

separate or threaten to separate a significant number or proportion of workers as required by Section 222 of the Trade Act of 1974. The denial notice was published in the **Federal Register** on February 2, 2009 (74 FR 5871).

In the request for reconsideration, the company official provided additional information regarding employment and layoffs at the subject firm. The company official confirmed that employment at the subject facility declined significantly in December, 2008 and further declined in January, 2009. The investigation also revealed that sales and production at the subject firm declined from January through November 2008 over the corresponding 2007 period.

Furthermore, the Department conducted a survey of the major declining customers regarding their purchases of upholstered furniture in 2006, 2007, January through November, 2007 and January through November, 2008. The survey of the major declining customers revealed that the customers increased their reliance on imported upholstered furniture during the relevant period.

In accordance with Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor herein presents the results of its investigation regarding certification of eligibility to apply for alternative trade adjustment assistance (ATAA) for older workers.

In order for the Department to issue a certification of eligibility to apply for ATAA, the group eligibility requirements of Section 246 of the Trade Act must be met. The Department has determined in this case that the requirements of Section 246 have been met.

A significant number of workers at the firm are age 50 or over and possess skills that are not easily transferable. Competitive conditions within the industry are adverse.

#### Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with those produced at Century Furniture, LLC, Chair Upholstery Campus and Upholstery Division, Hickory, North Carolina, contributed importantly to the declines in sales or production and to the total or partial separation of workers at the subject firm. In accordance with the provisions of the Act, I make the following certification:

“All workers of Century Furniture, LLC, Chair Upholstery Campus and Upholstery Division, Hickory, North Carolina, who

became totally or partially separated from employment on or after December 11, 2007, through two years from the date of this certification, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.”

Signed in Washington, DC, this 20th day of April 2009.

**Elliott S. Kushner**

*Certifying Officer, Division of Trade Adjustment Assistance.*

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-64,591]

#### **Gensym Corporation, a Subsidiary of Versata Enterprises, Inc., Burlington, MA; Notice of Negative Determination on Reconsideration**

On March 2, 2009, the Department issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of the subject firm. The notice was published in the **Federal Register** on March 11, 2009 (74 FR 10616-10617).

The initial investigation resulted in a negative determination based on the finding that worker group does not produce an article within the meaning of Section 222 of the Trade Act of 1974. The investigation revealed that workers of Gensym Corporation, a subsidiary of Versata Enterprises, Inc., Burlington, Massachusetts were engaged in IT sales, consulting, customer support services, finance and human resources services.

In the request for reconsideration the petitioner contends that the Department erred in its interpretation of the work performed by the workers of the subject firm. The petitioner states that workers of the subject firm produced several software products, such as G2, Rethink and Neuron-line.

On reconsideration, the Department contacted a company official and requested additional information regarding the production of software by Gensym Corporation and whether workers of the subject firm were engaged in production of the above mentioned products during the relevant period.

The company official stated that the workers of the subject firm did produce software. However, the company official also stated that all software products,

including the software mentioned by the petitioner in the request for reconsideration, were designed and developed prior to October 2007. The company official further provided information to confirm that no production of software took place at the subject firm during the relevant period.

When assessing eligibility for TAA, the Department exclusively considers production during the relevant period (one year prior to the date of the petition). Events occurring prior to October 2007 are outside of the relevant time period as established by the petition date of December 2, 2008, and thus cannot be considered in this investigation.

The investigation revealed that during the relevant period, the workers of Gensym Corporation, a subsidiary of Versata Enterprises, Inc., Burlington, Massachusetts, sold licenses to already established products, provided customer support and enhancement services for the licensed software and performed finance and human resources services.

These functions, as described above, are not considered production of an article within the meaning of Section 222 of the Trade Act. No production took place at the subject facility during the relevant period, nor did the workers support production of an article at any domestic location during the relevant period.

The petitioner also alleges that job functions have been shifted from the subject firm to India, China and Mexico.

The allegation of a shift to another country might be relevant if it was determined that workers of the subject firm produced an article. However, the investigation determined that workers of Gensym Corporation, a subsidiary of Versata Enterprises, Inc., Burlington, Massachusetts, do not produce an article within the meaning of Section 222 of the Trade Act of 1974.

#### Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for worker adjustment assistance for workers and former workers of Gensym Corporation, a subsidiary of Versata Enterprises, Inc., Burlington, Massachusetts.

Signed in Washington, DC, this 21st day of April 2009.

**Elliott S. Kushner**

*Certifying Officer, Division of Trade Adjustment Assistance.*

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