

DEPARTMENT OF LABOR**Employment and Training Administration**

[TA-W-50,448]

Universal Instruments Corporation, A Subsidiary of Dover Corporation, Surface Mount Division, Conklin, NY; Notice of Negative Determination Regarding Application for Reconsideration

By application of March 11, 2003, a petitioner requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA). The denial notice was signed on February 14, 2003 and published in the **Federal Register** on March 10, 2003 (68 FR 11409).

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 mis-interpretation of facts or of the law justified reconsideration of the decision.

The TAA petition, filed on behalf of workers at Universal Instruments Corporation, a subsidiary of Dover Corporation, Surface Mount Division, Conklin, New York, was denied because the "contributed importantly" group eligibility requirement of Section 222(3) of the Trade Act of 1974, as amended, was not met. Imports of electronic assembly equipment did not contribute importantly to layoffs at the subject firm.

The request for reconsideration alleges that the company was importing competitive products from China. To further support this allegation, a page was attached to the reconsideration request titled "China Manufacturing Localization Program", with a series of products and part numbers. The form also appears to contain information about vendors who are bidding on production for different parts and, in some cases vendors who were selected. The petitioner asserted that all of these parts involved Chinese production "now and in future". She further asserted that all of these parts were being imported back to the subject

facility "to be installed and tested". The petitioner made particular note of two parts: Flexjet spindle assemblies and dual beam cable harnesses. Although not stated directly, it appears that the petitioner is implying that these alleged imported products are like or directly competitive with products produced at the subject firm and therefore the petitioning workers should be eligible for trade adjustment assistance.

When contacted in regard to these allegations, a company official confirmed data that was revealed in the original investigation, that while the company had shifted production to China, this production was used exclusively to serve the Asian market and thus there were no imports. He further stated that the company had several localization projects, but they all involved production that had always been outsourced and therefore not produced by the company. Additionally, the China localization project involved finding vendors closed to Asian manufacturing facilities that served local customers and therefore do not involve U.S. imports.

In regard to the two parts highlighted by the petitioner, the company contact stated that the Flexjet spindle assemblies were currently outsourced to a domestic producer, and that dual beam cable harnesses had never actually been made by the subject facility.

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 21st day of April 2003.

Elliott S. Kushner,*Certifying Officer, Division of Trade Adjustment Assistance.*

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BILLING CODE 4510-30-P**DEPARTMENT OF LABOR****Employment and Training Administration**

[TA-W-50,472]

Sharon Tube Company, Sharon, PA; Notice of Negative Determination Regarding Application for Reconsideration

By application of March 3, 2003, the United Steelworkers of America, Local

1355, 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 January 15, 2003, and published in the **Federal Register** on February 6, 2003 (68 FR 6211).

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 mis-interpretation of facts or of the law justified reconsideration of the decision.

The petition for the workers of Sharon Tube Company, Sharon, Pennsylvania was denied because criterion (2) was not met. Production of steel pipe and tubing at the subject plant increased from 2001 to 2002.

In the request for reconsideration, the union alleged that there was no production at the subject facility during the relevant period.

When contacted for clarification in regard to this allegation, the union official specified that there were two weeks in December of 2002 during which the plant was temporarily shutdown.

A temporary shut down has no bearing on the failure of the petitioning worker group to meet criterion (2) of the group eligibility requirements for trade adjustment assistance.

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 21st day of April, 2003.

Elliott S. Kushner,*Certifying Officer, Division of Trade Adjustment Assistance.*

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