certification, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974, are also eligible to apply for alternative trade adjustment assistance under section 246 of the Trade Act of 1974.

Signed in Washington, DC this 22nd day of December, 2003.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 04–1523 Filed 1–23–04; 8:45 am]

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DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,717 and TA–W–40,717A]

DyStar LP, Coventry, RI, and DyStar LP, Corporate Office, Charlotte, NC; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on May 6, 2002, applicable to workers of DyStar LP, located in Coventry, Rhode Island. The notice was published in the **Federal Register** on May 17, 2002 (67 FR 35141).

At the request of a petitioner, the Department reviewed the certification for workers of the subject firm. The workers of DyStar LP produce textile reactive dyes. New information provided by a company official show that layoffs have occurred at the subject firm's headquarters in Charlotte, North Carolina. Workers at the headquarters provide administrative support services for the production of textile reactive dyes at the company's production facility in Coventry, Rhode Island.

It is the Department's intent to include all workers of DyStar LP affected by increased imports. Therefore, the Department is amending the certification to include workers of DyStar LP, Corporate Office in Charlotte, North Carolina.

The amended notice applicable to TA–W–40,717 is hereby issued as follows:

''All workers of DyStar LP, Coventry, Rhode Island (TA–W–40,717), and DyStar LP, Corporate Office, Charlotte, North Carolina (TA–W–40,717A), who became totally or partially separated from employment on or after January 9, 2001, through May 6, 2004, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.''

Signed at Washington, DC, this 12th day of December, 2003.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 04–1518 Filed 1–23–04; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–53,592]

Dystar LP, Corporate Office, Charlotte, NC; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on November 20, 2003, in response to a petition filed by a company official on behalf of workers of DyStar LP, Corporate Office, Charlotte, North Carolina.

The investigation revealed that workers of the subject firm are covered under an amended certification, TA–W–40,717A, that does not expire until May 6, 2004. Consequently, further investigation would serve no purpose and the investigation has been terminated.

Signed at Washington, DC, this 12th day of December, 2003.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 04–1520 Filed 1–23–04; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–52,818]

Hewlett-Packard Company, Open VMS Data Protector Team, Colorado Springs, Colorado; Notice of Negative Determination Regarding Application for Reconsideration

By application of November 23, 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 Hewlett-Packard Company, Open VMS Data Protector Team, Colorado Springs, Colorado was signed on October 31, 2003, and published in the **Federal Register** on November 28, 2003 (68 FR 66878).

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 misinterpretation of facts or of the law justified reconsideration of the decision.

The TAA petition was filed on behalf of workers at Hewlett-Packard Company, Open VMS Data Protector Team, Colorado Springs, Colorado engaged in software engineering, such as programming, planning, testing and maintenance. The petition was denied because the petitioning workers did not produce an article within the meaning of section 222 of the Act.

The petitioner asserts that the negative decision for the petitioning worker group came as a result of an incorrect interpretation of production as stipulated in the Trade Act. The petitioner also asserts that workers were in fact producing an article, ''HP Openview Storage Data Protector 5.1'' and that this software engineered by workers should be considered a product for the reasons that it is a standalone application; is shipped on a CDrom, which contains the executable software; includes manuals; and has roadmaps.

Software and information systems are not listed on the Harmonized Tariff Schedule of the United States (HTSUS), published by the United States International Trade Commission (USITC), Office of Tariff Affairs and Trade Agreements, which describes all ''articles'' imported to or exported from the United States. This codification represents an international standard maintained by most industrialized countries as established by the International Convention on the Harmonized Commodity Description and Coding (also known as the HS Convention).

The Trade Adjustment Assistance (TAA) program was established to help workers who produce articles and who lose their jobs as a result of increases in imports of articles like or directly competitive with those produced at the workers' firm.

Throughout the Trade Act an article is often referenced as something that can be subject to a duty. To be subject to a duty on a tariff schedule, an article will have a value that makes it marketable, fungible and interchangeable for commercial purposes. But, although a

wide variety of tangible products are described as articles and characterized as dutiable in the HTSUS, software and associated information technology services are not listed in the HTSUS. Such products are not the type of employment work products that Customs officials inspect and that the TAA program was generally designed to address.

A National Import Specialist was contacted at the U.S. Customs Service to address whether software could be described as an import commodity. The Import Specialist confirmed that electronically transferred material is not a tangible commodity for U.S. Customs purposes. In cases where software is encoded on a medium (such as a CD Rom or floppy diskette), the software is given no import value, but rather evaluated exclusively on the value of the carrier medium. This standard is based on Treasury Decision 85–124 as issued on July 8, 1985, by the U.S. Customs Service. In conclusion, this decision states that ''in determining the customs value of imported carrier media bearing data or instructions, only the cost or value of the carrier medium itself shall be taken into account. The customs value shall not, therefore, include the cost or value of the data or instructions, provided that this is distinguished from the cost or the value of the carrier medium.''

Finally, the North American Industry Classification System (NAICS), designates all manner of custom software applications and software systems, including analysis, development, programming, and integration as ''Services'' (see NAICS #541511 and #541512.)

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 in Washington, DC, this 15th day of January, 2004.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 04–1522 Filed 1–23–04; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,458]

MacDonald Footwear, Inc.; Custom Shoes of Maine, American Shoe Corporation, Skowhegan, ME; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on March 18, 2002, applicable to workers of MacDonald Footwear, Skowhegan, Maine. The notice was published in the **Federal Register** on March 29, 2002 (67 FR 15226).

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. The workers were engaged in the production of hand-sewn shoes.

New information shows that that some workers separated from employment at the subject firm had their wages reported under two separate unemployment insurance (UI) tax accounts for Custom Shoes of Maine and American Shoe Corporation.

Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of MacDonald Footwear, Inc., Skowhegan, Maine who were adversely affected by increased imports.

The amended notice applicable to TA–W–39,458 is hereby issued as follows:

All workers of MacDonald Footwear, Custom Shoes of Maine, American Shoe Corporation, Skowhegan, Maine, who became totally or partially separated from employment on or after June 1, 2000, through March 18, 2004, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC this 14th day of January 2004.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 04–1527 Filed 1–23–04; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–51,325]

Powerwave Technologies, Including Temporary Workers of Volt Services Group, Santa Ana, CA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on April 17, 2003, applicable to workers of Powerwave Technologies, located in Santa Ana, California. The notice was published in the **Federal Register** on May 7, 2003 (68 FR 24503).

At the request of a petitioner, the Department reviewed the certification for workers of the subject firm. The workers of Powerwave Technologies, Santa Ana, California, produce power amplifiers for the telephone industry. New information shows that the subject firm utilized some workers of Volt Services Group to produce power amplifiers at the Santa Ana facility.

It is the Department's intent to include all workers of Powerwave Technologies, Santa Ana, California affected by increased imports. Therefore, the Department is amending the certification to include temporary workers of Volt Services Group producing power amplifiers at Powerwave Technologies, Santa Ana, California.

The amended notice applicable to TA-W–51,325 is hereby issued as follows:

''All workers of Powerwave Technologies, Santa Ana, California, and temporary workers of Volt Services Group producing power amplifiers at Powerwave Technologies, Santa Ana, California, who became totally or partially separated from employment on or after March 13, 2002, through April 17, 2005, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.''