TA–W–62,229; Learjet, Inc., A Subsidiary of Bombardier, Inc., Wichita, KS.

The investigation revealed that criteria (a)(2)(A)(I.B.) (Sales or production, or both, did not decline) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

None.

The investigation revealed that criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

TA–W–61,862; OEM/Erie, Inc., Erie, PA.

TA–W–61,902; Gates Corporation, Power Transmission Division, Moncks Corner, SC.

TA–W–61,936; Gruber Systems, Inc., Valencia, CA.

TA–W–62,085; Smurfit Stone Container Corporation, Container Division, Columbia, SC.

TA–W–62,101; American Woodmark, Hardy County Plant, Moorefield, WV.

TA–W–62,115; Rheem Sales Company, Air Conditioning Division, A Subsidiary of Rheem Mfg. Co., Milledgeville, GA.

TA–W–62,119; Cygne Design, Commerce, CA.

TA–W–62,216; Woolrich, Inc, Corporate Headquarters, Woolrich, PA.

TA–W–62,271; Ravenwood Specialty Services, Inc., Ravenswood, WV.

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–61,990; CDI Corporation, CDI IT Solutions (IMB NE), Fishkill, NY.

TA–W–62,166; Thompson Scientific, Thompson Scientific IDPO, Cherry Hill, NJ.

TA–W–62,199; Faith Technologies, Appleton, WI.

TA–W–62,252; Gavin Chevrolet Buick Pontiac Inc, Middleville, MI.

The investigation revealed that criteria of Section 222(b)(2) has not been met. The workers' firm (or subdivision) is not a supplier to or a downstream producer for a firm whose workers were certified eligible to apply for TAA.

TA–W–61,669; Superior Mills, Inc., Marion, VA.

I hereby certify that the aforementioned determinations were issued during the period of *October 15 through October 19, 2007.* Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: October 25, 2007.

Ralph DiBattista,

Director, Division of Trade Adjustment Assistance.

[FR Doc. E7–21353 Filed 10–30–07; 8:45 am]

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DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,253]

Manpower Incorporated, Spring Lake, MI; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on October 4, 2007 in response to a petition filed by a company official on behalf of workers of Manpower Incorporated, Spring Lake, Michigan.

Workers of the subject firm are covered by a certification of eligibility to apply for worker adjustment assistance and alternative trade adjustment assistance under petition number TA–W–61,530 (amended), that does not expire until August 23, 2009.

Consequently, further investigation in this case would serve no purpose and the investigation under this petition has been terminated.

Signed at Washington, DC, this 22nd day of October 2007.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–21356 Filed 10–30–07; 8:45 am]

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DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,316]

Meco Corporation, Greeneville, TN; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on October 17, 2007 in response to a petition filed by a company official on behalf of workers at Meco Corporation, Greeneville, Tennessee.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC this 24th day of October 2007.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–21351 Filed 10–30–07; 8:45 am]

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DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–61,266]

Mortgage Guaranty Insurance Corporation, Concord, California; Notice of Negative Determination on Remand

On August 9, 2007, the United States Court of International Trade (USCIT) granted the Department of Labor's request for voluntary remand to conduct further investigation in *Former Employees of Mortgage Guaranty Insurance Corporation* v. *United States Secretary of Labor* (Court No. 07–00182).

On April 19, 2007, the Department of Labor (Department) issued a Negative Determination regarding eligibility to apply for Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA) applicable to workers and former workers of Mortgage Guaranty Insurance Corporation, Concord, California (the subject firm). (Administrative Record (''AR'') 64). The Department's Notice of negative determination was published in the **Federal Register** on May 9, 2007 (72 FR 26425). (AR 76). The determination stated that, because the workers did not produce an article, and did not support a firm or appropriate subdivision that produced an article domestically, the workers cannot be considered import impacted or affected by a shift of production abroad. (AR 64–65).

Administrative reconsideration was not requested by any of the parties pursuant to 29 CFR 90.18.

The complaint alleges that the subject workers are eligible to apply for worker adjustment assistance due to a shift of production to India followed by increased imports (''our work was sent to Bangalore, India * * * our daily contract underwriting work was retrieved electronically by this team * * * then sent electronically back to * * * the United States'').

In order for the Secretary to issue a certification, petitioners must meet the group eligibility requirements under section 222 of the Trade Act of 1974, as

amended. The applicable requirements can be satisfied in one of two ways:

I. Section (a)(2)(A)—

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated; *and*

B. The sales or production, or both, of such firm or subdivision have decreased absolutely; *and*

C. Increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision;

or

II. Section (a)(2)(B)—

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated; *and*

B. There has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; *and*

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States; *or*

2. The country to which the workers' firm has shifted production of the articles is a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; *or*

3. There has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

In order to determine whether the subject workers meet the TAA group eligibility requirements, the Department must first determine whether or not an article was produced at the subject firm, then determine whether the workers are adversely impacted by increased imports of articles like or directly competitive with those produced by the subject firm or by a shift in production abroad of articles like or directly competitive with articles which are produced by the subject firm.

Mortgage Guaranty Insurance Corporation (''MGIC'') is a mortgage guaranty insurance provider. (AR 58, AR 63, Supplemental Administrative Record (''SAR'') 17). A mortgage insurance provider is a company that provides household and business customers with mortgage insurance as protection from credit losses. (AR 52, AR 58).

MGIC uses its affiliate, MGIC Investor Services Corporation (''MISC''), to perform contract underwriting services. (SAR 17). MGIC owns and operates loan processing centers in Concord, California; the Troy/Detroit metropolitan area, Michigan; and Atlanta, Georgia. (AR 57, AR 63, SAR 18, SAR 28, SAR 37). Financial lenders send loan applications to MISC to be reviewed and for MISC to render an opinion as to whether or not the loan applications meet the lenders' requirements. (SAR 17–18, SAR 28, SAR 37, SAR 46). Applications are scanned at a processing center and entered into the main database. (SAR 28, SAR 37, SAR 46). Underwriters located in the various processing centers pull files from a queue of applications to process. (SAR 28, SAR 37, SAR 46). Their duties include entering data, loan indexing, and data validation. (AR 3, AR 44, AR 58, AR 62–63, AR 64, SAR 18, SAR 28, SAR 46).

When a loan application is approved, the underwriter will issue a Notice of Loan Approval (NOLA). (AR 3–5, SAR 17, SAR 28, SAR 37, SAR 46). The NOLA is a letter issued to the applicant that indicates that the application is approved. (AR 3–5, AR 63, SAR 17–18, SAR 28, SAR 37). MGIC states that ''[t]he NOLA is a written document that memorializes MISC's opinion regarding the loan. It is not a tangible product. It is merely a piece of paper indicating that MISC has determined that a specific loan meets the designated underwriting requirements.'' SAR 17. Each NOLA provides a MISC point of contact for customer service purposes. (SAR 18, SAR 28, SAR 37, SAR 46).

In August 2005, MISC entered into an agreement with another U.S. company (hereafter referred to as ''the contractor'') that provided for a team in India to perform contract underwriting services. (AR 50, SAR 18, SAR 29, SAR 37). The contractor's creation of a team in India would take advantage of the time difference between the U.S. and India, thereby enabling the subject firm to meet its customer service processing requirement (forty-eight hours to process a loan application). (SAR 18, SAR 29, SAR 37).

The Plaintiffs allege that the team in India was created for cost reduction purposes (SAR 37) and that Plaintiffs were informed of this new team in September 2005. (SAR 29, SAR 37, SAR 46).

Under a pilot program that began in January 2006, the team in India processed loans for MISC. (SAR 18, SAR 29, SAR 38, SAR 46). The Concord, California center ceased to operate in April 2006 (AR 2, AR 44, SAR 30, SAR 37, SAR 42, SAR 46), and the work performed at that center was shifted to other locations. (AR 51, AR 57, AR 63, AR 64, SAR 18, SAR 30).

In June 2006, the contractor's team in India was fully incorporated into the loan processing operation and began reviewing files from all MISC centers. (SAR 18). MISC then contacted customers (SAR 18) and employees (SAR 19–24) regarding the arrangement with the contractor.

In order to be considered eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974, the worker group seeking certification must work for a firm or appropriate subdivision that produces an article and there must be a relationship between the workers' work and the article produced by the workers' firm or appropriate subdivision. Here, the workers' firm reviewed loan applications on behalf of financial lenders to determine whether the applications met the lender's requirements. Approval of a loan application was evidenced by a document called a NOLA. The threshold issue is whether the workers' firm produces an ''article'' for the purpose of certification.

The Department consulted the North American Industry Classification System (''NAICS'') in order to properly characterize the type of company that is at issue. The NAICS Web site states that ''The North American Industry Classification System * * * was developed as the standard for use by Federal statistical agencies in classifying business establishments for the collection, analysis, and publication of statistical data related to the business economy of the U.S.'' *http://www.naics.com/faq.htm#q1.* That reference classifies a mortgage guaranty firm under sector 52—Finance and Insurance, Subsector 534—Insurance Carriers and Related Activities, entry No. 524126—Direct Property and Casualty Insurance Carriers (SAR 57–58). This category is comprised of firms that are ''primarily engaged in initially underwriting (i.e., assuming the risk and assigning premiums) insurance policies that protect policyholders against losses that may occur as a result of property damage or liability'' (SAR 58). Under the NAICS, MGIC, as a mortgage guaranty insurance provider, is a service provider under sector 52 and is not classified as a manufacturing company under sector 31–33, which are industries that produce an article. While such a designation is not controlling on whether an article is produced by the firm, the primary activity of the company is useful in understanding what a firm does for its customers,

which aids in determining whether a firm produces an article, or provides services, for those customers.

MGIC is clearly a service provider which did not produce an article for its customers. MGIC provides loan review services that may incidentally result in a document evidencing the services provided, the NOLA. Issuance of a NOLA by MGIC cannot be considered production of an article under the Act. As noted by the workers themselves, the affected group ''produces'' ''data entry support and the completion of Notice of Loan Approvals ('NOLAS') by validators and underwriters.'' AR 3. No article is produced, merely a portion of a ''loan package'' for the approval or denial of a loan application. The NOLA itself is not a marketable commodity. It has no commercial value to the firm's customers and only memorializes the expertise and analysis of the firm in determining whether a loan should be approved or denied.

MGIC is not in the business of producing an article as a manufacturing firm does and then selling it, nor does it receive revenue from the selling the NOLA. MGIC's revenue flows from the decision and analysis of whether mortgage guaranty insurance should be issued and the revenue from selling that insurance. The NOLA merely memoralizes that decision and the analysis that went into it. Therefore, it is not an article under the Act.

Even if the Department accepts the Plaintiff's allegation that the NOLA is an ''article'', the issuance of a NOLA is merely incidental to the service provided by MGIC. It is not an ''article'' that is covered under the Act. In the Notice of Revised Determination on Remand for Lands' End, A Subsidiary of Sears Roebuck and Company, Business Outfitters CAD Operations, Dodgeville, Wisconsin, TA–W–56,688 (issued March 24, 2006, published at 71 FR 18357), the Department acknowledged that a firm may produce an intangible article, software that is transmitted electronically, that may be covered by the Act. However, the Department emphasized that those workers who provide services are not engaged in the production of an article for the purposes of the Act, even if a written record is generated in the provision of those services. In *Lands' End,* the Department noted:

> The Department stresses that it will continue to implement the longstanding precedent that firms must produce an article to be certified under the Act. This determination is not altered by the fact [that] the provision of a service may result in the incidental creation of an article. For example, accountants provide services for the purposes of the Act even though, in the course of providing those services, they may generate audit reports or similar financial documents that might be articles on the Harmonized Tariff Schedule of the United States.

Such is the case here.

Just like the accounting firm example in *Lands' End*, a tax preparation firm is not selling its customers a tax return; rather, it is selling its expertise in correctly organizing the customer's data into the proper form to meet Internal Revenue Service requirements. Similarly, MGIC is in the business of providing mortgage guaranty insurance for a fee. It receives a loan application from a client (the financial lender) and evaluates the data against a lending requirement established by the client. It then determines, based on the facts in the documentation, whether the loan qualifies for the issuance of insurance. The fact that the services it provides may result in a written document, such as a NOLA, which memorializes its analysis, does not mean that MGIC is in the business of supplying forms or otherwise producing an article. Most businesses, including service firms, generate written records (i.e., records, prescriptions, receipts, bills, timecards, etc.) as part of its operations. Since the Act's requirement that the workers' firm produce an article was intended to limit certification to workers for manufacturers, the Department does not consider the mere existence of these NOLAs as evidence that the firm produces an article and that the workers who generate the documents for the firm fall within the scope of the TAA program.

Applying the Department's methodology of determining the classification of the subject firm and the statutory requirement that the firm produce an article to the facts of the case at hand, the Department determines that the NOLAs and any other incidental documents generated by the subject workers of MGIC do not constitute production of an article for purposes of the Trade Act. Such incidental documents are generated as a result of activities that are incidental to the services provided. Therefore, these workers are not covered under the Act. The fact that a written record is generated does not make the service firm a production firm.

The Department's policy to provide TAA benefits to workers who support a domestic production facility that is import-impacted is supported by current regulation. 29 CFR 90.11(c)(7) requires that the petition includes a ''description of the articles produced by the workers'' firm or appropriate subdivision, the production or sales of which are adversely affected by increased imports, and a description of the imported articles concerned. If available, the petition should also include information concerning the method of manufacture, end uses, and wholesale or retail value of the domestic articles produced and the United States tariff provision under which the imported articles are classified.

The Department operates the program in accordance with current law, including coverage of secondary workers and workers in the oil and gas industry. When the other statutory requirements are met, the Trade Act, as amended, authorizes the Secretary to certify groups of workers at a firm producing an article, as well as workers engaged in services supporting production of an article, including oil and gas production, or the final assembly or finishing of articles that were the basis for a certification of eligibility. Workers at MGIC do not fall within any of these categories. A shift to a foreign country of work unrelated to the production of an article, by a firm that does not produce an article, cannot be a basis for TAA certification. While the Department has discretion to issue regulations and guidance on the operation of a program that it is charged with implementing, the Department cannot expand the program to include workers that Congress did not intend to cover.

This is in accord with the Congressional mandate that requires the production of an article by workers in order for a company to be covered under the Act. In 2002, while amending the Trade Act, the Senate explained the purpose and history of TAA:

> Since it began, TAA for workers has covered mostly manufacturing workers, with a substantial portion of program participants being steel and automobile workers in the mid- to late-1970s to early 1980s, and light industry and apparel workers in the mid- to late-1990s. In fiscal years 1995 through 1999, the estimated number of workers covered by certifications under the two TAA for workers programs averaged 167,000 annually, reaching a high of about 228,000 in 1999, despite a falling overall unemployment rate. During the same period, approximately 784 firms were certified under the TAA for firms program. Participating firms represent a broad array of *industries producing manufactured products*, including auto parts, agricultural equipment, electronics, jewelry, circuit boards, and textiles, as well as some producers of agricultural and forestry products.

S. Rep. 107–134, S. Rep. No. 134, 107th Cong., 2nd Sess. 2002, 2002 WL 221903 (February 4, 2002) (emphasis added). Clearly, the language suggests the focus

of TAA is the manufacture of marketable goods.

Congress has recognized the difference between manufacturers and service firms and that an amendment to the Trade Act is needed to cover workers in service firms. It has recently rejected at least two attempts to amend the Trade Act to expand TAA coverage to service firms. It did not pass either the ''Trade Adjustment Assistance Equity for Service Workers Act of 2005'' or the ''Fair Wage, Competition, and Investment Act of 2005.'' Most recently, Senator Baucus introduced the ''Trade and Globalization Adjustment Assistance Act of 2007,'' which provides for an expansion of coverage to workers in a ''service sector firm'' when there are increased imports of services like or directly competitive with articles produced or services provided in the United States, or a shift in provision of like or directly competitive articles or services to a foreign country.

Thus, the definition of ''article'' continues to distinguish between firms that manufacture articles and those that provide services. Clearly, Congress has specifically allowed TAA eligibility for specific service industries. See, section 222(c)(2)(A), workers in the oil or natural gas drilling or exploration field. Omnibus Trade and Competitiveness Act of 1988, Pub. L. No. 100–418, § 421(a)(1988). It has not done so here.

While the Plaintiffs assert that the findings of *Former Employees of Electronic Data Systems Corporation* v. *United States Secretary of Labor*, Court No. 03–00373, and *Former Employees of Gale Group, Inc.* v. *United States Secretary of Labor*, Court No. 04–00374, and *Former Employees of Tesco Technologies, LLC* v. *United States Secretary of Labor*, Court No. 05–00264, support their position that the subject workers are eligible to apply for TAA, Department believes that the cases do not support certification here.

In *Former Employees of Electronic Data Systems Corporation* and *Former Employees of Gale Group, Inc.*, the Department certified the workers based on the findings that the workers produced an article, that there were increased imports of articles like or directly competitive with the software code produced by the subject firm, and the increased imports contributed importantly to the workers' separations. In *Former Employees Tesco Technologies, LLC.*, the Department certified the workers based on the findings that there was a shift in production abroad of articles like or directly competitive with articles which are produced by the subject firm followed by increased imports of such articles contributed importantly to the subject workers' separations. Those cases are not relevant because the workers in the case at hand do not produce an article for purposes of the Trade Act.

In order for the Department to issue a certification of eligibility to apply for ATAA, the subject worker group must be certified eligible to apply for TAA. Since the subject workers are denied eligibility to apply for TAA, the workers cannot be certified eligible for ATAA.

Conclusion

After careful reconsideration, I affirm the original notice of negative determination of eligibility to apply for worker adjustment assistance and alternative trade adjustment assistance for workers and former workers of Mortgage Guaranty Insurance Corporation, Concord, California.

Signed at Washington, DC this 23rd day of October 2007.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–21354 Filed 10–30–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–61,958]

Philip Morris Products International, LLC; McKenney, VA; Notice of Negative Determination Regarding Application for Reconsideration

By application postmarked October 10, 2007, the Bakery, Confectionery, Tobacco Workers and Grain Millers International Union, Local No. 358 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 August 27, 2007 and published in the **Federal Register** on September 11, 2007 (72 FR 51845).

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 mis-interpretation of facts or of the law justified reconsideration of the decision.

The petition for the workers of Philip Morris Products International, LLC, McKenney, Virginia engaged in production of partially stemmed tobacco was denied because the ''contributed importantly'' group eligibility requirement of Section 222 of the Trade Act of 1974, as amended, was not met. The ''contributed importantly'' test is generally demonstrated through a survey of the workers' firm's declining customers. The investigation revealed that all partially stemmed tobacco produced by the subject firm was exported to other countries and the subject firm had no domestic customers. The investigation further revealed that there was no shift in production from that firm to a foreign country which is a party to a Free Trade Agreement with the United States or a beneficiary country, nor did the subject firm import partially stemmed tobacco in 2005, 2006 and January through July 2007.

The petitioner stated that even though the workers of the subject firm produced partially stemmed tobacco, Philip Morris also produces cigarettes and workers of the subject firm should be considered as workers supporting production of cigarettes. The petitioner further stated that the parent company of the subject firm closed cigarette production facilities in Cabarras, North Carolina, which would result in increased imports of cigarettes into the United States. The petitioner alleges that because of these imports of cigarettes, the workers of the subject firm who produce partially stemmed tobacco should be certified eligible for TAA.

The Department contacted the company official for further clarification. The company official stated that Philip Morris Products International, LLC, McKenney, Virginia is an Export Processing Facility, which exclusively produces partially stemmed tobacco for export. The company official also confirmed that none of the partial stemmed tobacco from the subject firm was sold to any U.S. facilities in 2005, 2006 or 2007. The company official further stated that the employees of the subject firm did not support production at any domestic facility, including the domestic production facility in Cabarrus, North Carolina. The official further stated that the production from the subject facility is being shifted to Italy, Portugal, Malaysia, Russia, Greece and the Ukraine, countries which are not parties to a free trade agreement with the United States or beneficiary