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Although many workers have benefited from the adjustment assistance program, which provides various forms of assistance to workers who are adversely affected by changes in the patterns of international trade, several problems need to be corrected. Findings/Conclusions: These problems include unawareness by most nonunion workers of the program; nonspecific criteria and guidelines for evaluating workers' petitions for assistance; different interpretations of the law, which caused inconsistency; and delays in processing applications. Possible inconsistencies in the way Labor interpreted definitions of products and evaluated supporting evidence related to worker petitions included interpretations which fluctuated between broad and narrow, particularly with regard to product definition; determinations that varied, particularly with regard to the time periods used to determine what data were relevant in measuring production declines and import increases; and methods that did not consistently determine the link between increased imports and declines in production. Recommendations: The Secretary of Labor should develop criteria and guidelines for evaluating worker petitions. In formalizing program guidelines, the Secretary should draw on the opinions and suggestions of labor organizations and industry leaders. The Congress should modify the Trade Act to include all workers affected by increased import competition. Excluding workers because their firms do not have corporate ties to the producer of the finished product appears to be inconsistent with the intent of the Act. (Author/SC)

02249-2548

# REPORT TO THE CONGRESS



BY THE COMPTROLLER GENERAL  
OF THE UNITED STATES

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## Certifying Workers For Adjustment Assistance--The First Year Under The Trade Act Department of Labor

In the Trade Act of 1974, the Congress expanded and liberalized programs for helping workers, firms, and communities adjust to changes in the pattern of international trade. This is the first of several reports on adjustment assistance. It specifically examines Department of Labor procedures for handling worker petitions for assistance. GAO's review showed that

- while knowledge of the program is widespread among union workers, few nonunion workers know about the adjustment assistance program;
- the Department of Labor has not established well defined criteria nor developed specific guidelines for evaluating petitions; and,
- only 25 percent of the 776 first-year petitions were processed within the legislated 60-day timeframe.

In addition to recommending that the Secretary of Labor develop better program guidelines and procedures, GAO believes that the Congress should modify the law to include more workers affected by increased import competition.



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

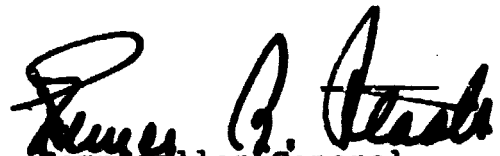
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To the President of the Senate and the  
Speaker of the House of Representatives

This report discusses the Department of Labor's first-year record in investigating and certifying worker petitions for adjustment assistance. It is the first of several reports which will be issued by the General Accounting Office in fulfilling our legislative requirements to assess the effectiveness of adjustment assistance programs and to report our findings no later than January 31, 1980.

We made our review pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), the Accounting and Auditing Act of 1950 (31 U.S.C. 67), and the Trade Act of 1974 (19 U.S.C. 2101).

We are sending copies of this report to the Director, Office of Management and Budget; the Secretary of Labor; and the Office of the Special Representative for Trade Negotiations.

  
Comptroller General  
of the United States

COMPTROLLER GENERAL'S  
REPORT TO THE CONGRESS

CERTIFYING WORKERS FOR  
ADJUSTMENT ASSISTANCE--  
THE FIRST YEAR UNDER  
THE TRADE ACT  
Department of Labor

D I G E S T

Import competition resulting from expanding international markets can adversely affect workers, firms, and even entire communities. Therefore, the Congress in the Trade Act of 1974 directed that various forms of assistance be given to those affected, to help them adjust to changes in the patterns of international trade. This program is known as adjustment assistance.

Although many workers have benefited from the program, several problems need to be straightened out. These include:

- Unawareness by most nonunion workers of the program.
- Nonspecific criteria and guidelines for evaluating workers' petitions for assistance.
- Different interpretations of the law, which caused inconsistency.
- Delays in processing applications.

Adjustment assistance originated with the Trade Expansion Act of 1962. However, rigid eligibility criteria and a cumbersome petition process limited the program to few workers.

Liberalized eligibility criteria and the large number of workers unemployed when the new adjustment assistance started in 1975 resulted in many more certifications.

The 364,387 workers applying for certification in the first year were nearly 3 times the number applying in 12 years under the 1962 Trade Expansion Act. Of the first-year applicants, Labor certified an estimated 147,000 workers as contrasted with a total 54,000

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certified under the prior program. As of August 31, 1976, workers had received over \$118 million in benefits under the Trade Act.

Many applications came from workers in industries which are thought to be internationally competitive or which are already protected by tariffs and import quotas. About 40 percent of the workers certified in the first year were from the automotive industry, generally regarded as a strongly competitive American industry. Another 17 percent were from the apparel industry, which is protected by high duty rates and import quotas.

There was a striking difference in the proportion of petitions from union and nonunion workers. During the first 10 months of the program, union workers accounted for about 80 percent of the petitions. Apparently few among the large nonunion segment of the work force knew about the program.

In commenting on the report, Labor agreed that an outreach program is necessary and desirable. Labor stated it has begun to assure that workers receive accurate and timely information about the program. (See app. I.)

Review of 78 randomly selected petitions and detailed evaluation of 30 petitions from the automotive industry showed that Labor had not established well defined criteria, nor developed specific guidelines for evaluating petitions for assistance. As a result, Labor could not readily determine who should be certified, and, in some cases, its determinations were inconsistent.

The more liberal eligibility criteria made it easier for workers to qualify for adjustment assistance, but it did not provide clear guidelines for distinguishing trade versus nontrade injury.

The Trade Act requires Labor to certify or deny worker assistance within 60 days. But, during the first year of the program, only 25 percent of the petitions submitted were processed within this time. The remainder required from 61 to 189 days.

Contributing causes for the delays seemed to be the unexpectedly high volume of petitions, causing Labor to supplement its permanent staff with temporary personnel. The productivity of the temporary employees was low, and the permanent staff was not brought up to budgeted levels.

The principal factor distinguishing worker adjustment assistance from unemployment compensation is this: The cause for laying off workers must be related to increased imports of like or directly competitive products. GAO identified several possible inconsistencies in the way Labor interpreted definitions of products and evaluated supporting evidence related to worker petitions, including:

- Interpretations that fluctuated between broad and narrow. Product definition often affects whether competition from imports can be demonstrated.
- Determinations that varied. At times, very short time periods and, at other times, longer periods were used to determine what data was relevant in measuring production declines and import increases.
- Methods that did not consistently determine the link between increased imports and declines in production. Certification or denial of petitions may change depending on the depth of the analysis and the perspective of the investigator.

The Secretary of Labor should develop criteria and guidelines for evaluating worker petitions. In formalizing program guidelines and procedures, the Secretary should draw on the opinions and suggestions of labor organizations and industry leaders.

Under the present legislation, some workers who produce component parts of manufactured goods and some workers who provide services may be excluded from the benefits of adjustment assistance due to legal interpretations.

Labor joins GAO in recommending that the Congress should modify the law to include all workers affected by increased import competition. Excluding workers because their firms do not have corporate ties to the producer of the finished product appears to be inconsistent with the intent of the act.

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## CHAPTER 1

### INTRODUCTION

In April 1975, the Department of Labor received the first petitions from groups of workers who believed that imports had been an important factor in their unemployment. These workers were seeking eligibility to apply for adjustment assistance benefits under new legislation entitled the Trade Act of 1974 (Public Law 93-618). During the first year of petitions (April 3, 1975, to March 31, 1976), the Department of Labor received 776 petitions covering over 360,000 workers. As of August 31, 1976, workers had received benefits totaling over \$118 million.

The Trade Act of 1974 authorized the President to enter into reciprocal trade negotiations to promote freer trade. The Congress, recognizing that import competition resulting from freer trade could injure workers, firms, and even entire communities, specified that those segments of the economy adversely affected could apply for and receive various forms of monetary and nonmonetary assistance. This assistance is intended to help them adjust to economic conditions arising from changes in the patterns of international trade.

Section 280 of the act directs the General Accounting Office to evaluate the adjustment assistance program and to report by 1980 on its effectiveness in helping workers, firms, and communities adjust to change. Because of the program's complex structure, we plan to issue several interim reports on specific aspects of adjustment assistance, following the basic two-part structure of the program--investigation and certification of petitions and delivery of program benefits.

This report concerns Labor's first-year record in investigating and certifying worker petitions for adjustment assistance and addresses the following questions.

- Are results meeting expectations?
- Are workers aware of the program?
- Is the eligibility criteria adequately defined and consistently applied?

--What administrative problems has Labor experienced in implementing this new program?

--Is there a need for legislative change?

Later reports will address the delivery of worker benefits and the Department of Commerce's implementation of assistance to firms and communities.

HOW INTERNATIONAL TRADE AFFECTS  
U.S. EMPLOYMENT

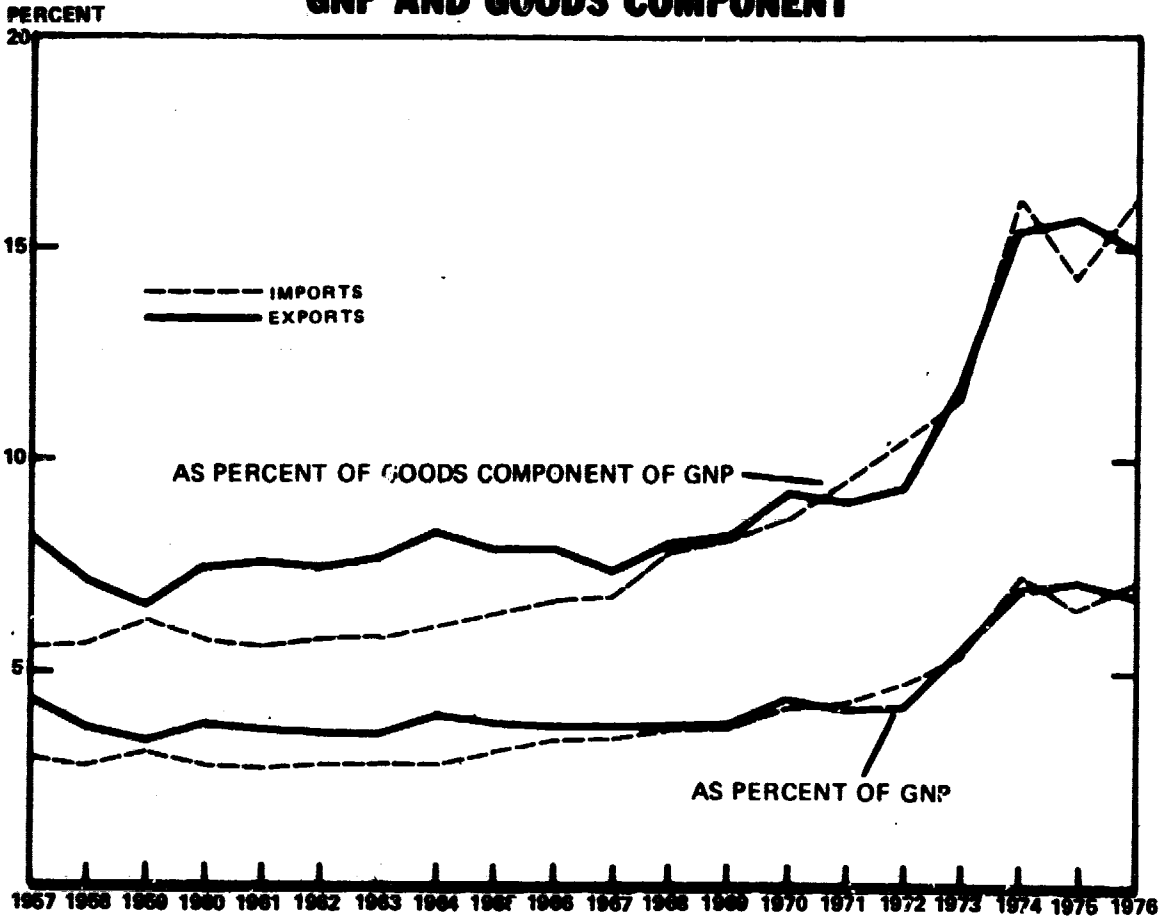
Foreign trade can have both a positive and negative impact on employment. Exports of goods, especially manufactured goods, stimulate employment; exports of agricultural goods are less stimulative because few workers are required to produce the crops.

Imports may either create or displace jobs, depending on the stage to which the imported goods have been processed. For example, imports of raw materials, such as minerals, are likely to create jobs because American workers must process them or use them in manufacturing. On the other hand, imports of manufactured goods, such as televisions and shoes, may displace American workers who produce these products domestically.

Historically, Americans have imported only a small proportion of total goods purchased and have exported only a small proportion of total goods produced. Recently, however, trends have changed reflecting the greater interdependence of the economy. (See chart 1.)

CHART 1

## IMPORTS AND EXPORTS AS A PERCENT OF GNP AND GOODS COMPONENT



\*-PRELIMINARY

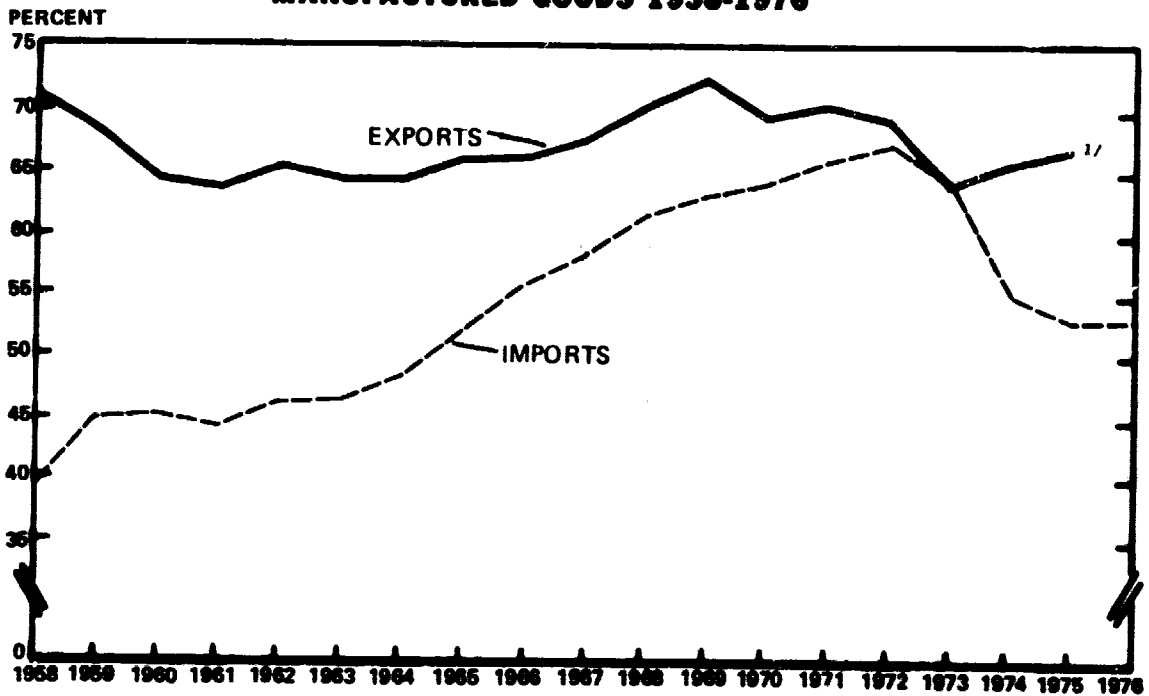
SOURCE: PREPARED BY JAO FROM INFORMATION OBTAINED FROM THE ECONOMIC REPORT OF THE PRESIDENT, JANUARY 1976 AND THE DEPARTMENT OF COMMERCE

Chart 1 shows imports in the aggregate. However, for a number of U.S. industries, such as shoes, automobiles, and consumer electronic products, the role of imports is even more important. In 1975 shoe and automobile imports equaled 76 and 31 percent, respectively, of total U.S. unit production, and imports of consumer electronics equaled 52 percent of the value of U.S. production. Thus, while increasing imports of manufactured goods can affect all workers, those in certain import sensitive industries have been more seriously affected. For automobiles, however, both imports and exports are significant.

Overall, imports in the past 19 years have shown a striking change in composition. As seen in chart 2, imports of manufactured goods increased from 40 percent in 1958 to 68 percent in 1972. Exports of manufactured goods have averaged about 68 percent of total exports since 1958. The change from importing predominately raw materials which created jobs to predominately manufactured goods which displace jobs has major implications for U.S. manufacturing workers. The four-fold increase in the price of oil is primarily responsible for the decrease in proportion since 1973.

CHART 2

**PERCENT OF TOTAL U.S. IMPORTS AND EXPORTS THAT ARE MANUFACTURED GOODS 1958-1976**



<sup>1/</sup>EXPORT DATA FOR 1976 WAS NOT AVAILABLE

SOURCE: PREPARED BY GAO FROM INFORMATION OBTAINED FROM THE ECONOMIC REPORT OF THE PRESIDENT, JANUARY 1977

RELAXED CRITERIA STIMULATES PROGRAM ACTIVITY

The Trade Expansion Act of 1962 allowed for compensating workers displaced because of increased imports. However, program application was limited by the manner of administration and by rigid eligibility criteria that (1) import impact had to result "in major part" from tariff concessions and (2) increased imports had to be "the major factor" in causing job separations. No petitions were certified from 1962 to 1969, and through 1974, only 100 petitions covering about 54,000 workers were certified.

In passing the Trade Act of 1974, the Congress liberalized the eligibility criteria for worker adjustment assistance by requiring only that imports increase and that they "contribute importantly" to job separation. The Congress also transferred administration of worker petitions from the International Trade Commission (formerly the Tariff Commission) and gave the entire program responsibility to the Department of Labor.

These eligibility criteria changes and the new program's inception at a time of high unemployment have resulted in substantial increases in requests for adjustment assistance, as shown in table 1.

Table 1

	<u>Trade Act--1 year</u>		<u>Trade Expansion Act-- 12 years</u>	
	<u>Petitions</u>	<u>Estimated workers</u>	<u>Petitions</u>	<u>Estimated workers</u>
Certified	372	146,831	110	53,899
Denied	370	208,995	171	67,431
Terminated	22	2,527	1	271
Withdrawn	11	5,234	2	850
In process	1	800	-	-
Total	<u>776</u>	<u>364,387</u>	<u>284</u>	<u>122,451</u>

Certification of a petition is the Government's "stamp of approval" that increased imports have been an important cause of the unemployment. Because it would not be feasible to review petitions for each individual worker, the act specifies that the Secretary shall certify "a group of workers." Although most certifications by Labor depend on a plantwide

definition of a group, other definitions occur, such as those covering a section of a plant. The actual number of workers receiving benefits at any time will be substantially less than the number certified because (1) the number certified are estimates of the number expected to be affected rather than the actual number of workers separated, (2) some of those certified may not meet other criteria, such as length of employment in the particular job, and (3) some of those determined eligible for weekly benefits may not yet have applied for or received payments.

Processing individual applications for benefits and delivering the benefits continue to be administered by State unemployment agencies. Once certified, workers separated from their jobs may receive

- weekly trade readjustment allowances (income maintenance);
- manpower services, including training and related services; and/or
- job search and relocation allowances.

The weekly allowance equals 70 percent of the worker's average weekly wage, not to exceed the average weekly manufacturing wage, which in April 1976 was \$190. State unemployment benefits and 50 percent of any wages earned during the week would be subtracted from the trade allowance entitlement. The allowance may be claimed for up to 52 weeks of unemployment, with an additional 26 weeks available for those in approved training programs and those 60 years of age or more on the separation date.

It should not be assumed that the foregoing provisions remove the burden of economic change from workers. Between jobs, workers may be without health protection, since in the United States health insurance is usually tied to employment; they lose seniority privileges, which in the American labor market typically carry a number of economic benefits; and their retirement benefits may be jeopardized. 1/

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1/ The funding of the Employee Retirement Income Security Act of 1974, Public Law 93-406, attempts to assure transferred workers that retirement income earned in earlier jobs will be available at retirement age.

## CHAPTER 2

### FIRST-YEAR CERTIFICATIONS AND FACTORS

#### INFLUENCING WORKER APPLICATIONS

Implicit in the adjustment assistance program is the belief that a worker's employment can be adjusted in accordance with "changes in the patterns of international trade." During periods of unemployment, workers receive income maintenance, but the goal of retraining and job transfer allowances is to help workers move from industries lacking international competitiveness to those which are competitive.

The program became effective April 3, 1975, when the country was in a serious recession, so first-year results differed considerably from expectations. For example, the automobile industry, which is regarded as one of the strong American industries, accounted for the largest number of workers for whom petitions were filed, and the apparel industry, where jobs are protected by high duty rates and import quotas, also accounted for large numbers of workers. Workers in leather, primary metals, fabricated metal products, and electrical industries filed most of the remaining petitions. (See table 2.) The classification of petitions and workers in table 2 depends on the principal product of the petitioning workers.



Table 2

First-Year Petitions

<u>Industry</u>	<u>Principal products of petitioners</u>	<u>Number of</u>		<u>Percent</u>
		<u>Petitions</u>	<u>Workers</u>	
Transportation equipment	Automobiles and parts	114	168,907	46.3
Electrical equipment	Consumer electronics	81	54,989	15.1
Apparel	Clothing	286	37,157	10.4
Fabricated metal products	Automotive stampings, nuts and screws, tools, etc.	58	33,097	9.1
Primary metals	Steel	62	29,116	8.0
Leather and leather products	Shoes	70	12,610	3.5
Other	Textiles, chemicals, stone and wood products, etc.	105	27,871	7.6
Total		<u>776</u>	<u>364,387</u>	<u>100.0</u>

First-year certifications show a somewhat different industry breakdown from table 2, which was based on total petitions submitted. For example, transportation equipment drops from 46.3 to 35.9 percent, and primary metals increase from 8.0 to 14.1 percent, as shown in table 3.

Table 3

First-Year Certifications

<u>Industry</u>	<u>Number of</u>		<u>Percent</u>
	<u>Petitions certified</u>	<u>Workers certified</u>	
Transportation equipment	29	52,709	35.9
Electrical equipment	40	19,727	13.4
Apparel	157	24,416	16.6
Fabricated metal products	18	10,560	7.2
Primary metals	35	20,659	14.1
Leather and leather products	60	10,753	7.3
Other	33	8,007	5.5
Total	<u>372</u>	<u>146,831</u>	<u>100.0</u>

Many automobile workers are also in the electrical equipment and fabricated metal-products industries and are scattered throughout other industry groupings. When automobile workers are consolidated, they total 226,664 workers, or 62 percent of first-year applicants, and 62,199 workers, or 42 percent of first-year certifications.

Probably few observers would have expected the American automobile industry to have comprised 42 percent of first-year certified applicants. The automobile industry contributes the largest value-added to the U.S. gross national product, employs the largest number of workers, and pays about 30 percent higher wages than the national average manufacturing wage. Although new car sales declined sharply during the recession years of 1974 and 1975, the industry projects increased production and sales through 1978.

For quite different reasons, probably few observers would have expected so many apparel workers to be first-year certified applicants. The apparel industry enjoys

sizable duty protection in addition to quotas. <sup>1/</sup> Since these restrictive measures were intended to prevent imports from disrupting the apparel industry, the number of apparel workers seeking adjustment assistance would have been expected to be low.

#### FACTORS INFLUENCING WORKER APPLICATIONS

Since adjustment assistance is available only to groups of trade-affected unemployed workers who take the initiative to petition the Department of Labor, applications for certification relate to unemployment, workers' perceptions of whether imports are a factor in their being unemployed, and their awareness of the program.

#### Unemployment

Competition, whether domestic or foreign, is more difficult to meet during recessionary periods and, as a result, firms are more apt to lay off workers. The 1975 average of 8.5 percent overall unemployment was 50 percent higher than in 1974, and in manufacturing was even higher with an average of 10.9 percent.

In the first year of the program, Labor received petitions covering an estimated 364,387 workers, which represented about 16 percent of the 2.3 million unemployed manufacturing workers. As shown in table 4, unemployed workers filing petitions--except for those included in "other manufacturing"--ranged from 18.4 percent of apparel workers to 62.6 percent of transportation equipment workers.

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<sup>1/</sup> Duty rates average about 26 percent according to value based on 1967 trade weights. Import quotas are negotiated under a multilateral arrangement restricting trade in textiles. As of October 7, 1976, the United States had quota agreements with 18 major supplying countries.

Table 4

Workers Covered by First-Year Petitions  
Compared With Average Number of Unemployed Workers

<u>Industry</u>	<u>Workers covered by petitions</u>	<u>Average number of workers unemployed 1975</u>	<u>Percent</u>
Transportation equipment	168,907	270,000	62.6
Electrical equipment	54,989	263,000	20.9
Apparel	37,797	205,000	18.4
Fabricated metal products	33,097	177,000	18.7
Primary metals	29,116	142,000	20.5
Leather and leather products	12,610	38,000	33.2
Other manufacturing	27,871	1,218,000	2.3
Total	<u>364,387</u>	<u>2,313,000</u>	15.8

Perception of import injury

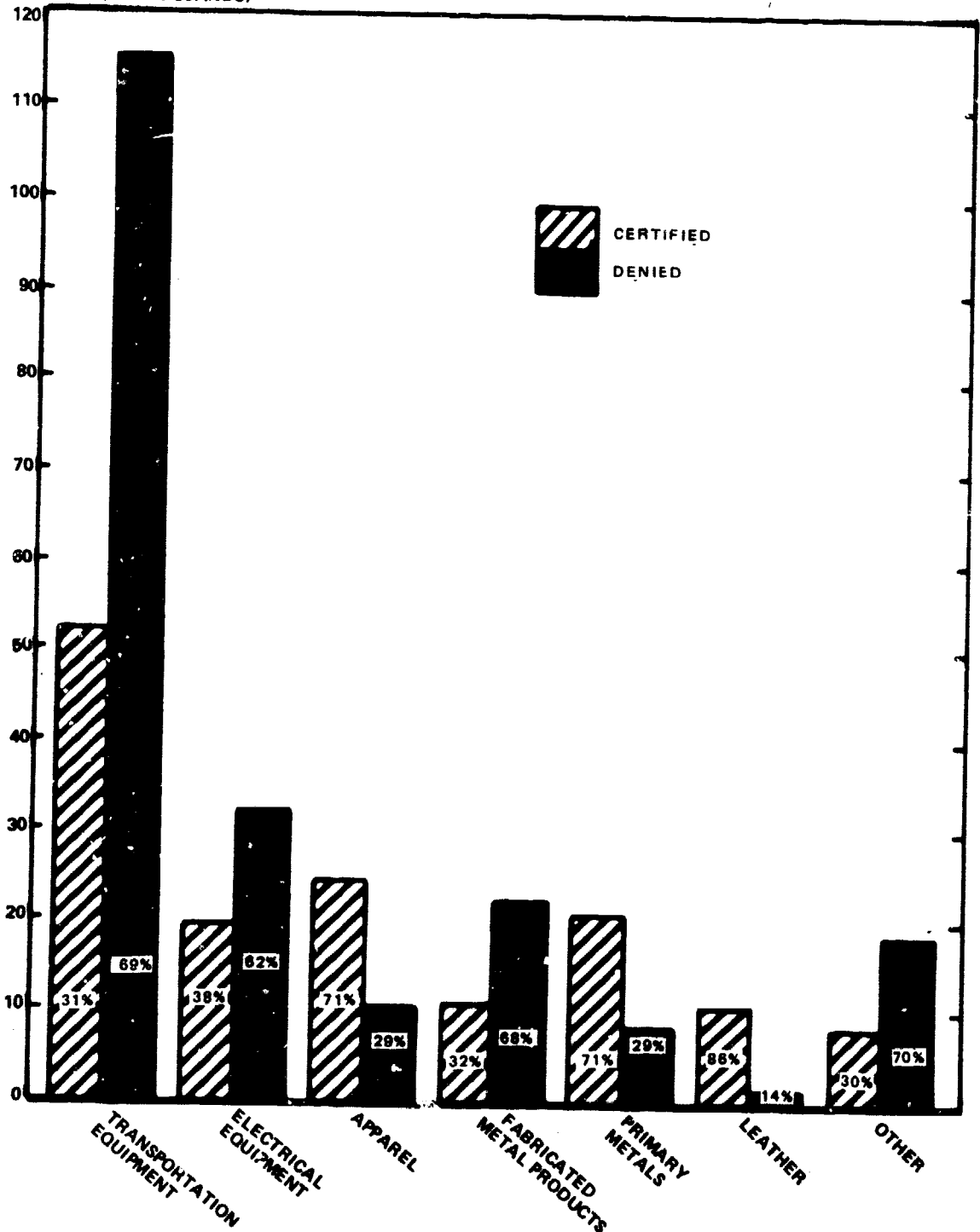
Whether imports are an important cause of job loss is scarcely a self-evident fact because most unemployment arises from multiple causes. For example, job loss may arise from a domestic recession, poor management, obsolete or inadequate production facilities, change in demand for the product line, or from imports.

The number of petitions denied--370 of the total 776 submitted--during the first year of the program may indicate that many groups of workers are having difficulty determining whether their unemployment is related to imports. As chart 3 shows, denials were particularly high among internationally competitive industries such as transportation equipment, fabricated metals, and electrical equipment. In contrast, more than 85 percent of the petitioning leather (footwear) workers were certified. Footwear, however, is an industry which has experienced import erosion for several years and which the International Trade Commission and the President have determined is being affected by imports. For most industries, the role of imports is not so clear-cut. Chart 3 indicates the certifications and denials by numbers of workers affected.

CHART 3

# NUMBER OF WORKERS CERTIFIED AND DENIED BY INDUSTRY AS A RESULT OF FIRST YEAR PETITIONS

NUMBER OF WORKERS (IN THOUSANDS)



SOURCE: PREPARED BY GAO FROM INFORMATION OBTAINED FROM THE DEPARTMENT OF LABOR

## Awareness of program

Even if workers are unemployed and believe their displacement is largely due to imports, no petitions will be filed unless workers are aware of the adjustment assistance program. Labor unions have been the most effective means of making workers aware of the program. Over 80 percent of the first 590 petitions were filed by unions. However, unionization varies greatly from industry to industry, and most manufacturing workers do not belong to unions. During 1975 about 65 percent of the unemployed manufacturing workers were not union members. Since only a small percent of the workers who applied during the first year were nonunion members, program awareness in most of the work force appears limited.

A reason for this lack of awareness is that the Department of Labor has not effectively publicized the adjustment assistance program. The Department has relied on making program literature available to State unemployment offices, giving program information to publications and newspapers, attending regional conferences and union conventions, and issuing press releases on petition determinations. Labor officials believe the major cause of unawareness is the failure of State unemployment offices to inform workers of the program.

We asked six State unemployment officials in five major cities about their efforts to inform workers of the adjustment assistance program and its benefits. Most offices are aware of the program and had pamphlets from the Department of Labor available on request. However, workers applying for unemployment insurance and unaware of the program probably would not learn about it at these offices because no method exists for distributing pamphlets to each unemployment insurance applicant. Also, bulletins describing the program are not displayed in the offices.

Most State officials said that program awareness may be a problem for nonunion and small company workers. Three officials indicated that it would be undesirable for State unemployment offices to distribute adjustment assistance information to each individual worker. One official suggested providing information industrywide to businesses affected by imports. Another suggested having affected employers provide information to workers. Two felt that availability and display of bulletins would be beneficial to worker awareness.

## CONCLUSIONS

General unemployment greatly influences the number of worker applications for adjustment assistance. Under normal conditions, the new program might have assisted the movement of unemployed workers from industries lacking international competitiveness to stronger U.S. industries, such as automobiles. However, a serious recession caused first-year results to differ considerably from expectations. The recession caused high unemployment in all manufacturing sectors, and automobile workers accounted for the largest group of applicants. To a great extent, the effectiveness of the adjustment process depends on the economy being near full employment.

Other factors influencing the number of applicants are workers' awareness of the program and their perception of whether imports are a factor in their unemployment. The program obviously has not reached the large nonunion segment of the work force. In addition, the high denial rate of petitions in several industries indicates that many applicants have difficulty identifying whether imports are an important factor in their unemployment.

## RECOMMENDATION

We recommend that the Department of Labor, in cooperation with State employment agencies, develop procedures and programs for assuring that all unemployed workers are aware of adjustment assistance.

## AGENCY COMMENT

In commenting on our report, the Department of Labor recognized that:

"\* \* \* prospective petitioners may face obstacles in obtaining information about the program. This Department has initiated a major effort to assure that workers receive accurate and timely information about the program. We agree with the report's view that this outreach program is necessary and desirable. It should be noted, however, that this informational campaign can be expected to greatly increase the volume of petitions and the cost of processing them. Very likely a high percentage of the additional petitions to be stimulated may be frivolous and may not meet the criteria for certification. Therefore, the larger volume of petitions might not increase proportionately the number of workers receiving benefits."

## CHAPTER 3

### THE PROCESS FOR DETERMINING PROGRAM ELIGIBILITY

In reviewing petitions, the Department of Labor must determine if increased imports are an important cause of unemployment. This causal link between declining sales or production and rising unemployment and imports is the principal factor distinguishing worker adjustment assistance from unemployment compensation.

The Trade Act states that the Secretary of Labor shall certify a group of workers as eligible to apply for adjustment assistance if the following criteria, as set forth in section 222, are met.

"(1) that a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

"(2) that sales or production, or both, of such firm or subdivision have decreased absolutely, and

"(3) that increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

"For purposes of paragraph (3), the term 'contributed importantly' means a cause which is important but not necessarily more important than any other cause." (underscoring supplied)

To assess the Department of Labor's interpretation of the criteria, we reviewed a 10-percent sample (78) of the first-year petitions and 30 automobile petitions.

Because the legislative history indicates a liberal interpretation as to what constitutes a "significant number" of workers (in some circumstances the number could be as few as three) we encountered no problems with this phase. However, interpretation of "an appropriate subdivision" of the firm is critical for service workers and component-parts workers.

We had no difficulties in establishing that sales or production "decreased absolutely." With the criteria concerning "increased imports," "like or directly competitive



articles," and "contributed importantly," however, our experience was quite different. Table 5 shows our findings on the 78 petitions. Obviously, our categorizations are judgmental, but we believe they provide an order-of-magnitude dimension to the most troublesome phrases of the criteria in the Trade Act and the frequency of their occurrence.

Table 5

Interpretive Issues Arising from  
Review of 78 Sample Petitions

	<u>Certified</u>	<u>Denied</u>	<u>Total</u>
Sample petitions:			
Clear-cut decisions	7	14	21
Problems with interpretation	31	20	a/51
Terminations (note b)	-	-	6
Total	<u>38</u>	<u>34</u>	<u>78</u>
Types of interpretive issues:			
Like or directly competitive articles	24	17	41
Increased imports	6	2	8
Contributed importantly	29	16	45
Total	<u>59</u>	<u>35</u>	a/ <u>94</u>

a/ Most of the 51 "problem petitions" had interpretive issues in more than one category.

b/ Improperly filed petitions are terminated.

The determination of "like or directly competitive articles" was an interpretive issue in 41 (53 percent) of the 78 sample petitions. It was present in most shoe, automobile, and apparel worker petitions and is discussed in chapter 4.

In order to study the "increased imports" issue, we accepted the Department of Labor's definition of the "like or directly competitive article" to avoid recounting petitions where the definition itself was an issue. "Increased imports" was an issue in 8 of the 78 petitions and is discussed in chapter 5.

Establishing that imports "contributed importantly" to the loss of employment became an issue in 45 (58 percent) of the 78 petitions and is discussed in chapter 6.

## CHAPTER 4

### PROBLEMS IN DETERMINING ELIGIBILITY--

#### WHAT ARE LIKE OR DIRECTLY COMPETITIVE ARTICLES?

The Department of Labor's first step in the certification process is to define the product of the petitioning workers and to determine what articles are like or directly competitive with it. The breadth or narrowness with which the product is defined and, hence, what constitutes the "like or directly competitive article" can affect the findings of whether or not imports have increased. Nevertheless, the Department of Labor has not established guidelines or operational procedures for determining like or directly competitive articles. Thus, Labor's methods of evaluating and decisionmaking often have been inconsistent.

We have used the automobile industry to illustrate how breadth or narrowness of product definition affects certification. The Department of Labor has divided the automobile industry into seven product groupings--subcompact, compact, luxury small, intermediate, standard (full size), luxury, and specialty cars. It could also be argued plausibly that the industry is divided into two categories, "large" and "small," or that the definition should be "automobiles." Our point is not to endorse a particular definition but to underscore that workers may or may not receive certification according to the definition used.

Table 6 specifically illustrates the effect of product definition on findings. The first column lists the Department's four most commonly used categories and its findings as to increased imports. The second and third columns show different definitions and indicate whether the import record would or would not support a finding of increased imports.

Table 6

How Product Definition Can Affect  
Decisions of Increased Imports

Department of Labor  
categories and decisions

Other possible  
categories and decisions

<u>Product</u>	<u>Decision</u>	<u>Product</u>	<u>Decision</u>	<u>Product</u>	<u>Decision</u>
Subcompacts	affirmative	} Small	negative	} All cars	affirmative
Compacts	negative				
Intermedi- ates	affirmative	} Large	affirmative		
Standards	affirmative				

Part of the difficulty in determining which product definition to use arises from whether these categories come from the supply side of the market--such as an automobile assembly plant--or from the demand side--from purchasers. From the supply side, the most important consideration is the product produced; from the demand side of the market, the consideration is products which may be substituted. Thus, in the automobile industry, are subcompact and compact cars substitutable products? Are intermediate and standard cars substitutable products? Should all cars be thought of as substitutable products?

Interestingly enough, although Labor uses a narrow product definition of passenger cars, it uses only one category for pickup trucks. For workers of the International Harvester Company it found that imports of pickup trucks (Datsun and Toyota) had increased. However, compared to Datsun and Toyota, International Harvester pickup trucks are less similar than are subcompact passenger cars with compact cars, which, Labor classifies separately.

Product definition was also a recurring issue in the 71 shoe petitions. Is the appropriate product definition shoes, men's shoes, women's shoes, children's shoes, women's casual shoes, mature women's shoes, or what? The possibilities are numerous. In the February 1976 International Trade Commission decision on shoes, five of the six Commissioners agreed that the relevant definition was simply shoes, with no categorizing. The dissenting Commissioner cited the

appropriate product definitions as women's and misses' shoes; men's, youths', and boys' shoes; children's and infants' shoes; work shoes; and athletic shoes.

The Department of Labor explained that, customarily, its shoe categories are men's, youths', and boys' shoes; women's and misses' shoes; children's shoes; house slippers; rubber and canvas shoes; and athletic shoes. In the case of the Hamilton Shoe Company, however, Labor defined the product as "mature women's shoes" and denied their petition because imports of "mature women's shoes" were minimal and imports of other shoes were not competitive.

### CONCLUSIONS AND RECOMMENDATIONS

The definition of the worker's product affects the outcome of certification investigations. In many cases, however, there is no agreement on how the product should be defined, and this can lead to inconsistent decisions. During the first year of the adjustment assistance program, controversy surrounding the scope of product definition primarily involved such industries as automobile, footwear, and apparel, whose workers submitted many petitions.

Because of the importance of product definition and the industries experiencing problems, the Secretary of Labor should develop criteria which would serve as a guide to definitions which can be consistently applied. In this regard, the Secretary should use internal information and experience and the opinions and suggestions of labor organizations and industry leaders.

### AGENCY COMMENTS AND OUR EVALUATION

Although the Department of Labor did not disagree with our overall conclusions and recommendations, it commented on several other points, as follows.

"\* \* \* the GAO report had difficulty in establishing the relationship between the two basic elements within criterion 3 of the Act--mainly, increased imports of 'articles like or directly competitive' on the one hand and 'contributed importantly' on the other. The GAO report infers that because articles are like they must be directly competitive and therefore any increase in imports of a given article, e.g., autos or shoes will pari passu contribute importantly to worker separations.

"The Department's opinion, however, is that in order to determine whether increased imports 'contributed

importantly'; one must look to the degree of substitutability in the consumer's mind of a domestically produced article vs. an imported article. Utilizing the concepts of relevant market and substitutability, the Department finds little substitutability between a foreign Volkswagen and a domestic Cadillac and almost zero substitutability between a foreign woman's dress shoe and a domestic man's dress shoe."

Obviously, a Volkswagen is not readily substitutable for a Cadillac from the purchaser or demand viewpoint, i.e., they are not highly competitive products. However, from the producer or supply viewpoint, (the "like" article as explained in the legislative history of the act),<sup>1/</sup> there is an alternative measure. Therefore, Labor could have used either the demand or the supply approach since imports which do not "contribute importantly" on the demand side may do so on the supply side. A "like" article is one which is "substantially identical in inherent or intrinsic characteristics." In this sense a Volkswagen and a Cadillac could be considered "like" products.

Labor further stated that:

"The GAO study...cites the Department's investigation involving Hamilton Shoe Company, St. Louis, Missouri, TA-W-84, as an example of a narrow product definition ('mature women's shoes') which resulted in a denial 'on the grounds that imports of shoes in this category had not increased'. In fact, the Department utilized in the investigative report, recommendation and certification import statistics for all non-rubber footwear for women as being the relevant article imported in increased numbers. However, customer comments revealed that retail customers of Hamilton had not switched to

<sup>1/</sup>"'Like or directly competitive' means that 'like' articles are those which are substantially identical in inherent or intrinsic characteristics (i.e., materials from which the articles are made, appearance, quality, texture, etc.); and 'directly competitive' articles are those which, although not substantially identical in their inherent or intrinsic characteristics, are substantially equivalent for commercial purposes (i.e., adapted to the same uses and essentially interchangeable therefor) (29 CFR 90.2)." This was developed by the Department of Labor from S. Rept. 93-1298, 93d Cong., 2d sess., p. 121 (1974) and H. Rept. 93-571, 93d Cong., 1st sess., p. 45 (1973).

imports because Hamilton's sole brand 'Penaljo' appealed to older women who did not buy imports. Therefore the second part of criterion 3 'contributed importantly' was not met because even though imports had increased they were not being purchased by customers of Hamilton."

In making its determination (from the demand side), Labor used two definitions to describe the articles produced by Hamilton. In determining increases of imports, it defined the article as nonrubber footwear for women. In determining whether increases of imports contributed importantly, it redefined the article as "traditional footwear," i.e., "mature women's shoes." Section 222(3) of the act states that " \* \* \* increases of imports of articles like or directly competitive with articles produced by such workers' firm \* \* \* contributed importantly" which may indicate that only one product definition should be used for both determinations.

Using the alternative approach which considers the supply (producer) aspect would have caused Labor to determine if Hamilton could have switched production to another type of shoe to avoid layoffs and closing a plant. If Hamilton could not have switched production because of import competition in other shoe lines, then Labor could have determined that increased imports of like articles contributed importantly to worker unemployment.

#### EXCLUSIONS ARISING FROM LEGAL INTERPRETATIONS

Workers who provide services and those who produce component parts of manufactured goods may be excluded from the adjustment assistance program due to legal interpretations. Labor has observed that in the absence of

"any clear expression in the statute or legislative history to the contrary, the phrase 'articles produced' or 'imports of articles' \* \* \* does not extend to services unrelated to the production of a tangible item."

And, component-part workers have been excluded on the grounds that a component part is not "like or directly competitive" with the end product.

Under the Trade Expansion Act, the Tariff Commission's (now the International Trade Commission) conclusion that "imported finished articles are not like or directly competitive with domestic components thereof" was upheld by a U.S. Court of Appeals. Thus, heel plants would not be covered along with shoe factories, bumper or tire plants with automobile plants, picture tube producers with television plants, or shoulder pad makers with suit factories.

However, if the service unit or the component-part factory is affiliated with a plant demonstrated to be import-affected, then workers may be included in the program, because the statutory wording covers not only workers separated from a firm but workers in "an appropriate subdivision." Thus, if a service unit that moves cars from an assembly plant to the dealers is corporately affiliated with the assembly plant, the workers will be treated in the same way as those of the assembly plant. Likewise, workers producing heels for shoes will be covered if their plant is corporately affiliated but not if the firm sells through "arm's length transactions."

Labor has a different view for workers of a subcontractor who perform necessary steps in the production of the finished product. For example, workers of Sidmar Clothing Company, Inc., and Eduardo Bonelli and Company, Inc., submitted petitions because of worker separations due to decreased sales. Both companies do stitching for clothing manufacturers. As component-part producers, they contribute to the finished product; as service providers, they do the stitching which the clothing manufacturers do not do for themselves. So, although neither company is corporately tied to the manufacturers, Labor determined that stitching was a step in the garment production process and certified both petitions.

#### Matters for consideration by the Congress

Excluding workers from adjustment assistance because they produce a component part or provide an intermediate service for an industry affected by changes in international trade appears inconsistent with the intent of the Trade Act. The Congress should modify the law to include all workers affected by increased import competition. We recognize, of course, that, in the case of intermediate service and component parts producers, an eligibility cutoff is necessary or the petitioning process could extend back to producers of raw materials and all related products.

Agency comments

Labor agreed that program inequities have arisen from interpretations of the law. They also agreed with our proposal that the Congress should modify the law to include all workers affected by increased import competition.



## CHAPTER 5

### PROBLEMS IN DETERMINING ELIGIBILITY--

#### WHEN HAVE IMPORTS INCREASED?

Section 201 of the Trade Act indicates that an increase in imports can be either an "actual" increase or one "relative to domestic production." A relative increase occurs when imports decrease less than domestic production or when imports remain constant but domestic production declines.

Determining whether or not imports have increased might appear to be a simple part of administering adjustment assistance, but even this has complications. Labor could avoid some complications by establishing operational definitions and guidelines, but it has chosen to make determinations on a case-by-case basis.

Since the act permits a relative increase, this requires an ability to compare the imports of the "like or directly competitive article" with domestic production. But, import and domestic production statistics compiled by the Government are maintained on two different systems which do not "mesh." Statistics on domestic production are compiled according to the Standard Industrial Classification (SIC), while import data is gathered according to the Tariff Schedules of the United States, Annotated and "Schedule A." Typically, product definitions differ under these systems. In view of this, the Congress in Section 608 of the Trade Act directed that "comparability" be developed between these systems (and with export statistics), but such work is still only in a preliminary stage. As a result, elaborate adjustments are often required to compare imports of the "like or directly competitive article" with domestic production.

The question of whether the actual or relative increase is measured in terms of value or volume also arises. At times the disparity between the value and the volume change can be so great that the two measures move in opposite directions. The Labor Department stated that it considers volume more reliable than value data. Inasmuch as value data includes distortions such as increases due to inflation, Labor said it uses value data only if volume data is not available. Labor, however, has not formalized its guidelines to assure consistent application by adjustment assistance petition investigators.

Although the statutory definition of relative increase in imports relates to production, our review of automobile petitions noted two related instances where the relative increase in imports was calculated from retail sales of U.S. built and imported automobiles, i.e., apparent consumption. In these two petitions from Chrysler plants that assembled intermediate-sized cars, Labor found increased imports by comparing unit sales of U.S. built and imported intermediate cars instead of using production statistics which would have shown that imports had not increased.

#### AGENCY COMMENTS AND OUR EVALUATION

Labor commented that it normally relates imports to production to determine relative increases. However, because auto import statistics are not reported by car model, although retail sales of imported cars are, it related imports to consumption to achieve comparability.

While it may have been necessary to relate imports to consumption for some auto classifications, such as subcompacts, it was unnecessary for compacts, intermediates, and full-sized cars. Labor's classification system showed that intermediate imports were produced only in Canada. The same sources Labor used for basic statistics, the Motor Vehicle Manufacturers Association and "Automotive News," describe U.S. production by car model and also give Canadian imports by car model since 1974. Inasmuch as Labor was obliged to estimate retail sales of imports from Canada to develop the ratio of imports to consumption, it could have used the actual Canadian import statistics for 1974 and 1975 and estimates for prior years in relating imports to production.

#### TIMEFRAME

An increase implies a timeframe. Findings, though, can differ depending on time periods used for comparison and the time unit in which the increase is measured--monthly, quarterly, annually. Under the act, does the term "increase" imply a sustained increase, i.e., a trend? The act repeatedly refers to adjusting to changes in international trade. It is doubtful that adjustment is indicated when imports in one quarter are higher than another or when imports in one year are higher than another, because the succeeding quarter or year statistics may reverse the record.

If a trend is indicated, what length of time establishes a trend? By regulation, Labor has explained that increases

"would generally mean those increases as have occurred from a representative base period subsequent to the effectiveness of the most recent trade agreement concessions proclaimed by the President beginning in 1968."

Since the Kennedy Round concessions ended on January 1, 1972, the Department emphasized that any increases considered should be for some time period since that date. It does not state, however, the amount of time for which the increase must be sustained or the units in which it should be measured.

From our examination of randomly selected petitions and indepth review of automobile petitions, it is difficult to discern a pattern in the timeframes used by Labor. According to a Labor official, timeframes are chosen case-by-case and can be as long as 5 years or as short as one quarter. This allows for great flexibility in studying each case.

A petition early in the program concerning birch plywood doorskins shows the differences timeframes can make. Inasmuch as yearly import figures are not published until many months into the following year, Labor compared 1974 with 1973 data and found imports had increased 9 percent relative to production. However, if it had compared 1974 to 1972 it would have found imports had declined 11 percent relative to production

#### Agency comments and our evaluation

Labor stated that:

"It is the opinion of the Department that the import and production data most relevant to any determination regarding eligibility for adjustment assistance is the most recent period which coincides with layoffs in the firm or industry. While 1972 import data may be of historical interest when investigating a petition for adjustment assistance for workers separated in 1974, the import and production data for the preceding 12-18 months will be paramount in determining if the increased imports contributed importantly to the total or partial separations, particularly in view of the limitation set down by Section 223(b) (1) of the Act whereby no certification may apply to any worker separated more than one year before the date on the petition."

Phrasing its observations as it does, the Department begs the question. The issue is what time period should be used to determine if imports have increased.

#### CONCLUSIONS AND RECOMMENDATIONS

Several interpretive problems arise concerning the determination of whether or not imports have increased. For example, is an increase generally measured in unit or dollar value? For what time period should increased imports be measured? Is a trend of increased imports necessary for a positive finding and how long must imports increase to be considered a trend?

The answers to these questions affect whether or not a group of workers will be certified eligible to apply for adjustment assistance. The Department of Labor has been inconsistent in its interpretations, and similar worker groups have not always been given the same treatment. In a few cases, the Department compared import statistics to domestic consumption in measuring relative import increases instead of to domestic production as the law prescribes. In addition, the lack of comparable domestic production and import/export statistics increase the difficulty of determining if imports have increased, but the Department of Labor has no control over this problem.

The Department of Labor should establish formal guidelines for determining when imports have increased--whether the increase is measured in quarters, half-years, years; the base period from which the computation is to be made; and when volume or value data is to be used.

## CHAPTER 6

### PROBLEMS IN DETERMINING ELIGIBILITY--HAVE IMPORTS

#### CONTRIBUTED IMPORTANTLY TO WORKER SEPARATIONS?

The final certification step is determining whether increased imports of the like or directly competitive article have "contributed importantly" to loss of employment, sales, and production. Many factors simultaneously impinge on a firm's health--domestic competition, change in demand patterns, general economic recession, and change in imports--so it is not easy to determine the relative importance of increased imports in causing job loss.

Worker separations are clearly caused by imports when a firm substitutes foreign production or purchases for domestic operations. In our review of randomly selected petitions, this situation existed in about 12 percent of the petitions submitted and about 4 percent of the workers certified. To replace U.S. production, companies (1) transferred certain production to foreign subsidiaries, (2) transferred some production to a foreign plant and some to another existing U.S. plant, and/or (3) closed U.S. production facilities and purchased from abroad.

Unlike the situation in this group of cases, the "contributed importantly" decision was the most difficult determination to assess on the remaining sample petitions. The interpretive issues for most of the sample petitions involved the Department of Labor's lack of operational procedures and its subjective judgment of whether imports "contributed importantly." We observed that Labor's evaluation methods and resulting decisions often have been inconsistent.

The Department typically uses customer surveys to demonstrate a direct link between imports and job loss. However for automobiles, where the market is clearly national and dealers generally sell only one manufacturer's product, Labor uses industry analysis to establish an implied relationship between aggregate import increases and unemployment.

#### DEMONSTRATING A DIRECT LINK

Where applicable Labor uses oral or written customer surveys to demonstrate a direct link between increased imports and worker separations. Customer names are supplied by the affected workers' firm and are typically retail buyers. These buyers are asked if they have reduced their purchases from the affected factory, and if "yes," why.

The Labor Department has compounded investigative problems by failing to develop adequate ways of administering customer surveys and sufficient criteria for assessing customer responses. These two problems are demonstrated in the following situations.

- Labor normally chooses the subject firm's 10 "largest" customers as the survey group. However, the top 10 are likely to represent very different proportions of retail sales--from a small proportion to 100 percent. In addition, Labor often has failed to determine what percent of the subject firm's sales was represented by each customer surveyed.
- The survey response rate for written questionnaires has been low, and many responses are not returned quickly enough to allow timely determinations. As a result, Labor has made decisions based on responses from customers who account for an even smaller part of a firm's total business than the sample population.
- Labor has failed to develop an operational definition for "contributed importantly" and guidelines for determining whether imports did or did not contribute importantly to worker separations. For example, it has established no cutoff point for determining the existence of import contribution. If 40 percent of the customers surveyed report that they have switched to competitive imports and 60 percent report they have not, should a positive or a negative determination be made? What if the reports are 20 percent yes and 80 percent no?

Although operational guidelines would assure similar petitions being treated similarly, the final decision on many petitions could still be highly subjective. The difficulty in reaching objective judgments through customer surveys is illustrated by two cases.

The first case relates to the Ed White Junior Shoe Company in Paragould, Arkansas, which manufactures shoes, where both a worker petition and a firm petition were submitted to Labor and Commerce, respectively. Both the worker and firm adjustment assistance programs have essentially the same certification criteria, and, according to legislative history, the Congress intended that the Secretaries of Labor and Commerce make "every effort to preserve as nearly as possible uniformity in the interpretation of the eligibility standards."

Using a customer survey, Labor certified workers as eligible to apply for adjustment assistance, which means that it considered that increased imports "contributed importantly" to losses of employment, sales, and production. However, the Department of Commerce, also using a customer survey, advised the company that imports were not an important factor in the loss of employment, sales, and production. The interviews occurred less than 2 months apart. They were conducted by telephone, and the manner of questioning and the way responses were interpreted could account for the difference. In any event, the two agencies used customer surveys to support opposite decisions on essentially identical petitions.

Another case from a group of workers producing sport coats and leisure suits for Mavest, Inc. in Timonium, Maryland, illustrates the difficulty in assigning relative weights to imports and other factors in causing job loss. Sport coats accounted for approximately 95 percent of the company's production and leisure suits for 5 percent. Company sales and production had generally declined from 1973 through 1975. The Labor Department cited the following three reasons for the decline

- reduced consumer expenditures and greater sensitivity to price changes;
- consumer demand shifted to leisure suits; and
- increased imports of sport coats and suits, including substantial amounts of leisure suits in 1974.

A customer survey revealed all but one of seven customers responding felt that a shift of consumer preference to leisure suits was a main reason for the decline in sport coat purchases. Only two of the customers sold imported leisure suits. National statistics showed that the company should have shifted to leisure suits to meet consumer preferences. Although the Department of Labor recognized many factors had contributed to this company's loss of business, it determined that imports were still an important factor and certified the petition. The importance of this factor was never determined.

Despite the problems with customer surveys, the Department of Labor, labor union spokesmen, and industry officials have been unable to recommend an alternative method for establishing a direct link between increased imports and injury to a specific employer.

## Agency comments and our evaluation

Labor agreed with our recommendation that the quality and consistency of customer surveys need to be tightened and improved and indicated it is presently establishing a special team with sole responsibility to conduct customer surveys. It hopes this will assure greater objectivity of customer surveys and responses which are more timely. Labor also said that guidelines have been established to assure that surveys capture a sizable and representative response.

## ESTABLISHING AN IMPLIED RELATIONSHIP

When it is not feasible to link worker separations directly to increased imports, Labor has used an implied relationship. For products, such as automobiles, which have a national market, and where dealers generally sell only one manufacturer's product, Labor must judge whether simultaneous production declines and import increases mean that imports contributed importantly to worker separations.

Making determinations based on an implied relationship carries the unavoidable risk of certifying specific work groups within an industry who may not be affected by imports and denying certification to specific groups who may have been. For example, Labor used the industry analysis method to certify the previously cited petition (see ch. 4) submitted for International Harvester Company workers dealing with pickup trucks, for which aggregate statistics showed that imports were comprising an increasing share of the domestic market. The company contended that small pickup truck imports, e.g., Toyota and Datsun, were not competitive with its larger trucks and that there was no specific evidence that sales of its pickup trucks had decreased because of imports. It decided to stop producing these trucks on the basis of their noncompetitiveness with other domestic truck lines--Chevrolet, Ford, Dodge, General Motors, and American Motors--which had the cost advantages of using automobile parts and assembly lines for truck production. The company took the first step toward discontinuing production in 1969 when it commissioned an independent review of its truck business.

Because of the numerous automobile petitions during the first year (see ch. 2), we made an intensive review of 30 automobile petitions. We found that these petitions were so numerous because of increased imports from Canada and other countries and because of union alertness in following import trends. Increased imports from Canada primarily relate to the United States-Canadian automotive agreement; while



increased imports from other countries, primarily small cars, reflect increased foreign competition. Largely because of the 1965 agreement, imports from Canada increased from 0.4 percent of U.S. consumption in 1965 to 8.3 percent in 1975.

The United States and Canada negotiated the Automotive Agreement which removed duties on motor vehicles and parts between the two countries so that Canada could develop a more efficient industry without adversely affecting the U.S. automobile industry. The agreement permits U.S. manufacturers to schedule production of their carlines in either country without considering tariff restraints. As a result production of various models can fluctuate from one year to another between the United States and Canada. About half of the auto petitions we analyzed were linked to General Motors, Ford, and Chrysler, shifting their auto production schedules between the United States and Canada.

Our analysis showed that Labor has not been consistent in evaluating similiar auto cases. Auto union representatives claim that because of the Department's inconsistencies, they cannot predict the outcome of a petition.

#### Labor's inconsistencies

Labor's analysis of auto assembly plant petitions have, in some instances, tried to establish a general implied relationship between aggregate increases in imports of a whole class of cars (subcompacts, for example) and decreased U.S. production of cars in the same class. In contrast, for standard (full-sized) cars, Labor has tried to establish an implied relationship between increased imports of a specific car (Chevrolet, for example) and decreased U.S. production of the same make. The following table summarizes Labor's decisions on whether imports "contributed importantly" to automobile worker separations.

<u>Department of Labor categories</u>	<u>Competitive products</u>	<u>Decisions</u>
Subcompact	All subcompacts	Affirmative
Luxury small	All luxury small	Affirmative
Intermediate	All intermediates	Affirmative
Standard	Individual makes	Affirmative or negative

Specifically, Labor concluded that imports contributed importantly to worker separations at U.S. plants that produce subcompacts because imported subcompact cars increased their share of the U.S. subcompact market from 1974 to 1975. Thus, Labor certified petitioning subcompact workers at General Motors' Lordstown, Ohio, plant and Ford's, San Jose, California, and Metuchen, New Jersey, plants. The General Motors workers were producing Astres and Vegas and the Ford workers were producing Pintos and Bobcats. In effect, Labor said Toyotas and Volkswagens compete with Vegas and Pintos. Labor used this same product-line rationale for certifying petitions within the luxury small and intermediate groups, i.e., all cars in a class compete with all other cars in that class.

On the other hand, when Labor investigated petitions filed by workers producing standard cars, it decided that increased standard car imports, primarily Fords and Chevrolets, contributed importantly to only Ford and Chevrolet worker separations. As a result, Labor certified workers producing Fords at the Los Angeles, California, assembly plant and workers producing Chevrolets at General Motors' St. Louis, Missouri, and Janesville, Wisconsin, assembly plants. Labor concluded that imported Fords and Chevrolets replaced domestic Ford and Chevrolet production on almost a one-for-one basis and, therefore, the increased imports could not have contributed importantly to decreased production of other standard cars. Thus, Labor denied assistance to workers producing Pontiacs at General Motors' Pontiac, Michigan, plant and workers producing Thunderbirds at Ford's Wixom, Michigan, plant. So, in effect, Labor says that in one case, cars in a product class compete against one another, whereas, in the other case, only cars of the same model compete against one another.

Because it has no operational criteria, Labor's analysis of the impact of standard car import increases was inconsistent with its analysis for other car classes. In fact, an investigator could have selected information to support a decision that increased standard car imports did not contribute importantly to any worker separations. For example, Labor considered the following events relative to several Ford and General Motors' worker petitions.

--Sales declined 32 percent from 1974 to 1975.

--Imports of Canadian standard Fords and Chevrolets increased absolutely.

--Domestic production of similar cars declined.

--Most of the production decline was in nonpetitioning plants where companies converted to smaller car production or closed during model year 1974.

--Some production decline also occurred at petitioning plants.

Based on its analysis, Labor certified petitions at several General Motors plants. An alternative analysis of production at these plants, however, could show that although production declined generally, the production share of the three petitioning General Motors plants increased from 1974 to 1975, as seen in table 7.

Table 7

	<u>Production Share</u> <u>of Standard Chevrolets</u>		
	<u>Model year 1974</u> ---(percent)---		<u>Model year 1975</u> ---(percent)---
Petitioning plants:			
Wilmington	11	} 56	22
Janesville	29		34
St. Louis	16		19
			75
Nonpetitioning plants:			
Southgate	7	} 44	0
Tarrytown	23		0
Doraville	6		0
Canada	8		25
Total	100	100	100

From this alternative analysis, the decrease in production at the petitioning plants could have been related to the general decline of the economy, not to increased imports.

Agency comments and our evaluation

Labor commented that the "relative share of production" alternative would be valid only if there had been no increased transfer of standard car production by Ford and Chevrolet from domestic plants to Canada. Labor, however, did not deny that it lacks guidelines, procedures, and criteria for investigators to follow in determining if an implied relationship exists between increased imports and decreased employment.

Our report does not imply that we prefer the relative production share over other methods. Our use of this analysis is to demonstrate that, without guidelines, procedures, and criteria, Labor's investigators have great flexibility in analyzing petitions, which can lead to inconsistent decisions. With this flexibility, an investigator could have noted that, while the petitioning plants maintained or increased their production shares, the nonpetitioning plants' production shares were reduced to zero. In addition, the decline in production at nonpetitioning Chevrolet plants was more than three times greater than the increase in Chevrolet imports. From these facts, the investigator could have concluded that increased Chevrolet imports replaced production at nonpetitioning plants but did not contribute importantly to the small production declines at the petitioning plants.

### CONCLUSIONS AND RECOMMENDATIONS

It is difficult to assess the contribution of imports to declining sales and production and resultant worker separations. In assessing this relationship, the Department of Labor has experienced shortcomings in both methods used--customer surveys and industry analysis. Customer surveys produced difficulties because of the Department of Labor's lack of procedures for administering the surveys and insufficient criteria for evaluating customer responses. In industries such as automobiles, where customer surveys were inappropriate and industry analyses were made, Labor was inconsistent in evaluating petitions, even within the same industry.

We recommend that the Department of Labor establish administrative guidelines and procedures for conducting its customer surveys and criteria for evaluating customer responses. It should also develop a more standardized way of evaluating petitions when it performs industry analyses and establishes implied relationships. By developing guidelines, procedures, and criteria, the Department of Labor should be more able to minimize inconsistencies in petition review. In addition, internal consistency will assist the Departments of Labor and Commerce in administering worker and firm adjustment assistance programs with uniformity.

Labor concluded from the report that we recommend "concrete mathematical" guidelines to determine when increased imports have contributed importantly to separations even though legislative intent was to avoid mechanical, rigid, and impractical guidelines.

We did not intend to convey such a view and agree that mathematical guidelines could be rigid and impractical. We recommended that Labor should develop guidelines and procedures to deal with the "contributed importantly" criteria to minimize inconsistencies in petition decisions while avoiding a mechanical and inflexible approach.

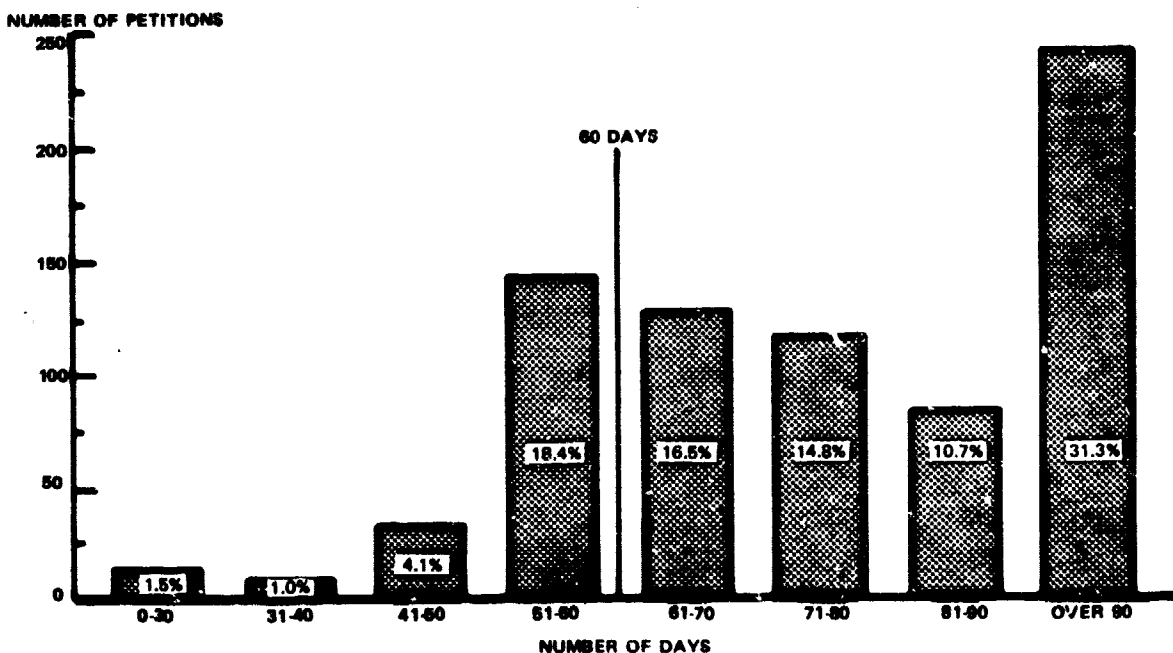
## CHAPTER 7

### PROBLEMS IN MEETING LEGISLATIVE

#### TIMEFRAME FOR DECISIONS

The Trade Act of 1974 requires the Secretary of Labor to issue a certification or denial of a worker petition for adjustment assistance within 60 days. However, during the first year of the program, only 25 percent of the petitions submitted were processed within 60 days, as shown on the following graph. The remaining 75 percent took between 61 and 189 days to process. Thus, the Department of Labor fell far short of complying with the legislative requirement for timely decisions.

#### **PROCESSING TIME FOR ADJUSTMENT ASSISTANCE PETITIONS (NOTE a)**



<sup>a/</sup>EXCLUDES PETITIONS IN-PROCESS OR WITHDRAWN (2.5%)

SOURCE: PREPARED BY GAO FROM INFORMATION OBTAINED FROM THE DEPARTMENT OF LABOR

Labor Department records show that certification took longer as the year progressed. During the first 5 months of the program when petition volume was low, 77 percent of the petitions were processed within the 60 day timeframe established by the act. However, during the last 7 months of the year, only 15 percent were processed within 60 days.

Administrative factors which may have contributed to the delays were an unexpectedly heavy caseload, a failure to hire enough full-time permanent investigators, and a new and insufficiently trained investigative staff. These problems relate primarily to the newness of the program.

### HEAVY CASELOAD

Because the provisions for granting adjustment assistance were substantially modified from those in the Trade Expansion Act of 1962 and the administration of the program changed, the Trade Expansion Act record had limited usefulness. In hindsight, Labor's estimates of petition volume were 30 percent too low.

Accurate petition estimates are important, because staffing needs are determined by petitions, not the number of workers covered. Therefore, for each petition, whether it covers 5 workers, 100 workers, or 1,000 workers, Labor must follow similar investigative procedures. Table 8 contrasts Labor's estimates of anticipated petitions with those actually received. The Department estimated that it would receive about 600 petitions during the first 12 months or about 50 per month. It received 776.

Table 8

Estimated vs. Actual Number of New Petitions

<u>Month</u>	<u>New petitions</u>		<u>Difference</u>
	<u>Estimated</u>	<u>Actual</u>	
1975:			
April	50	18	-32
May	50	15	-35
June	50	30	-20
July	50	42	- 8
August	50	25	-25
September	50	71	21
October	50	74	24
November	50	92	42
December	50	161	111
1976:			
January	50	55	5
February	50	71	21
March	<u>50</u>	<u>122</u>	<u>72</u>
Total	<u>600</u>	<u>776</u>	<u>176</u>

Having anticipated the inflow of new petitions, Labor estimated that 20 full-time permanent investigators would be needed to process this volume within the 60-day statutory timeframe. Actually, however, during the first 12 months, full-time permanent investigators did not reach the budgeted level of 20. Table 9 shows that in September 1975, Labor had 16 full-time permanent investigators and in February and March 1976--when petitions were 1-1/2 to 2-1/2 times its projections--it had only 15 full-time permanent investigators. Labor supplemented its permanent investigative staff by using temporary investigators. Labor officials, however, say that in comparison with full-time permanent investigators, the productivity of temporary investigators was so low that this failed to solve their problem.



Table 9

Budgeted vs. Actual Investigators

<u>Month</u>	<u>Investigator positions budgeted</u>	<u>Actual full-time permanent investigators</u>	<u>Other investigators assigned</u>	<u>Total</u>
1975:				
April	20	4	0	4
May	20	9	5	14
June	20	11	6	17
July	20	12	6	18
August	20	12	3	15
September	20	16	2	18
October	20	16	3	19
November	20	16	5	21
December	20	16	13	29
1976:				
January	20	15	18	33
February	20	15	32	47
March	20	15	27	42

LACK OF EXPERIENCED PERSONNEL

Labor officials said they were unable to give investigators formal training or guidance prior to case assignments because of the newness of the program. Interviews with investigators revealed that, typically, job training consisted of studying case material prepared by another investigator, preparing documentation from material gathered by another investigator, and accompanying another investigator on a field trip to gather data for petition analysis. After completing these steps, investigators began processing petitions under the supervision of a team leader. Investigators attend bi-weekly staff meetings to discuss investigative techniques and administrative matters.

Labor officials agreed that more formal procedures could improve the quality and speed of investigations, but said they have been unable to find sufficient time to formalize procedures and guidelines.

CONCLUSIONS AND RECOMMENDATIONS

The purpose of the 60-day time limit for worker investigations is to assure that petitions are processed expeditiously.

Some problems that prevented the Department of Labor from meeting the time limit during the first year of the program, such as an underestimated workload and inexperienced investigative staff, relate to the program's newness. Performance should improve as time passes and experience is gained. Other problems that prevented Labor from meeting the legislative time limit, however, will not disappear unless corrective steps are taken.

As recommended in earlier chapters, the Department of Labor should establish formal procedures for conducting its investigations and operational definitions for such phrases as "increased imports," "like or directly competitive articles," and "contributed importantly". Such procedures and definitions would facilitate more consistent and equitable determinations and allow more timely decisionmaking. In their absence, the Department of Labor has no mechanism for treating similar cases in a similar manner and every case must be evaluated on its own merits. In addition to the increased possibility of inconsistent decisions, this is a time-consuming process which contributes to tardy determinations.

To avoid the petition-processing delays of the first year, the Department of Labor should make sure that its permanent investigative and support staff is up to authorized levels when caseload warrants. It should also develop a training program for its investigative staff. An adequate and properly trained staff is essential for making consistent decisions within the legislative timeframe.

## CHAPTER 8

### SCOPE OF REVIEW

We reviewed the authorizing legislation and other materials pertaining to the worker adjustment assistance programs under the Trade Act of 1974 and the Trade Expansion Act of 1962. To gain an understanding of the Department of Labor's first-year record in investigating and certifying petitions, we (1) reviewed 78 randomly selected petitions from 776 petitions submitted during the first year and (2) evaluated in detail the supporting evidence for 30 petitions from workers in the auto industry. We also interviewed and obtained data from:

- Congressional committee staff members.
- State unemployment agency officials.
- Shoe producers in the Midwest.
- Automobile and truck producers in the Midwest.
- Apparel producers in the East and Northeast.
- Economists and lawyers, labor and business representatives, and staff of the Congressional Research Service through panel discussions.

Section 280 of the Trade Act which requires the General Accounting Office to study the worker adjustment assistance program also provides that the Secretary of Labor "shall make available to the Comptroller General any assistance necessary for an effective evaluation" of the program. We received outstanding cooperation from the Department of Labor, including administrative support, and Labor officials were consistently helpful in answering questions and making petition files available.

U.S. DEPARTMENT OF LABOR  
OFFICE OF THE ASSISTANT SECRETARY  
WASHINGTON

April 21, 1977

Mr. Gregory J. Ahart  
Director, Human Resources Division  
United States General Accounting Office  
Washington, D.C. 20548

Dear Mr. Ahart:

Thank you for the draft report to the Congress on Worker Adjustment Assistance Under the Trade Act of 1974. We appreciate the opportunity for review and comment on this draft.

We would like to commend the GAO on its draft report. We would, however, like to address certain issues which are raised in the report as follows:

1. Chapter 4 - Like or directly competitive article (pages 25-31). The GAO report asks what articles are like or directly competitive, stating that the breadth or narrowness of the definition will affect the Department's decision to certify or deny (p.25).

The report mentions specifically autos and shoes, e.g., autos could constitute the entire industry or they could be divided into product groupings--subcompact, compact, luxury small, intermediate, etc.

The Department utilizes the definition outlined in 29 CFR 90.2 which, in turn, is based on language used by the House Ways and Means Committee and the Senate Finance Committee to interpret the phrase "like or directly competitive" for purposes of industry relief (S. Rept. 93-1298, 93d Cong., 2nd Sess., p. 121 (1974); H. Rept. 93-571, 93d Cong., 1st Sess., p. 45 (1973)). This language is as follows:

"like or directly competitive" means that "like" articles are those which are substantially identical in inherent or intrinsic characteristics (i.e., materials from which the articles are made, appearance, quality, texture, etc.); and "directly competitive" articles are those which, although not substantially identical in their inherent or intrinsic characteristics, are substantially equivalent for commercial purposes (i.e., adapted to the same uses and essentially interchangeable therefor) (20 CFR 90.2).

In the Department's opinion, the GAO report had difficulty in establishing the relationship between the two basic elements within criterion 3 of the Act--mainly, increased imports of "articles like or directly competitive" on the one hand and "contributed importantly" on the other. The GAO report infers that because articles are like they must be directly

## APPENDIX I

## APPENDIX I

competitive and therefore any increase in imports of a given article, e.g., autos or shoes will pari passu contribute importantly to worker separations.

The Department's opinion, however, is that in order to determine whether increased imports "contributed importantly" one must look to the degree of substitutability in the consumer's mind of a domestically produced article vs. an imported article. Utilizing the concepts of relevant market and substitutability, the Department finds little substitutability between a foreign Volkswagen and a domestic Cadillac and almost zero substitutability between a foreign woman's dress shoe and a domestic man's dress shoe.

The Department's opinion is that categorization is essential within the auto industry for the purpose of determining import injury; that is, have increased imports contributed importantly to the declines in employment and production at a given plant or firm producing a specific product. In order to determine the degree of import impact, it is necessary to determine whether customers have reduced purchases of the product made at the plant (appropriate subdivision under investigation). Therefore, it will be necessary to classify the product within the submarket which will most clearly reflect its actual displacement by imports.

The GAO report in its explanation of its Table 5 states that depending on the product definition by category within the auto industry different findings can be supported with different definitions (p. 26). It is the Department's opinion that the product definition it chose within the auto industry is consistent with its analysis of import impact in the market place.

The GAO study further cites the Department's investigation involving Hamilton Shoe company, St. Louis, Missouri, TA-W-84, as an example of a narrow product definition ("mature women's shoes") which resulted in a denial "on the grounds that imports of shoes in this category had not increased" (p. 28). In fact, the Department utilized in the investigative report, recommendation and certification import statistics for all non-rubber footwear for women as being the relevant article imported in increased numbers. However, customer comments revealed that retail customers of Hamilton had not switched to imports because Hamilton's sole brand "Penaljo" appealed to older women who did not buy imports. Therefore the second part of criterion 3 "contributed importantly" was not met because even though imports had increased they were not being purchased by customers of Hamilton.

2. Exclusions Arising from Legal Interpretations - "Service" Workers and component parts (pages 28-31).  
We are in agreement with GAO as to the inequities in the program which arise from interpretations of the law. We agree with GAO's proposal that Congress may wish to consider modifying the law to include all workers impacted by increased import competition.

3. Chapter 5 - Increased Imports (pages 32-36).  
GAO raises the question of whether actual or relative increases in imports are to be measured in terms of value or in terms of volume (p. 33).

The Department utilizes unit data for domestic production and imports to determine an actual or relative increase in imports. Unit data is considered to be the most reliable statistical data indicating the actual impact of imports on domestic production. Value data has built-in distortions such as increases due to inflation, inclusion of freight charges, improper exchange rates, etc. The Department utilizes value data only in those cases where unit data is not available. Likewise, the Department normally utilizes the I/P (import to production) ratio to determine a relative increase in imports. In automobile cases such as the Chrysler plants mentioned in the GAO report (p. 33), the relative increase in imports was based on the I/C (import to consumption) ratio because the TSUS category for imported automobiles is for all non-commercial 4 wheel passenger vehicles with no further break down by car size. Retail sales of imports, however, are broken out by car size and therefore, the only ratio that would give true comparability would be retail sales of imports vs. retail sales of domestically produced autos.

The GAO study, further, asks if increases of imports means sustained increase must be found, i.e., a trend (p. 34).

The study then quotes from Department of Labor regulations found in 29 CFR.2:

"increases would generally mean those increases as have occurred from a representative base period subsequent to the effectiveness of the most recent trade agreement concession proclaimed by the President beginning in 1968."

The study surmises that the "representative base period" should be considered as the period since January 1, 1972--the end of the Kennedy round." The GAO study states that a Department study relating to birch plywood doorskins utilized data for 1973 and 1974 which showed an increase of imports of 28 percent relative to domestic production but that if the data for 1972 and 1973 had been averaged there would have been a decline in imports of 7 percent compared to domestic production (p. 35).

It is the opinion of the Department that the import and production data most relevant to any determination regarding eligibility for adjustment assistance is the most recent period which coincides with layoffs in the firm or industry. While 1972 import data may be of historical interest when investigating a petition for adjustment assistance for workers separated in 1974, the import and production data for the preceding 12-18 months will be paramount in determining if the increased imports contributed importantly to the total or partial separations,

particularly in view of the limitation set down by Section 223(b) (1) of the Act whereby no certification may apply to any worker separated more than one year before the date on the petition.

4. Chapter 6 - Contributed Importantly.

The legislative history relied on by the Department of Labor in interpreting "contributed importantly" is contained in the Report of the Senate Finance Committee which reads as follows:

"importantly" as used in determining eligibility for worker adjustment assistance is an easier standard; a cause may have contributed importantly even though it contributed less than another single cause. A cause must be significantly more than "de minimis" to have contributed importantly, but the Committee does not believe that any mechanical designation percentage of causation can be realistically applied. For example, the Secretary may find that imports were at such a level that, under ordinary circumstances, they would have been an important factor in causing total or partial separations of a group of workers and in the decline in sales production, but that another cause was so dominant that the separations and decline in sales or production would have been essentially the same irrespective of the influence of the import increase. In such case, the Secretary would not find that increased imports had "contributed importantly." (emphasis added) (S. Rept. 93-1298, 93d Cong., 2d Sess., P. 133 (1974)).

The GAO report, in effect, criticizes the program for failing to establish concrete mathematical guidelines to determine when increased imports have "contributed importantly" to separations even though it was the intent of the new legislation to specifically avoid any "mechanical guidelines" as being rigid and impractical.

5. Establishing an Implied Relationship (pages 42-48).

It is the Department's opinion that in oligopoly situations such as the automobile industry where manufacturers sell through a network of exclusive dealer franchises a determination of import injury will rest on prevailing consumer attitudes and the degree of substitutability of imported cars with the range of domestically produced cars. The Department considers the transfer of domestic production to Canada and the subsequent importation of cars into the U.S. to have resulted in the displacement of U.S. auto production on a one for one basis.

In determining the degree of substitutability between other foreign and domestically produced autos, the Department examined consumer preference through a detailed study conducted by an independent research organization. This study concluded that there is greater substitutability between cars of the same class. For example, there was little evidence that imported "subcompact" and "luxury small" automobiles are displacing domestic intermediate or standard models in the market place.

The GAO report set up what it calls "alternative approach" to the Department's decision involving full size Fords and Chevrolets (p. 48).

The GAO "alternative approach" fails to consider that imports from Canada of full size Fords and Chevrolets increased absolutely and relatively from MY 1974 to MY 1975. During the same period, total domestic production of full size Fords and Chevrolets fell absolutely and production at the certified plants in Los Angeles, Janesville, and St. Louis decreased absolutely. Therefore, the relative share of production utilized by GAO would only be valid if there had been no increased transfer of full size cars by Ford and Chevrolet from domestic plants to Canada.

6. Reliability of Customer Surveys (pages 40-42).

The GAO report questions the reliability of the customer survey as utilized by the Department to establish the link between increased imports and worker separations.

The report's view of the need to tighten up and improve the quality and consistency of customer surveys is valid. The Department has concentrated its attention in this area; guidelines have been established to assure that surveys capture a substantial and representative response. At present, a special team is being established with sole responsibility to conduct customer surveys. It is hoped that this approach will assure greater objectivity of customer surveys and a more timely response.

7. Awareness of the Program (page 17).

The Department recognizes that prospective petitioners may face obstacles in obtaining information about the program. This Department has initiated a major effort to assure that workers receive accurate and timely information about the program. We agree with the report's view that this outreach program is necessary and desirable. It should be noted, however, that this informational campaign can be expected to greatly increase the volume of petitions and the cost of processing them. Very likely a high percentage of the additional petitions to be stimulated may be frivolous and may not meet the criteria for certification. Therefore, the larger volume of petitions might not increase proportionately the number of workers receiving benefits.

With respect to the actual petitioning process, the Department has established a simplified petition form as directed by Congress which requires only minimal information about the product produced by the workers and the location of the firm. No specific data on imports is required and virtually all petitions are accepted for investigation providing they are properly signed and dated.

Sincerely,



FRED G. CLARK

Assistant Secretary for  
Administration and Management

GAO note: Page references in this appendix refer to the draft report and do not necessarily agree with the page numbers in final report.



PRINCIPAL OFFICIALS RESPONSIBLE FOR  
ACTIVITIES DISCUSSED IN THIS REPORT

	<u>Tenure of office</u>	
	<u>From</u>	<u>To</u>
<u>DEPARTMENT OF LABOR</u>		
<b>SECRETARY OF LABOR</b>		
Ray Marshall	Jan. 1977	Present
William J. Usery	Feb. 1976	Jan. 1977
John T. Dunlop	March 1975	Jan. 1976
Peter J. Brennan	Feb. 1973	March 1975
<b>UNDER SECRETARY OF LABOR</b>		
Robert J. Brown	March 1977	Present
Vacant	Jan. 1977	March 1977
Michael Moskow	May 1976	Jan. 1977
Robert O. Aders	Aug. 1975	April 1976
Vacant	Feb. 1975	Aug. 1975
Richard Schubert	June 1973	Feb. 1975
<b>DEPUTY UNDER SECRETARY FOR INTERNATIONAL AFFAIRS</b>		
Howard Samuel	March 1977	Present
Herbert N. Blackman (acting)	Jan. 1977	March 1977
Joel Segall	July 1972	Jan. 1977
<b>ASSOCIATE DEPUTY UNDER SECRETARY FOR INTERNATIONAL AFFAIRS</b>		
Herbert N. Blackman	March 1974	Present
<b>DIRECTOR, OFFICE OF TRADE ADJUSTMENT ASSISTANCE</b>		
Marvin Fooks	April 1976	Present
Marvin Fooks (acting)	March 1975	March 1976