

increases in imports from Mexico or Canada of articles like or directly competitive with those produced at the workers' firm "contributed importantly" to the decline in sales or production and to the total or partial separation of the workers at that firm. The NAFTA-TAA also has a provision to certify a group of workers when worker separations have occurred and there has been a shift in production from the workers' firm to Mexico or Canada.

A TAA petition certification requires that increases in imports from anywhere of articles like or directly competitive with those produced at the workers' firm "contributed importantly" to the declines in sales or production and to the total or partial separation of the workers at that firm. (The petitioners also filed a petition for the TAA program, and, on February 17, 2000, were denied eligibility for the same reason as the NAFTA-TAA denial: the workers provided a service and did not produce an article. The petitioners filed a request for administrative reconsideration that resulted in a dismissal on March 29, 2000. To the Department's knowledge, the petitioners did not request judicial review of this decision.)

Therefore, Utah was in error when it issued an affirmative preliminary finding that was based in part on a TAA certification. The Chevron Production U.S.A. workers were certified eligible to apply for TAA using total U.S. imports of crude oil. From 1998 to 1999, aggregate U.S. imports of crude oil increased, while U.S. imports from Mexico and Canada decreased. The Chevron Products Company, Roosevelt, Utah worker group applied for NAFTA-TAA benefits and the NAFTA-TAA investigation should have focused solely on imports from Canada and Mexico or shifts in production to Canada and Mexico.

Furthermore, it was inappropriate for the State to contact Chevron Pipeline Company in Houston, Texas to obtain information about Chevron Products Company. The Chevron Pipeline Company did not employ the Roosevelt terminal workers and it is unlikely it could provide relevant information regarding the employment of Chevron Products Company's employees. Perhaps that is why the State of Utah reported that there was a lack of cooperation and that the contact person was "very hostile." During the conduct of this investigation the Department found the contact person for Chevron Products to be extremely helpful, cooperative and complied with Departmental requests within the due dates requested.

The Department confirmed that Chevron Products Company did import crude oil from Canada during the time period in which the petitioners were separated from employment, but that is irrelevant due to the nature of the work being conducted by the Roosevelt facility worker group. Part of the worker group, the gaugers, tested the crude oil in tanks before the other part of the worker group, the drivers, would lift and transport the crude oil. To the extent they were service workers, they were servicing oil tanks, which are not properly considered "production" facilities. And, even if an oil tank qualifies as a "production facility", the tanks were not affiliated with their employer.

In addition, even if the subject workers were considered service workers to the refineries where the crude oil was delivered, the refineries were "producing" refined petroleum products, not crude oil. Crude oil cannot be considered like or directly competitive with refined petroleum products. And, as discussed previously, the importation of refined petroleum products during the relevant time period from Mexico and Canada was merely negligible. Therefore, the refinery workers could not have been certified for NAFTA-TAA benefits. Because the refinery workers could not have been certified, a worker "servicing" the facility (or facilities) could not be certified.

The USCIT also remanded to the Department the finding regarding the workers' status as members of a Secondly Affected Worker Group. The USCIT does not have jurisdiction to evaluate the Department's finding on this issue because the entitlement is based on a Presidential Statement of Administrative Action rather than NAFTA or the Trade Act. Certification as a member of a Secondly Affected Worker Group entitles an individual to benefits through the Workforce Investment Act of 1998 (which replaced the Job Training Partnership Act) rather than the Trade Act.

Regardless, the subject workers are not qualified as members of a Secondly Affected Worker Group. In order for an affirmative finding to be made, the following requirements must be met:

- (1) The subject firm must be a supplier—such as of components, unfinished or semifinished goods—to a firm that is directly affected by imports from Mexico or Canada or shifts in production to those countries; or
- (2) The subject firm must assemble or finish products made by a directly-impacted firm; and

- (3) The loss of business with the directly-affected firm must have contributed importantly to worker separations at the subject firm.

The Chevron Products Company worker group in Roosevelt, Utah, gauged and transported crude oil to Chevron refineries to produce refined petroleum products. Although the crude oil can be considered a component of refined petroleum product, criteria (1) and (3) are not satisfied because the crude oil gauged and transported to a refinery is not directly affected by imports from Mexico or Canada.

Criterion (2) is not satisfied because the workers of Chevron Products Company, Roosevelt, Utah, did not assemble or finish products for a directly impacted firm.

Conclusion

After reconsideration on remand, I affirm the original notice of negative determination of eligibility to apply for NAFTA-TAA for workers and former workers of Chevron Products Company, Roosevelt, Utah. My reconsideration includes review of the February 26, 2003 letter sent by the petitioner's counsel. I find the letter did not provide additional facts to consider.

Signed at Washington, DC, this 7th day of March, 2003.

Edward A. Tomchick,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03-6413 Filed 3-17-03; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-41,585]

Kennametal Inc., Greenfield Tap Plant, Greenfield, MA; Notice of Revised Determination on Reconsideration

By letter of October 21, 2002, the company requested administrative reconsideration regarding the Department's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to the workers of the subject firm.

The initial investigation resulted in a negative determination issued on October 10, 2002, based on the finding that imports of high speed steel taps did not contribute importantly to worker separations at the Greenfield plant. The denial notice was published in the **Federal Register** on November 5, 2002 (67 FR 67421).