

None of the respondents reported increasing imports while decreasing purchases from the subject firm during the relevant period. Imports did not contribute importantly to layoffs at the subject firm.

The petitioner alleges that the company has a plant in Tunisia that supplies production to one of their major customers, and that this foreign production replaced subject plant production, leading to production declines and layoffs at the subject firm.

Further review revealed that Komtek did engage in a partnership with a Tunisian plant for the purposes of supplementing their domestic production of fuel combustion swirlers specifically to service a major customer. A review of this customer's purchasing trends revealed that the customer did begin importing competitive fuel combustion swirlers in the January through August 2002 time period. However, this customer also increased their purchases from Komtek's domestic facility in January through August of 2002 period compared to the same period in 2001. As there were no declines in purchases from the domestic subject plant in the period when imports began, there is no evidence of import impact. Further, contact with the company confirmed that the sales numbers provided by the customer in the relevant time frames of the investigation were correct. The company further stated that the subject plant continues to supply fuel combustion swirlers to this customer.

The union further appears to claim that the plant manager of the subject plant was the most knowledgeable source in regard to import impact on subject firm production, but was on vacation at the time that the company data was provided in the initial investigation. They asserted that the company official who did provide the information did not "understand the amount of work we have lost due to the work being done in other countries."

The plant manager was contacted in regard to this matter. In response to these allegations, he stated that the domestic plant had not been impacted by any foreign production. He asserted that the fall out of 9/11 on the aerospace industry attributed for any subsequent declines that the company had experienced. (This coincides with the period in the beginning of 2002 when layoffs actually occurred.)

In regard to the major customer supplied with fuel combustion swirlers

by the Tunisian facility, the plant manager stated that, in 2002, the domestic plant actually signed an agreement to produce a larger percentage of the customer's total production needs of competitive products.

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 26th day of February, 2003.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

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DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-42,046]

B-W Specialty Manufacturing, Seattle, WA; Notice of Negative Determination Regarding Application for Reconsideration

By application of November 29, 2002, a petitioner 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 October 31, 2002, and published in the **Federal Register** on November 22, 2002 (67 FR 70460).

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 B-W Specialty Manufacturing, Seattle,

Washington 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 wood cores for skis.

The petitioner states layoffs are attributable to the subject firms' largest customer replacing their purchases of wood cores with those manufactured at a foreign facility. They appear to maintain that, because these "wood ski cores are a main part of the ski", the customer imports of skis have a direct bearing on subject firm workers' eligibility for trade adjustment assistance. They further appear to claim that the Department of Labor may have been provided the wrong information by the company, as the "increased imports" of skis by this customer "directly replaced the same products we made."

As indicated in the initial investigation, the workers produced wood cores used in the production of skis. The wood cores were sold to a customer that incorporated the wood cores into a completed ski. That customer acquired production equipment of wood cores from the subject firm for the purpose of producing the wood cores at a foreign facility. The customer incorporates these cores into a finished ski at that foreign facility. Thus, the finished ski that is imported is not the same as wood core produced at the subject firm.

In conclusion, the imports of skis is not "like or directly competitive" with the product produced (wood cores for skis) by 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 19th day of February 2003.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

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