

conduct further investigation to determine whether the subject worker group meets the eligibility requirements of the Trade Act of 1974.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 27th day of July, 2004.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

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DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-55,104]

Geschmay Corporation, a Division of Albany International, Greenville, SC; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on July 12, 2004, applicable to workers of Geschmay Corporation, a division of Albany International, Greenville, South Carolina. The notice will be published soon in the **Federal Register**.

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of press fabrics which are used in the production of paper and are separately identifiable by product line.

New findings show that there was a previous certification, TA-W-40,951, issued on July 23, 2002, for workers of Albany International Corporation, Geschmay Plant, Greenville, South Carolina who were engaged in employment related to the production of press fabrics. That certification expired July 23, 2004. To avoid an overlap in worker group coverage, the certification is being amended to change the impact date from June 8, 2003 to July 24, 2004, for workers of the subject firm.

The amended notice applicable to TA-W-55,104 is hereby issued as follows:

All workers of Geschmay Corporation, a division of Albany International, Greenville, South Carolina, engaged in employment related to the production of press fabrics, who became totally or partially separated from employment on or after July 24, 2004, through July 12, 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 at Washington, DC, this 30th day of July 2004.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

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DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-53,648]

International Business Machines Corporation, Tulsa, Oklahoma; Notice of Negative Determination on Reconsideration on Remand

The United States Court of International Trade (USCIT) granted the Secretary of Labor's motion for a voluntary remand for further investigation in *Former Employees of International Business Machines Corporation v. Elaine Chao, U.S. Secretary of Labor*, No. 04-00079.

The Department's initial negative determination regarding International Business Machines Corporation (hereafter "IBM") was issued on December 2, 2003 and published in the **Federal Register** on January 16, 2004 (69 FR 2622). The determination was based on the finding that the workers did not produce an article within the meaning of Section 222 of the Trade Act of 1974. The workers provided accounting and application services.

By letter of February 6, 2004, the petitioner requested administrative reconsideration for Trade Adjustment Assistance (TAA). The negative reconsideration determination was issued on March 31, 2004. The notice of determination was published in the **Federal Register** on April 16, 2003 (67 FR 20644). The determination was based on the findings that the workers did not produce an article within the meaning of Section 222 of the Trade Act and that the workers did not provide services in direct support of a TAA certified firm.

In their submissions to the Department, Plaintiffs made the following assertions: (1) Workers of

IBM, Tulsa, Oklahoma are under the control of British Petroleum (BP) and should be treated as BP employees; (2) Workers of IBM, Tulsa, Oklahoma are engaged in production of a trade impacted article (crude oil and natural gas), based on a previous certification issued in February 1999 by the Department for workers of AMOCO Exploration and Production in the State of Oklahoma; and (3) IBM workers in Tulsa, Oklahoma are BP-controlled workers engaged in production and because BP could be certified for TAA, the workers of IBM, Tulsa, Oklahoma should be eligible for TAA benefits.

On remand, the Department conducted a careful investigation in response to the plaintiff's allegations and will address each assertion in turn.

Workers of IBM, Tulsa, Oklahoma Are Under the Control of BP

In order to determine the scope of control by BP over the workers of IBM, Tulsa, Oklahoma, the Department requested additional information from IBM regarding the business relationship of IBM and BP, the functions of the subject worker group and the operations of IBM.

The information obtained during the remand investigation revealed that the relationship between IBM and BP is based on a contractual agreement documenting the commercial terms of service between two independent companies and that BP had no legal control over IBM employees. According to an IBM official, IBM is an independent company with its headquarters in Armonk, New York and there is no affiliation between IBM and BP. The IBM employees in Tulsa, Oklahoma provide finance, accounting and information technology services to multiple clients, including BP. These employees were subject to IBM's terms and conditions of employment, reported to IBM managers and were located at an IBM facility in Tulsa, Oklahoma. IBM provides services to numerous BP facilities located in the United States. These functions include general accounting, capital asset accounting, oil and gas revenue accounting, and accounts payable and receivable. Further, according to the IBM official, workers of IBM were not employed at any BP facility during the relevant time period. Therefore, the Department determines that IBM workers were not under the control of BP during the relevant time period.

Workers of IBM, Tulsa, Oklahoma Are Engaged in Production

Plaintiffs allege that members of the subject worker group are engaged in