

imports of ammonia nitrate during the relevant period.

To support the request for reconsideration, the company official supplied additional information regarding increased imports of ammonia nitrate by other major declining customers of the subject firm.

During the reconsideration investigation, the Department conducted a survey of the additional customers provided by the company official. The survey revealed increased reliance on imported ammonia nitrate during the period of sales and production declines 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, as amended, must be met. The Department has determined in this case 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 additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with those produced at the subject firm contributed importantly to the sales and production declines and to the separation of workers at the subject firm.

In accordance with the provisions of the Act, I make the following certification:

All workers of Air Products and Chemicals, Inc., Including On-Site Leased Workers of Shaw Maintenance, Inc., Pace, Florida, who became totally or partially separated from employment on or after January 5, 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, as amended.

Signed in Washington, DC this 12th day of May 2006.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6-7613 Filed 5-18-06; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-50,129; TA-W-50,129A]

IBM Corporation Global Services Division, Piscataway, NJ; Middletown, NJ; Notice of Revised Determination on Remand

On April 10, 2006, the United States Court of International Trade (USCIT) granted a consent motion for partial voluntary remand in *Former Employees of IBM Corporation, Global Services Division v. U.S. Secretary of Labor*, Court No. 03-00656.

On November 13, 2002, a petition for Trade Adjustment Assistance (TAA) was filed with the U.S. Department of Labor (Department) on behalf of workers at IBM Corporation, Global Services Division, Piscataway, New Jersey, and Middletown, New Jersey (the subject firm). The petitioning workers alleged that the subject firm was shifting computer software production to Canada and importing those products from Canada. Workers are software developers who write and test computer software.

The Department determined that the workers did not produce an article within the meaning of section 222 of the Trade Act. The Department's determination was issued on March 26, 2003. The Notice of determination was published in the **Federal Register** on April 7, 2003 (68 FR 16834).

On April 29, 2003, a petitioner requested administrative reconsideration of the Department's negative determination regarding eligibility for the subject workers to apply for TAA. The Department's Notice of Negative Determination Regarding Application for Reconsideration was issued on June 26, 2003, and published in the **Federal Register** on July 15, 2003 (68 FR 41845).

On September 11, 2003, the Plaintiffs requested review by the USCIT. On December 9, 2005, the Department issued its Notice of Negative Determination on Remand, finding that the subject workers are not engaged in the production of an article or support of an article. The Notice was published in the **Federal Register** on December 21, 2005 (70 FR 75837).

Since the publication of the last remand determination, the Department has revised its policy to acknowledge that, at least in the context of this case, there are tangible and intangible articles and to clarify that the production of intangible articles can be distinguished from the provision of services. Software

and similar intangible goods that would have been considered articles, for the purposes of the Trade Act, if embodied in a physical medium will now be considered to be articles regardless of their method of transfer.

The Department stresses that it will continue to implement the longstanding precedent that firms must produce an article to be certified under the Trade Act. This determination is not altered by the fact the provision of a service may result in the incidental creation of an article. Because the revised policy may have implications beyond this case of which the Department is not fully cognizant, it will be further developed in rulemaking.

Therefore, due to the Department's policy change, the Department requested the second remand to conduct an investigation to determine whether the subject workers are eligible to apply for trade adjustment assistance.

Reviewing previously-submitted information through the lens of the revised policy, the Department has determined that, for purposes of the Trade Act, the subject workers produce an article (computer software). During the relevant period, a significant portion of workers was separated from the Piscataway, New Jersey facility and production shifted to an affiliated facility located in Canada; a significant portion of workers was separated from the Middletown, New Jersey facility and production shifted to an affiliated facility located in Canada.

Conclusion

After careful review of the facts generated through the second remand investigation, I determine that a shift in production of software like or directly competitive to that produced at the subject facilities to Canada contributed to the total or partial separation of a significant number or proportion of workers at the subject facilities. In accordance with the provisions of the Act, I make the following certification:

All workers of IBM Corporation, Global Services Division, Piscataway, New Jersey (TA-W-50,129), and Middletown, New Jersey (TA-W-50,129A), who became totally or partially separated from employment on or after November 13, 2001, through two years from the issuance of this revised determination, are eligible to apply for Trade Adjustment Assistance under section 223 of the Trade Act of 1974.

Signed in Washington, DC this 10th day of May 2006.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6-7609 Filed 5-18-06; 8:45 am]

BILLING CODE 4510-30-P