

a new plant located in Belgium that produces the same product as the subject firm.

A review of the initial investigation shows that the Belgium plant produced scissor lift aerial work platforms exclusively for the European market.

The company also filed a request dated March 5, 2002 for administrative reconsideration of the Department's negative determination regarding eligibility to apply for TAA. However, the request was received beyond the 30 day requirement to apply from the date the decision was published in the **Federal Register**.

That request expressed concerns that a major foreign producer of products, like or directly competitive with what the subject plant produced cut into the subject firm's market share after the closure of the subject firm.

The survey conducted by the Department of Labor examines the customer's purchases of products like or directly competitive with what the subject plant produces during the relevant time period. The survey requests information regarding customer's purchases from the subject firm, purchases from other domestic sources (including a breakout of imported products purchased from other domestic sources) and purchases of imported products "like or directly competitive" with what the subject plant produces. The survey shows that the respondents reported simultaneous declines in their purchases from the subject firm, other domestic sources and imports, indicating that the layoffs at the subject plant are a factor of reduced demand rather than "imports contributing importantly" to the layoffs at the subject plant.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 6th day of May, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

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DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-39,593]

Muruta Electronics, North America Inc., State College Operations, State College, PA; Notice of Negative Determination Regarding Application for Reconsideration

By application dated March 5, 2002, the workers requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on February 20, 2002, and published in the **Federal Register** on March 5, 2002 (67 FR 9324).

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 petition for the workers of Muruta Electronics, North America Inc., State College Operations, State College, Pennsylvania 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 "contributed importantly" test is generally demonstrated through a survey of customers of the workers' firm. The survey revealed that none of the respondents increased their purchases of imported capacitors, while decreasing their purchases from the subject firm during the relevant period. The investigation further revealed that the subject firm decreased their purchases of imported capacitors during the relevant period.

The petitioner believes that the company shifted a meaningful portion of plant capacitor production to a foreign source, and is importing the capacitors back to the State College plant.

A review of the data supplied by the company during the initial investigation shows that company capacitors imports declined during the relevant period. In fact, the imports declined at a greater

rate than the capacitor production at the subject plant.

The petitioner also feels that the survey results may not reflect accurate reported customer capacitor imports, since customers may not know if the capacitors they purchased were produced at the subject firm or produced in a foreign country.

One customer reported that they were not sure if the capacitors purchased from the subject firm were produced domestically or imported. That customer, however, estimated the amounts they believed were imported during the specified periods of the survey. That respondent and the other respondent(s) reported capacitor imports declined sharply during the relevant period.

Further review shows that aggregate U.S. imports of capacitors declined sharply in 2001 over the corresponding 2000 period, followed by further steep declines during the January through February 2002 period over the corresponding 2001 period.

Based on the declining import factors discussed above, imports did not "contribute importantly" to the declines in employment at the subject firm.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 6th day of May, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

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DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-40,453]

Penley Corp., West Paris, ME; Notice of Revised Determination on Reconsideration

By letter of March 24, 2002, the company requested administrative reconsideration regarding the Department's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to the workers of the subject firm.