

denial of Trade Adjustment Assistance (TAA), applicable to workers of Solid State-Filtronics, Compound Semiconductors, Santa Clara, California.

The initial investigation resulted in a negative determination issued on May 6, 2003, based on the finding that imports of wafers used in the company's vertically integrated manufacturing of field effect transistors and monolithic microwave integrated circuits did not contribute importantly to worker separations and there was no shift in production to a country that is party to a Free Trade Agreement, or a Beneficiary Country under the Andean Trade Preference Act, the African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act. The notice was published in the **Federal Register** on May 19, 2003 (68 FR 27107).

In their request for reconsideration, the petitioners supplied information concerning global competition regarding wafers used in the company's vertically integrated manufacturing of field effect transistors and monolithic microwave integrated circuits.

An examination of United States trade data for like or directly competitive products revealed that from 2001 to 2002, aggregate U.S. imports increased dramatically.

### Conclusion

After careful consideration of the new facts obtained on reconsideration, it is concluded that the workers of Solid State-Filtronics, Compound Semiconductors, Santa Clara, California, were adversely affected by increased imports of articles like or directly competitive with wafers produced at the subject firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Solid State-Filtronics, Compound Semiconductors, Santa Clara, California, who became totally or partially separated from employment on or after March 27, 2002, through two years from the date of certification, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974."

Signed at Washington, DC this 1st day of July 2003.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-51,120]

#### Sun Apparel of Texas, Armour Facility, El Paso, TX; Notice of Determinations Regarding Application for Reconsideration

By application of May 22, 2003, three workers 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 April 7, 2003 and published in the **Federal Register** on April 24, 2003 (68 FR 20177).

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 TAA petition, filed on behalf of workers at Sun Apparel, Armour Facility, El Paso, Texas engaged in the production of patterns, was denied because the "contributed importantly" group eligibility requirement of Section 222(3) of the Trade Act of 1974, as amended, was not met. The subject firm did not increase its reliance on imports of patterns during the relevant period, nor did it shift production to a foreign source.

In the reconsideration process, it was revealed that patterns and markers created at the subject firm were electronically generated and transmitted, and thus do not constitute production within the meaning of Section 222 of the Trade Act of 1974.

The workers allege that other production was performed at the subject facility and imply that some or all of this production work was transferred to a company-owned facility in Mexico in the relevant period.

Aside from the original request for reconsideration, further information was provided by worker representatives. In order to get a comprehensive sense of work performed at the subject facility, the Department requested that both the workers and a company official supply

a list of all work functions performed at the subject facility. The Department further requested that the company official indicate whether work functions at the subject facility were shifted to Mexico, or if the company imported products like or directly competitive with those produced at the subject facility in the relevant period.

The workers allege that petitioning workers produced samples (also known as approval garments), and imply that work was shifted to Mexico. They further state that samples were shipped directly to customers in the U.S.

A company official was contacted on this point and reported that samples were and are produced at the subject facility. However, sample production has never occurred at the Mexican affiliate, so no production of samples was shifted. Further, the company does not import samples. (As samples are produced for internal use, there is no issue in regard to customer imports.)

Workers allege that the "Print Shop" at the subject facility produced jokers (waist band labels) and stickers (leg stickers used to designate size).

The company official contacted affirmed that print shops producing like or directly competitive stickers were located at both the Armour and Mexican facilities, and that the company elected to close the Armour Print Shop and rely exclusively on the Mexican production in this area.

The workers describe the typical functions involved in the Shipping and Receiving Department. They also list several manufacturing labels that they serviced in this department.

As the title implies, the functions concerned with shipping and receiving were not involved with production. Aside from the sample production, almost all of the production handled by this department concerned Mexican production, although a very small amount concerned cutting production that was performed at another El Paso facility. Thus workers engaged in shipping and receiving at the subject facility performed services mainly for a foreign production facility.

Only in very limited instances are service workers certified for TAA, namely the worker separations must be caused by a reduced demand for their services from a parent or controlling firm or subdivision whose workers produce an article and who are currently under certification for TAA.

The workers then address the nature of the production performed at the subject facility, which includes the Pattern Making Department, the Cutting Department, and the Sewing Department. In this section, the workers

also address laundering, inspection, packing and shipping.

The company official maintained that, aside from miscellaneous sewing repair, sample production, and print shop production, no production occurred at the subject facility. The departments and functions described by workers in the line of production were performed mainly for sample production, with the exception of miscellaneous repairs.

Workers also describe a Trim Department involving functions performed "specifically for audit" purposes, which involved checking to see that "orders for \* \* \* accessories were distributed correctly here and in El Paso."

As described by the workers, the Trim Department does not involve production, but performance of a service.

Finally, the workers allege that they trained workers in similar functions as those performed at the subject facility, although no specific functions were noted.

The company official did not deny that there was some similarity in work functions such as production in the Print Shop. However, she did affirm that no production occurred at the subject facility aside from sample production and print shop production.

In the original request for reconsideration, the workers state that the subject firm was previously certified for trade adjustment assistance, and that the basis for previous certification should be used to establish eligibility of the current petitioning worker group. The workers also appear to allege that they performed regular production of apparel for a specific customer, and not just sample production.

Workers producing jeans and laundering jeans at the subject facility were previously certified for trade adjustment assistance (TA-W-37,187 and TA-W-37,412, respectively). The last active certification, TA-W-37,412, expired on July 7, 2002. By the date of the above certification (July 7, 2000), a company official confirmed that all mass production of apparel had been shifted from the subject facility to Mexico. As this shift occurred outside the relevant period, it cannot be used to certify the current worker group. In the current investigation, it was reconfirmed by a company official that the subject facility produces apparel for sample purposes only and that all other apparel production was shifted from the subject facility in 2000.

Finally, to support their claim of a production shift, worker representatives attached a series of statements from subject firm workers who performed

machine operations, supervision, labeling, shipping and receiving, and repair and maintenance of equipment at the Amour facility. One worker statement appears to claim that work was shifted to Mexico, Canada and Japan.

In regard to specific statements made by employees that they were engaged in production and that production shifted, the company confirmed that the only production at the subject facility was for samples and print shop labels, and that there was no shift in production of samples or imports of samples.

Workers are separately identifiable between workers in the Print Shop and all other workers at the subject facility.

It has been determined with respect to workers at Sun Apparel, Armour Facility, Print Shop, El Paso, Texas that all of the criteria have been met.

It has been determined with respect to all other workers at Sun Apparel, Armour Facility, El Paso, Texas that criteria I.C and II.B have not been met.

#### Conclusion

After careful review of the facts obtained in the investigation, I conclude that there was a shift in production from Sun Apparel, Armour Facility, Print Shop, El Paso, Texas to Mexico of articles that are like or directly competitive with those produced by the subject firm or subdivision. In accordance with the provisions of the Act, I make the following certification:

All workers of Sun Apparel, Armour Facility, Print Shop, El Paso, Texas, who became totally or partially separated from employment on or after January 8, 2002 through two years from the date of certification, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974. and;

I further determine that all other workers at Sun Apparel, Amour Facility, El Paso, Texas, are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 1st day of July, 2003.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-51,130]

#### **Tyler Refrigeration, Carrier Commercial Refrigeration, Carrier Corporation, Waxahachie, TX; Amended Certification Regarding Eligibility To Apply for Worker 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 on May 15, 2003, applicable to workers of Tyler Refrigeration, Waxahachie, Texas. The notice was published in the **Federal Register** on June 3, 2003 (68 FR 33195).

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 refrigerated food display cases.

Information shows that Carrier Corporation is the parent firm of Tyler Refrigeration. Information also shows that workers separated from employment at the subject firm had their wages reported under separate unemployment insurance (UI) tax accounts for Carrier Commercial Refrigeration, Carrier Corporation.

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

The intent of the Department's certification is to include all workers of Tyler Refrigeration who were adversely affected by increased imports.

The amended notice applicable to TA-W-51,130 is hereby issued as follows:

All workers of Tyler Refrigeration, Carrier Commercial Refrigeration, Carrier Corporation, Waxahachie, Texas, who became totally or partially separated from employment on or after March 7, 2002, through May 15, 2005, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Dated: Signed at Washington, DC, this 3rd day of July, 2003.

**Richard Church,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

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