

UNITED STATES DEPARTMENT OF LABOR  
Employment and Training Administration  
TA-W-96,760  
MONDELEZ GLOBAL LLC FAIR LAWN BAKERY

FAIR LAWN, NEW JERSEY  
Negative Determination Regarding Eligibility  
To Apply for Trade Adjustment Assistance for Workers

In accordance with Section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. § 2273, the Department of Labor ("Department") herein presents the results of an investigation regarding certification of eligibility to apply for Trade Adjustment Assistance ("TAA") for workers.

The investigation was initiated in response to a TAA petition dated March 1, 2021 and filed on March 2, 2021 by a State Workforce Office, on behalf of workers and former workers of Mondelez Global LLC Fair Lawn Bakery, Fair Lawn, New Jersey (hereafter referred to as a "group of workers"). In accordance with 20 C.F.R. 618 a group of workers is defined as, ""inclusive of teleworkers and staffed workers."

The group of workers is engaged in activities related to the production of cookies and crackers and are not separately identifiable by product.

The petition alleged that worker separations, or threats thereof, were due to production of Nabisco products being shifted to Mexico.

During the course of the investigation, the Department collected information from the petitioner(s), the workers' firm, and other relevant sources.

Workers of a firm may be eligible for TAA if they satisfy the criteria of subsection (a), (b) or (e) of Section 222 of the Trade Act, 19 U.S.C. § 2272(a), (b) and (e).

For the Department to issue a certification for workers under Section 222(a) of the Trade Act, 19 U.S.C. § 2272(a), the following criteria must be met:

#### Employment Criterion

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated.

The Department determines that the employment criterion has been met.

#### Decreased Sales and Production Criterion

(2) (A) (i) The sales or production, or both, of such firm have decreased absolutely;

According to 20 C.F.R. 618.225(a) (2) (ii) (B), "Analysis of sales or production data must generally consist of a comparison of sales or production data on the petition date to sales or production data on the date that is 1 year prior to the petition date."

The Department determines that the decreased sales or production criterion has not been met. The investigation revealed that sales and production

increased during the relevant period from March 2020 to February 2021 as compared with March 2019 to February 2020.

#### Increased Imports Criterion

(2) (A) (ii) (I) Imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased; (II) (aa) imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated have increased; (bb) imports of articles like or directly competitive with articles which are produced directly using services supplied by such firm, have increased; AND

(III) imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased. The Department did not make a determination on whether the increased imports criterion was met because the decreased sales or production criterion was not met.

#### Contributed Importantly Criterion

(2) (A) (iii) The increase in imports described in clause (ii) contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm.

The Department did not make a determination on whether the contributed importantly criterion was met because no finding regarding the increased imports criterion was made.

#### Shift/Acquisition Criterion

(2) (B) (i) (I) there has been a shift by the workers' firm to a foreign country in the production of articles or the supply of services like or directly competitive with articles which are produced or services which are supplied by such firm; or

(II) such workers' firm has acquired from a foreign country articles or services that are like or directly competitive with articles which are produced or services which are supplied by such firm;

According to 20 C.F.R. 618.225(b) (2) (ii) (B), "Analysis of shift/activity must generally consist of a (1) Comparison of shift data on the petition date to shift data on the date that is 1 year prior to the petition date; (2) Review of shift activity during the 1-year period prior to the petition date; and (3) Review of evidence provided by the workers' firm regarding shift activity scheduled to occur after the petition date."

According to 20 C.F.R. 618.225(b) (2) (iii) (A), "Analysis of impact of shift activity on worker separations must generally consist of determining: (1) Whether there are one or more events or factors that sever or lessen the causal nexus between the shift activity and worker separations or threat of separation; (2) What percentage of the workers' firm sales or production declines was attributable to the firm's shift activity; (3) Whether operations at the workers' firm domestic facility or facilities decreased at the same or at a greater rate than operations at the foreign facility or facilities; and (4) Whether there are other events or factors that mitigate or amplify the impact of shift activity on the workers' firm."

According to 20 C.F.R. 618.225(c)(2)(ii), "Analysis of acquisition data must generally consist of a (A) Comparison of acquisition data on the petition date to acquisition data on the date that is 1 year prior to the petition date; (B) Review of acquisition data during the 1-year period prior to the petition date; and (C) Review of evidence provided by the workers' firm regarding acquisition activity scheduled to occur after the petition date."

According to 20 C.F.R. 618.225(c)(3)(i), "Analysis of impact of acquisition data on worker separations must generally consist of determining: (A) Whether there are one or more events or factors that lessen or sever the causal nexus between the acquisition activity and worker separations or threat of separation; (B) What percentage of the workers' firm sales or production declines was attributable to the firm's acquisition activity; (C) Whether operations at the workers' firm domestic facility or facilities decreased at the same or at a greater rate than contractor or licensee operations in the foreign country; and (D) Whether there are other events or factors that mitigate or amplify the impact of acquisition activity on the workers' firm."

The Department determines that the shift/acquisition criterion has not been met. The investigation revealed that the workers' firm did not shift the production of cookies or crackers or articles like or directly competitive. Furthermore, the workers' firm did not acquire cookies or crackers from a foreign country or articles like or directly competitive.

#### Contributed Importantly Criterion

(ii) the shift described in clause (i)(I) or the acquisition of articles or services described in clause (i)(II) contributed importantly to such workers' separation or threat of separation.

The Department did not make a determination on whether the contributed importantly criterion was met because the shift/acquisition criterion was not met.

For the Department to issue a certification for workers under Section 222(b) of the Trade Act, 19 U.S.C. § 2272(b), the following criteria must be met:

#### Employment Criterion

(1) A significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated.

The Department determines that the employment criterion has been met.

#### Supplier/Downstream Producer Criterion

(2) the workers' firm is a supplier or downstream producer to a firm that employed a group of workers who received a certification of eligibility under subsection (a), and such supply or production is related to the article or service that was the basis for such certification (as defined in subsection (c)(3) and (4)); and Section 222(c)(4) of the Trade Act, 19 U.S.C. § 2272(c), defines the term "Supplier" to mean "a firm that produces and supplies directly to another firm component parts for articles, or services, used in the production of articles or in the supply of services, as the case may be,

that were the basis for a certification of eligibility under subsection (a) of a group of workers employed by such other firm."

Section 222(c)(3) of the Trade Act, 19 U.S.C. § 2272(c), defines the term "Downstream Producer" to mean "a firm that performs additional, value-added production processes or services directly for another firm for articles or services with respect to which a group of workers in such other firm has been certified under subsection (a)." For purposes of this "Downstream Producer" definition, the Trade Act provides that, "value-added production processes or services include final assembly, finishing, testing, packaging, or maintenance or transportation services."

The Department determines that the supplier/downstream producer criterion has not been met. The investigation revealed that the workers' firm is not a Supplier or Downstream Producers as they did not do business with a firm whose workers were certified eligible to apply for TAA.

20% or Contributed Importantly Criterion

(3) either

(A) the workers firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) a loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation determined under paragraph (I).

20 C.F.R. 618.225(d)(5) states that "the component part supplied represented at least 20 percent of the supplier's production or sales during the 1-year period prior to the petition date, or loss of business with the firm, during the 1-year period prior to the petition date, contributed importantly to separations or threat of separation at the workers' firm." Sec. 222(c) of the Trade

Act and 20 C.F.R. 618.110 defines contributed importantly as, "a cause that is important but not necessarily more important than any other cause."

The Department did not make a determination on whether the 20% or contributed importantly criterion was met because the supplier/downstream producer criterion was not met.

For the Department to issue a certification for workers under Section 222(e) of the Act, 19 U.S.C. § 2272(e), the following criteria must be met:

Member of Domestic Industry Criterion

(1) the workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in"

(A) an affirmative determination of serious injury or threat thereof under section 202(b)

(1);

(B) an affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) an affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

The Department determines that the member of a domestic industry criterion has not been met. The investigation revealed that the workers' firm was not named in an ITC determination applicable to the Trade Act.

#### Timely Petition Filing Criterion

(2) the petition is filed during the 1-year period beginning on the date on which"

(A) a summary of the report submitted to the President by the International Trade Commission under section 202(f) (1) with respect to the affirmative determination described in paragraph (1) (A) is published in the Federal Register under section 202(f) (3); or

(B) notice of an affirmative determination described in subparagraph (B) or (C) of paragraph (1) is published in the Federal Register; and The Department did not make a determination on whether the timely petition filing criterion was met because the member of domestic industry criterion was not met.

#### Employment Criterion

(3) the workers have become totally or partially separated from the workers' firm within-

(A) the 1-year period described in paragraph (2); or

(B) notwithstanding section 223(b), the 1-year period preceding the 1-year period described in paragraph (2).

The Department did not make a determination on whether the employment criterion was met because no finding regarding the timely petition filing criterion was made.

#### Conclusion

After careful review of the facts obtained in the investigation, I determine that the requirements of Section 222 of the Trade Act, 19 U.S.C. § 2272, have not been met and, therefore, deny the petition for group eligibility of Mondelez Global LLC Fair Lawn Bakery, Fair Lawn, New Jersey, who are engaged in activities related to the production of cookies and crackers to apply for Trade Adjustment Assistance for workers, in accordance with Section 223 of the Trade Act, 19 U.S.C. § 2273.

Signed in Washington, D.C. this 18th day of May, 2021

/s/ Hope D. Kinglock

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HOPE D. KINGLOCK  
Certifying Officer, Office of  
Trade Adjustment Assistance