

The company official alleges that the initial negative determination was based on a "misunderstanding of activities at the subject firm." She continues that workers at Ericsson, Inc., Base Station and Systems Development Division, Research Triangle Park, North Carolina were "engaged in the design and development of base station transceivers". The official also states that what was delivered to the internal customer involved "precise drawings and assembly instructions which enabled the product to be manufactured, shipped and to fulfill orders for customers." The official concludes that layoffs at the subject firm are attributed to design and development functions being transferred abroad.

In fact, there was no misunderstanding of the nature of the functions performed at the subject facility. Design and development services do not constitute production within the meaning of section 222 of the Trade Act. As a result of this, the transfer of job functions is irrelevant.

Only in very limited instances are service workers certified for TAA, namely the worker separations must be caused by a reduced demand for their services from a parent or controlling firm or subdivision whose workers produce an article and who are currently under certification for TAA.

In conclusion, the workers at the subject firm did not produce an article within the meaning of section 222(3) of the Trade Act 1974.

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 6th day of May, 2003.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

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DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-41,543]

General Electric Transportation Systems, A Subsidiary of General Electric Company, Erie, PA; Notice of Determinations on Reconsideration

By application dated October 11, 2002, the United Electrical, Radio & Machine Workers of America, Local 506, 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 September 10, 2002, based on the finding that imports of diesel electric locomotive components including U-tubes and gear cases, diesel electric locomotives and off-highway drive systems did not contribute importantly to worker separations at the Erie plant. The denial notice was published in the **Federal Register** on September 27, 2002 (67 FR 61160).

To support the request for reconsideration, the union supplied additional information to supplement that which was gathered during the initial investigation. The union supplied a list of products (brush holder assemblies, 761,752 traction motors, alternators, traction motor field coils) that were allegedly shifted to foreign sources and potentially imported back to the United States.

The company was contacted in regard to all imported products that were like or directly competitive with those produced at the subject facility, as well as those shifted from the subject facility, in 2000 through 2002. In addition, a copy of the union's reconsideration request was forwarded to the company for their response. The company's response revealed that the only products shifted and subsequently imported during the relevant period which impacted subject firm layoffs were u-tubes and gear cases. Workers producing u-tubes and gear cases are separately identifiable from other functions conducted at the subject facility. Therefore, workers at the subject facility producing u-tubes and gear cases meet the eligibility requirements of the Trade Act of 1974.

Further, the company reported shifting "Design III" functions (drafting) to a foreign country during the relevant period. These workers were engaged in

a service, and did not supply a significant amount of support to workers producing u-tubes and gear cases, and thus do not meet the eligibility requirements of the Trade Act. Only in very limited instances are service workers certified for TAA, namely the worker separations must be caused by a reduced demand for their services from a parent or controlling firm or subdivision whose workers produce an article and who are currently under certification for TAA.

The company indicated that the products listed by the union were shifted to foreign sources and imported back to the United States. However, the shift of these products did not affect the petitioning worker groups, thus it has no bearing on this investigation.

The company also supplied a list of foreign competitors that produce locomotives, traction motors, alternators, OHV wheels, blowers and drill motors, apparently implying that potential imports from these competitors contributed importantly to purchasing trends of subject firm customers in the relevant period.

The "contributed importantly" test is generally demonstrated through a survey of the subject firm's customers. The Department conducted a survey of the subject firm's major declining customers regarding their purchases of diesel electric locomotives and off-highway drive systems in 2000, 2001, and January through April of 2002 during the initial investigation. Results of this survey revealed no imports. Further, the Department shared the union's list of competitors and their products with the company. The company indicated that these competitors and associated products did not impact the petitioning worker groups, as no layoffs ensued from competitive product lines at the subject facility. As a result, the above-mentioned data provided by the union is irrelevant to the investigation.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of u-tubes and gear cases like or directly competitive with those produced at General Electric Transportation Systems, a subsidiary of General Electric Company, Erie, Pennsylvania, 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 General Electric Transportation Systems, a subsidiary of