labor market compared to a worker participating in TAA. The difference in earnings

¹¹⁶ Participant Data Primary Indicators of Performance, *supra* note 80, at 3.

¹¹⁷ Trade Adjustment Assistance for Workers Program, *supra* note 87, at 36.

¹¹⁸ Jeremy Selingo, The False Promises of Worker Retraining, *The Atlantic* (2017) at 4,

<https://www.theatlantic.com/education/archive/2018/01/the-false-promises-of-worker-retraining/549398/>.

¹¹⁹ Trade Adjustment Assistance for Workers Program, *supra* note 87, at 15.

¹²⁰ *Id.* at 16 Table 8.

¹²¹ *Id.*

¹²² *Id.*

¹²³ *Id.* at 16.

¹²⁴ Current Population Survey, Bureau of Labor Statistics (2018),

<https://www.bls.gov/news.release/wkyeng.nr0.htm>.

¹²⁵ Participant Data Primary Indicators of Performance, *supra* note 80, at 3.

illustrates that TAA programs have not succeeded in getting earnings outcomes on par with the national labor market when compared to the rest of the ACLF. Therefore, it is incumbent upon Congress to formulate a plan designed to incentivize employers to retrain their workers as opposed to letting them fall through the cracks of unemployment.

Data for FY 17 shows that pre-participation and post-participation earnings outcomes favor younger workers and workers with higher pre-program education levels, respectively.

Table 2: FY 2017 Most Recent Earnings by Age ¹²⁶

Age	Six Month AE	Quarterly Earnings Before Participation	Quarterly Earnings After Participation	Wage Replacement Percentage
Under 30	\$17,771	\$7,531	\$7,849	104.2%
30 – 39	\$19,554	\$9,250	\$8,384	90.6%
40 – 49	\$20,526	\$9,978	\$8,375	83.9%
50 – 59	\$18,698	\$10,593	\$7,977	75.3%
60+	\$16,799	\$11,249	\$6,187	55.0%

Table 2 shows that earnings for workers aged 30 and under increased by 4.2 percent, the only age group to have a higher quarterly earnings rate after exiting the TAA program.¹²⁷ Although RTAA is available for workers aged 50 and older, wage replacement rates gradually decrease as workers get older. This contrasts data on the ACLF from Q4 2018 in which the median earnings for workers ages 55-64 was \$13,559.¹²⁸ This illustrates that while older workers had the highest median earnings within the ACLF; workers of the same age group that participated in TAA had the lowest median earnings of any other age group in the first quarter after exit from the program.

¹²⁶ Trade Adjustment Assistance for Workers Program, *supra* note 87, at 27 Table 20.

¹²⁷ *Id.*

¹²⁸ Current Population Survey, *supra* note 128.

Table 3: Most Recent Earnings by Education Level

Pre-Program Education Level	Six Month AE	Quarterly Earnings Before Participation	Quarterly Earnings After Participation	Wage Replacement Percentage
High School & Less than High School	\$17,572	\$9,280	\$7,556	81.4%
Associates, Post-Secondary Certification	\$19,720	\$10,408	\$8,628	82.9%
Bachelors & Beyond Bachelors	\$26,989	\$13,897	\$10,610	76.4%
Unknown	\$21,899	\$8,762	\$8,011	91.4%

Table 3 shows that participants with higher pre-program education levels have higher earnings both before and after participation, although quarterly earnings after exit were lower than pre-program earnings across the board. Workers who enter with some post-secondary education or beyond have higher employment and earnings than those without higher education experience, yet replacement wages are less than they were at their adversely affected employment. This illustrates another divergence from typical market trends since most workers in the labor force attain employment at increased earnings compared to previous employment.

D. Future Reauthorization

In years past, each individual reauthorization of TAA has featured notable legislative hurdles stemming from budgetary concerns and holistic debate on trade policy. Most recently, Congress passed TAARA by aligning TAA reauthorization with the separate extension of TPA. However, the passage of TAAEA serves as the best model for reauthorizing TAA. In 2011, the 112th Congress aligned TAA reauthorization with the concurrent implementation of three separate FTA's with Columbia, Panama, and South Korea, respectively. In aligning TAA with the implementation of FTA's, Congress addressed the plight of Americans who were adversely affected by trade agreements even as freer trade had a net positive impact on the economy. Future debate in Congress on the extension of TAA should be predicated on aligning TAA reauthorization with FTA implementing bills. This would account for trade-affected jobs while sustaining the overall benefits of liberalized trade.

With the emergence of FTA's, TAA for workers is a nostrum for protecting those adversely impacted by the economics of freer trade. Potential beneficiaries must wait first for their companies' determinations of eligibility to get approved before applying for individual benefits.

This months-long process can be streamlined by mandating WARN notices to prompt an automatic TAA petition for workers affected by mass-layoffs due to trade. TAARA benefit provisions enhance the outcomes for workers enrolled in training through TRA, RTAA, and HCTC, although there is ample room for more participants. Thereby, American workers that lost their jobs due to automation that are ineligible for TAA despite seeking reemployment should be entitled to TAA benefits. Workers who decide to enroll in a training program also should focus on obtaining credentials in addition to receiving adequate training aimed at measurable skill gains. However, success should not be defined by a worker's gender. Working through AJC's, States should administer TAA by focusing on the needs of those seeking reemployment as opposed to dwelling on the cause of unemployment. In accordance, Congress should tie in consideration of TAA renewal with trade agreements in the future so that those adversely affected by freer trade are not left behind.

IV. Improving the Status Quo

Although the TAA program for workers has generally succeeded in helping adversely affected workers find and retain reemployment, the program features antiquated policy provisions that lead to unsatisfactory performance outcomes in relation to the rest of America's labor force. Adjusting TAA's application procedure and general purview is a way in which Congress and DOL in turn can impart substantial improvements regarding performance outcomes. Therefore, this report offers ten policy proposals intended to strengthen and sustain TAA's capacity to aid adversely affected workers in finding suitable reemployment.

A. Overview

Make TAA Eligibility Automatic for Workers Affected by Mass Layoffs

- Adversely affected workers facing imminent layoff should automatically become eligible for TAA once a company issues a WARN notice¹²⁹ signaling that it will undergo mass layoffs.

Improve Support for American Job Centers

- Rapid Response services should be repurposed by diverting funding and resources away from the current practice of tracking petitions and WARN notices and instead reallocating resources towards activities supported by local AJC's, such as individual case management and workforce data collection.

Expand Eligibility to Include Job Displacement Due to Automation

- Statutory eligibility criteria should be extended to include adversely affected workers whose job displacement can be attributed to an increase in automation and the substitution of workers for technology within industries.

¹²⁹ For more details on WARN notices, see the definitions page: WARN Act of 1988.

Expand TRA Eligibility

- TRA eligibility should be expanded by striking the provision requiring that workers must have been employed with the trade-affected firm in at least 26 of the 52 weeks preceding lay-off.

Improve R/TAA Administration

- A more concerted effort should be undertaken by DOL and appropriate state agencies to increase awareness of the availability of the R/TAA benefit among workers who are eligible.

Preserve Health Coverage Provisions and Subsidies

- The Health Care Tax Credit should be reauthorized before it expires on December 31, 2019.

Implement Proactive Methods for Reemployment

- DOL and appropriate state agencies should cooperate with local communities to incentivize companies to provide pre-layoff training for displaced workers.

Eliminate TAA's Gender Wage-Gap

- AJC's should analyze local workforce data gleaned from program reports to address the gender wage-gap among TAA participants, as female workers have consistently earned less on average compared to male participants.

Align TAA Reauthorization with Future FTA's

- Congress should reauthorize TAA by embedding it within the passage of future trade agreements.

Incentivize Companies to Retrain Workers

- Congress should leverage its federal resources to incentivize businesses to provide worker retraining programs instead of engaging in mass-layoffs.

B. Policy Recommendations

The following proposals offer guidance on how certain aspects of TAA could be altered to improve the program by streamlining workers' path to success. Although improving TAA program outcomes is a focal point, these recommendations serve to address all stakeholders at the federal and state levels of government along with the ACLF at large. In all, TAA's efficacy will depend on whether Congress chooses to reassert the program's footprint within a changing labor market amid the spread of trade liberalization.

1. Make TAA Eligibility Automatic for Workers Affected by Mass Layoffs.

Currently, DOL requires companies to provide at least 60 calendar-days written notice in advance of the date in which mass-layoffs are set to occur. DOL should streamline the petition process for potential TAA applicants by initiating a petition for all workers covered by a WARN notice automatically. Nearly 44 percent of workers eligible for TAA fall within a certified industry petition yet do not apply for the associated benefits or services. An automated petition process, however, may be enough to spur inaction into initiative from displaced workers. The current framework for certification relies on state Rapid Response services to guide displaced workers through the petition process and streamlining the application process would reduce the amount of red tape workers must overcome when considering their reemployment prospects.

No change in eligibility provisions would be required to implement this mechanism, and it would enable DOL to provide a greater number of displaced workers the liberty to begin applying for TAA benefits and services. Workers who seek reemployment that wait on a determination for an extended length of time are limited to UC benefits and are excluded from the resources that AJC's provide through training and reemployment services. Otherwise, workers will continue to lose valuable time in waiting for the bureaucratic process to unfold as they search to find reemployment even after their UC benefits expire with no tenable alternative available.

2. Improve Support for American Job Centers

Rapid Response services have sustained the burden of getting workers eligible for TAA benefits and services as evidenced by the influx of petitions attributed to Rapid Response, however, the administrative costs and delays associated with the current status quo can be reduced by allocating Rapid Response services towards AJC's. AJC's should operate in conjunction with TAA-sponsored training programs to provide reemployment services and improve employment outcomes by jointly tailoring training programs within communities. Currently, Rapid Response activities are implemented through reactive measures amid the shock of mass-layoffs. AJC's already cooperate with State workforce agencies and Rapid Response services would augment this multipronged dynamic by providing keen workforce data acumen when working with AJC's. Unifying the role of Rapid Response, TAA-sponsored training programs, and AJC's would strengthen the national labor force apparatus through locally engineered solutions aimed at helping displaced workers.¹³⁰

3. Expand Eligibility to Include Job Displacement Due to Automation

Congress should expand TAARA eligibility provisions to cover workers that lost jobs due to automation. The evolution of the digital economy along with the expansion of supply chains into GVC's necessitates that debate on trade policy focus not only on import competition, but also address jobs dislocated as a result of increased automation.¹³¹ Currently, GVC's account for 70

¹³⁰ TAA performance indicators are aligned with measurements set forth by the Workforce Integrated Performance System (WIPS), which is also used to track performance goals under the Workforce Opportunity and Investment Act of 2014, the legislation under which AJC provisions are administered. For more information on WIPS, visit <https://www.doleta.gov/performance/wips/>.

¹³¹ Rachel F. Fefer, Trade Adjustment Assistance for Firms RS20210, Congressional Research Service (2017) at Summary, <https://fas.org/sgp/crs/misc/RS20210.pdf>.

percent of global trade in goods and services.¹³² This indicates that companies will continue to embrace the reduced costs and high efficiency of GVC's by diverting investment into capital at the expense of labor. In addition, the swift advancement of technology will transform occupations across the United States and one-third of the workforce will be required to learn new skills in new occupations by 2030 in order to adapt to the rise of automation.¹³³ This demonstrates that automation reduces the number of employment opportunities within the ACLF more than any single trade agreement in the short term, especially as it relates to jobs in service industries.¹³⁴

As manufacturers replace employees with technology, competition for high-skill workers will increase while many low-skill workers will be displaced.¹³⁵ This trend will not only reduce the number of middle-skill jobs available but will also amplify the issue of income inequality amongst displaced workers.¹³⁶ The collective shift towards automation is interlinked with the onset of GVC's, international trade, and international production. Consequently, Congress should expand eligibility to workers who were displaced by automation given how closely automation is interwoven with international trade in relation to displaced workers. There is precedent for Congress expanding TAA eligibility in recent years. In 2009, Congress eliminated the condition that trade-affected employment had to be linked directly to an FTA. Congress went a step further in 2015 by reinstating eligibility for service sector workers under TAARA, therefore allowing thousands of trade-affected workers to receive TAA benefits and services in turn.

4. Expand TRA Eligibility

TRA is an important benefit for those who need income support while participating in a TAA training program. However, those who have been laid off from their trade-affected employment need to have been employed with their trade-affected firm for a minimum of 26 weeks preceding the week in which total or partial separation occurred.¹³⁷ This statutory condition excludes workers from TRA who seek training if they had not held employment with their trade-affected job for at least six months. Notably, this condition only pertains to eligibility for the TRA benefit despite not being a part of the eligibility provisions for TAA. Eliminating the six-month threshold for TRA eligibility would streamline TAA and TRA eligibility provisions while providing more workers with incentive to enroll in a training program. More significantly, it

¹³² *Id.*

¹³³ James Manyika, Susan Lund, Michael Chui, Jacques Bughin, Jonathan Woetzel, Parul Batra, Ryan Ko, Saurab Sangvhi, Jobs Lost: jobs gained. What the Future of Work Will Mean for Jobs, Skills, and Wages. McKinsey & Company (2017), <https://www.mckinsey.com/featured-insights/future-of-work/jobs-lost-jobs-gained-what-the-future-of-work-will-mean-for-jobs-skills-and-wages>.

¹³⁴ *Id.*

¹³⁵ Jacques Bughin, Eric Hazan, Susan Lund, Peter Dahlstrom, Anna Weisinger, Amresh Subramaniam, Skill Shift: Automation and the Future of the Workforce, McKinsey & Company (2018). <https://www.mckinsey.com/~media/McKinsey/Featured%20Insights/Future%20of%20Organizations/Skill%20Shift%20Automation%20and%20the%20future%20of%20the%20workforce/MGI-Skill-Shift-Automation-and-future-of-the-workforce-May-2018.ashx>.

¹³⁶ *Id.*

¹³⁷ 19 U.S.C. 2291(c), <https://www.law.cornell.edu/uscode/text/19/2291>.

would allow potential beneficiaries who would otherwise be eligible for TRA to receive income subsistence during their quest for reemployment.

5. Improve R/TAA Administration

Unlike TRA, R/TAA does not impose the 26-week threshold on trade-affected employment for potential beneficiaries. However, R/TAA remains an underutilized benefit and State agencies should implement a targeted approach to reach out to eligible workers through AJC's and Rapid Response services. R/TAA beneficiaries can work full time or part time if they are enrolled in a training program, and those who receive R/TAA are more likely to retain their employment than those who do not.¹³⁸ Since workers age 50 and over have the lowest wage replacement rate of all TAA participants, the R/TAA benefit provides essential income support for those who accept new employment at a lower wage and more participants should be encouraged to utilize this benefit.

6. Preserve Health Coverage Provisions and Subsidies

Unlike the rest of TAA benefits, HCTC expires on December 31, 2019. However, HCTC should be renewed as part of the next reauthorization of TAA so that displaced workers eligible for TAA receive the option to get 72.5 percent of their health insurance premiums covered. Workers that are enrolled in Medicare, Medicaid, TRICARE, or the Federal Employees Health Benefits Program are not eligible for HCTC.¹³⁹ Therefore, TAA beneficiaries that are not enrolled in one of these health plans will be limited in how they can pay for their health coverage once the HCTC expires. HCTC will ease the financial burden for people participating in TAA and reauthorizing its provisions is key to addressing the costs of health care premiums.

7. Implement Proactive Methods for Reemployment

States should leverage the resources they have through AJC's to incentivize employers within communities to conduct pre-layoff training, offer more internships and apprenticeships, and institute more in-house programs that lead to industry-wide credential. Such programs would aim to reduce the skill gap of middle-skill workers looking to obtain high-skill jobs. Additionally, waiting too long to begin retraining presents several opportunity costs for workers and increases the cost and duration of TAA programs.

DOL data indicates that TAA recipients are more likely to attain a favorable employment outcome if TAA services such as pre-layoff training are provided as close as possible to the layoff date, however, there is ample room for improvement in ensuring that trade-affected workers embrace a proactive approach in finding reemployment.¹⁴⁰ In FY 2017, only 59 of the 6,499 workers who left the program completed pre-layoff training.¹⁴¹ While encouraging more workers to participate in a pre-layoff training program would reduce the average cost and duration of TAA training programs, state agencies and firms should aid workers in transition by collaborating with academic institutions to adjust school and college curricula, building talent

¹³⁸ Participant Data Primary Indicators of Performance, *supra* note 80.

¹³⁹ IRS data, <https://www.irs.gov/credits-deductions/individuals/hctc>.

¹⁴⁰ Trade Adjustment Assistance for Workers Program, *supra* note 87, at 36.

¹⁴¹ *Id.* at 22 Table 14.

pipelines within emerging industries, and working with labor unions to help with cross-sector mobility.¹⁴² These recommendations are all components of a workforce strategy that focuses on workers being proactive in successfully bridging the gap between the skills they possess and the skills that employers require.

8. Eliminate TAA's Gender Wage-Gap

The difference in average earnings between men and women reveals that female workers participating in the program earn 75 percent that of the wage of their male counterparts. DOL does not illuminate any further data on the gender wage-gap amongst TAA participants, dedicating only one line to the issue in their annual report stating only that average earnings of men and women reflect “typical labor market trends.”¹⁴³ Since the gender wage-gap is an issue within the entire ACLF at large, DOL should analyze program outcomes by scrutinizing why female participants earn less on average compared to males.

Although the gender wage-gap is indicative of a national trend, the TAA program for workers is a unique program that provides an opportunity for further analysis of gender outcomes. The apparatus in which TAA services are provided to workers is highly localized by way of AJC's. Administering TAA through AJC's is necessary to address the needs of workers across various communities in the United States, but it is also instrumental in identifying the issues that inhibit local workforces and in turn shaping federal policy. Addressing the pay disparity between females and males should be a priority for all communities, and AJC's offer an appropriate mechanism in which to do so. Because they already provide individual case-management services to participants and track labor force data within communities, AJC's should track wage outcomes locally and analyze any difference in wage outcomes that can be attributed to a worker's gender. In doing so, DOL can glean data from local communities to further analyze the causes of the gender wage-gap and potentially use any insights to shape policy aimed at strengthening the earning power of women in the workforce.

9. Align TAA Reauthorization with Future FTA's

The survival of the TAA program will hinge on whether Congress can generate bipartisan support to reauthorize TAA provisions before they expire in 2021. To do so, Congress must ensure that the costs of trade liberalization are accounted for when considering trade agreements with other nations. This feat can be achieved by using the passage of TAAEA in 2011 as a model for future TAA reauthorization. Given the magnitude of the economic effects of FTA's, this approach would encourage bipartisanship and exhort compromise between those in favor of liberalized trade and those who view import competition as an economic pariah within their constituencies. More significantly, aligning TAA passage with FTA implementing bills will allow all American stakeholders to be accounted for at once, thereby allowing Congress to promote the prosperity of America's economy while giving trade-affected workers economic relief in their search for reemployment.

¹⁴² Bughin, Hazan, Lund, Dahlstrom, Weisinger, Subramaniam, *supra* note 139.

¹⁴³ Trade Adjustment Assistance for Workers Program, *supra* note 87, at 3.

10. Incentivize Companies to Retrain Workers

Congress should enact provisions that would spur companies to retrain workers as an alternative to undergoing lay-offs. Congress may incentivize companies in the form of tax-incentives by way of deductions, exemptions, and credits for companies that establish retraining programs for workers looking to enhance their skill sets. Such incentives would relieve the burden of costs associated with crafting retraining programs for workers facing job displacement. This strategy aims to close the skill-gap produced by a shifting labor market while equipping workers with high-demand skills allowing them to thrive in emerging industries such as IT and financial services.

To date, several large companies have introduced worker retraining programs in which workers can obtain industry credential while pursuing high-demand skills necessary for sustained employment. Google's IT certificate course curriculum is based on Google's own needs and provides workers with a support level for transferrable skills that may lead to employment in different tech positions.¹⁴⁴ Amazon covers 95 percent of training costs for its own employees with emphasis on preparing them for a variety of careers.¹⁴⁵ Wal-Mart organizes a return-to-work program that targets professionals with work experience that have been out of the workforce for at least two years.¹⁴⁶ This particularly helps mothers as well as veterans who are returning to work after taking extended time off.¹⁴⁷ The rest of the workforce should bear the standard set forth by these companies, and Congress can encourage employers to do so by offering incentives. All in all, keeping workers in the workforce is the ultimate goal, and this strategy would reduce the need for TAA services in the future.

V. Conclusion

Despite the impending phase-out of the program, the historically strong Congressional support for TAA indicates that consideration of trade policy in the future must account for helping those adversely affected by trade liberalization. Contemporary debate on trade policy must address the role of automation in international trade and in the domestic policy context as global competition redefines the labor market. To ensure that Americans whose jobs were eliminated by international trade and automation are insulated from losing out to modern day trade liberalization, TAA reauthorization must include restored benefits and continue to administer reemployment services through AJC's and cooperating state agencies. Otherwise, the scheduled phase-out of the program will leave a void among arguably the most vulnerable portion of the ACLF.

Thus far, TAA's capacity has centered on those affected by trade liberalization to help cope with the downside of freer trade. The program's reach needs to be expanded to address the evolving

¹⁴⁴ Sandra Upson, Tech Companies Try to Retrain the Workers They're Displacing, Wired.com (2018), <https://www.wired.com/story/tech-companies-try-to-retrain-the-workers-theyre-displacing/>.

¹⁴⁵ *Id.*

¹⁴⁶ Riia O'Donnell, Walmart to Introduce Its Own Returnship Program, Industry Dive (2019), <https://www.hrdiver.com/news/walmart-to-introduce-its-own-returnship-program/524436/>.

¹⁴⁷ *Id.*

labor market dynamic brought forth by globalization and the emergence of FTA's, particularly as current market trends illustrate the scarcity of once abundantly available middle-skill jobs while thousands of Americans grapple with retraining to obtain suitable reemployment. Incorporating this report's proposed recommendations to adjust application and eligibility provisions along with having a concentrated focus on the program's retraining efforts serves as a stepping stone towards elevating TAA participants on par with the rest of the ACLF.

VI. Annex: Definitions

The American Civilian Labor Force (ACLF): The term *civilian labor force* is used by the U.S. Bureau of Labor Statistics to describe the subset of Americans who have jobs or are seeking a job, are at least 16 years old, are not serving in the military and are not institutionalized.¹⁴⁸

The American Recovery and Reinvestment Act of 2009 (ARRA): a stimulus package passed by the 111th Congress and signed into law by President Obama in the wake of the Great Recession.

American Job Centers (AJC): local workforce career centers authorized by the Workforce Innovation and Opportunity Act of 2014 to administer reemployment services such as career planning, skill assessments, and training programs.

Department of Labor (DOL): the cabinet-level department responsible for the administration of the TAA program for workers as well as the administration of American Job Centers.

European Economic Community (EEC): a regional organization formed through the Treaty of Rome in 1957 to integrate the economies of Europe.¹⁴⁹

Free Trade Agreement (FTA): a binding pact between two or more countries implemented to reduce barriers to trade and regulate imports and exports.

Fiscal Year (FY): the reporting period that the U.S. government observes for accounting and budget purposes. Unlike the calendar year, each fiscal year begins on October 1st.

General Agreement on Tariffs and Trade (GATT): a set of multilateral trade agreements aimed at the abolition of quotas and the reduction of tariff duties among the contracting nations.¹⁵⁰

Global Value Chain (GVC): the international fragmentation of production processes in which companies restructure their operations through outsourcing and offshoring.¹⁵¹

Health Coverage Tax Credit (HCTC): government-subsidized health insurance created in the Trade Act of 2002 and administered by the Internal Revenue Service.

North American Free Trade Agreement (NAFTA): a treaty between Canada, Mexico, and the U.S. implemented in 1994.

Reemployment Trade Adjustment Assistance (R/TAA): an entitlement for TAA workers aged 50 and over that covers 50 percent of the difference between a worker's previous earnings and their new wage up to a maximum of \$10,000 over two years.

¹⁴⁸ For more information on the American Civilian Labor Force, visit data.bls.gov.

¹⁴⁹ Matthew J. Gabel, European Community, Encyclopedia Britannica (2019), <https://www.britannica.com/topic/European-Community-European-economic-association>.

¹⁵⁰ General Agreement on Tariffs and Trade, Encyclopedia Britannica (2019), <https://www.britannica.com/topic/General-Agreement-on-Tariffs-and-Trade>.

¹⁵¹ Global Value Chains, Organisation for Economic Co-Operation and Development (2019), <https://www.oecd.org/sti/ind/global-value-chains.htm>.

Trade Adjustment Assistance Extension Act of 2011 (TAAEA): The 2011 reauthorization of the TAA program.

Trade Adjustment Assistance Reauthorization Act of 2015 (TAARA): The 2015 reauthorization of the TAA program and the current framework of which TAA benefits and provisions are administered.

Trade Promotion Authority (TPA): formerly known as the “fast track authority”, TPA is a legislative procedure that permits the President to negotiate trade agreements without interference which are then subjected to a “yes” or “no” vote in Congress.

Trade Readjustment Allowance (TRA): An income allowance for eligible workers enrolled in a TAA-sponsored training program.

Unemployment Compensation (UC): a source of income paid by the state to unemployed workers who have lost their jobs to layoffs or retrenchment.¹⁵²

Worker Adjustment and Retraining Notification Act of 1988 (WARN): a federal law that requires employers to provide notice 60 days in advance of plant closings and mass-layoffs.¹⁵³

¹⁵² Julia Kagan, Unemployment Compensation, Investopedia (2018), <https://www.investopedia.com/terms/u/unemployment-compensation.asp>.

¹⁵³ Plant Closings and Lay-offs, Department of Labor (2019), <https://www.dol.gov/general/topic/termination/plantclosings>.