

had expired on May 9, 2005, that customer cannot be a basis for certification of the subject firm as an affected secondary upstream supplier. Further, since Oregon Steel Mills, Portland, Oregon ceased production in May 2003, that customer cannot have represented a significant portion of the subject firm's business during the relevant period. As such, the subject workers are not eligible for TAA under secondary impact.

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 for workers and former workers of Ash Grove Cement Company, Rivergate Lime Plant, Portland, Oregon.

Signed at Washington, DC, this 28th day of September, 2006.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-59,833]

#### The Baxter Corporation; Shelby, NC; Notice of Negative Determination Regarding Application for Reconsideration

By application dated September 27, 2006, petitioners 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 28, 2006 and published in the **Federal Register** on September 21, 2006 (71 FR 55217).

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 the Baxter Corporation, Shelby, North Carolina engaged in production of jacquard textile harnesses was denied because the "contributed importantly" group eligibility requirement of section 222 of the Trade Act of 1974, as amended, was not met, nor was there a shift in production from that firm to a foreign country in 2004, 2005 or January through July 2006. The "contributed importantly" test is generally demonstrated through a survey of the workers' firm's customers. The survey revealed no imports of jacquard textile harnesses during the relevant period. The subject firm did not import jacquard textile harnesses nor did it shift production to a foreign country during the relevant period.

The petitioner states that the affected workers lost their jobs as a direct result of a loss of customers in the textile industry. The petitioner alleges that major declining customers of the subject firm were negatively impacted by increased imports of various textiles, thus they decreased their purchases of jacquard textile harnesses from the Baxter Corporation, Shelby, North Carolina. The petitioner also states that several of the subject firm's customers were certified eligible for TAA based on an increase in imports of various textile products. The petitioner concludes that because sales and production of jacquard textile harnesses at the subject firm have been negatively impacted by increasing presence of foreign imports of textile products on the market, workers of the subject firm should be eligible for TAA.

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 jacquard textile harnesses. The survey revealed that the declining customers did not increase their imports of jacquard textile harnesses during the relevant period.

Imports of textiles cannot be considered like or directly competitive with jacquard textile harnesses produced by Baxter Corporation, Shelby, North Carolina and imports of textiles are not relevant in this investigation.

The fact that subject firm's customers shifted their production abroad or were import impacted is relevant to this

investigation if determining whether workers of the subject firm are eligible for TAA based on the secondary upstream supplier of trade certified primary firm impact. For certification on the basis of the workers' firm being a secondary upstream supplier, the subject firm must produce a component part of the article that was the basis for the customers' TAA certification.

In this case, however, the subject firm does not act as an upstream supplier, because jacquard textile harnesses do not form a component part of various fabrics, yarn and other textile products. 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, day 5th of October, 2006.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-60,006]

#### Bosch Sumter Plant; Automotive Technology Chassis Division Including Onsite Leased Workers From Huffmaster Company, IH Services and Olsten Staffing; Sumter, SC; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on September 22, 2006, applicable to workers of Bosch Sumter Plant, Automotive Technology Chassis Division, including onsite leased workers from Huffmaster Company, IH Services, and Olsten Staffing, Sumter, South Carolina. The notice was published in the **Federal Register** on October 2, 2006 (71 FR 58011-58012).