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Coordination of the Three Adjustment Assistance Programs with Selected Comments on H.R. 8442. ID-78-5; B-152183. December 6, 1977. 10 pp.

Report to Rep. Charles A. Vanik, Chairman, House Committee on Ways and Means: Trade Subcommittee; by Elmer B. Staats, Comptroller General.

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Authority: Trade Act of 1974. H.R. 8442 (95th Cong.). Executive Order 11913.

The Trade Act of 1974 created a committee to coordinate the adjustment assistance programs for workers, firms, and communities and to promote efficient and effective delivery of adjustment assistance benefits. Findings/Conclusions: The coordinating committee has accomplished little to meet its goals; its major accomplishment has been to have the International Trade Commission share certain confidential information with the Departments of Labor and Commerce which has helped to avoid duplication. Key weaknesses are the committee's advisory role and its lack of staff and funds. Lack of coordination has affected program awareness, uniformity of eligibility standards, and assessment of available benefits. The committee has made no effort to coordinate publicity on programs which would improve awareness. Lack of uniformity of eligibility standards has led to different interpretations by the Departments on petitions for assistance. Reports by the Departments on available benefits have been inadequate to show how they could be used to facilitate adjustment of workers or firms. H.R. 8442 provides for: improved coordination by giving the committee new responsibilities in cases where the International Trade Commission has found industries to be hurt by imports and in areas related to the community adjustment assistance program; early notification of affected employees and Department Secretaries of major impacts expected by imports; and specific criteria for certifying firms. Recommendations: H.R. 8442 should include the word "equitable" in reference to delivery of adjustment assistance and provide for: staff and funds for the committee, inclusion of the International Trade Commission as an advisory member of the Coordinating Committee,

and inclusion of a representative from the Department of Agriculture on the committee. A prenotification system would facilitate the determination of threat of injury and would provide a stronger data base for estimating employees and firms to be certified. Guidance should be provided for the term "major" and for a firm in an industry which has been ruled to be affected by imports to report any major layoff, closing, or move, regardless of the cause. (HTW)

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

B-152183

DEC 6 1977

The Honorable Charles A. Vanik
Chairman, Subcommittee on Trade
Committee on Ways and Means
House of Representatives

Dear Mr. Chairman:

As part of our responsibilities under Section 280 of the Trade Act of 1974, we have reviewed the coordination procedures provided in the act for the three adjustment assistance programs and what has been done under the trade monitoring system. Since several sections of H.R. 8442, 95th Congress, which you and Congressman Gibbons introduced July 20, 1977, contain changes relevant to coordination and the Adjustment Assistance Coordinating Committee, we are submitting our comments on them in this letter together with comments on criteria for certifying firms.

COORDINATION

Although the Trade Act created a committee to coordinate the adjustment assistance programs for workers, firms, and communities and to promote efficient and effective delivery of adjustment assistance benefits, little has been achieved through this mechanism. During 1975 and 1976 only four meetings were held and there have been none in 1977.1/

1/ While no coordination as required in the Trade Act has occurred in 1977, two interdepartmental groups have been meeting. The first group was established at the President's direction to develop the administration's views on improving the adjustment assistance programs. Recently, a second group, the Commerce Labor Adjustment Action Committee, was established to facilitate coordination between Commerce and Labor in providing assistance to individuals, firms, and communities facing economic adjustment problems. This group is addressing problems of economic dislocation from whatever cause, so its purview is broader than just trade dislocations.

The Coordinating Committee's major accomplishment has been to have the International Trade Commission share certain confidential business information with Commerce and Labor. This was brought about by Executive Order 11913 on April 26, 1976. Officials in both Labor and Commerce told us that this information helped them to avoid duplication in gathering data and multiple government contacts with the same persons, thus speeding up the investigative process in relation to preparing industry studies. (See Sections 224(a) and 264(a) of the Trade Act.)

In our judgment, the key weaknesses of the Coordinating Committee as presently constituted are its advisory role and lack of staff and funds. Lack of coordination affected program awareness, uniformity of eligibility standards, and assessment of available benefits.

Program awareness

Workers and firms in industries affected by imports will file petitions under the adjustment assistance programs only if they are aware that there are such programs. The low level of petitions from non-union workers, firms, and communities, suggests a lack of awareness by potential petitioners.1/ Our study showed that the Committee made no effort to coordinate publicity on the programs. Such coordination could improve overall program awareness through the use of joint brochures, posters, and/or mailings.

In cases where the International Trade Commission has found industries to be injured or threatened to be injured by import competition, the Secretaries of Labor and Commerce are directed under Sections 224(c) and 264(c) of the Trade Act to make special efforts to inform workers and firms of the adjustment assistance programs. Although its efforts should be more effective, Labor has publicized the worker program through labor unions, posters in State employment offices, some direct mailings, and a pilot test to distribute information to each unemployment insurance applicant in specified States and industries. On the other hand, Commerce has primarily responded to inquiries for information and has sent program literature to firms in only five of the nine industries the International Trade Commission found to be affected by imports.

1/ For workers, see GAO report, "Certifying Workers for Adjustment Assistance--The First Year Under the Trade Act," May 31, 1977 (ID-77-28).

The major exception to Commerce's limited publicity program involves the footwear industry. On two occasions, Commerce mailed information to almost all of the footwear firms. Following President Ford's April 16, 1976, decision, in which he recommended adjustment assistance in response to the import relief petition of the non-rubber footwear industry, Commerce sent program information to some 589 footwear companies. About 60 companies requested petition forms. By the following February, 27 firms had been certified eligible to apply for benefits and 13 had either applied for or were receiving benefits. After the July 20, 1977, announcement of a special program for the footwear industry, the Department of Commerce again mailed information to over 400 footwear firms. This second mailing, combined with special public relations and increased departmental efforts, caused the number of petitions to nearly double in 2 months (from 23 to 42) from the previous 28 months.

The agricultural sector offers an example of industries needing more program publicity and awareness. Between April 3, 1975, and July 31, 1977, Commerce received only 11 petitions from agriculture, even though the International Trade Commission had determined that three agricultural industries (sugar, honey, and mushrooms) were being injured by imports. The Department of Agriculture made no effort to publicize the Trade Act's adjustment assistance programs.

Uniformity of eligibility standards

While there are inherent differences in the worker, firm, and community programs because of certain eligibility criteria, several of the criteria are the same.1/ Legislative language for decreases in "sales or production," "increases of imports," and "like or directly competitive"

1/ Labor can consider a worker subgroup whereas, in the case of firms, Commerce must consider the entire firm. Initially, Commerce had administratively defined "firm" to include all subsidiaries and affiliates controlled or substantially owned by the same person(s). It is currently redefining "firm" to be those corporate segments of the firm which produce or sell the "like or directly competitive" article against which the impact of imports is to be measured. For the community program, Commerce must consider the "community" in terms of political subdivisions of a State.

articles is the same in all three programs, and common measurements would improve the equity with which the programs are carried out. 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 eligibility standards."

The need for coordination between Labor and Commerce is evidenced by the number of companies represented on both worker and firm petitions. Between April 3, 1975, and July 31, 1977, 53 (38 percent) of the 140 firms that submitted petitions to Commerce had workers that submitted petitions to Labor.

One case in our report on worker certifications pointed out the potential inequity that can be caused by differences in interpretation of criteria. The Ed White Junior Shoe Company in Paragould, Arkansas, was involved in a worker petition to Labor and a firm petition to Commerce. Labor, using a customer survey, certified the workers as eligible to apply for adjustment assistance, which means that it considered that increased imports "contributed importantly" to losses of employment and sales or production. The Department of Commerce, also using a customer survey, advised the company that imports were not an important factor in the loss of employment and sales or production. The interviews, less than 2 months apart, 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 reached opposite decisions on essentially identical petitions.

Assessment of available benefits

Sections 224(a) and 264(a) of the Trade Act require the Secretaries of Labor and Commerce to conduct industry studies whenever the International Trade Commission begins an industry investigation under Section 201 of the act and to report their findings to the President no later than 15 days after submission of the Commission's report. In addition to estimating the number of workers and firms in the domestic industry producing the "like or directly competitive" article that have been or are likely to be certified as eligible for adjustment assistance, Labor and Commerce are required to assess the extent to which existing programs could be used to adjust workers or firms to import competition.

The reports the two departments have submitted offer general descriptions of pertinent Government programs, but nothing on how these programs could be used to facilitate the adjustment of the workers or firms. In addition, no attempt is being made to show how programs at the Small Business Administration, Commerce, and Agriculture (Farmers Home Administration) could be coordinated to help firms adjust to the import competition.

Revisions under H.R. 8442

Two sections of H.R. 8442 contain changes that could improve coordination. Section 401 amends the functions of the Coordinating Committee by explicitly stating that its areas of responsibilities are "to coordinate the development, implementation, administration, and review of all policies, studies, and programs of the various agencies involved * * * for the purpose of ensuring prompt, efficient, and effective delivery of adjustment assistance available under this Act and any other Federal law." This section also potentially expands Committee membership by adding the phrase "and appropriate officials of any other agency charged with administration of any Federal economic adjustment program." These changes seek to ensure better coordination of adjustment assistance programs.

Under Section 401, the Committee would be given new coordination and review responsibilities concerning those cases where the International Trade Commission has found industries to be injured or threatened to be injured by import competition. This section should improve the implementation of Sections 224(c) and 264(c) of the Trade Act which deal with disseminating program information and assisting workers and firms in preparing proper petitions and applications for program benefits. It should also increase program awareness and activity and create a mechanism for coordinating publicity programs.

Section 302 would give the Coordinating Commitee new responsibilities related to the community adjustment assistance program. It directs the Committee to establish a task force of "representatives from each of the appropriate Government agencies administering trade adjustment assistance and other programs and resources which might assist in the economic adjustment of the community." This task force would be established within 30 days of a community's certification by Commerce and would be sent to the community to assist in developing an adjustment plan. The

Coordinating Committee would then determine whether or not to approve the community's adjustment assistance plan application within 60 days of its receipt. By this means the Committee would seek to assure coordination of benefits to a community and to offer the community the opportunity to exchange ideas and proposals with representatives of numerous Government agencies rather than with Commerce alone. In our view, this should substantially strengthen the community program.

Comments and recommendations

Several changes proposed in H.R. 8442 should increase the activities of the individual worker, firm, and community programs, causing coordination among them to become more critical.

We note that the bill does not state whether the Committee can set policy or whether it will remain an advisory group. If the Committee is to ensure prompt, efficient, and effective delivery of adjustment assistance, it should be more than an advisory group and have clear lines of authority.

We recommend that:

--Section 401 of H.R. 8442 include the word "equitable" after "prompt", line 23, page 23 of the bill, so that the Committee will ensure prompt, equitable, efficient, and effective delivery of adjustment assistance.

--Staff and funds be provided for the Committee.

--The International Trade Commission be included as an advisory member of the Coordinating Committee, given its role in import relief investigations and in recommending adjustment assistance as a possible industry relief measure.

--To make agricultural interests aware of the program, the Coordinating Committee include a representative from the Department of Agriculture.

TRADE MONITORING SYSTEM

Section 282 of the Trade Act requires the Secretaries of Commerce and Labor to establish and maintain an import

monitoring program and to share summaries of such trade information with the Coordinating Committee, the International Trade Commission, and the Congress. It is intended that this monitoring program will reflect changes in the relationship of imports to domestic production, changes in employment in industries affected by imports, and the extent to which such changes are regionally centered. This information could serve as an early warning of serious dislocations from abrupt increases of imports.

Comparable trade data is essential to effective trade monitoring and early warning systems. Section 608 of the Trade Act calls for Commerce, Treasury, and the International Trade Commission to provide a uniform statistical system for U.S. imports, exports, and production.

Labor and Commerce officials explained that trade monitoring has been hampered by the need to improvise compatibility between the statistics governing imports on the one hand and production and employment on the other, because the group charged with formally working out compatibility has not yet achieved its objective. Further, although trade monitoring is called for in the Trade Act, they observe that they have been handicapped by the absence of a budget.

Revisions under H.R. 8442

Although H.R. 8442 does not refer to trade monitoring or early warning, it provides that a firm must notify the affected employees and the Secretaries of Labor and Commerce 60 days prior to a "major" layoff, closing, or relocation caused by increased imports or a move to a foreign country (Section 402). This proposed pre-notification mechanism is a very positive feature and, if enacted, could initiate worker investigations and improve benefit delivery. In addition, pre-notification announcements would automatically generate investigations for community certification and thus strengthen the community program.

In our review of how other countries respond to trade dislocations, which we shall be submitting to the Congress in 1978, we found that pre-notification is used by the governments of France, Canada, and Sweden to provide timely employment services in the case of "major" layoffs. Although each country defines "major" differently, these

pre-notification systems apply to any substantial reduction, regardless of cause. For example, Canada defines a major layoff as 50 or more workers for 13 or more weeks, and it requires 8 weeks pre-notification. Sweden requires pre-notification for all layoffs but makes the time period variable, (2 months notice for less than 25 workers, 4 months for 25 to 100, and 6 months for more than 100). Companies have accepted the system and comply with the requirements.

The Canadian adjustment program has an additional feature. Following pre-notification, the government contacts the firm and the workers' union (if applicable) and encourages the establishment of a committee to assess the firm's problem and develop solutions, evaluate the effect of these solutions on the workers, and recommend action to allow workers to adapt to the solutions. While the firm is not required to implement the recommendations, it is required to assess them. The government provides funds to pay for up to 50 percent of the committee's costs. The program's aim is to coordinate the delivery of training, counseling, and job referral services available through the government. By involving all interested parties, the solution is stronger than would be expected if only one group, such as government officials, were involved.

Comments and recommendations

A pre-notification system would facilitate the determination of "threat of injury" to workers, firms, and communities and would provide the Secretaries of Labor and Commerce with a stronger data base for estimating the number of workers and firms likely to be certified. We support pre-notification, and recommend that

--guidance be provided for the term "major" and

--a firm in an industry which the International Trade Commission has ruled to be affected by imports report any major layoff, closing, or move, regardless of the cause.

FIRM ELIGIBILITY CRITERIA

Section 251 of the Trade Act specifies criteria for certifying firms. H.R. 8442 proposes to expand the injury criteria and to include component parts and service firms under the act.

Expanded injury criteria

The present language of the Trade Act states that a firm's sales or production must decrease before a firm can be certified. This requirement has limited program activity by excluding some firms which, while unable to show sales or production decreases, can show import injury through other methods.

Section 201 of H.R. 8442 would broaden the act's coverage by permitting the threat of decreased sales or production to satisfy the import injury requirement. (Similar provisions are included in Section 102 of the bill relative to the worker program.) This language could still exclude a firm that incurs either low or no profits during the most recent 12-month period while maintaining its sales, production, and employment levels. In our opinion, profitability should be an additional criteria, phrased to include both decreases and the threat thereof.

We believe that these changes would benefit program activity and would provide for more equitable petition certification.

Component part and service firms

Current legislation and legal interpretations of "like or directly competitive" articles prevent some firms hurt by imports from receiving assistance. Section 201 of H.R. 8442 includes remedial provisions by stating that a "firm which produces one or more component parts or performs one or more services for a supplied firm * * * [be] eligible [with qualifications] to apply for adjustment assistance." The qualifications include worker separations or threat thereof and sales or production decreases or threats thereof. Also, sales of the component or service to such supplied firm must constitute 25 percent or more of the total sales or production of the petitioning firm. A "supplied firm" is defined as a firm that has been or could be certified. (Similar provisions are included in Section 102 of the bill relative to the worker program.) We support the inclusion of component parts and service firms into the adjustment assistance programs. While these changes correct two protested deficiencies in the Trade Act, there is a third and parallel one, namely, firms which provide supplies, which we feel should also be included.

Additionally, under wording in H.R. 8442, some component parts and service firms affected by trade would still be excluded from the program when the "supplied firm" could not meet the eligibility criteria. We propose that, to provide more complete coverage to workers and firms involved with component parts, services, and supplies without adding separate criteria as H.R. 8442 does, the following sentence defining "like or directly competitive" be added at the end of Sections 222, 251(c), and the proposed new Section 271:

> "An imported article that is 'like or directly competiti . with' a domestically produced article is 'directly competitive with' supplies and component parts used in the production of that domestic article and with services related to its production and distribution."

We trust these comments and suggestions will be useful to your Subcommittee and that you will call on us if we can be of further help.

Sincerely yours,

Elmer B. Staats

Comptroller General
of the United States