

occurring prior to July 31, 2007 are outside of the relevant period and are not relevant in this investigation as established by the petition date of July 31, 2008. The investigation revealed that there was no production of uncoated freesheet paper at the subject facility during the relevant period.

The petitioner also provided additional information regarding employment and layoffs at the subject firm.

Upon further review of the employment data provided by the company official of the subject firm, it was determined that employment at the subject firm declined during the relevant period.

In order to establish import impact and whether imports contributed importantly to worker separations, the Department must consider imports that are like or directly competitive with those produced at the subject firm (linerboard and fluff pulp) during the relevant period. The "contributed importantly" test is generally demonstrated through a survey of customers of the workers' firm regarding their import purchases.

On reconsideration the Department conducted a survey of the subject firm's domestic customers regarding their purchases of linerboard and fluff pulp during 2006, 2007, January through July, 2007 and January through July, 2008. The survey revealed that the customers did not increase their imports of linerboard and fluff pulp while decreasing purchases from the subject firm during the relevant period.

Furthermore, as stated in the initial investigation sales and production of linerboard and fluff pulp did not decline during the relevant period through July 2008.

If conditions have changed since July 2008, the company is encouraged to file a new petition on behalf of the worker group which will encompass an investigative period that will include these changing conditions.

## 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 International Paper Company, Pensacola Mill, Cantonment, Florida.

Signed at Washington, DC, this 18th day of February 2009.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-59,517]

#### Advanced Electronics, Inc., Boston, MA; Notice of Negative Determination on Remand

On November 18, 2008, the U.S. Court of International Trade (USCIT) remanded to the Department of Labor (Department) for further investigation *Former Employees of Advanced Electronics, Inc. v. United States Secretary of Labor* (Court No. 06-00337).

On July 18, 2006, the 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 Advanced Electronics, Inc., Boston, Massachusetts (subject firm). The Department's Notice of determination was published in the **Federal Register** on August 4, 2006 (71 FR 44320). Prior to separation, the subject workers produced printed circuit board assemblies.

The negative determination was based on the Department's findings that, during the relevant period, the subject firm did not shift production of printed circuit board assemblies to a foreign country, that the subject firm did not import printed circuit board assemblies (or like or directly competitive articles), and that the subject firm's major declining customers did not import printed circuit board assemblies (or like or directly competitive articles). Further, the Department determined that a portion of the decline in company sales of printed circuit board assemblies is attributed to declining purchases from a foreign customer during the relevant period.

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

On October 23, 2007, the USCIT granted the Department's request for voluntary remand to conduct further investigation to determine whether, during the relevant period, any of the foreign customer's facilities located in the United States received printed circuit boards produced by the subject firm and, if so, whether the facility(s) had imported articles like or directly competitive with the printed circuit board assemblies produced by the subject firm.

Based on information obtained during the first remand investigation (that the

subject firm sent the articles purchased by the foreign customer to a facility located outside of the United States), the Department determined that the foreign customer did not import articles like or directly competitive with the printed circuit board assemblies produced by the subject firm. On December 17, 2007, the Department issued a Notice of Negative Determination on Remand. The Department's Notice of negative determination was published in the **Federal Register** on December 31, 2007 (72 FR 74340).

Although the USCIT stated in its November 18, 2008 opinion that substantial evidence supported the Department's finding that increasing imports of like or directly competitive articles did not contribute importantly to the subject firm's decreased sales to domestic customers, the USCIT also stated that it "declines to adopt a construction of the Act under which Labor need never consider, in any circumstances, whether increased imports of a like or directly competitive article contributed importantly to a plaintiff's separation by causing the employer to lose business from a customer outside of the United States."

The USCIT, in its November 18, 2008 order, directs the Department during the second remand investigation to "determine whether, and to what extent, an increase in imports into the United States of articles like or directly competitive with the Company's printed circuit boards caused the Company to lose business from its foreign customer."

On second remand, the Department conducted an investigation to determine whether the foreign customer switched its order from the subject firm to another domestic firm that imported some or all of the printed circuit boards it supplied to the subject firm's foreign customer.

In order to apply for TAA based on increased imports, the subject worker group must meet the group eligibility requirements under Section 222(a) of the Trade Act of 1974, as amended. Under Section 222(a)(2)(A), the following criteria must be met:

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.

The Department has previously determined that because the subject firm closed on September 2005, criteria (A) and (B) have been met. Therefore, the only issue at hand is whether criterion (C) has been met.

29 CFR Section 90.16(b)—Requirements for determinations—states, in part, that “the certifying officer shall make findings of fact concerning whether \* \* \* (3) increases (absolute or relative) of imports of articles like or directly competitive with articles like or directly competitive with articles produced by such workers’ firm or appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.”

The corollary to the regulation is that if the certifying officer finds no such increased imports, whether or not the absent factor “contributed importantly” to “such total or partial separation, or threat thereof, and to such decline in sales or production” is moot.

29 CFR Section 90.2—Definitions—states that “Increased imports means that imports have increased either absolutely or relative to domestic production compare to a representative base period. The representative base period shall be one year consisting of the four quarters immediately preceding the date which is twelve months prior to the date of the petition.”

Because the date of the petition is June 5, 2006, the investigatory period is June 2005 through May 2006 and the representative base period is June 2004 through May 2005.

During the second remand investigation, the Department obtained new information that shows that when the subject firm ceased operations in 2005, the foreign customer replaced printed circuit boards produced by the subject firm with those produced by a preferred vendor. The preferred vendor is another domestic company. The new information also shows that the printed circuit boards supplied by the preferred vendor was produced outside the United States and shipped from the foreign production facility to the foreign customer.

The Department determines that while the foreign customer did switch its order from the subject firm to another domestic vendor, the domestic vendor that replaced the subject firm did not import into the United States any of the printed circuit boards it sold to the subject firm’s foreign customer.

Because there was no finding of increased imports of article like or

directly competitive with the printed circuit boards produced by the subject firm, it is moot whether or not the “contributed importantly” portion of the regulation has been satisfied. Therefore, the Department determines that TAA criterion (C) has not been met.

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 not eligible 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 Advanced Electronics, Inc., Boston, Massachusetts.

Signed at Washington, DC this 19th day of February 2009.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

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#### DEPARTMENT OF LABOR

##### Employment and Training Administration

[TA-W-65,018]

##### National Vacuum Equipment, Traverse City, MI; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on January 29, 2009 in response to a worker petition filed by a company official on behalf of workers of National Vacuum Equipment, Traverse City, Michigan.

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

Signed at Washington, DC, this 18th day of February 2009.

**Richard Church,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E9-4403 Filed 3-2-09; 8:45 am]

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#### DEPARTMENT OF LABOR

##### Employment and Training Administration

[TA-W-65,091]

##### Westpoint Home, Calhoun Falls, SC; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 3, 2009 in response to a worker petition filed by a company official, on behalf of workers of WestPoint Home, Calhoun Falls, South Carolina.

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

Signed at Washington, DC, this 20th day of February 2009.

**Richard Church,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E9-4404 Filed 3-2-09; 8:45 am]

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#### DEPARTMENT OF LABOR

##### Employment and Training Administration

[TA-W-65,164]

##### Bradington-Young, LLC, Cherryville, NC; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 9, 2009 in response to a petition filed by a company official on behalf of workers of Bradington-Young, LLC, Cherryville, North Carolina.

The workers at the subject facility are covered by an earlier petition (TA-W-65,147) filed on February 5, 2009 that is the subject of an ongoing investigation for which a determination has not been issued. Further investigation in this case would duplicate efforts and serve no purpose; therefore the investigation under this petition has been terminated.

Signed at Washington, DC, this 18th day of February 2009.

**Richard Church,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E9-4407 Filed 3-2-09; 8:45 am]

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