production (crude oil and natural gas). To address this allegation, the Department contacted the subject company and requested that IBM verify this information. On further investigation, it was revealed that no oil or gas is being produced within the IBM Corporation and workers of the subject firm are not in support of the production for any IBM affiliated facilities.

The plaintiffs base their assertion on a previous TAA certification (TA–W–35,309N) for another worker group (AMOCO Exploration and Production). For the reasons described below, Department has determined that the plaintiffs' reliance on this certification is without basis.

Case TA–W–35,309N refers to workers at AMOCO Exploration and Production, and AMOCO Shared Services, operating in the state of Oklahoma, including accountants then working for AMOCO at the Tulsa facility, who were certified eligible to apply for adjustment assistance on February 19, 1999. That certification was amended on March 14, 1999 to reflect new ownership and a name change to BP/AMOCO, AMOCO Exploration and Production, AMOCO Shared Services, A/K/A AMOCO Production Company, Inc., operating in the state of Oklahoma. Workers certified in that instance were determined to be ''engaged in activities related to exploration and production of crude oil and natural gas.'' That certification expired February 19, 2001, well beyond the relevant time period. The relevant period for this investigation stretches back one year from the date of the petition, or February 10, 2003. The Department considers facts related to the relevant period of the current investigation; therefore the previous certification has no bearing on the determination of eligibility at this time.

In order for workers to be considered eligible for TAA, the worker group seeking certification must work for a ''firm'' or subdivision that produces an article domestically, and production must have occurred within the relevant period of the investigation. As stated in the reconsideration determination, the workers in the immediate case can be distinguished from the workers covered by TA–W–35,309N in that, unlike the workers in the immediate case, the workers covered by TA–W–35,309N were employed by the subject company and were in direct support of an affiliated facility that was, at the time, currently certified for TAA. Because the workers of IBM, Tulsa, Oklahoma are neither employed by BP nor in direct support of an IBM facility whose workers are currently TAA-certified or could be certified for TAA, the members of the subject worker group are not workers engaged in the production of an article, in this case, oil and gas.

IBM workers in Tulsa, Oklahoma Should Be Eligible for TAA

Plaintiffs allege that because IBM workers in Tulsa, Oklahoma are BP-controlled workers, the IBM workers are engaged in production, and BP could be certified for TAA, the workers of IBM, Tulsa, Oklahoma should be eligible for TAA benefits.

As previously discussed, the subject worker group is not controlled by BP and cannot, therefore, be treated as BP workers and is not engaged in production of crude oil and natural gas.

Even assuming that the IBM workers were considered leased workers of BP, the IBM workers would not be eligible for TAA. Historically, the Department included only leased production workers in TAA certifications. However, on January 23, 2004 a new policy was instituted which allowed a certification of all leased workers, including service workers who are working at the same location as workers who have been previously certified eligible for TAA. According to this policy, in order to be eligible, leased workers must perform their duties onsite at the affected location on an established contractual basis. As discussed above, the IBM contract with BP does not subject the IBM workers to the kind of control by BP that makes them leased workers. Further, it was determined that workers of IBM, Tulsa, Oklahoma are not co-located with BP workers at a BP facility that produces an article.

Section 222 of the Trade Act establishes that the Department shall not certify a group unless increases of imports of articles like or directly competitive with 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. Under this requirement, the Department cannot issue a certification of eligibility to a worker group unless the workers' firm or an appropriate subdivision of the workers' firm produces an import-impacted article. The Tulsa, Oklahoma facility is an IBM-owned facility and BP did not have any operation at that location during the relevant time period.

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 International Business Machines Corporation, Tulsa, Oklahoma.

Signed at Washington, DC, this 2nd day of August 2004.

Elliott S. Kushner,

Certifying Officer, Division of of Trade Adjustment Assistance

[FR Doc. 04–18236 Filed 8–9–04; 8:45 am]

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DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–54,403]

Missota Paper Company, LLC, Brainerd, MN; Notice of Negative Determination Regarding Application for Reconsideration

By application of June 23, 2004, a petitioner requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on April 7, 2004, and published in the **Federal Register** on May 24, 2004 (69 FR 29575).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The petition for the workers of Missota Paper Company LLC, Brainerd, Minnesota was denied because the ''contributed importantly'' group eligibility requirement of Section 222 of the Trade Act of 1974, as amended, was not met. The ''contributed importantly'' test is generally demonstrated through a survey of the workers' firm's customers. The survey revealed no increase of imports of uncoated free sheet paper during the relevant period. The subject firm did not import uncoated free sheet paper in the relevant period nor did it shift production to a foreign country.

The petitioner refers to the subject firm's competitor, SAAPI–Cloquet, which also filed a petition for TAA and was certified on February 25, 2004. The petitioner states that SAAPI–Cloquet recently shifted production from coated

paper to uncoated paper, thus workers of the subject firm and workers of SAAPI–Cloquet share the same global market for paper. The petitioner further alleges that because workers of SAAPI–Cloquet were certified eligible for TAA, workers of the subject firm should also be eligible.

A review of competitors is not relevant to an investigation concerning import impact on workers applying for trade adjustment assistance. The review of both cases revealed that workers of Missota Paper Company LLC, Brainerd, Minnesota and SAAPI–Cloquet LLC are engaged in the production of paper; however, they do not share the same customer base and have no affiliation with each other. Moreover, the certification of SAAPI–Cloquet LLC, Cloquet, Minnesota refers to the production of fine paper and pulp, while workers of the subject firm are engaged in the production of uncoated paper. As noted above, the ''contributed importantly'' test is generally demonstrated through a survey of customers of the workers' firm to examine the direct impact on a specific firm. While customers of SAAPI–Cloquet LLC, Cloquet, Minnesota reported an increase in imports of fine paper and pulp during the relevant period, no imports were evidenced during the survey of subject firm's customers.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 29th day of July, 2004.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 04–18234 Filed 8–9–04; 8:45 am]

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DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, (19 U.S.C. 2273), the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the periods of July 2004.

In order for an affirmative determination to be made and a certification of eligibility to apply for directly-impacted (primary) worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

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

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

C. Increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

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

B. There has been a shift in production by such workers' firm or subdivision to a foreign county of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. 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;

2. The country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. 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.

Also, in order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance as an adversely affected secondary group to be issued, each of the group eligibility requirements of Section 222(b) of the Act must be met.

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

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The investigation revealed that criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.B) (No shift in production to a foreign country) have not been met.

TA–W–55,142; Riddle Fabrics, Inc., Kings Mountain, NC

TA–W–55,202; Wellstone Mills, LLC, Lakeside I and II Plants, Eufaula, AL

TA–W–55,246; Fresenius Medical Care, Delran, NJ

TA–W–55,088; United Steel Enterprises, Inc., d/b/a United Steel Products, Inc., East Stroudsburg, PA

TA–W–55,064; Annin & Co., Inc., Roseland, NJ

TA–W–55,063; Milliken & Company, Gillespie Plant, Textile Manufacturing Division, Union, SC

TA–W–55,096; Elizabeth City Cotton Mills, Div. of Robinson Manufacturing Co., Elizabeth City, NC

TA–W–55,059; Technical Machining Services, Inc., Rogers, AR

TA–W–55,082A; Chieftain Technologies, Inc., including leased workers of Westaff, Inc., Owosso, MI

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.