DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–57,716]

DaimlerChrysler Commercial Buses NC, Greensboro, NC; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 11, 2005 in response to a petition filed by a company official on behalf of workers at DaimlerChrysler Commercial Buses NC, Greensboro, North Carolina.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC, this 25th day of August, 2005.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

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DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–55,395B]

Dana Undies, Colquitt, GA; Notice of Revised Determination on Remand

On June 13, 2005, the United States Court of International Trade (USCIT) granted the Department of Labor's motion for voluntary remand in *Former Employees of Dana Undies* v. *U.S. Department of Labor* (Court No. 04–00615).

A petition, dated August 5, 2004, for Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA) was filed on behalf of workers and former workers of Dana Undies facilities in Colquitt, Georgia; Blakely, Georgia; and Arlington, Georgia. The investigation revealed that the workers of the Blakely and Arlington facilities were adversely affected by imports of infant's, toddler's, boy's and girl's underwear, and consequently the workers of the Blakely and Arlington facilities were certified as eligible to apply for TAA and ATAA on September 14, 2004 (TA–W–55,395 and TA–W–55,395A).

In the case of the Colquitt facility, the investigation revealed that all of the workers were separated more than one year prior to the date of the petition. Section 223(b)(1) of the Act specifies that no certification may apply to any worker whose last separation occurred more than one year before the date of the petition. Therefore, the September 14, 2004 notice included a negative determination regarding eligibility to apply for TAA and ATAA for the Colquitt facility (TA–W–55,395B). The Department's notice of determinations regarding eligibility to apply for TAA and ATAA for the above facilities was published in the **Federal Register** on September 23, 2004 (69 FR 57089).

By letter dated October 7, 2004, the petitioner requested administrative reconsideration, stating that: ''In January 2003, February 2003, July 2003, and September 2003 myself (Alice DeBruyn) and Ethel Haire told employees of the Georgia Department of Labor in Bainbridge, Georgia that the Colquitt plant had been closed due to work going out of the country, due to imports'' and that ''the last pay date for the Colquitt Plant was January 3, 2003.''

By letter dated October 28, 2004, the petitioner's request for reconsideration was dismissed based on the finding that no new facts of a substantive nature which would bear importantly on the Department's determination had been provided by the petitioner. On November 4, 2004, the Department's Dismissal of Application for Reconsideration was issued. The Department's Notice of Dismissal was published in the **Federal Register** on November 12, 2004 (69 FR 65457).

On October 8, 2004, the petitioner filed an appeal with the U.S. Court of International Trade (''USCIT''). In the amended complaint filed March 10, 2005, the petitioner suggested that the Georgia Department of Labor, acting as agent of the United States in the administration of the TAA program, advised the employees of the Colquitt plant, during the year following their termination, that they could not file a petition for TAA and, thus, prevented the employees from filing a petition during the statutorily required period.

In its June 13, 2005 Order, the USCIT granted the Department's motion for a voluntary remand to determine whether the petitioners are eligible for certification for worker adjustment assistance benefits.

During the remand investigation, the Department received an affidavit of the petitioner's allegations and contacted numerous officials of the Georgia Department of Labor to determine whether the petitioners were indeed prevented or discouraged from filing a petition during the statutory period.

The remand investigation revealed that, although no officials of the Georgia Department of Labor recalled refusing to allow any worker to submit a petition for TAA group certification, at least some of them were under the impression that the jobs of the Colquitt plant had been transferred domestically to the Blakely plant. This understanding was, apparently, based on a conversation between a Georgia Department Labor official and a Dana Undies Company official (whose name could not be recalled).

Moreover, in the course of the remand investigation, the petitioner submitted an affidavit which states that, during the statutory period, she and other separated employees were told by Georgia Department of Labor officials that the Blakely plant was still in operation and thus the Colquitt terminations were not due to imports but from lack of work and thus no petition could be filed.

Based on the above, it seems likely that, at a minimum, through a series of miscommunications both between the Dana Undies Company and the Georgia Department of Labor, and between the Georgia Department of Labor and the affected employees of the Colquitt plant, the Colquitt employees were led to believe they would not be eligible for TAA benefits. This generally coincides with the allegations in the plaintiff's affidavit, which states that the plaintiff sought to apply for TAA benefits during the statutory period.

Therefore, the Department has determined that it is appropriate to investigate the workers' eligibility to apply for Trade Act benefits. Moreover, since the petitioners are seeking certification for eligibility to apply for ATAA, the Department will assume that the plaintiff intended to submit a petition at the earliest time they could apply for ATAA. The ATAA program went into affect on August 6, 2003, so the Department will consider the petition submitted on that date.

In order to make an affirmative determination and issue a certification of eligibility to apply for TAA, the group eligibility requirements in either paragraph (a)(2)(A) or (a)(2)(B) of Section 222 of the Trade Act must be met. It is determined in this case that the requirements of (a)(2)(B) of Section 222 have been met. The subject firm separated a significant number of workers, and shifted production of infant and toddler underwear from the Colquitt facility to China and Thailand. Company imports of infant and toddler underwear were likely to increase at the time of the Colquitt plant's closure, and did increase soon thereafter.

Moreover, the investigation revealed that all criteria regarding ATAA for the subject worker group have been met. A significant number or proportion of the worker group are age fifty years or over,