DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–58,637]

Carolina Mills, Inc.; Plant No. 9; Valdese, NC; Notice of Revised Determination on Reconsideration

By letter dated March 28, 2006, a company official requested administrative reconsideration regarding the Department's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to workers of the subject firm. The Notice of Affirmative Determination Regarding Application for Reconsideration was issued on April 21, 2006, and was published in the **Federal Register** on May 5, 2006 (71 FR 26565).

During the reconsideration investigation, the Department confirmed that the subject firm was a supplier to a company certified for Trade Adjustment Assistance and that the loss of the business by that company contributed importantly to the workers' separations at the subject firm. This customer was one of the subject firm's major declining customers and was certified based on a shift of production to Honduras.

In accordance with Section 246 the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor herein presents the results of its investigation regarding certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers.

In order for the Department to issue a certification of eligibility to apply for ATAA, the group eligibility requirements of Section 246 of the Trade Act must be met. The Department has determined in this case that the requirements of Section 246 have been met. A significant number of workers at the firm are age 50 or over and possess skills that are not easily transferable. Competitive conditions within the industry are adverse.

Conclusion

After careful review of the information obtained in the reconsideration investigation, I determine that workers of the subject firm qualify as adversely affected secondary workers under Section 222 of the Trade Act of 1974, as amended. In accordance with the provisions of the Act, I make the following certification:

All workers of Carolina Mills, Inc., Plant No. 9, Valdese, North Carolina, who became totally or partially separated from employment on or after January 17, 2005 through two years from the date of this certification, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed in Washington, DC, this 5th day of July 2006.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–11216 Filed 7–14–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–51,750]

Federated Merchandising Group, A Part of Federated Department Stores, New York, NY; Notice of Negative Determination on Remand

On May 3, 2006, the United States Court of International Trade (USCIT) granted the U.S. Department of Labor's motion for voluntary remand for further investigation in *Former Employees of Federated Merchandising Group, A Part of Federated Department Stores* v. *United States Secretary of Labor,* Court No. 03–00689.

On June 10, 2003, the Department of Labor (Department) issued a negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA) for the subject workers. The workers produced paper patterns and sample garments at the subject facility and are not separately identifiable by product line. The investigation revealed that worker separations at the subject facility were attributable to neither increased in imports of paper patterns and sample garments nor a shift of production abroad of paper patterns and sample garments, but to improved pattern production technology (use of computer design programs has reduced the need for manual pattern making and subsequent sample making). AR 16. The Notice of determination was published in the **Federal Register** on June 19, 2003 (68 FR 36846). AR 22

On August 19, 2003, a Notice of Negative Determination Regarding Application for Reconsideration was issued in response to the July 2, 2003 request for reconsideration on the findings of neither error nor misunderstanding of the law or facts in the investigation. AR 31. The Notice was published in the **Federal Register** on September 30, 2003 (68 FR 56327). AR 32

On July 6, 2005, the Department issued a Notice of Negative Determination on Remand. The determination stated that the workers' separations were due to the subject firm's institution of production improvement measures which resulted in the reduced need for manual labor in general. SAR 15. The Notice was published in the **Federal Register** on July 14, 2005 (70 FR 40737). SSAR 1

The purpose of the second remand is to address causation, whether the subject workers could be divided into distinct subgroups, and whether the subject workers are eligible to apply for TAA.

Because 29 CFR 90.2 defines a ''group'' as three or more workers in a firm or an appropriate subdivision and ''appropriate subdivision'' as an establishment in a multi-establishment firm or a distinct section of an establishment, which produces the domestic article(s) in question, the Department determines that workers could be divided into distinct subgroups if multiple articles are produced by the subject firm or an appropriate subdivision and the workers are separately identifiable by the article produced. The regulations explicitly allow the Department to examine different segments of workers when deciding whether an application should be certified. 29 CFR 90.16(g). The Department is not limited to the unit described in the application. 29 CFR 90.16(d)(1).

In the case hand, the subject workers produce two distinct articles, handmade patterns and hand-sewn samples, AR 2, 14, 26, 29 and SAR 10, 14–15, and the workers producing handmade patterns have skills which are distinguishable from those producing hand-sewn samples. AR 26, SAR 10, SSAR 17, 25–31, 33–34. Further, the subject firm identifies the Plaintiff as the Director of Pattern Services, SSAR 17, and the Plaintiff identifies himself as a patternmaker. AR 26, SSAR 13, 25–31. As such, the Department determines that the subject workers are, in fact, two distinct subgroups: Pattern makers and sample makers.

To determine whether a worker group is eligible to apply for TAA, the Department must ascertain whether the criteria set forth in 29 CFR 90.16(b) was met:

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

(2) Sales or production, or both, of such firm or subdivision have decreased absolutely; and

(3) Increases (absolute or relative) of imports of 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.

29 CFR 90.2 states that ''significant number or proportion of the workers'' means at least three workers in a firm (or appropriate subdivision) with a work force of fewer than 50 workers.

Should the USCIT accept the Department's determination that there are two distinct worker groups in the case at hand, the Department presents its analysis regarding the pattern makers' and sample makers' applications for TAA certification.

Although the respective workers groups of pattern makers and sample makers each qualify as a ''group'' (three or more workers producing an article) independently, each worker group fails to satisfy 29 CFR 90.16(b)(1) because only two of each group were separated. AR 26 and SSAR 16–17.

Should the USCIT reject the Department's determination that there are two distinct worker groups, the Department presents its analysis regarding the TAA petition filed on behalf of the worker group consisting of pattern makers and sample makers.

While this larger group consisting of pattern makers and sample makers meets 29 CFR 90.16(b) (1) and (2), SSAR 4, 8, 13, criterion three has not been met.

29 CFR 90.2 states that ''increased imports'' means imports have increased, absolutely or relative to domestic production, compared to a representative base period. The regulation also establishes the representative base period as the one-year period preceding the date twelve months prior to the petition date.

Because the petition date of TA–W–51,750 is May 5, 2003, the relevant period is May 5, 2002 through May 5, 2003 and the representative base period is May 5, 2001 through May 5, 2002. Therefore, increased imports is established if import levels during May 5, 2002 through May 5, 2003 are greater than import levels during May 5, 2001 through May 5, 2002.

While the Plaintiff has provided evidence of increased competition from China, SSAR 25–28, and the declining role of manual pattern makers in America, SSAR 29–31, the material falls outside the relevant period (2005 and 2004, respectively) and, therefore, do not bear on the case at hand. What is relevant, however, is previously-submitted material that shows that there were no increased imports of either patterns or samples during the relevant period as compared to the representative base period. SAR 10–11, 14.

On voluntary remand, the USCIT ordered the Department to determine whether the TAA required that plaintiffs lost their jobs on account of a shift in production. In *Former Employees of Barry Callebaut* v. *Herman,* 177 F. Supp.2d 1304 (CIT 2001), the USCIT addressed that very issue with regard to NAFTA TAA. There, the USCIT concluded that ''[t]he legislative history behind NAFTA TAA shows that the program is intended to benefit displaced workers whose separations *were caused by shifts in production*.'' Id. at 1312. The USCIT added that NAFTA TAA ''is not intended to benefit workers whose separations *were not caused by shifts in production*.'' *Id.* The language in the TAA regarding shifts in production is almost identical to that in the NAFTA TAA, and the purpose of the statute is the same. Therefore, causation is a requirement for a shift in production case.

Therefore, the Department determines that the subject workers have not met the criteria set forth in Section 222 of the Trade Act of 1974, as amended, and are not eligible to apply for worker adjustment assistance.

Conclusion

As the result of the findings of the investigation on remand, I affirm the original notice of negative determination of eligibility to apply for adjustment assistance for workers and former workers of Federated Merchandising Group, A Part of Federated Department Stores, New York, New York.

Signed at Washington, DC, this 3rd day of July 2006.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–11225 Filed 7–14–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–59,078]

Hexion Specialty Chemicals, Inc., FFP Division, Including On-Site Leased Workers of Express Personnel, High Point, NC; Notice of Revised Determination on Reconsideration

By application dated May 11, 2006, a worker requested administrative reconsideration regarding the Department's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to workers of the subject firm. The Notice of Affirmative Determination Regarding Application for Reconsideration was issued on May 16, 2006, and was published in the **Federal Register** on May 25, 2006 (71 FR 30200). Workers produce wood adhesives and ancillary products.

In the request for reconsideration, the worker alleges that the subject firm supplied wood adhesive to customers affected by increased imports of wood furniture.

During the reconsideration investigation, the Department contacted the subject firm and was informed that the adhesive produced by the subject workers is a component of wood furniture.

Based on this new information, the Department conducted an investigation to determine whether the subject workers are eligible to apply for Trade Adjustment Assistance (TAA) as workers of a secondarily-affected company (supplier to a firm that employed workers who received a certification and such supply is related to the article that was the basis for such certification). As part of this investigation, the Department reviewed comprehensive information from the subject firm regarding 2004 and 2005 sales figures of wood adhesives.

A careful analysis of this information and a careful search of the TAA database revealed that a significant number of the sixteen major declining customers who were TAA certified during the relevant period had ceased production. Therefore, the Department determines that the loss of the business by those customers contributed importantly to the workers' separations at the subject firm.

In accordance with Section 246 the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department herein presents the results of its investigation regarding certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers.

In order for the Department to issue a certification of eligibility to apply for ATAA, the group eligibility requirements of Section 246 of the Trade Act must be met. The Department has determined in the case at hand that the requirements of Section 246 have been met. A significant number of workers at the firm are age 50 or over and possess skills that are not easily transferable. Competitive conditions within the industry are adverse.