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Trade Adjustment Assistance for Farmers

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Summary

The Trade Adjustment Assistance for Farmers (TAAF) program provides technical assistance and cash benefits to producers of agricultural commodities and fishermen who experience adverse economic impacts caused by increased imports. Congress first authorized this program in 2002, and made significant changes to it in the 2009 economic stimulus package (P.L. 111-5). The 2009 revisions were intended to make it easier for commodity producers and fishermen to qualify for program benefits. It also provided over $200 million in funding through year-end 2010. The 2010 omnibus trade measure (P.L. 111-344) temporarily extended the program through February 12, 2011, and authorized an additional $10.4 million.

The U.S. Department of Agriculture (USDA) is required to follow a two-step process in administering TAAF program benefits. First, a group of producers must be certified eligible to apply. Second, a producer in a certified group must meet specified requirements to be approved to receive technical assistance and cash payments.

To be certified, a group must show that imports were a significant cause for at least a 15% decline in one of the following factors: the price of the commodity, the quantity of the commodity produced, or the production value of the commodity.

Once a producer group is certified, an individual producer within that group must meet three requirements to be approved for program benefits. These include technical assistance with a training component, and financial assistance. A producer must show that (1) the commodity was produced in the current and also in one recent previous year, (2) the quantity of the commodity produced decreased compared to that in a previous year, or the price received for the commodity decreased compared to a preceding three-year average price, and (3) no benefits were received under any other trade adjustment assistance program. The training component is intended to help the producer become more competitive in producing the same or another commodity. Financial assistance (capped at $12,000 over a three-year period) is to be used by the producer to develop and implement a business adjustment plan designed to address the impact of import competition.

Since 2009, USDA has certified 11 of the 30 petitions filed by various commodity groups and fishermen (e.g., producers of shrimp, catfish, asparagus, lobster, and blueberries). USDA already has approved about 4,500 agricultural producers for training and cash assistance under the three FY2010 certifications. USDA in early 2011 will approve producers under the eight FY2011 certified petitions. Most of the program benefits in both years are expected to flow to shrimp producers.

Because TAAF funding expired on February 12, 2011, the 112th Congress is considering proposals to provide future funding. S. 308 would extend TAAF and the other TAA programs (among other provisions) through mid-2012. An effort in the House to temporarily extend TAA authorities through June 30, 2011, become caught up in criticism of their rationale and linked to the consideration of other trade issues. Some Members want to tie a TAA extension to (1) the Obama Administration making a commitment on a timetable to submit pending free trade agreements with Colombia and Panama to Congress for a vote and (2) the terms of extending one trade preference program.

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Rationale for Program

The origin of the Trade Adjustment Assistance for Farmers program can be traced back to a 2000 Department of Labor report recommending that a separate program be enacted "to assist agricultural producers and workers affected adversely by imports" if the objective is to assist them to remain in their current occupations. The report described the existing trade adjustment assistance (TAA) programs that provided (1) limited technical assistance to help business firms (including some that produced agricultural and food products) regain economic competitiveness or to shift into producing other goods, and (2) training assistance to workers (including those employed by some agricultural firms) to facilitate their transition into other occupations. It noted that the provision of direct financial assistance (such as income supplements) to farmers, or efforts to financially enable them to continue producing the commodity adversely affected by imports rather than help them adjust to employment in other sectors, would be inconsistent with the objectives of the then-existing TAA programs.[1]

Observers stated that farmers and ranchers typically did not qualify for the TAA workers program because they were self-employed (and thus rarely were eligible for unemployment benefits) and were less likely to want to be retrained for a new occupation (particularly if earning income from producing other crops or from non-farm sources). Others pointed out that agricultural producers most likely to be affected by import surges produce a commodity that receives little or no price protection nor direct payments under traditional farm subsidy programs. Frequently cited is the impact of increased competition that U.S. fruit and vegetable growers, as well as livestock producers, have encountered due to imports from Mexico and Canada under the North American Free Trade Agreement.[2]

Overview of TAAF Program

The Trade Act of 2002 established a new Trade Adjustment Assistance for Farmers (TAAF) program.[3] It is administered by the U.S. Department of Agriculture's (USDA) Foreign Agricultural Service (FAS). As amended by the enacted 2009 economic stimulus package (P.L. 111-5, Division B, Subtitle I),[4] the program assists agricultural producers who have been

[1] Department of Labor, "Report on Trade Adjustment Assistance for Agricultural Commodity Producers," transmitted by the Secretary of Labor to the House Ways and Means and Senate Finance Committees on October 26, 2000. This report was required by Section 408 of the Trade and Development Act of 2000 (P.L. 106-200).

[2] CRS Report RS21182, *Trade Adjustment Assistance for Farmers*, by Geoffrey S. Becker. This report provides background on the TAA for Firms and TAA for Workers programs, the extent to which agricultural businesses and employees in the agricultural sector took advantage of these programs through FY2000, and the legislative developments that led to TAAF program enactment. For information on the other TAA programs and current issues, see CRS Report RS20210, *Trade Adjustment Assistance for Firms: Economic, Program, and Policy Issues*, by J. F. Hornbeck; CRS Report RL34383, *Trade Adjustment Assistance (TAA) for Workers: Current Issues and Legislation*, by John J. Topoleski; CRS Report RS22718, *Trade Adjustment Assistance for Workers (TAA) and Reemployment Trade Adjustment Assistance (RTAA)*, by John J. Topoleski; CRS Report R40863, *Trade Adjustment Assistance for Communities: The Law and Its Implementation*, by Eugene Boyd; and CRS Report RS22761, *Extending Trade Adjustment Assistance (TAA) to Service Workers: How Many Workers Could Potentially Be Covered?*, by John J. Topoleski.

[3] P.L. 107-210, Sections 141-142, approved August 6, 2002, 116 Stat. 946 (19 U.S.C. 2401 et seq.).

[4] American Recovery and Reinvestment Act of 2009, P.L. 111-5, Sections 1856, 1881-1887, and 1891-1894, approved February 17, 2009, 123 Stat. 115.

adversely affected by competition from imports of a commodity that they produce. An "agricultural commodity producer" is defined as a "person that shares in the risk of producing an agricultural commodity and that is entitled to a share of the commodity for marketing, including an operator, a sharecropper, or a person that owns or rents the land on which the commodity is produced," or a person who reports a gain or loss on a federal income tax return from "the trade or business of fishing." Support is available in the form of enhanced technical assistance and seed money to enable a producer to formulate and implement a business adjustment plan. Producers of raw and natural agricultural commodities (crops, livestock, farm-raised aquatic products, and wild-caught seafood that competes with aquaculture products) and of "any class of goods within an agricultural commodity" must follow a two-part process to receive benefits.

First, a producer group must be certified by USDA as eligible to apply for program benefits (see "Requirements for a Commodity Group to be Certified"). Second, if the group is certified, individual producers in that group must meet certain requirements to be approved to receive technical assistance and cash payments (see "Individual Producer Eligibility Requirements" and "Program Benefits").

Requirements for a Commodity Group to be Certified

A group of agricultural producers can petition the Secretary of Agriculture to be certified as eligible to participate in the TAAF program (i.e., to qualify for benefits). To certify a commodity group, the Secretary must determine that the increase in imports of the agricultural commodity produced by members of the group "contributed importantly"[5] to at least a 15% decline in the national average price, quantity of production, or value of production or cash receipts of the commodity. In making a determination, the Secretary must compare the volume of imports of "articles like or directly competitive with the agricultural commodity" produced by the group in the marketing year in which the petition is filed, to the average volume of imports in the three preceding marketing years. The addition of two other qualifying factors—"quantity of production" and "value of production/cash receipts"—besides price gives the Secretary greater flexibility in determining if a commodity group is eligible to access program benefits.[6] The Secretary has 40 days to make a determination on a group's petition.

Individual Producer Eligibility Requirements

If the Secretary certifies that a group qualifies for assistance, each producer in the group has 90 days to apply for TAAF benefits. To be eligible, an individual producer must show in the application submitted to USDA that (1) the agricultural commodity was produced in the year

[5] Defined as "a cause which is important but not necessarily more important than any other cause."

[6] The 2009 amendments in P.L. 111-5 lowered the degree of impact on specified factors due to increased imports that a producer group had to show from 20% to 15%, and expanded the scope of factors that USDA must look at to determine if a producer group can qualify to participate in the program (i.e., from just one specified in the original 2002 law, to the three now). These appear to address two issues that the General Accountability Office (GAO) had identified as limiting producer participation in the initially authorized TAAF program administered through year-end 2007 (see pp. 2-3 of GAO report cited in footnote 16). One was the difficulty that groups of agricultural producers faced in meeting eligibility criteria (i.e., demonstrating that the price of the commodity produced had declined by at least 20% and that imports contributed importantly to the price decline). Also, many producer groups seeking to be recertified for benefits in a subsequent year saw USDA deny their petitions because of their difficulty in showing that imports of a commodity had further increased and that the increase noticeably contributed to the fall in price.

covered by the group's petition and in at least one of the three preceding marketing years, (2) the quantity of the commodity produced in that year has decreased compared to the amount produced in a previous year, or the price received for the commodity in that year has decreased compared to the average price received in the preceding three marketing years,[7] and (3) no cash benefits were received under the TAA for Workers and TAA for Firms programs, nor were benefits received based on producing another commodity eligible for TAAF assistance.[8]

Program Benefits

The changes enacted in 2009 refocus the TAAF program by (1) making technical assistance available to an eligible producer, and (2) providing financial resources so that a producer can put into effect a business plan to make adjustments in the operation.

A producer approved for the TAAF program is entitled to receive initial technical assistance (TA) to improve competitiveness in the production and marketing of the commodity certified to receive benefits. Such assistance is to include information on what steps could be taken to improve the yield and marketing of that commodity, and on exploring the feasibility and desirability of substituting one or more alternative commodities for the one being produced. USDA can provide supplemental assistance to cover reasonable transportation and subsistence expenses that a producer incurs in accessing initial technical assistance if provided in a location outside a normal commuting distance.

A producer who completes this initial phase is eligible to participate in intensive technical assistance. These include training courses to assist the producer in improving the competitiveness of the same commodity or an alternative commodity, and financial assistance to develop an initial business plan based on the courses completed. USDA is required to approve a producer's initial business plan if it reflects the skills gained by the producer through the courses taken. Further, this plan must demonstrate how the producer will apply these skills to his circumstances. If the plan is approved, the producer is entitled to not more than $4,000 to implement this plan, or to develop a long-term business adjustment plan.

A producer who completes the intensive phase and whose initial business plan has been approved is then eligible for assistance to develop a long-term business adjustment plan. USDA is required to approve this adjustment plan if it includes steps calculated to materially contribute to the producer's economic adjustment to changing market conditions, takes into account the interests of the workers employed by the producer, and demonstrates that the producer will have sufficient resources to implement the business plan. If approved, the producer is entitled to $8,000 to implement this long-term plan.[9]

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[7] A producer has the option of instead showing that the county-level price for the commodity on the date a group files a petition has decreased compared to the average county-level price in the preceding three marketing years.

[8] Prior to 2009, a producer had to show (1) the quantity of the commodity that he produced in the most recent year, and that (2) his most recent year's net farm income was less than such income in a previous year, (3) he had met with the Extension Service to obtain information and technical assistance to help him adjust to import competition, and (4) he did not receive cash benefits under any other TAA program.

[9] The 2009 amendments in P.L. 111-5 redirected the type of benefits an individual producer can receive. While a cash payment previously was based on the automatic application of a formula, the more comprehensive approach in place now requires a producer to tap available technical assistance before he receives payments intended to assist him to implement a business plan to adjust to import competition.

Limitations on Producer Financial Assistance

The amount of assistance that a producer can receive to implement both the initial business plan and the long-term business adjustment plan is limited to $12,000 in the 36-month period after USDA has certified producers of the commodity as eligible for TAAF benefits.[10] Further, TAAF-eligible producers cannot receive cash benefits under any other TAA program.

An applicant is ineligible for TAAF assistance in any year in which his average adjusted gross income exceeds the level specified in Section 1001D of the Food Security Act of 1985 as amended (i.e., $500,000 of non-farm income, or $750,000 of farm income, depending on the details of the applicant's involvement in a farm operation, beginning with the 2009 crop year).[11]

Written Notices to Producers

The Secretary of Agriculture is required to provide written notice to each agricultural commodity producer in a group certified as eligible to receive benefits. A notice stating the benefits available to certified producers must also be published in newspapers of general circulation in the areas in which such producers reside.

Program Coordination

When notified by the International Trade Commission (ITC) that it has begun a safeguard investigation of a particular agricultural commodity, the Secretary of Agriculture is required to conduct a study of (1) the number of agricultural commodity producers who are producing a competitive commodity who have been or are likely to be certified eligible for TAAF, and (2) the extent to which existing programs could facilitate producers' adjustment to import competition.[12] A safeguard (e.g., in the form of additional tariffs, expanded quota, or another restriction on imports) is intended to provide relief from the adverse impact of imports when temporary protection will enable the domestic sector (i.e., producers) to make adjustments to meet import competition.

Within 15 days after the ITC has determined whether or not injury has occurred and reported its recommendations to the President, the Secretary must submit a report to the President on the USDA study's findings.

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[10] Prior to 2009, an approved producer could receive up to $10,000 in cash benefits in any 12-month period.

[11] For additional information on the new payment limitation rules made by P.L. 110-246, see CRS Report RL34594, *Farm Commodity Programs in the 2008 Farm Bill*, by Jim Monke, pp. 14-18.

[12] An ITC safeguard investigation would be triggered, under Section 202 of the Trade Act of 1974, by a petition filed by an affected party (e.g., trade association or industry group) seeking relief from competition caused by imports that are traded fairly but which cause or threaten to cause injury to a domestic industry. For additional information on this safeguard authority and its use, see CRS Report RL31296, *Trade Remedies and Agriculture*, by Geoffrey S. Becker and Charles E. Hanrahan.

Program Funding

Section 1887 of P.L. 111-5 authorized and appropriated $90 million in each of FY2009 and FY2010, and $22.5 million for the first quarter of FY2011 (i.e., October to December 2010).[13] This provision also specified that funding shall cover the costs of administering the TAAF program, as well as the salaries and expenses of USDA employees who administer it. Conferees dropped a Senate provision (Section 1701(c)) that would have made TAAF funding available retroactively (i.e., back to January 1, 2008). In separate congressional action taken to temporarily extend the program, P.L. 111-344 authorizes $10.4 million for the January 1 to February 12, 2011, period.[14] If available funds are not sufficient to meet the commitments for adjustment assistance for eligible producers in any year, the amounts paid out are required to be reduced proportionately.

Expiration of TAAF Program Benefits

With the six-week extension of TAAF funding , producers will be able to access technical and financial assistance through February 12, 2012, if their eligibility had been established, they had applied for program benefits, and USDA had approved their application, by February 12, 2011. Program benefits also will be available to any group of producers that files a petition for certification before February 13, 2011, if USDA determines that the group is eligible. In both cases, benefits will be available to the extent that funds are available and only to those approved to receive technical and financial assistance.[15]

TAAF Program Implementation

Because Congress in 2009 significantly revised TAAF's statutory provisions from those initially enacted, the following describes how this program operated in the period before, and then in the period, after these changes. The break between periods reflects the lack of program authority in the January to September 2008 period.

FY2003-December 2007

Activity under the TAAF in the FY2003-December 2007 period was much lower than authorized funding levels because of low producer participation and low payments, according to the Government Accountability Office (GAO).[16] Of the $459 million authorized for the 5¼-year period through December 31, 2007, budget outlays totaled almost $48 million, according to

[13] The statute that established the TAAF program (the Trade Act of 2002) authorized and appropriated to USDA funds not to exceed $90 million for each of FY2003 through FY2007. Section 1(c) of P.L. 110-89 authorized $9 million in appropriations for the first quarter of FY2008 (through December 31, 2007). No funding was authorized during the remainder of FY2008. Funding for FY2009 became available in mid-May 2009, when the changes made to TAA programs by P.L. 111-5 took effect.

[14] Omnibus Trade Act of 2010, P.L. 111-344, Section 101, approved December 29, 2010.

[15] Sections 1892 and 1893 of P.L. 111-5.

[16] GAO, *Trade Adjustment Assistance: New Program for Farmers Provides Some Assistance, but Has Had Limited Participation and Low Program Expenditures*, at http://gao.gov/products/GAO-07-201, GAO-07-201, December 2006.

USDA's Office of Inspector General (OIG) and USDA's Foreign Agricultural Service.[17] This included $27.7 million in cash benefits paid to producers, $9.5 million for technical assistance, and $10.5 million for administrative costs (**Table 1**).

Table 1. TAAF Funding, and Outlays by Type, FY2003-FY2011

($ in millions)

		Outlays			
Fiscal Year	**Funding Authority**	**Cash Payments to Producers**	**Technical Assistance Training**	**Administrative Costs**	**Total**
FY2003	90	0.0	3.6	2.6	6.2
FY2004	90	12.6	0.8	2.9	16.3
FY2005	90	14.4	4.1	2.4	20.9
FY2006	90	0.7	1.0	1.6	3.3
FY2007	90	—	—	1.0	—
FY2008[a]	9				
Subtotal, FY2003- FY2008	**459**	**27.7**	**9.5**	**10.5**	**47.7**
FY2009	90	0.0	19.6	5.4	25.0
FY2010	90	71.8	16.4	1.7	90.0
FY2011	32.9[b]	22.5			22.5
Subtotal, FY2009-FY2011	**212.9**	**94.3**	**36.0[c]**	**7.1**	**137.5**
TOTAL, FY2003-FY2011	**671.9**	**122.0**	**45.5**	**17.6[d]**	**185.2**

Source: P.L. 107-210, P.L. 110-89, P.L. 111-5, H.R. 6517, section 101(c)(12), for funding authority; USDA, OIG (for FY2003 – FY2006 outlays); USDA, Foreign Agricultural Service (for FY2007, FY2009 – FY2011 outlays).

a. Funding was authorized only through December 31, 2007, However, USDA did not implement the TAAF program during this three-month period of FY2008.

b. P.L. 111-344 added an additional $10.4 million to the $22.5 million earlier authorized by P.L. 111-5 for October-December 2010.

c. Under contract with the University of Minnesota.

d. Reflecting implementation by four USDA agencies: Foreign Agricultural Service, Economic Research Service, Farm Service Agency, and National Institute of Food and Agriculture (formerly named Cooperative, State Research, Education, and Extension Service).

Of the 72 petitions filed by producer groups for assistance during the five-year period that USDA received petitions, USDA certified or approved 30 groups. Shrimp and salmon producers accounted for most of the cash benefits paid out. Producers of Concord grapes, lychees, olives, wild blueberries, fresh potatoes, Florida avocadoes, snapdragons, and catfish were among others that USDA certified to be eligible for assistance. About 8,400 producers qualified for cash payments (**Table 2**).

[17] OIG, Northeast Region, "Audit Report—Trade Adjustment Assistance for Farmers Program," at http://www.usda.gov/oig/webdocs/50601-03-HY.pdf, Report No. 506-1-3-Hy, June 2007, p. 2; and USDA, *FY2009 Budget Summary and Annual Performance Plan*, p. 27.

Table 2. Activity Under Trade Adjustment Assistance for Farmers Program, FY2003-FY20011

Fiscal Year	Certification Process: Petitions Filed	Certification Process: Petitions Certified	Producer Applicants Covered by Certified Petitions
FY2003	0	—	—
FY2004	25	12	4,512
FY2005	20	14	3,686
FY2006	19	4	208
FY2007	8	0	—
FY2008[a]	—	—	—
Subtotal, FY2003-FY2008	**72**	**30**	**8,406**
FY2009	0	—	—
FY2010	11	3	4,500[b]
FY2011	19	8	[c]
Subtotal, FY2009-FY2011	**30**	**11**	**4,500**[d]
TOTAL, FY2003-FY2011	**102**	**41**	**12,906**[d]

Source: U.S. International Trade Commission, 2004 to 2008 issues of *The Year in Trade*; USDA, FAS, press releases and email communication for FY2009-2011 activity.

a. Program not active because authority expired on December 31, 2007.

b. Estimate

c. Data will be available in early 2011.

d. Incomplete, because FY2011 data is not yet available.

FY2009 to Present

Administrative Actions

On August 25, 2009, USDA's Foreign Agricultural Service published a proposed rule to establish procedures for a group to request certification of eligibility, and for individual producers to apply for technical assistance and cash benefits, under the amended TAAF program.[18]

On March 1, 2010, USDA issued the TAAF interim rule and announced it will immediately begin to implement the FY2010 program. This allowed producer groups to submit petitions to be certified for eligibility, which if approved, permit individual members of a group to apply for program benefits.[19] For the FY2010 round, USDA accepted petitions through April 14, 2010. If a

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[18] *Federal Register*, Department of Agriculture, Foreign Agricultural Service, "Trade Adjustment Assistance for Farmers," August, 25, 2009, pp. 42799-42804, available at http://edocket.access.gpo.gov/2009/pdf/E9-20345.pdf.

[19] *Federal Register*, Department of Agriculture, Foreign Agricultural Service, "Trade Adjustment Assistance for Farmers," March 1, 2010, pp. 9087-9093, available at http://edocket.access.gpo.gov/2010/pdf/2010-3984.pdf, and March 11, 2010, p. 11513, available at http://edocket.access.gpo.gov/2010/pdf/2010-5238.pdf.

petition was approved, eligible producers had to file applications for assistance within 90 days of the certification.

On May 21, 2010, USDA announced that it will accept petitions for the FY2011 TAAF program through July 16, 2010. USDA in late September certified three of the 11 groups that had submitted petitions. Eligible producers had until late December 2010 to file applications for assistance.

Certifications and Producer Approvals

With the 2009 changes to the TAAF program that eased the criteria for a producer group to be certified and for individual producers to be approved for program assistance, more of the provided funding has been used than in the FY2003-December 2007 period. USDA has committed nearly $138 million of the $213 million authorized for the almost 2½-year period through mid-February 2011. This includes $94.3 million in cash benefits and training costs for producers, $36.0 million for developing the technical assistance resources to be used to provide training , and $7.1 million for administrative costs (**Table 1**). Program outlays committed through December 2010 represent 65% of the authorized funding. (For comparison, outlays in the earlier FY2003-December 2007 period accounted for just over 10% of funding authority.)

Of the 30 petitions filed since FY2009 by producer groups seeking certification (i.e., eligibility to qualify for assistance), USDA certified 11 groups. These included producers of shrimp, catfish, lobsters, asparagus, and wild blueberries. USDA subsequently approved about 4,500 producers for training assistance and cash benefits in FY2010 (**Table 2**). The number that qualify under the FY2011 program (against a late December 2010 deadline) will become known in early 2011. USDA expects that most of the benefits during these two years will flow to shrimp producers in Alaska and along the Gulf and southern Atlantic states. With the program's extension only for six weeks, USDA may not have enough time to accept additional petitions from producer groups. Instead, the $10.4 million authorized through mid-February 2011 may be tapped to meet outstanding commitments to already approved FY2011 applicants.

Legislative Outlook in the 112th Congress

Because TAAF funding expired on February 12, 2011, Congress continues to consider proposals to extend program and funding authority. S. 308 (the Trade Extenders Act of 2011) would extend all TAA programs through June 30, 2012. Funding for the TAAF program would be authorized at $90 million for FY2011, and $67.5 million for nine months in FY2012. This bill also would (1) amend health insurance coverage for certain TAA recipients, and (2) extend two trade preference programs that provide duty-free treatment for eligible imported products through mid-2012—the Generalized System of Preferences[20] and the Andean Trade Preference (ATPA)[21] program.

[20] For more information, see CRS Report RL33663, *Generalized System of Preferences: Background and Renewal Debate*, by Vivian C. Jones.

[21] For more information, see CRS Report RS22548, *ATPA Renewal: Background and Issues*, by M. Angeles Villarreal.

The House had planned on February 8, 2011, to consider an unnumbered bill under suspension of the rules to extend all TAA programs through June 30, 2011, and to extend the ATPA program. For this 4½- month period, the TAAF program would be funded at $34 million. Opposition over the budget offset proposed to cover TAA programs' costs, and criticism of the rationale for all TAA programs, led House leadership to pull this measure from the floor schedule. Some Republican Members of the House have suggested that floor consideration of this bill be linked to the Obama Administration committing to a timetable to submit the Colombia and Panama free trade agreements to Congress for consideration. Some House Democratic members have countered they will not support extending the ATPA trade preference program that benefits Colombia and Ecuador unless the House bill also extends TAA program authority.[22]

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[22] *Washington Trade Daily*, "Tying TAA, ATPA to the FTAs," February 9, 2011, p. 1; *Inside U.S. Trade*, "ATPDEA, TAA Extensions Likely Deadlocked, Business Worries About Fallout," February 11, 2010, pp. 1, 15.