



Trade Adjustment Assistance for Firms: Economic, Program, and Policy Issues

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Summary

Although trade liberalization can enhance the economic welfare of all trade partners, it also causes difficult adjustment problems for some firms and workers. Congress has responded to these adjustment costs with trade adjustment assistance (TAA) programs for workers, firms, farmers, and communities. This report discusses the TAA for Firms (TAAF) program.

Congress first authorized TAA in Title III of the Trade Expansion Act of 1962 (P.L. 87-794), including a new firm and industry assistance program, which is administered by the Economic Development Administration (EDA) of the U.S. Department of Commerce. It provides *technical assistance* to help trade-affected firms make strategic adjustments to improve their competitiveness. Originally firm TAA also included loans and loan guarantees, but Congress eliminated all direct financial assistance in 1986 because of federal budgetary cutbacks and concern over the program's high default rates and limited effectiveness.

Debate early in the 111th Congress over TAA reauthorization led to a bipartisan agreement on February 5, 2009, to expand and extend the existing programs for workers, firms, and farmers, and to add a fourth program for communities. The agreement became part of the American Recovery and Reinvestment Act (ARRA) of 2009 (P.L. 111-5—the Stimulus Bill). Congress changed the TAAF program in a number of important ways. It expanded eligibility to include services firms, increased authorized funding levels from \$16 million to \$50 million, provided greater flexibility for a firm to demonstrate eligibility for assistance, established new oversight and evaluation criteria, created a new position of Director of Adjustment Assistance for Firms, and required submission to Congress of a detailed annual report on the TAAF program.

As authorization of the TAA programs was about to expire on January 1, 2011, Congress passed the Omnibus Trade Act of 2010 (P.L. 111-344). This act extended the TAAF program through February 12, 2012, but allowed those expanded provisions in the ARRA covering eligibility for services firms and other matters to expire on February 13, 2011. The TAAF program remains authorized and continues to operate at FY2010 spending levels of \$15.8 million under a continuing resolution, so no interruption of operations is expected in the near term.

The pre-ARRA program authorizations are set to expire on February 13, 2012, and the 112th Congress is considering legislation to extend all TAA programs. Although there are multiple bills addressing TAA that range in scope from repealing the authorizing legislation to providing expanded multiyear extensions, the issue is taking form as part of the debate on passage of implementing legislation for the proposed free trade agreements (FTAs) with Colombia, Panama, and South Korea. As Congress seeks to resolve this debate, two issues dominate the discussion: (1) reauthorization of TAA programs; and (2) procedural issues on how to move TAA legislation.

At present, a bipartisan compromise (H.R. 2832) passed in the Senate by a vote of 70-27. It would reauthorize TAA programs through December 31, 2013, including many, but not all, of the enhanced programs and funding levels contained in the ARRA. The firms program would be reauthorized at an annualized level of \$16 million. Procedural issues over how to move the TAA and FTA implementing bills are still under discussion.

For a broader policy discussion on TAA, see CRS Report R41922, *Trade Adjustment Assistance (TAA) and Its Role in U.S. Trade Policy*.

Contents

Recent Developments	1
The Economics of Trade Adjustment.....	1
The Firm Trade Adjustment Assistance Program	3
Eligibility and Certification.....	3
Program Evaluation.....	5
Policy Issues	6
Proposed Legislation	7

Tables

Table 1. Firm TAA Authorizations and Appropriations, FY2001-2011	3
Table 2. Trade Adjustment Assistance for Firms, Select Program Indicators for FY2003-2010	5

Contacts

Author Contact Information.....	8
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Although trade liberalization can enhance the economic welfare of all trade partners, it can also cause difficult adjustment problems for some import-competing firms and workers. Congress has responded to these adjustment costs with trade adjustment assistance (TAA) programs for workers, firms, farmers, and communities. This report discusses the firms program, which provides technical assistance to trade-affected firms to help them develop strategies to remain competitive in a dynamic international economy.¹

Recent Developments

Debate early in the 111th Congress over TAA reauthorization led to a bipartisan agreement on February 5, 2009, to expand and extend the existing programs for workers, firms, and farmers, and to add a fourth program for communities. The agreement became part of the American Recovery and Reinvestment Act (ARRA) of 2009 (P.L. 111-5—the Stimulus Bill). Congress changed the firms program in a number of important ways. It expanded eligibility to include services firms, increased authorized funding levels from \$16 million to \$50 million, provided greater flexibility for a firm to demonstrate eligibility for assistance, established new oversight and evaluation criteria, created a new position of Director of Adjustment Assistance for Firms, and required submission to Congress of a detailed annual report on the firms program.

As authorization of the TAA programs was about to expire on January 1, 2011, Congress passed the Omnibus Trade Act of 2010 (P.L. 111-344). This act extended the TAA programs through February 12, 2012, but allowed those expanded provisions in the ARRA covering eligibility for services firms and other matters to expire on February 13, 2011. The firm program remains authorized and continues to operate at FY2010 spending levels of \$15.8 million under a continuing resolution, so no interruption of operations is expected in the near term.

The 112th Congress is considering TAA reauthorizing legislation (H.R. 2832). The issue is taking form as part of the debate on passage of implementing legislation for the proposed free trade agreements (FTAs) with Colombia, Panama, and South Korea. H.R. 2832 would extend the firms program through December 31, 2013 at annualized spending levels of \$16 million. Many, but not all, of the enhanced programs contained in the ARRA would be reauthorized, including extending benefits to services workers and firms. The provisions would apply retroactively to the expiration date of the ARRA enhancements.

Procedural issues over how to move the TAA and three FTA implementing bills are still under discussion. The Senate passed a TAA compromise bill (H.R. 2832) on September 22, 2011. Consideration of H.R. 2832 in the House depends on finding an agreement with the Obama Administration over sequencing the three FTA implementing bills, which have yet to be introduced. At present, a procedural solution has not been finalized.

The Economics of Trade Adjustment

Economists tend to agree that in defining the rules of exchange among countries, freer trade is preferable to protectionism. Insights from trade theory point to the mutual gains for countries

¹ For a broader discussion on the policy debate over TAA, see CRS Report R41922, *Trade Adjustment Assistance (TAA) and Its Role in U.S. Trade Policy*, by J. F. Hornbeck and Laine Elise Rover.

trading on their differences, producing those goods at which they are relatively more efficient, while trading for those at which they are relatively less so. Additional gains are realized from similar, intra-industry trade based on efficiencies from segmented and specialized production.² Firm-level evidence supports theory. Trade appears to “enable efficient producers within an industry, and efficient industries within an economy, to expand,” leading to a reallocation of resources that increases a country’s productivity, output, and income.³ Consumers (both firms and households) also gain from a wider variety of goods at lower prices.

It is also true, and commonly cited, that increased competition from trade liberalization creates both “winners and losers,” presenting adjustment problems for all countries. The more efficient firms and plants may grow as they expand into overseas markets; the less efficient may contract, merge, or perhaps even fail when faced with greater foreign competition. While the adjustment process may be healthy from a macroeconomic perspective, much like market-driven adjustments that occur for reasons other than trade (e.g., technological change), it can be a harsh transition for some firms and their workers.⁴

Critics of free trade agreements often highlight the adjustment costs of reducing trade barriers. To avoid business closures and layoffs, trade-impacted firms may seek to weaken, if not defeat, trade liberalizing legislation. This makes economic sense from the perspective of affected industries, firms, and workers, but economists argue that in the long run it can be more costly for the country as a whole. The costs of protection arise because competition is suppressed, reducing pressure on firms to innovate, operate more efficiently, and become lower cost producers. The brunt of these costs falls to consumers, both individuals and businesses, who must pay higher prices, but the national economy is also denied higher standards of living because of forgone productivity gains.

One way to balance the large and broad-based gains from freer trade with the smaller and more highly concentrated costs is to address the needs of firms negatively affected. Congress has done so in authorizing the trade adjustment assistance (TAA) programs, including the one for firms.⁵ Supporters justify TAA policy on grounds that (1) it helps those who are hurt by trade liberalization (the “losers”), (2) the economic costs are lower than protectionism and can be borne by society as a whole (“the winners”), and (3) given rigidities in the adjustment process, it may help redeploy economic resources more quickly, thereby reducing productivity losses and related public sector costs (e.g., unemployment compensation). Others dispute these claims and have raised concerns over the effectiveness and costs of the program, arguing that it should be limited or discontinued.⁶

² For an accessible summary of these effects, see Paul Krugman, “The Increasing Returns Revolution in Trade and Geography,” *American Economic Review*, vol. 99, no. 3 (June 2009), pp. 561-571.

³ On how trade affects total factor productivity based on U.S. manufacturing firm and plant level data, see Andrew B. Bernard and J. Bradford Jensen, “Exporting and Productivity in the USA,” *Oxford Review of Economic Policy*, vol. 20, no. 3 (2004), pp. 343-344, 350, 352, and 356.

⁴ Both the benefits and costs of trade derive from resources moving from less to more productive plants (intra-industry) and firms (inter-industry). Employment dislocation is the most noticeable cost, giving rise to congressional interest in TAA programs. *Ibid.*, pp. 345 and 356.

⁵ Howard F. Rosen, *Strengthening Trade Adjustment Assistance*, Peterson Institute for International Economics, Policy Brief PB08-2, Washington, D.C., January 2008, pp. 1-2.

⁶ Details may be found in CRS Report R41922, *Trade Adjustment Assistance (TAA) and Its Role in U.S. Trade Policy*, by J. F. Hornbeck and Laine Elise Rover.

The Firm Trade Adjustment Assistance Program⁷

Congress first authorized TAA in Title III of the Trade Expansion Act of 1962 (P.L. 87-794), including a new firm and industry assistance program, which is administered by the Economic Development Administration (EDA) of the U.S. Department of Commerce.⁸ It provides *technical assistance* to help trade-impacted firms make strategic adjustments that may allow them to remain competitive in a global economy. Originally, firm TAA also included loans and loan guarantees, but Congress eliminated all direct financial assistance in 1986 because of federal budgetary cutbacks and concern over the program's high default rates and limited effectiveness. Congress has amended the program many times over the half century that it has been in existence, most recently in the American Recovery and Reinvestment Act of 2009 (P.L. 111-5). These amendments have since expired, with program rules reverting to those in pre-2009 statutes.

TAA authorizations and appropriations for fiscal years 2001-2011 appear in **Table 1**. The TAA for firms program has been reauthorized through February 12, 2012, and is currently operating under a full-year continuing resolution at an annual appropriated level of \$15.8 million.

Table 1. Firm TAA Authorizations and Appropriations, FY2001-2011
(\$ millions)

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Authorizations	10.0	10.0	16.0	16.0	16.0	16.0	16.0	16.0	50.0	50.0	0.0
Appropriations	10.5	10.5	10.0	11.9	11.0	12.8	12.8	14.1	15.8	15.8	15.8

Data Source: U.S. Department of Commerce. Economic Development Administration and P.L. 111-5.

In practice, technical assistance is provided through one of the 11 Trade Adjustment Assistance Centers (TAACs), which apply for grants from EDA to operate their programs. All appropriated funds are used to support the TAAC process; no funds go directly to firms. TAACs may operate through universities, private firms, or non-profit associations. They provide or contract for technical assistance to assist firms from the initial certification process through adjustment proposal implementation. TAACs are staffed by professionals with broad business expertise who can help firms develop "recovery strategies" and also identify financial resources. They are, in effect, consultants specializing in business turnaround strategies specific to the needs of each firm, which typically faces adjustments in many areas to compete with lower-priced imports.⁹

Eligibility and Certification

There are three phases to successful completion of a trade adjustment assistance project. First, to receive TAA, a firm must demonstrate that it is eligible to apply for assistance. The firm submits a petition for eligibility documenting that it has met three conditions:

⁷ Based on 13 C.F.R. § 315, which provides details for applying for TAAF assistance.

⁸ The TAA for firms program was originally administered jointly by the Tariff Commission (predecessor to the USITC) and the U.S. Department of Commerce.

⁹ P.L. 93-618, Section 253, as amended and U.S. Department of Commerce. Economic Development Administration. <http://www.taacenters.org>.

- (1) “a significant number or proportion of workers”¹⁰ in the firm have become or are threatened to become totally or partially separated;
- (2) sales, or production, or both of an article decreased absolutely, or sales, or production, or both of any article that accounted for not less than 25% of total sales or production of the firm during the 12-month period preceding the most recent 12-month period for which data are available have decreased absolutely; and
- (3) increased imports of competing articles “contributed importantly”¹¹ to the decline in sales, production, and/or workforce.

Second, once certified as eligible, a firm has two years to develop and submit its adjustment proposal. Approval of the adjustment proposal depends on EDA’s finding that it (1) is reasonably calculated “to materially contribute” to the economic adjustment of the firm; (2) gives adequate consideration to the interests of the firm’s workers; and (3) demonstrates that the firm will use its own resources for adjustment.

Third, the firm has five years to implement an approved adjustment proposal. Successful firms typically implement the adjustment proposal within two years.¹²

EDA can provide technical assistance to a firm for preparation of the petition for eligibility certification, and to a certified eligible firm for developing and implementing an approved adjustment proposal. EDA is statutorily required to make a final determination on petitions within 60 days. In recent years, this time has averaged six weeks. There is no cost to the firm for assistance provided in developing the petition.¹³

The TAACs also provide detailed assistance in formulation of the adjustment proposal, which seeks to identify business planning and practices that can be enhanced to improve firm competitiveness. EDA has another 60 days to accept or reject the adjustment proposal. In practice, because technical assistance is provided in the preparation of the petition and adjustment proposal, there is a high formal acceptance rate, likely because these submissions are completed correctly and poor candidates can be weeded out early in the process. The firm must pay at least 25% of the cost to prepare the adjustment proposal and at least 25% of any awarded adjustment assistance. For project assistance exceeding \$30,000, a firm must cover at least 50% of the total cost.¹⁴

¹⁰ 5% of a firm’s work force or 50 workers, whichever is less, with EDA discretion to set other parameters in special cases.

¹¹ A cause which is important, but not necessarily more important than any other cause. A firm must provide a list of four important customers, of which the TAAC must interview two, to help evaluate whether the firm has been “trade-impacted.” U.S. Department of Commerce. Economic Development Administration, “Program Announcement for the Trade Adjustment Assistance for Firms Program,” 73 *Federal Register* 6925, February 6, 2008.

¹² U.S. Department of Commerce. Economic Development Administration, *Annual Report to Congress on the Trade Adjustment Assistance for Firms Program for Fiscal Year 2010*, Washington, D.C., December 15, 2010, p. 5.

¹³ The recently expired legislative changes in P.L. 111-5 reduced the time required for EDA to make a final determination on the petition to 40 days.

¹⁴ 13 CFR 315.6 (c)(2) and Federal Register. *Program Announcement for the Trade Adjustment Assistance for Firms Program*. February 6, 2008. Vol. 73. No. 25. p. 6925

Adjustment proposals may involve strategic restructuring of various aspects of business operations. First, because firms must be experiencing falling sales or declining production to be eligible, TAACs often focus on marketing or sales strategies to identify new markets, new products, promotional initiatives, and export opportunities. The core idea is to increase revenue. Second, production inefficiencies are often targeted to reduce firm costs and improve price competitiveness. Third, TAACs can develop debt restructuring strategies and act as intermediaries in finding new sources of business financing. In 2010, 35% of adjustment assistance focused on improving marketing-sales, 32% on production-manufacturing, and 25% on enhancing support or management systems.¹⁵

Table 2 summarizes trade adjustment data for fiscal years 2003-2010. The TAAF program targets small- and medium-sized enterprises (SMEs), which is borne out in the firm data. By 2010, however, firms averaged over 100 employees and sales had grown to an average of \$19 million. The federal government provided 48.6% of adjustment costs, for an average \$61,953 per firm.

Table 2. Trade Adjustment Assistance for Firms, Select Program Indicators for FY2003-2010

	2003	2004	2005	2006	2007	2008	2009	2010
Number of Firms Assisted ^a	162	177	132	137	126	139	172	265
Avg Firm Sales (millions)	\$7.2	\$11.6	\$8.4	\$10.6	\$11.2	\$13.1	\$10.3	\$19.1
Avg Firm Employees	68	88	64	91	68	82	\$79	\$138
Gov't Share (millions)	\$8.1	\$8.5	\$5.9	\$6.7	\$7.1	\$7.9	\$10.3	\$16.4
Firm Share (millions)	\$7.4	\$8.1	\$5.4	\$6.0	\$5.9	\$7.5	\$9.8	\$15.6
Total TAA (millions)	\$15.5	\$16.6	\$11.3	\$12.7	\$13.0	\$15.4	\$20.2	\$32.1
Avg TAA Per Firm ^b	\$50,000	\$48,023	\$44,697	\$48,905	\$56,449	\$56,835	\$59,884	\$61,953

Data Source: U.S. Department of Commerce. Economic Development Administration. *Annual Report To Congress on the Trade Adjustment Assistance for Firms Program. Fiscal Year 2010*. December 15, 2010. pp. 23-24.

- a. Number of adjustment proposals approved.
- b. Government share of TAA Firm program divided by the number of accepted adjustment proposals.

Program Evaluation

Historically, program evaluation has been limited, with EDA lacking a formal evaluation process. Early efforts to analyze the TAAF program included comprehensive studies by the Urban Institute in 1998 and the Government Accountability Office (GAO) in 2000.¹⁶ Both found deficiencies with the TAAF program, such as a cumbersome certification process, long approval times, and little oversight and evaluation of projects. Congress addressed some of these issues by requiring EDA to submit an annual report on the TAAF program by December 15 of each year, putting

¹⁵ U.S. Department of Commerce. Economic Development Administration, *Annual Report to Congress on the Trade Adjustment Assistance for Firms Program for Fiscal Year 2010*, Washington, D.C., December 15, 2010, p. 38.

¹⁶ U.S. Department of Commerce. Economic Development Administration. *Effective Aid to Trade-Impacted Manufacturers: An Evaluation of the Trade Adjustment Assistance Program*. Prepared by the Urban Institute, Washington, D.C., November 1998 and GAO. *Trade Adjustment Assistance: Impact of Federal Assistance to Firms Is Unclear*. Report GAO-01-12. Washington, DC. December 2000.

stricter time frames on processing petitions for assistance, and providing additional funding for TAAF staff, requirements that expired with the ARRA legislation.¹⁷

Under the expired 2009 statute, EDA has released two annual reports that point to administrative and operational improvements. In addition, TAACs are now allocated funds in part based on performance measures (number of firm certifications and adjustment proposals generated) and quality measures.¹⁸ Anecdotal evidence from the TAACs also point to numerous “success” stories, but more sophisticated analysis is needed to estimate adequately the effectiveness of this program approach. It is difficult to isolate the effects of the firm TAA program in determining why a particular firm might succeed in its turnaround effort. Previous studies mentioned above suggest that many firms might have been able to do so on their own.

The FY2010 TAAF annual report illuminates two other interesting points. First, over a two-year assessment period, firms that fully implemented their adjustment proposals experienced on average a 14% increase in sales, a 3% rise in productivity, and a 16% decrease in employment.¹⁹ The fall in employment may be a common result for firms in decline. It is also possible that a longer evaluation period may be necessary to fully capture employment effects, which often lag behind recovery, particularly in the aftermath of the recent deep recession. Second, of the 102 firms that left the TAAF program in 2010, 56% completed the program and were operational. The remaining 44% did not complete the program for various reasons, including exceeding the five-year threshold (23%); going out of business (11%); or losing interest, being sold, or having inadequate funds (10%). Given that TAAF focuses on firms facing bankruptcy, in part because of foreign competition, these results may not be surprising.

Policy Issues

The 112th Congress is considering reauthorizing and extending the TAAF program. A key issue, in addition to deciding the size and spending limits of the program, is whether to reinstate some or all of the statutory changes added in 2009 under the ARRA (P.L. 111-5). These affect multiple aspects of the TAAF program and include the following, *all of which expired on February 13, 2011*:

1. **Services Firm Eligibility**—first time service firms were eligible for assistance.
2. **Change in Certification Requirements**: to demonstrate eligibility, firms were allowed to expand the “look back” period for determining declines in sales, production, and employment beyond the 12 months set out prior to the 2009 legislation. The expanded “look back” included:
 - **Twelve-month decline**—using production, sales, and employment criteria, compare the most recent 12-month period for which data are available with the immediately preceding 12-month period (currently only program criterion).

¹⁷ U.S. Department of Commerce. Economic Development Administration, *Annual Report to Congress on the Trade Adjustment Assistance for Firms Program for Fiscal Year 2010*, Washington, D.C., December 15, 2010, p. 7 and 39.

¹⁸ U.S. Department of Commerce. Economic Development Administration, “Program Announcement for the Trade Adjustment Assistance for Firms Program,” *73 Federal Register* 6926, February 6, 2008, and correspondence with EDA.

¹⁹ Productivity is defined as sales per worker, a simple measure that can be used across industries, but which may have limitations for evaluative purposes.

- **Twelve-month versus twenty-four-month decline**—using all three criteria, compare the most recent 12-month period for which data are available with the immediately preceding 24-month period, using average annual data for sales and production.
- **Twelve-month versus thirty-six-month decline**—using all three criteria, compare the most recent 12-month period for which data are available with the immediately preceding 36-month period, using average annual data for sales and production.
- **Interim sales or production decline**—using all three criteria, but defining a base period based on sales and production figures that compares at a minimum a most recent six-month period during the most recent 12-month period for which data are available, with data in the same six-month period for the immediately preceding 12-month period.
- **Interim employment decline**—using all three criteria, but defining a base period based on employment data that compares at a minimum a most recent six-month period during the most recent 12-month period for which data are available with data in the same six-month period for the immediately preceding 12-month period.

3. **Basis for Determinations**—increases of like or directly competitive articles or services may be determined by firm customer certification representing a significant percentage of the decrease in sales or production of the firm.

4. **Determination Time for Petition on Eligibility**—was reduced from 60 to 40 days.

5. **Notification Requirement**—the Secretary of Commerce, upon receiving information from the Secretary of Labor that workers were covered under the TAA for workers program, is required to notify the related firm that it too is potentially eligible for TAA for firms.

6. **Oversight and Administration**—requires alignment of annual contracting schedules of the TAACs and standardized formula for distribution of funds based on new annual reporting requirements. The formula is to be determined in consultation with the House Ways and Means and Senate Finance Committees, and funds are to be allocated promptly.

7. **Authorization of Appropriations**—increased for \$16 million to \$50 million annually, with \$350,000 made available for full-time positions in EDA to administer the TAAF program, including a new Director of Adjustment Assistance for firms.

8. **Enhanced Penalties**—for firms misrepresenting information on petitions for assistance or the adjustment proposals.

9. **Annual Report**—requires enhanced and detailed report on the TAAF program by EDA to be completed by December 15 following the most recent fiscal year.

Proposed Legislation

Although there are multiple bills addressing TAA that range in scope from repealing the authorizing legislation to providing expanded multiyear extensions, the issue is taking form as

part of the debate on passage of implementing legislation for the proposed free trade agreements (FTAs) with Colombia, Panama, and South Korea. As Congress seeks to resolve this debate, two issues dominate the discussion: (1) reauthorization of TAA programs; and (2) procedural issues on how to move TAA legislation.

TAA reauthorization was added as a Senate Amendment to H.R. 2832. The Senate passed the bill by a vote of 70-27 on September 22, 2011. The bill would reauthorize the TAA for firms program at annualized levels of \$16 million through December 31, 2013. Many, but not all, of the enhanced programs and funding levels contained in the ARRA would be reauthorized, including extending benefits to services workers and firms. The provisions of the bill would apply retroactively to the expiration date of the ARRA enhancements.²⁰

Despite having passed in the Senate, consideration of H.R. 2832 in the House depends on finding an agreement with the Obama Administration over the sequencing of the FTA implementing bills. The Obama Administration has made clear that it will not transmit to Congress implementing legislation for the FTAs until the House votes on TAA. Once a trade implementing bill is introduced in the two Houses of Congress, under the expedited rules of Trade Promotion Authority (TPA), it must be voted on. Because of this requirement, the Administration is reluctant to send over implementing legislation until the House takes up H.R. 2832. House Republican leadership insists that the House take up the TAA legislation after the FTA implementing bills have been sent over from the White House.²¹ At present, a procedural solution has not been finalized.

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²⁰ For details on the large workers program, see CRS Report R42012, *Trade Adjustment Assistance (TAA) for Workers*, by Benjamin Collins.

²¹ Inside U.S. Trade, "With Senate Approval of GSP/TAA, Pressure Mounts on Obama, Boehner," *World Trade Online*, September 23, 2011.