

Department's efforts to clarify the reasons for the previous determinations.

In the request for judicial review, the petitioners allege that at least as early as October 2002, engineers were brought in from India to train at Tesco

Technologies. After about six months, the engineers were sent back to India to a General Motors facility and that "work is sent over to India via satellite in the evening and sent back for check and inspection in the morning" (inferring that designs were being imported).

Even if petitioners' allegation of work shifting to India is correct, in order to meet the statutory criteria for TAA certification as primarily-affected workers, (1) a significant portion or number of workers at the subject company must be separated or threatened with separation, and (2) there must be either (i) an increase in imports of articles like or directly competitive with those produced by the subject worker group (section 222(a)(2)(A)) or (ii) a shift in production of articles like or directly competitive with those produced by the subject worker group (section 222(a)(2)(B)).

With regards to the immediate case, it has been shown that at least five percent of workers at Tesco Technologies were separated during the relevant period. Thus, the first criterion for TAA certification has been met.

The only issues at hand, therefore, are whether there was a shift of production abroad of articles like or directly competitive with those produced by Tesco Technologies during the relevant period and whether there were increased imports of articles like or directly competitive with those created at Tesco Technologies during the relevant period.

Under the Department's interpretation of "like or directly competitive," (29 CFR 90.2) "like" articles are those articles which are substantially identical in inherent or intrinsic characteristics and "directly competitive" articles are those articles which are substantially equivalent for commercial purposes (essentially interchangeable and adapted to the same uses), even though the articles may not be substantially identical in their inherent or intrinsic characteristics.

During the remand investigation, the Department confirmed that the designs created by the subject workers are not mass-produced but rather adhere to the customer's specifications and accommodate the specialized processes or program needs dictated by the customer. Accordingly, there are no

articles which are "like" or "directly competitive" to those designs created by Tesco Technologies because each design is a unique engineering solution which is created for the sole purpose of satisfying a specific customer's particular need. Thus, there are no articles which, for commercial purposes, are essentially interchangeable or can be adapted to the same use as a Tesco Technologies design.

It is obvious that a design for a drill is not interchangeable with a design for newspaper-folding machine, and a design for a taffy-pulling machine can not be adapted to the same use a bomb-defusing robot. In the same manner, a design of a drill with a speed of 7 inches/second, a weight of 55 pounds, and a torque rating of 120 inches/pound could not be substituted for a design of a drill with a speed of 20 inches/second, a weight of 60 pounds, and a torque rating of 125 inches/pound. If a customer requested a design for a drill with the former specifications, the design with latter specifications would clearly not suffice for the customer's purpose. As the Court recently found in *Former Employees of Murray Engineering, Inc. v. Elaine L. Chao, United States Secretary of Labor*, articles that are "neither interchangeable with nor substitutable" for the petitioner's designs are not considered directly competitive. 2005 WL 1527642 (CIT 2005) (citing *Machine Printers & Engravers Ass'n v. Marshall*, 595 F.2d 860, 862 (D.C. Cir. 1979)).

Because each Tesco design is custom made to satisfy a customer's specific requirements and is an inherently unique product, it cannot be considered "like" or "directly competitive" with any other designs; and therefore, neither section 222(a)(2)(A) nor section 222(a)(2)(B) of the Trade Act, as amended, can be satisfied.

The Department has determined that the criteria set forth in the Trade Act of 1974, as amended, for TAA certification has not been met. Further, since the workers are denied eligibility to apply for TAA, the workers cannot be certified for ATAA, pursuant to section 246 of the Trade Act of 1974, as amended.

#### Conclusion

After reconsideration on remand, I affirm the original notice of negative determination of eligibility to apply for adjustment assistance for workers and former workers of Tesco Technologies, LLC, Headquarters Office, Auburn Hills, Michigan.

Signed in Washington, DC this 25th day of July 2005.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

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## DEPARTMENT OF LABOR

### Employment and Training Administration

#### Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than August 15, 2005.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than August 15, 2005.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C-5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed in Washington, DC this 29th day of July 2005.

**Timothy Sullivan,**

*Acting Director, Division of Trade Adjustment Assistance.*

## APPENDIX

[Petitions Instituted Between 07/05/2005 and 07/15/2005]

TA-W	Subject firm (Petitioners)	Location	Date of institution	Date of Petition
57,502	Tiercon Industries USA, Inc. (Wkrs)	Vassar, MI	07/05/2005	07/01/2005
57,503	Office Equipment Services, Inc. (Comp)	Paw Paw, WV	07/05/2005	07/01/2005
57,504	Menasha Packaging (Comp)	Danville, VA	07/05/2005	06/27/2005
57,505	Eck Adams Corp. (State)	Osceola, AR	07/06/2005	07/05/2005
57,506	Eck Adams Corp. (State)	Osceola, AR	07/06/2005	07/05/2005
57,506	Viskase Corporation (Comp)	Kentland, IN	07/06/2005	06/28/2005
57,507	Noble Industries, Ltd. (Comp)	Mason City, IA	07/06/2005	06/30/2005
57,503	DeBall, Inc. (Comp)	Asheville, NC	07/06/2005	07/06/2005
57,509	Greenville Finishing Company (Comp)	Greenville, SC	07/06/2005	07/05/2005
57,510	Green Printing and Packaging Co. (Wkrs)	Lexington, NC	07/06/2005	06/29/2005
57,511	Trane Company (IAM)	La Crosse, WI	07/06/2005	07/06/2005
57,512	U.S. Airways (Wkrs)	Myrtle Beach, SC	07/07/2005	06/26/2005
57,513	Tower Automotive Products (Comp)	Milwaukee, WI	07/07/2005	06/30/2005
57,514	Painting Red Rhinos (Comp)	Mechanicsburg, PA	07/07/2005	07/05/2005
57,515	Diebold, Inc. (Wkrs)	Danville, VA	07/07/2005	06/16/2005
57,516	Diasys Corp. (Wkrs)	Waterbury, CT	07/07/2005	07/07/2005
57,517	Dan River, Inc. (Wkrs)	Danville, VA	07/03/2005	07/07/2005
57,518	Boone International, Inc. (Comp)	Corona, CA	07/03/2005	07/01/2005
57,519	Owens-Illinois Healthcare Packaging (GMP)	Sullivan, IN	07/03/2005	07/07/2005
57,520	CTNA—Continental Ag. (USWA)	Mayfield, KY	07/03/2005	07/07/2005
57,521	International Paper Co. (Wkrs)	Memphis, TN	07/03/2005	07/07/2005
57,522	Exxon Mobil Chemical Co. (State)	Stratford, CT	07/03/2005	07/07/2005
57,523	ABC Hosiery (Wkrs)	Chattanooga, TN	07/03/2005	07/07/2005
57,524	USA Knit (Wkrs)	Fort Payne, AL	07/03/2005	07/07/2005
57,525	Guess, Inc. (State)	Los Angeles, CA	07/03/2005	06/23/2005
57,526	Bard na nGleann (State)	San Jose, CA	07/03/2005	06/23/2005
57,527	Dimco-Gray Company (Wkrs)	Centerville, OH	07/03/2005	06/22/2005
57,528	Tower Automotive (UAW)	Granite City, IL	07/03/2005	07/05/2005
57,529	Batesville Casket Company (Comp)	Nashua, NH	07/03/2005	06/24/2005
57,530	General Electric Consumer and Industrial (Comp).	Jonesboro, AR	07/03/2005	06/21/2005
57,531	Agrium US, Inc. (Comp)	Kennewick, WA	07/03/2005	06/27/2005
57,532A	California Advanced Sports (NPC)	La Mirada, CA	07/11/2005	07/01/2005
57,532B	360, Inc. (NPC)	La Mirada, CA	07/11/2005	07/01/2005
57,532	Roller Derby Skate Corp. (NPC)	Atglen, PA	07/11/2005	07/01/2005
57,533	Atlas Wire and Cable Corp. (State)	Montebello, CA	07/11/2005	07/03/2005
57,534	RAM Industries, LLC (Comp)	Leesport, PA	07/11/2005	07/11/2005
57,535	Waytec Electronics Corp. (Wkrs)	Lynchburg, VA	07/12/2005	07/11/2005
57,536	Roller Derby Skate Corp. (Comp)	LA Mirada, CA	07/12/2005	07/01/2005
57,537	Victor Forstmann Inc. (State)	East Dublin, GA	07/12/2005	05/19/2005
57,538	Tyler Pipe (USWA)	Tyler, TX	07/12/2005	07/11/2005
57,539	Robert Bosch Corporation (Comp)	Gallatin, TN	07/12/2005	07/12/2005
57,540	Menasha Packaging Co. (Comp)	Otsego, MI	07/13/2005	07/13/2005
57,541	Bridgestone Firestone Tube Co. (State)	Russellville, AR	07/13/2005	07/12/2005
57,542	Cray, Inc. (Wkrs)	Chippewa Falls, WI	07/13/2005	07/12/2005
57,543	J.R. Greene, Inc. (Comp)	Boonton, NJ	07/13/2005	06/02/2005
57,544	Husky Injection Molding Systems (Comp)	Milton, VT	07/13/2005	07/12/2005
57,545	Solvay Pharmaceuticals (State)	Baudette, MN	07/13/2005	07/13/2005
57,546	WestPoint Stevens, Inc. (Comp)	Daleville, IN	07/14/2005	07/10/2005
57,547	Archway Mothers Cookie Co. (Wkrs)	Red Bud, IL	07/14/2005	06/30/2005
57,548	R.E. Phelon Co. (Comp)	Lomira, WI	07/14/2005	07/02/2005
57,549	Crane Plumbing, LLC (Comp)	Somerset, PA	07/14/2005	07/13/2005
57,550	Burner Systems International, Inc. (Comp)	Chattanooga, TN	07/14/2005	06/29/2005
57,551	Creo Americas, Inc. (Comp)	Rosemont, IL	07/14/2005	07/15/2005
57,552	TransCanada GTN Systems (Wkrs)	Sandpoint, ID	07/14/2005	07/11/2005
57,553	Merix Corporation (Comp)	Forest Grove, OR	07/14/2005	07/13/2005
57,554	Magnetics (Comp)	Booneville, AR	07/14/2005	07/14/2005
57,555	Apotex Corp. (Wkrs)	Lincolnshire, IL	07/14/2005	07/14/2005
57,556	Webb Wheel Products, Inc. (State)	Siloam, AR	07/15/2005	07/14/2005
57,557	McBee, Inc. (Wkrs)	Athens, OH	07/15/2005	07/14/2005
57,558	H.A. Parts of Indiana Co. (Comp)	Greencastle, IN	07/15/2005	07/14/2005
57,559	Alexander Fabrics (Comp)	Burlington, NC	07/15/2005	07/15/2005
57,560	Gross Given Mfg. Co. (State)	St. Paul, MN	07/15/2005	07/15/2005
57,561	Concept Fabrics, Inc. (Comp)	Asheboro, NC	07/15/2005	07/12/2005
57,562	Kraco Enterprises, Inc. (UE)	Compton, CA	07/15/2005	07/11/2005
57,563	Addie Fashions, Inc. (Wkrs)	West Union, SC	07/15/2005	07/07/2005
57,564	Bush Industries, Inc. (Wkrs)	Jamestown, NY	07/15/2005	06/28/2005
57,565	American Textile Marketing, Inc. (Comp)	Columbus, GA	07/15/2005	07/01/2005

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**DEPARTMENT OF LABOR****Employment Standards  
Administration; Wage and Hour  
Division****Minimum Wages for Federal and  
Federally Assisted Construction;  
General Wage Determination Decisions**

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from the date of notice in the **Federal**

**Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration to the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S-3014, Washington, DC 20210.

**Modification to General Wage  
Determination Decisions**

The number of decisions listed to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decision being modified.

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