

of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed in Washington, DC, this 16th day of January, 2004.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 04-3010 Filed 2-10-04; 8:45 am]

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-53,374]

#### **Manufacturers' Services, Ltd., Charlotte, North Carolina; Notice of Negative Determination Regarding Application for Reconsideration**

By application received on December 3, 2003, a petitioner 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 Manufacturer's Services, Ltd., Charlotte, North Carolina, was signed on November 18, 2003, and published in the **Federal Register** on December 29, 2003 (68 FR 74978).

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 was filed on behalf of workers at Manufacturer's Services, Ltd. (MSL), Charlotte, North Carolina. Subject firm workers were engaged in support activities such as information technology, quality assurance and program management. The petition was denied because the petitioning workers did not produce an article within the meaning of Section 222 of the Act.

The petitioner alleges that the subject firm is the "assembler and finisher of products", whose workers were separated as a result of a shift of production to Canada.

A company official was contacted for clarification in regard to the nature of the work performed at the subject facility. The official informed that system unit assembly and testing is

indeed performed at the subject facility. However, a company official further stated that workers separated during the relevant period were specifically involved in information technology solution, quality engineering, program management and data entry.

Information technology solution, quality engineering, program management and data entry do not constitute production. In order for the worker group to be considered for TAA certification, the workers must be either (1) producing a product or (2) be on site in support of a facility whose workers are currently under TAA certification.

The petitioner's allegation of a shift in work functions from the subject facility to Canada appears to stem from the fact that Manufacturer's Services, Ltd., is being bought by a company in Canada. The petitioner contends that "this action in itself suggests that production has been shifted to foreign countries."

A company official, who was questioned on this issue, stated that the allegation of the shift of production from the subject facility is a mere speculation of the workers based on an unofficial announcement which was circulated among workers of the subject firm about a potential merger of the MSL with a Canadian-based company. However, the merger has never materialized and there are no plans of the merger in the near future. Consequently, no production has been shifted from the subject facility to Canada.

The petitioner further alleges that workforce reduction at the subject firm is also attributed to a reduction of orders from IBM, subject firm's main customer, who in its turn has shifted jobs and production to foreign countries.

In order to meet eligibility requirements, the petitioning worker group must be engaged in production; information technology, quality engineering, program management and data entry do not constitute production within the meaning of Section 222(3) 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.

#### *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 2nd day of February, 2004.

**Elliott S. Kushner,**

*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 Worker 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 instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than February 23, 2004.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than February 23, 2004.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C-5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 5th day of February, 2004.

**Timothy Sullivan,**

*Director, Division of Trade Adjustment Assistance.*