

Signed at Washington, DC this 22nd day of April 2003.

**Timothy F. Sullivan,**  
*Director, Division of Trade Adjustment Assistance.*

[FR Doc. 03-10749 Filed 4-30-03; 8:45 am]

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-50,477]

#### **Fleming Companies, Inc., Altoona, PA; Notice of Negative Determination Regarding Application for Reconsideration**

By application dated March 17, 2003, 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 Fleming Companies, Inc., Altoona, Pennsylvania, was signed on February 4, 2003, and published in the **Federal Register** on February 24, 2003 (68 FR 8620).

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 Fleming Companies, Inc., Altoona, Pennsylvania, engaged in activities related to distribution services. The petition was denied because the petitioning workers did not produce an article within the meaning of section 222 of the Act.

The petitioner asserted that the petitioning worker group did not perform distribution services, but produced "business application software." The petitioner further clarified that the product involved a type of distribution software that could be used in convenience stores.

Petitioning workers do not produce an "article" within the meaning of the Trade Act of 1974. The functions performed at the subject firm relate to information technology services. These

services are thus not tangible commodities, that is, marketable products, and are not listed on the Harmonized Tariff Schedule of the United States (HTS), which describes all articles imported to the United States.

Further, the Trade Adjustment Assistance (TAA) program was established to help workers who produce articles and who lose their jobs as a result of increases of like or directly competitive imports of such articles contributing importantly to the layoff. Throughout the Trade Act an article is often referenced as something that can be subject to a duty. To be subject to a duty on a tariff schedule an article will have a value that makes it marketable, fungible and interchangeable for commercial purposes. But, although a wide variety of tangible products are described as articles and characterized as dutiable in the HTS, technology services that are electronically transmitted are not listed in the HTS.

#### **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 17th day of April, 2003.

**Elliott S. Kushner,**  
*Certifying Officer, Division of Trade Adjustment Assistance.*

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-40,501 and TA-W-40,501B]

#### **Motorola, Inc., Global Telecom Solutions Sector (GTSS), Formerly Network Solutions Sector (NSS), Schaumburg, Illinois; and Motorola, Inc., Deer Park, Illinois; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on May 2, 2002, applicable to workers of Motorola, Inc., Global Telecom Solutions Sector (GTSS), formerly Network Solutions Sector (NSS), Schaumburg, Illinois. The notice was

published in the **Federal Register** on May 17, 2002 (67 FR 35143).

At the request of the company, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of IDEN and CGISS radio system units.

Information shows that worker separations occurred at the Deer Park, Illinois location of the subject firm. The workers provide administrative support functions for Motorola's Global Telecommunications Solutions Sector (GTSS), located in Schaumburg, Illinois.

Accordingly, the Department is amending the certification to include workers of Motorola, Inc., Deer Park, Illinois.

The intent of the Department's certification is to include all workers of Motorola, Inc., Global Telecom Solutions Sector (GTSS), formerly Network Solutions Sector (NSS) who were adversely affected by increased imports.

The amended notice applicable to TA-W-40,501 is hereby issued as follows:

All workers of Motorola, Inc., Global Telecom Solutions Sector (GTSS), formerly Network Solutions Sector (NSS), Schaumburg, Illinois (TA-W-40,501), engaged in employment related to the production of IDEN and CTSS radio systems units, and workers of Motorola, Inc., Deer Park, Illinois (TA-W-40,501B) providing support services related to the production of Global Telecom Solutions Sector (GTSS), formerly Network Solutions Sector (NSS), at Schaumburg, Illinois, who became totally or partially separated from employment on or after November 15, 2000, through May 2, 2004, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 17th day of March 2003.

**Linda G. Poole,**  
*Certifying Officer, Division of Trade Adjustment Assistance.*

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## DEPARTMENT OF LABOR

### Employment and Training Administration

#### **Investigations Regarding Certifications of Eligibility To Apply for Workers Adjustment Assistance**

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has