

Dated: April 26, 2005.

**Brenda E. Dyer,**

*Department Clearance Officer, Department of Justice.*

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-56,318 and TA-W-56,318A]

#### **Automatic Lathe Cutterhead, High Point, NC; Industrial Supply Co., Inc., Subsidiary of Automatic Lathe Cutterhead, Hickory, NC; Notice of Negative Determination Regarding Application for Reconsideration**

By application of March 11, 2005 a petitioner 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) and Alternative Trade Adjustment Assistance (ATAA). The denial notice was signed on February 18, 2005 and published in the **Federal Register** on March 9, 2005 (70 FR 11703).

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 TAA petition, filed on behalf of workers at Automatic Lathe Cutterhead, High Point, North Carolina (TA-W-56,318) engaged in cutting bandsaw blades and Industrial Supply CO., Inc., Subsidiary of Automatic Lathe Cutterhead, Hickory, North Carolina (TA-W-56,318A) engaged in direct support of the production at Automatic Lathe Cutterhead was denied because the "contributed importantly" group eligibility requirement of Section 222 of the Trade Act of 1974 was not met. The "contributed importantly" test is generally demonstrated through a survey of the workers' firm's customers. The survey revealed no increase in imports of bandsaw blades during the relevant period. The subject firm did not import bandsaw blades in the relevant

period nor did it shift production to a foreign country.

In the request for reconsideration, the petitioner inquires about the reasoning behind workers of the subject firms being tied to the production of bandsaw blades and refers to the furniture industry as a more appropriate activity for the workers of the subject firm.

The original investigation did reveal that both locations, Automotive Lathe Cutterhead in High Point, North Carolina and Industrial Supply Company in Hickory, North Carolina act as resale distributors and workers of these facilities are strictly engaged in warehousing for suppliers that manufacture furniture. However, warehousing is not considered production of an article within the meaning of Section 222 of the Trade Act. Therefore, the subject group of workers can not be eligible for TAA on its own, based on the fact, that workers do not produce an article. However, it was also determined that cutting and welding of bandsaw blades takes place at the Automatic Lathe Cutterhead Company, High Point, North Carolina facility. Because it is the only production activity occurring at the subject firm, the investigation was conducted on bandsaw blades as a relevant product manufactured by the workers of the subject firm.

The petitioner alleges that the subject firm lost its business due to the conditions in the furniture industry and its major customers importing furniture and shifting their production abroad.

In order to establish import impact, the Department must consider imports that are like or directly competitive with those produced at the subject firm. The Department conducted a survey of the subject firm's major declining customers regarding their purchases of bandsaw blades. The survey revealed that the declining customers did not import bandsaw blades during the relevant period.

The reconsideration revealed that the original petitions for Automatic Lathe Cutterhead, High Point, North Carolina and Industrial Supply Co., Inc., Hickory, North Carolina were filed as secondary affected firms. Because this fact was not addressed during the original investigation, an investigation was conducted to determine whether workers of the subject firms are eligible for trade adjustment assistance (TAA) based on the secondary upstream supplier impact.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance on the basis of the workers' firm being a secondary upstream

supplier, the following group eligibility requirements under Section 222(b) must be met:

(1) A significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss of business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In this case, however, the subject firms do not act as upstream suppliers, because bandsaw blades do not form a component part of the furniture. Thus the subject firm workers are not eligible under secondary impact.

### 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 April, 2005.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-56,372]

#### **Dystar LP, Charlotte, North Carolina; Dismissal of Application for Reconsideration**

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade