

DEPARTMENT OF LABOR

Employment and Training
Administration

[TA-W-42,136]

**The Goodyear Tire & Rubber Company
Stow Mold Facility, Akron/Stow
Complex, Akron, OH; Notice of
Negative Determination Regarding
Application for Reconsideration**

By application of November 29, 2002, the United Steelworkers of America, Local 2, 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). The denial notice was signed on October 21, 2002 and published in the **Federal Register** on November 5, 2002 (67 FR 67419).

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 Goodyear Tire & Rubber Co., Stow Mold Facility, Akron/Stow Complex, Akron, Ohio engaged in the production of tire molds and associated components, 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 union alleges that the Departmental finding that subject firm production was shifted domestically was "erroneous." The union official further states that the North Carolina facility, which was purported to have taken on subject firm production, was "not capable of doing the work which was performed at the Stow Mold Plant prior to its closure."

Upon further review and contact with the company, it was revealed that virtually all of the subject firm production did indeed shift to the North Carolina facility, and that it produced competitive products prior to the closure of the Stow facility. The only component that was not shifted to this facility, a tread mold that was inserted into the larger mold, was outsourced by

the company to another domestic supplier.

The union also asserts that the company indicated plans to shift production to affiliated company facilities in Luxembourg and Sao Paulo, Brazil. To support this allegation, the request for reconsideration was accompanied by what appears to be a company-produced chart titled "Reallocation Study". This chart indicates that subject firm production would shift predominantly to Luxembourg and Sao Paulo, with the North Carolina facility receiving a very small part of the production shifted from the subject firm.

This chart was faxed to the company for their review and comment. Upon review, they stated that it was indeed a reflection of a company document, and that it was put together by the company's Facilities Planning Department. However, the study was based on tire mold production scheduled for 2002, with the premise that the Stow plant would be closed in the beginning of 2002. In fact, the Stow plant did not close until October of 2002, thus the shift did not occur in line with the study that was conducted. As a result, excess capacity existed at the North Carolina facility and was able to absorb all of the subject facility's production.

Finally, the company did affirm that competitive imports were occasionally shipped from their foreign affiliates, but clarified that, in 2002, imports constituted a very small amount of subject plant production.

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

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[TA-W-42,175]

**Hilti Inc., New Castle, PA; Notice of
Negative Determination Regarding
Application for Reconsideration**

By application received on December 9, 2002, petitioners 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). The denial notice applicable to workers of Hilti Inc., New Castle, Pennsylvania was signed on November 13, 2002, and published in the **Federal Register** on November 27, 2002 (67 FR 70970).

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 TAA petition was filed on behalf of workers at Hilti Inc., New Castle, Pennsylvania engaged in activities related to repair of machinery and fabrications. The petition was denied because the petitioning workers did not produce an article within the meaning of section 222(3) of the Act.

The petitioner alleges that the workers do not perform bookkeeping services as addressed in the "Negative Determination Regarding Eligibility To Apply for Workers Adjustment Assistance".

A review of the initial investigation indicates that the workers were engaged in activities related to repair of machinery and fabrications. The TAA decision was based on the correct service functions performed by the subject firm. The Department inadvertently referenced "bookkeeping" rather than "repair of machinery and fabrication" in the decision.

The petitioner also alleges that the petitioning worker group was engaged in production as "it relates to material movement, welding repair, and other functions related to ingot production and the production of SBQ steel bar".