

**DEPARTMENT OF LABOR****Employment and Training  
Administration****[TA-W-37,000 and NAFTA-3402]****Barry Callebaut USA, Incorporated,  
Van Leer Division, Jersey City, NJ;  
Notice of Negative Determination on  
Reconsideration**

On January 24, 2000, the Department issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of the subject firm. The petitioners presented information regarding company imports of chocolate products and related ingredients and a shift in production of certain articles from Jersey City, New Jersey to Canada. The notice was published in the **Federal Register** on February 4, 2000 (65 FR 5690).

The Department initially denied TAA to the workers of Barry Callebaut USA, Incorporated, Van Leer Division, Jersey City, New Jersey, because the "contributed importantly" group eligibility requirement of Section 222(3) of the Trade Act of 1974, as amended, was not met. The investigation revealed that the layoffs at the Jersey City plant were attributable to a consolidation of operations and transfer of plant production to other domestic affiliated plants. Company wide domestic sales and production increased during the relevant time period.

The Department initially denied NAFTA-TAA for the workers of Barry Callebaut USA, Incorporated, Van Leer Division, Jersey City, New Jersey, because criteria (3) and (4) of paragraph (a)(1) of Section 250 of the Trade Act were not met. Layoffs at the Jersey City plant were attributable to a consolidation of operations and transfer of plant production to other domestic affiliated plants. Company wide domestic sales and production increased during the relevant time period. There was no shift of production from Jersey City, New Jersey to Canada or Mexico, nor any significant company imports of chocolate products from Canada or Mexico.

The petitioners claim that more than 30 percent of production and sales have been lost to Belgium and to the Canadian Barry Callebaut plants. On reconsideration, the Department contacted the company official to address petitioners' claims. The company has responded that it expects to shift some production from Jersey City to Canada in the near future, but to date, no shift has occurred. None of the production at the Jersey City plant has

been shifted to Belgium. As found in the TAA petition investigation for workers of Barry Callebaut USA, Pennsauken, New Jersey (TA-W-35,971), the company does import cocoa powder. The Jersey City plant, however, is not impacted by increased imports of cocoa powder because workers rely on cocoa (raw material) to make their products. Cocoa powder production at the subject firm plant in Jersey City was relatively low in relation to total production at the subject plant and therefore, the Jersey City, New Jersey workers cannot be linked to the Pennsauken, New Jersey certification.

Since there was no decline in sales in the time period relevant to the investigation, a customer survey would serve no purpose.

**Conclusion**

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for adjustment assistance and NAFTA-TAA for workers and former workers of Barry Callebaut USA, Incorporated, Van Leer Division, Jersey City, New Jersey.

Signed at Washington, D.C., this 6th day of March 2000.

**Grant D. Beale,***Program Manager, Division of Trade  
Adjustment Assistance.*

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**BILLING CODE 4510-30-M****DEPARTMENT OF LABOR****Employment and Training  
Administration****[TA-W-36,568]****The Boeing Company, Commercial  
Aircraft Production, Long Beach, CA;  
Notice of Revised Determination on  
Reconsideration**

On October 20, 1999 the Department issued a Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance with respect to workers producing commercial aircraft at The Boeing Company, Long Beach, California. Based upon its review of information regarding subject facility production through mid-1999 and a survey of the facility's domestic customers, the Department concluded that the "contributed importantly" group eligibility requirement of Section 222(3) of the Trade Act of 1974, as amended, had not been met.

Following receipt of a request for reconsideration from United Aerospace Workers Local 148 and in recognition of an ongoing investigation on behalf of

workers producing commercial aircraft at other Boeing locations, the Department determined that a comprehensive review of all production and scheduled deliveries of commercial aircraft by the Boeing Company, including aircraft produced at Long Beach, was warranted. On January 6, 2000, the Department issued a Notice of Affirmative Determination Regarding Application for Reconsideration applicable to workers and former workers of the Long Beach facility. The notice was published in the **Federal Register** on January 14, 2000 (65 FR 2435).

The Department's investigation revealed that employment declines have occurred at the Long Beach facility and that scheduled deliveries of aircraft produced at Long Beach have declined in the year 2000 compared to actual deliveries in 1999. The investigation further revealed that, although a decline in the total commercial aircraft market in the year 2000, as well as increased production efficiencies being experienced by the subject firm, are significant contributing factors to reduced employment levels at the subject facility, imports of commercial aircraft—as measured by scheduled deliveries to U.S. carriers by the subject firm's foreign competitor—are increasing in the year 2000 both absolutely and relative to scheduled deliveries to U.S. carriers by the subject firm. Although not necessarily the most significant factor contributing to the separations of workers, for purposes of the certification of such workers for trade adjustment assistance, this increase in domestic market share for the year 2000 by the firm's foreign competitor is an important factor contributing to worker separations.

A certification applicable to workers of McDonnell Douglas Corporation, Douglas Aircraft Company, Long Beach, California was issued on August 14, 1997 and remained in effect for two years from its date of issuance (TA-W-33, 300). That certification, which expired on August 14, 1999, applied to all employees producing aircraft at Long Beach for The Boeing Company following the acquisition of McDonnell Douglas Corporation by the Boeing Company.

**Conclusion**

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with commercial aircraft contributed importantly to the declines in sales or production and to the total or partial separation of workers of the Boeing