APPENDIX—Continued

[TAA petitions instituted between 4/16/07 and 4/20/07]

TA–W	Subject Firm (petitioners)	Location	Date of institution	Date of petition
61345	Acvato Services (Wkrs)	Melbourne, FL	04/20/07	04/05/07
61346	Northland Tool Corp. (Comp)	Traverse City, MI	04/20/07	04/17/07
61347	Wellman Inc. (Comp)	Fort Mill, SC	04/20/07	04/11/07
61348	Nortech Systems (State)	Bemidji, MN	04/20/07	04/19/07
61349	Revere Copper Products, Inc. (Comp)	New Bedford, MA	04/20/07	04/19/07

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DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–58,624]

Fairchild Semiconductor International; Mountain Top, PA; Notice of Negative Determination on Remand

On March 13, 2007, the United States Court of International Trade (USCIT) remanded to the Department of Labor for further investigation *Former Employees of Fairchild Semiconductor Corp.* v. *United States Secretary of Labor* (Court No. 06–00215).

In the January 11, 2006 petition for Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA), the company official alleged that with regards to ''discrete semiconductor devices'' produced at Fairchild Semiconductor International, Mountaintop, Pennsylvania (subject firm), production ''deteriorated because of a transfer of production'' abroad and that its customers are ''purchasing similar devices from other suppliers with locations in foreign countries such as Korea and China.'' AR 3–4.

The initial investigation revealed that semiconductor wafers were produced at the subject firm during the relevant period, AR 27–28, 30, 42, the subject firm shifted semiconductor wafer production to China, AR 27–28, and the subject firm did not import semiconductor wafers after the shift. AR 7, 27, 59.

The Department did not conduct a customer survey because the subject firm exported 100% of its semiconductor wafers. AR 46. Thus, since the subject firm had no domestic customer base, there could be no increased customer imports of semiconductor wafers that are like or directly competitive with those produced by the subject firm.

On February 28, 2006, the Department issued a negative determination regarding workers' eligibility to apply for TAA and ATAA for those workers of the subject firm. AR 41. The Department's Notice of determination was published in the **Federal Register** on March 24, 2006 (71 FR 14954). AR 55.

By application dated March 20, 2006, the petitioner requested administrative reconsideration of the Department's negative determination. The request for reconsideration stated that the subject firm produces ''semiconductor wafer chips'' and that semiconductor wafer chips are like or directly competitive with discrete semiconductor devices. AR 57.

By letter dated April 26, 2006, the Department dismissed the petitioner's request for reconsideration, stating that discrete semiconductor devices are not like or directly competitive with semiconductor wafer chips and that the subject firm was not directly impacted by increased imports of semiconductor wafers. AR 60. The Department's Dismissal of the Application for Reconsideration for the subject firm was issued on May 1, 2006. AR 63. The Department's Notice of dismissal was published in the **Federal Register** on May 10, 2006 (71 FR 27292). AR 64.

In a letter filed with the USCIT on June 21, 2006, the Plaintiff sought judicial review. In the complaint, the Plaintiff made several allegations, including that: semiconductor wafer production shifted to Asia, imports of ''like products'' have increased, the shift of semiconductor wafer production abroad was due to the need to be cost-competitive, and the workers should be certified for TAA like their predecessors (workers covered by TA–W–53,335 certification issued December 2, 2003).

On March 13, 2007, the USCIT directed the Department to explain why the Plaintiffs should be treated differently from their ''similarly-situated predecessors'' (semiconductor devices producers who were certified under TA-W–53,335). The USCIT also directed the Department to determine whether the subject workers are eligible to apply for TAA and to support the determination.

Worker Group Covered by TA–W–58,624 Are Different From Workers Covered by TA–W–53,335

If the subject workers ''comprised 100 percent of the remaining subdivision of workers covered by defendant's previous certification[s]'' as alleged in the complaint, issuing a negative determination to them may seem unjustified. However, characterizing the subject workers as members of the worker group certified under TA–W–53,335 is not accurate because the subject workers at issue here produced a different article from the article produced by the previous TAA-certified workers.

Based on the investigation here, the subject workers were semiconductor wafer producers during the relevant period of the investigation under TA–W–58,624. The accurate characterization of the subject workers is based on the article that the subject firm produced during the relevant period of January 2005 through December 2005—semiconductor wafers, not semiconductor devices.

As stated in the previous TA–W–53,335 determination, the worker group covered by the certification consisted of workers engaged in the production of semiconductor devices because the workers were not separately identifiable by product line. While semiconductor wafers were also produced at the subject firm during the investigation period for TA–W–53,335, the workers producing the component part (semiconductor wafers) were not separately identifiable from those workers producing the finished article (semiconductor devices). As such, workers who may have been producing semiconductor wafers used in the firm's production of semiconductor devices were treated along with the firm's other workers as ''workers producing semiconductor devices.''

When the subject firm ceased producing semiconductor devices during 2003, it became engaged in the production of another article—

semiconductor wafers, a component part of those semiconductor +devices. Once the distinction is made between the worker groups investigated in TA–W–53,335 and TA–W–58,624 (workers producing semiconductor devices versus workers producing semiconductor wafers), it is apparent that the determinations are not inconsistent and do not result in disparate treatment of the two worker groups.

Whether Workers Are Eligible To Apply for TAA Under TA–W–58,624

There are two ways for a worker group to be certified eligible to apply for TAA as workers of a primary firm under section 222(a) of the Act:

I. 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; sales or production, or both, of such firm or subdivision have decreased absolutely; and 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; or

II. 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, and there has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and the country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States, is a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act or there has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Under the definition codified at 29 CFR 90.2, ''increased imports'' means that 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 relevant period. The relevant period is the twelve month period preceding the petition date.

As stated earlier, the relevant period for TA–W–58,624 is January 2005 through December 2005 when the subject firm produced semiconductor wafers, and the subject workers were engaged in the production of semiconductor wafers.

On remand, the Department determined that a significant number or proportion of the workers in such workers' firm was totally separated and that both sales and production of semiconductor wafers at the subject firm have decreased absolutely. Therefore, the remaining two issues regarding the certification of the subject workers under Section 222(a) are whether there were either (1) increased imports during the relevant period (January 2005 through December 2005) of articles like or directly competitive with semiconductor wafers produced by the subject workers or (2) actual or likely imports of articles like or directly competitive with semiconductor wafers produced by the subject workers following the subject firm's shift of semiconductor wafers production abroad.

The Department affirms its previous determination that increased imports of finished semiconductor devices cannot be the basis for certification of a petition applicable to workers engaged in the production of semiconductor wafers because those two articles are neither like nor directly competitive with each other.

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.

While semiconductor wafers are a component part of semiconductor devices, they are not substantially identical in inherent or intrinsic characteristics. Further, because semiconductor wafers are a component part of semiconductor devices, they are not substantially equivalent to each other for commercial purposes. In addition, the semiconductor wafer has to be further processed before it can be used as a component part of the semiconductor device.

During the remand investigation, the Department also considered whether the subject worker group qualifies as adversely affected secondary workers as suppliers of component parts to a manufacturing firm primarily affected by increased imports or a shift of production abroad. In order to make an affirmative determination and issue a certification of eligibility for secondary workers to apply for adjustment assistance, the following group eligibility requirements under Section 222(b) must be met:

(1) A significant number or proportion of the workers in the 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) The workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss of business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

As previously stated, the subject firm did not have any domestic customers that purchased semiconductor wafers produced by the subject workers during the relevant period because all semiconductor wafer production was exported. AR 46. Therefore, the subject company did not have any customers that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits. As such, the Department determines that the subject worker group did not consist of adversely affected secondary workers.

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 the subject workers' eligibility to apply for ATAA. Since the subject workers are denied eligibility to apply for TAA, the workers cannot be certified for ATAA.

Conclusion

After reconsideration on remand, I affirm the original notice of negative determination of eligibility to apply for worker adjustment assistance for workers and former workers of Fairchild Semiconductor International, Mountaintop, Pennsylvania.

Signed at Washington, DC, this 27th day of April 2007.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

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DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–52,050]

Merrill Corporation; St. Paul, MN; Notice of Revised Determination on Remand

On March 28, 2007, the United States Court of International Trade (USCIT) remanded *Former Employees of Merrill Corporation* v. *Elaine Chao, U.S. Secretary of Labor*, Court No. 03–00662, to the Department of Labor (Department) for further investigation.

The Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for workers and former workers of Merrill Corporation, St. Paul, Minnesota (subject firm) was issued on July 2, 2003 and published in the **Federal Register** on July 22, 2003 (68 FR 43373). The first negative determination on remand was issued on April 2, 2004 and published in the **Federal Register** on April 16, 2004 (69 FR 20645). The second negative remand determination was issued on November 17, 2005 and published in the **Federal Register** on December 7, 2005 (70 FR 72857). In these determinations, the Department determined that the workers' electronic creations do not constitute ''articles'' for purposes of the Trade Act of 1974 (the Act) and that the shift of the workers' functions to India was irrelevant.

On March 24, 2006, the Department revised its policy to recognize tangible and intangible articles and reiterated its policy that workers who produce an article incidental to the provision of a service are not, for the purposes of the Act, engaged in production.

The third negative determination on remand was issued on August 24, 2006 and published in the **Federal Register** on September 5, 2006 (71 FR 52346). The Department applied the revised article policy to the case at hand and determined that the workers produce electronic documents. The Department concluded, however, that each document was unique, and there were not articles ''like or directly competitive'' to any document. The Department also determined that the workers' application should be denied because the production of the electronic documents was incidental to the provision of a service.

In its March 28, 2007 opinion, the USCIT disagreed with the Department's policy and the third remand determination, and remanded the matter to the Department.

During the immediate investigation, the Department carefully reviewed the record and has determined that Merrill Corporation has a distinct subdivision producing printed matter sold to Merrill clients and another subdivision that provides services. The Department further determines that the subject worker group is affiliated with both subdivisions. Therefore, the subject worker group made articles not only incidental to the provision of a service.

The Department determines that production of the electronic documents produced by the subject worker group shifted from the subject firm to India and, following the shift, the subject firm increased imports of articles like or directly competitive with those produced by the subject worker group.

Conclusion

After careful review of the facts, I determine that the shift of electronic document production to India followed by increased imports of articles like or directly competitive with those produced at the subject facility contributed to the total or partial separation of a significant number or proportion of workers at the subject facility. I also determine that the electronic documents were not produced solely incidental to the production of an article.

In accordance with the provisions of the Act, I make the following certification:

All workers of Merrill Corporation, St. Paul, Minnesota, who became totally or partially separated from employment on or after June 10, 2002, through two years from the issuance of this revised determination, are eligible to apply for Trade Adjustment Assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 23rd day of April 2007.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–8465 Filed 5–2–07; 8:45 am]

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DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–61,236]

Precision Technologies Incorporated; Reno, PA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on April 3, 2007 in response to a petition filed by a company official on behalf of workers at Precision Technologies Incorporated, Reno, Pennsylvania.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC, this 23rd day of April 2007.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–8468 Filed 5–2–07; 8:45 am]

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DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–61,238]

Quality Transparent Bag Company, Inc.; Bay City, MI; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on April 3, 2007 in response to a petition filed by a company official on behalf of workers of Quality Transparent Bag Company, Inc., Bay City, Michigan.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 23rd day of April, 2007.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–8464 Filed 5–2–07; 8:45 am]

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