

DEPARTMENT OF LABOR

Employment and Training
Administration

[TA-W-61,601]

Intel Corporation, Fab 23, Colorado
Springs, CO; Notice of Revised
Determination on Remand

On June 6, 2008, the Department of Labor issued a Notice of Negative Determination on Remand pursuant to the March 24, 2008 order issued by the U.S. Court of International Trade (USCIT) in *Former Employees of Intel Corporation v. U.S. Secretary of Labor*, Court No. 07-00420. The Notice of determination was published in the **Federal Register** on June 16, 2008 (73 FR 34045).

On May 30, 2007, an official of Intel Corporation, Fab 23, Colorado Springs, Colorado (the subject firm) filed a petition for Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA) on behalf of workers and former workers of the subject firm. The official stated that the subject firm produced "WiFi products" for Intel Corporation (Intel) and communication microprocessors for a company that replaced purchases from the subject firm with imported products.

During the initial investigation, the subject firm official stated that the subject firm produced "silicon wafers" and that the worker separations were due to the subject firm's customer shifting to another company. AR 12. The company official further stated that the subject firm shifted silicon wafer production to Taiwan. AR 13.

The Department's Notice of negative determination, issued on June 15, 2007, stated that sales and production for silicon wafers increased in 2005, 2006, and year to date 2007, that the subject firm did not import silicon wafers, and that the subject firm did not shift production of silicon wafers to a foreign country during the relevant period. AR 23-25. The Department's Notice of determination was published in the **Federal Register** on June 28, 2007 (72 FR 35517). AR 26-30.

In a July 14, 2007 letter, a displaced worker requested administrative reconsideration. AR 39. The request alleged that the subject workers are de facto employees of another company (Marvel); the subject firm did not produce silicon wafers but "manufactures electronic circuits * * * on a silicon wafer"; subject firm production has been replaced with imports; the subject workers are eligible for TAA as secondarily-affected workers; and Marvel's shift of

production to Taiwan is a basis for TAA certification of the subject workers. AR 40-43.

During the reconsideration investigation, the Department contacted the subject firm and received significant information about Intel's semiconductor chip production process. AR 57, 65, 66, 74, 101, 113.

During the reconsideration investigation, the Department confirmed that a company, Marvel, purchased from Intel the rights to the Hermon chip, and that, under the agreement, the subject firm would produce silicon wafers bearing the Hermon chip until Marvel's Taiwanese supplier was fully operational. The Department also confirmed that the subject firm ceased production in April 2007 and the last shipment of silicon wafers from the subject firm to Marvel was in the second quarter of 2007. AR 54-55. Further, the Department confirmed that the articles produced at the subject firm were silicon wafers bearing "WiFi semiconductor chips." AR 57.

During the reconsideration investigation, the Department ascertained that the subject firm did not shift production to a country that is a party to a free trade agreement with the United States or named as a beneficiary under the Andean Trade Preferences Act, the African Growth and Opportunity Act or the Caribbean Basin Economic Recovery Act. AR 55, 56, 70, 101. The Department confirmed that the articles imported by Intel are not silicon wafers bearing semiconductor chips, dies, or packaged dies, but are WiFi cards. AR 101-102.

The negative determination on reconsideration, issued on September 26, 2007, stated that the subject firm produced silicon wafers and explained that the subject workers cannot be certified for TAA based on a shift of production to Taiwan absent evidence of increased imports (actual or likely) of like or directly competitive articles following the shift of production to another country. The determination also stated that the subject workers are not secondary workers because the subject firm neither supplied a component part to a buyer nor finished or assembled a final product for a buyer. AR 114-120. The Department's Notice determination was published in the **Federal Register** on October 3, 2007 (72 FR 56387). AR 121-123.

By letter to the USCIT, dated November 5, 2007, former workers of the subject firm requested judicial review.

On March 24, 2008, the USCIT granted the Department's request for voluntary remand, and directed the

Department to determine whether, following the subject firm's shift of semiconductor wafer production to a foreign country, there were (actual or likely) increased imports of articles like or directly competitive with those produced by the subject firm.

Because the subject firm ceased production in April 2007, the Department determined, during the remand investigation, that the TAA criteria regarding significant worker separations and subject firm sales and/or production declines were met. Further, because the subject firm had shifted semiconductor wafer production to a foreign country, the Department determines that the TAA criterion regarding a shift of production was met.

Therefore, the focus of the remand investigation was limited to whether the subject worker group had satisfied either (1) the criterion that increased imports of articles like or directly competitive with semiconductor wafers produced by the subject workers contributed importantly to subject firm sales and/or production declines and worker separations, or (2) the criterion that the shift of semiconductor wafer production was to a qualified country and/or there were actual or likely increased imports of semiconductor wafers following the shift of production to a foreign country.

Based on information obtained in the remand investigation, the Department determined that the alleged imports are not like or directly competitive with the semiconductor wafers produced at the subject firm, and, as such, the subject workers cannot be adversely impacted by the increased imports by the subject firm. Further, based on the results of the customer survey conducted by the Department during the remand investigation, SAR 37-40, 51-53, the Department determined that the subject workers cannot be adversely impacted by increased imports by the subject firm's declining customer.

In the remand determination, the Department affirmed that the shift of semiconductor wafer production to Taiwan cannot be a basis for TAA certification for the subject worker group.

The Department also stated in the remand determination that because the subject workers are not certified eligible to apply for TAA, they cannot be certified eligible to apply for ATAA.

During the remand investigation, the Department searched the TAA database for certifications during the relevant time period of worker groups producing semiconductor wafers that were based on increased imports, and found only one case (Texas Instruments Inc., KFAB

Manufacturing Division, Dallas, Texas; TA-W-62,197; issued November 8, 2007). Because only one case was found, the Department did not consider the certification to be relevant to the case at hand, much less indicative of likely increased aggregate imports of semiconductor wafers.

After the Department issued the negative determination on remand on June 6, 2008, however, the Department received information during the investigation of another matter remanded to the Department for further investigation, *Former Employees of Fairchild Semiconductor Corporation v. United States Secretary of Labor*, Court No. 06-00215 (*FEO Fairchild*) that caused the Department to reconsider the case at hand.

During the remand investigation of *FEO Fairchild*, the Department received information that Fairchild would begin importing semiconductor wafers in 2008. Upon receiving this information, the Department reviewed previously-submitted information in other cases to determine whether there were any indications that other domestic producers of semiconductor wafers did or would be importing semiconductor wafers in the time period consisting of May 2007 through the present.

The information that was the basis for the certification of Fairchild Semiconductor International, Mountain Top, Pennsylvania (TA-W-58,624; Notice of Revised Determination on Remand issued on July 22, 2008) combined with the information obtained from a careful review of previously-certified cases indicates the likelihood that there would be increased imports of semiconductor wafers in the time period after production shifted from Intel Corporation, Fab 23, Colorado Springs, Colorado to a foreign country.

In accordance with Section 246 the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department herein presents the results of its investigation regarding certification of eligibility to apply for ATAA. The Department has determined in this case that the group eligibility requirements of Section 246 have been met.

A significant number of workers at the firm are age 50 or over and possess skills that are not easily transferable. Competitive conditions within the industry are adverse.

Conclusion

After careful review of the facts obtained subsequent to the issuance of the negative remand determination, I determine that there was a total separation of a significant number or proportion of workers at the subject

facility, and that there was a shift in production to a foreign country followed by likely increased imports of articles like or directly competitive with semiconductor wafers produced at the subject facility. In accordance with the provisions of the Act, I make the following certification:

"All workers of Intel Corporation, Fab 23, Colorado Springs, Colorado, who became totally or partially separated from employment on or after May 30, 2006, through two years from the issuance of this revised determination, are eligible to apply for Trade Adjustment Assistance under Section 223 of the Trade Act of 1974, and are eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974."

Signed at Washington, DC, this 25th day of July 2008.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

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NATIONAL SCIENCE FOUNDATION (NSF)

National Science Board; Sunshine Act Meetings; Notice

The National Science Board, pursuant to NSF regulations (45 CFR Part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n-5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of meetings for the transaction of National Science Board business and other matters specified, as follows:

AGENCY HOLDING MEETING: National Science Board.

DATE AND TIME: Tuesday, August 12, 2008, at 8 a.m.; and Wednesday, August 13, 2008 at 8 a.m.

PLACE: National Science Foundation 4201 Wilson Blvd. Room 1235 Arlington, VA 22230. All visitors must report to the NSF visitor desk at the 9th and N. Stuart Streets entrance to receive a visitor's badge.

STATUS: Some portions open, some portions closed.

Open Sessions

August 12, 2008

8 a.m.-8:05 a.m.
8:05 a.m.-12 p.m.
1 p.m.-1:45 p.m.
1:45 a.m.-2:45 p.m.

August 13, 2008

8 a.m.-10:30 a.m.
10:30 a.m.-10:45 a.m.

10:45 a.m.-11 a.m.
11 a.m.-12 p.m.
2:30 p.m.-3:30 p.m.

Closed Sessions

August 12, 2008

2:45 p.m.-3 p.m.
3 p.m.-5:45 p.m.

August 13, 2008

12 p.m.-12:30 p.m.
1:30 p.m.-2 p.m.
2 p.m.-2:30 p.m.

Agency Contact: Dr. Robert E. Webber, rwebber@nsf.gov, (703) 292-7000, <http://www.nsf.gov/nsb/>.

Matters To Be Discussed

Tuesday, August 12, 2008

Open Session: 8 a.m.-8:05 a.m.

Chairman's Introduction

Committee on Programs and Plans (CPP)

Open Session: 8:05 a.m.-12 p.m.

- Approval of May 6, 2008 CPP Minutes
- Committee Chairman's Remarks
- CPP Subcommittee on Polar Issues (SOPI)
 - Approval of May 6, 2008 SOPI Minutes
 - SOPI Chairman's Remarks
 - Director's Report—Office of Polar Programs
- Update on U.S. Antarctic Program Process for Request for Proposals for Support Contractor
- The "T" in International Polar Year (IPY)
 - Fuel Costs, IPY, and USAP Infrastructure & Logistics
- Task Force on Sustainable Energy (SE)
 - Approval of May 6, 2008 SE Minutes
 - SE Co-Chairmen's Remarks
- Discussion and Summary of June 19, 2008 Roundtable Discussion
- Discussion of September 4, 2008 Roundtable Discussion
- NSB Action: Report to Congress on Interdisciplinary Research
- NSB Information Item: Competition for the Award of a Cooperative Agreement for the Management and Operation of the National Astronomy and Ionosphere Center (NAIC)
- Discussion Item: Major Research Facilities and Facility Plan
- Discussion Item: Review of MREFC Process
- NSB Item: Examination of Priority Order of MREFC New Starts
- Science Presentation: Dr. Richard Buckius, Assistant Director, ENG, *Our World Is Engineered*

Plenary Open

Open Session: 1 p.m.-1:45 p.m.