New information from the company and the State agency shows that on July 23, 2005, the Aftermarket Business of Modine Manufacturing merged with Transpro, Inc. and formed a combined company named Proliance International. Workers separated from employment at the subject firm had their wages reported under a separated unemployment insurance (UI) tax account for Proliance International.

Accordingly, the Department is amending this certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of the Aftermarket Business, Modine Manufacturing who were adversely affected by increased imports.

The amended notice applicable to TA–W–55,830 is hereby issued as follows:

All workers of the Aftermarket Business of Modine Manufacturing, which became known as Proliance International, Emporia, Kansas, who became totally or partially separated from employment on or after October 18, 2003, through November 5, 2006, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under section 246 of the Trade Act of 1974.

Signed in Washington, DC this 26th day of July 2005.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–4212 Filed 8–4–05; 8:45 am]

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DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W–55,495]

Tesco Technologies, LLC, Headquarters Office, Auburn Hills, Michigan; Notice of Negative Determination on Remand

On May 25, 2005, the United States Court of International Trade (USCIT) granted the Department of Labor's motion for voluntary remand in *Former Employees of Tesco Technologies, LLC* v. *United States* (Court No. 05–00264).

In the August 19, 2004 petition, three workers identified the subject company as Tesco Engineering, Headquarters, Auburn Hills, Michigan and the article produced as ''designs for tooling and production lines for General Motors automotive assembly plants.'' The petitioners alleged that Tesco Engineering was shifting production to a foreign country (India).

During the investigation, it was revealed that Tesco Engineering manufactured production and assembly line equipment, while workers at Tesco Technologies, LLC (''Tesco Technologies''), a subsidiary of Tesco Engineering, created mechanical design drawings which are used to build machinery for the production of automotive parts. Given that the petitioners created designs and did not produce equipment, the Department identified Tesco Technologies as the proper subject company.

Because the Department considered design work not to be production work, the designers of Tesco Technologies could be certified only if they supported an affiliated, TAA-certifiable, domestic, production facility. Although Tesco Technologies' designs accounted for an insignificant portion of the equipment produced at Tesco Engineering, the Department nonetheless fully investigated whether during the relevant period, there were increased imports of production/assembly equipment or a shift of production from Tesco Engineering to overseas.

The expanded investigation revealed that Tesco Engineering neither shifted production to a foreign country nor imported any equipment during the relevant period. Further, a survey of Tesco Engineering's major declining customers revealed that, during the relevant period, none of the customers increased their import purchases while decreasing their purchases from the subject firm.

On September 27, 2004, the Department issued a negative determination regarding workers' eligibility to apply for TAA and ATAA for those workers of Tesco Technologies, LLC, Headquarters Office, Auburn Hills, Michigan. The negative determination was based on the findings that there was neither an increase in imports of equipment by Tesco Engineering or its major declining customers, nor a shift of production overseas by Tesco Engineering. The Department published the Notice of determination in the **Federal Register** on October 26, 2004 (69 FR 62460).

By application dated October 22, 2004, the petitioner requested administrative reconsideration of the Department's negative determination. Because factual discrepancies were identified during the careful review of the request for reconsideration and the previously-submitted documents, the Department issued a Notice of Affirmative Determination Regarding Application for Reconsideration for workers of the subject company on December 7, 2004. The notice was published in the **Federal Register** on December 20, 2004 (69 FR 76017).

In the request for reconsideration, the petitioner identified the subject company as ''Tesco Technologies, LLC, Auburn Hills, Michigan'' and asserted that ''we the petitioners are connected to General Motors tooling only,'' reiterated that designs are a product (''the physical drawings themselves should apply as a downline manufactured product required to build the tooling'' and designers are ''directly connected to the manufacturing process'') and inferred that designers are de facto production workers producing automobile parts for General Motors. The petitioner also inferred that the subject company's major customer, General Motors, had outsourced work to India.

During the reconsideration investigation, the Department contacted a Tesco Technologies official, the General Motors officials identified by the petitioner, and the General Motors official who supervised the design contract at issue.

As a result of the reconsideration investigation, the Department confirmed that the petitioners use application software, such as Unigraphics, to develop tooling designs which are used to build equipment for the production of automobile parts for General Motors. The design drawings are developed at Tesco Technologies, Auburn Hills, Michigan and sent to the customer via electronic means (such as the Internet) and tangible means (such as CD-Rom and paper), with the mode of delivery to be determined by the customer.

According to one General Motors official identified by the petitioner, General Motors did not outsource design work to any foreign source. Another General Motors official contacted by the Department stated that design work was awarded to another domestic company and that some design work was moved in-house.

On January 11, 2005, the Department issued a Notice of Negative Determination Regarding Application for Reconsideration which provided that there was neither a shift of production abroad by Tesco Technologies nor any outsourcing of design work overseas by General Motors. On January 21, 2005, the notice was published in the **Federal Register** (70 FR 3228).

By letter dated February 8, 2005, the petitioners appealed to the USCIT for judicial review. On May 25, 2005, the USCIT granted the Department's motion for voluntary remand to clarify the Department's basis for the negative determination on reconsideration and to request additional information in the

Department's efforts to clarify the reasons for the previous determinations.

In the request for judicial review, the petitioners allege that at least as early as October 2002, engineers were brought in from India to train at Tesco Technologies. After about six months, the engineers were sent back to India to a General Motors facility and that ''work is sent over to India via satellite in the evening and sent back for check and inspection in the morning'' (inferring that designs were being imported).

Even if petitioners' allegation of work shifting to India is correct, in order to meet the statutory criteria for TAA certification as primarily-affected workers, (1) a significant portion or number of workers at the subject company must be separated or threatened with separation, and (2) there must be either (i) an increase in imports of articles like or directly competitive with those produced by the subject worker group (section 222(a)(2)(A)) or (ii) a shift in production of articles like or directly competitive with those produced by the subject worker group (section 222(a)(2)(B)).

With regards to the immediate case, it has been shown that at least five percent of workers at Tesco Technologies were separated during the relevant period. Thus, the first criterion for TAA certification has been met.

The only issues at hand, therefore, are whether there was a shift of production abroad of articles like or directly competitive with those produced by Tesco Technologies during the relevant period and whether there were increased imports of articles like or directly competitive with those created at Tesco Technologies during the relevant period.

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.

During the remand investigation, the Department confirmed that the designs created by the subject workers are not mass-produced but rather adhere to the customer's specifications and accommodate the specialized processes or program needs dictated by the customer. Accordingly, there are no articles which are ''like'' or ''directly competitive'' to those designs created by Tesco Technologies because each design is a unique engineering solution which is created for the sole purpose of satisfying a specific customer's particular need. Thus, there are no articles which, for commercial purposes, are essentially interchangeable or can be adapted to the same use as a Tesco Technologies design.

It is obvious that a design for a drill is not interchangeable with a design for newspaper-folding machine, and a design for a taffy-pulling machine can not be adapted to the same use a bomb-defusing robot. In the same manner, a design of a drill with a speed of 7 inches/second, a weight of 55 pounds, and a torque rating of 120 inches/pound could not be substituted for a design of a drill with a speed of 20 inches/second, a weight of 60 pounds, and a torque rating of 125 inches/pound. If a customer requested a design for a drill with the former specifications, the design with latter specifications would clearly not suffice for the customer's purpose. As the Court recently found in *Former Employees of Murray Engineering, Inc.* v. *Elaine L. Chao, United States Secretary of Labor,* articles that are ''neither interchangeable with nor substitutable'' for the petitioner's designs are not considered directly competitive. 2005 WL 1527642 (CIT 2005) (citing *Machine Printers & Engravers Ass'n* v. *Marshall,* 595 F.2d 860, 862 (D.C. Cir. 1979).

Because each Tesco design is custom made to satisfy a customer's specific requirements and is an inherently unique product, it cannot be considered ''like'' or ''directly competitive'' with any other designs; and therefore, neither section 222(a)(2)(A) nor section 222(a)(2)(B) of the Trade Act, as amended, can been satisfied.

The Department has determined that the criteria set forth in the Trade Act of 1974, as amended, for TAA certification has not been met. Further, since the workers are denied eligibility to apply for TAA, the workers cannot be certified for ATAA, pursuant to section 246 of the Trade Act of 1974, as amended.

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 Tesco Technologies, LLC, Headquarters Office, Auburn Hills, Michigan.

Signed in Washington, DC this 25th day of July 2005.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–4211 Filed 8–4–05; 8:45 am]

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DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility to Apply for Worker 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 August 15, 2005.

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 August 15, 2005.

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 in Washington, DC this 29th day of July 2005.

Timothy Sullivan,

Acting Director, Division of Trade Adjustment Assistance.