

(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.*

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## 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 of 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.

**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 Hexion Specialty Chemicals, Inc., FFP Division, High Point, North Carolina, including leased workers of Express Personnel working on site, who became totally or partially separated from employment on or after March 22, 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 6th day of July 2006.

**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 and Alternative Trade 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 July 27, 2006. 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 July 27, 2006.

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 at Washington, DC, this 5th day of July 2006.

**Erica R. Cantor,**

*Director, Division of Trade Adjustment Assistance.*

**APPENDIX**

[TAA petitions instituted between 6/26/06 and 6/30/06]

TA-W	Subject firm (petitioners)	Location	Date of institution	Date of petition
59621	Irving Tissue Inc (Comp)	Fort Edward, NY	06/26/06	06/23/06
59622	Gyrus ACMI Corporation (Comp)	Racine, WI	06/26/06	06/22/06
59623	Hexcel (State)	Livermore, CA	06/26/06	06/14/06
59624	Pintex Cutting Company (Comp)	Greenville, SC	06/26/06	06/08/06
59625	P.W. Minor and Son Inc. (Comp)	Batavia, NY	06/26/06	06/14/06
59626	Tower Automotive Products Co. Inc. (Union)	Milan, TN	06/26/06	06/12/06
59627	Liebert Corporation (UAW)	Irvine, CA	06/26/06	06/20/06
59628	New Venture Industries (UAW)	Grand Blanc, MI	06/26/06	06/19/06
59629	IPC Print Services (Wkrs)	Saint Joseph, MI	06/26/06	06/13/06
59630	Johnson Controls Inc. (UAW)	Oklahoma City, OK	06/26/06	06/13/06
59631	Moosehead Manufacturing Co. (State)	Monson & Dover Foxcroft, ME.	06/26/06	06/26/06
59632	Light Master Systems Inc. (Wkrs)	Cupertino, CA	06/26/06	06/07/06
59633	Dancin Cowboy, Inc. (State)	Gonzales, TX	06/26/06	06/22/06
59634	Hi-Lite Industries Inc. (Wkrs)	Greensburg, PA	06/27/06	06/26/06
59635	Minnesota Rubber (USW)	Mason City, IA	06/27/06	06/23/06
59636	Larose Inc. (Comp)	New York, NY	06/27/06	06/20/06
59637	Lenovo USA (Wkrs)	Research Triangle Park, NC	06/27/06	06/26/06
59638	Schweitzer-Mauduit International Inc. (Comp)	Lee, MA	06/27/06	06/26/06
59639	Solectron, USA (Wkrs)	Charlotte, NC	06/28/06	06/07/06
59640	Armstrong World Industries Inc. (Wkrs)	Lancaster, PA	06/28/06	06/27/06
59641	Arizona Textiles (State)	Phoenix, AZ	06/28/06	06/27/06
59642	Fontaine International Inc. (Wkrs)	Calera, AL	06/28/06	06/23/06
59643	Graham Packaging (Wkrs)	Cincinnati, OH	06/28/06	06/27/06
59644	Quebecor World Kingsport (Union)	Kingsport, TN	06/28/06	06/24/06
59645	Metal Ware Corporation (IAMAW)	Two Rivers, WI	06/28/06	06/20/06
59646	Aircast (Comp)	Summit, NJ	06/29/06	06/24/06
59647	Rad Technologies (State)	Sun Valley, CA	06/29/06	06/28/06
59648	Adecco (Wkrs)	Ft. Madison, IA	06/29/06	06/27/06
59649	Rowe Furniture, Inc. (Wkrs)	Elliston, VA	06/29/06	06/28/06
59650	Pendleton Woolen Mills Inc. (Comp)	Bellevue, NE	06/29/06	06/27/06
59651	Superior Industries Int'l. Inc. (State)	Fayetteville, AR	06/29/06	06/28/06
59652	Stanton International (State)	Phoenix, AZ	06/29/06	06/28/06
59653	Utility Craft Inc. (Comp)	High Point, NC	06/29/06	06/22/06
59654	House of Perfection Inc. (Wkrs)	West Columbia, SC	06/29/06	06/23/06
59655	Boeing Company (UAW)	Long Beach, CA	06/30/06	06/20/06