The Department reviewed the request for reconsideration and will conduct further investigation to determine if the workers meet the eligibility requirement under Section 223 of the Trade Act.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 25th day of July, 2002.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–20102 Filed 8–6–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–52,224]

VF Imagewear, Inc., Brownsville, Texas; 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 July 18, 2003, applicable to workers of VF Imagewear, Inc., Brownsville, Texas. The notice will be published soon in the **Federal Register**.

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers produce men's and boys' workpants.

New findings show that there was a previous certification, TA–W–39,146, issued on May 31, 2001, for workers of VF Imagewear, Inc., Brownsville, Texas who were engaged in employment related to the production of men's and boys' workpants. That certification expired May 31, 2003. To avoid an overlap in worker group coverage, the certification is being amended to change the impact date from July 2, 2002 to June 1, 2003, for workers of the subject firm.

The amended notice applicable to TA–W–52,224 is hereby issued as follows:

All workers of VF Imagewear, Inc., Brownsville, Texas, who became totally or partially separated from employment on or after June 1, 2003, through July 18, 2005, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC this 30th day of July, 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–20097 Filed 8–6–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–42,113]

The Wackenhut Corporation, San Manuel, AZ; Notice of Negative Determination on Reconsideration on Remand

The United States Court of International Trade (USCIT) granted the Secretary of Labor's motion for a voluntary remand for further investigation in *Former Employees of Wackenhut Corporation* v. *U.S. Secretary of Labor,* No. 02–00758.

October 15, 2002, the Department of Labor (Department) issued a denial of Trade Adjustment Assistance (TAA) certification for the workers of The Wackenhut Corporation, San Manuel, Arizona. The decision was based on the investigation finding that the workers firm provided security services and did not produce an article in accordance with section 222(3) of the Trade Act of 1974. The notice of negative determination regarding eligibility for workers of The Wackenhut Corporation, San Manuel, Arizona (hereafter referred to as Wackenhut), was published in the **Federal Register** on November 5, 2002 (67 FR 67421–67423).

The initial TAA investigation showed that Wackenhut in Phoenix, Arizona, supplied workers to perform security services at BHP Copper, Inc. in San Manuel, Arizona. Workers of BHP Copper, Inc., in San Manuel, Arizona produced copper cathodes. On March 25, 2002, the Department issued a certification of eligibility for workers of BHP Copper, Inc., Pinto Valley, Miami, Arizona, to apply for TAA (TA–W–39,949). On August 8, 2002, the Department amended that certification to include workers of BHP Copper, Inc. (hereafter referred to as BHP), Tucson/San Manuel Operations, Tucson/San Manuel, Arizona (TA–W–39,949A). The workers of BHP in Tucson/San Manuel, Arizona produced copper cathodes.

The Wackenhut petitioners did not file a request with the Department for administrative reconsideration, but chose instead to seek judicial review with the U.S. Court of International Trade. The U.S. Department of Labor submitted to the Court the administrative record for the Wackenhut petition investigation (TA–W–42,113).

The plaintiffs' counsel subsequently submitted declarations about the work performed at the BHP site by the Wackenhut employees. The declarations alleged that the worker group performed work involving copper production.

A former Wackenhut employee, the Captain, also known as Officer in Charge (OIC) of Wackenhut operations at BHP in San Manuel, Arizona, declared that by 2002, Wackenhut employees' responsibility for copper production-related work at BHP included, but was not limited to: (1) Preparation of finished copper cathodes for shipment, including completion of paperwork relating to the shipping and inspecting; (2) receipt of shipments of sulfuric acid necessary for the production processes of copper cathodes, and (3) the disposal operations for byproducts.

A former BHP official, the Corporate Manager for Safety, Health and Security, who spent about 60 percent of his time at the Tuscon/San Manuel facility, made similar statements and declared that Wackenhut employees at BHP in San Manuel, Arizona were an integral part of production and shipping operations, in addition to their security functions. He declared that as layoffs of BHP employees occurred, the responsibilities of Wackenhut employees increased; they were asked to assume increasing responsibilities relating to the production of copper at the facility.

On remand, the Department contacted the BHP Vice President, Administration, to obtain information about the work performed by Wackenhut at the BHP San Manuel, Arizona facility. He provided a copy of the contract between BHP and Wackenhut. It is noted that the contract includes BHP facilities other than the San Manual, Arizona location. The contract was for a 3-year period, between January 1998 and January 2001 and was informally extended on a month-to-month basis until terminated in August of 2002. The BHP Vice President, Administration, consulted with BHP officials that were responsible for operations and production of copper cathodes at San Manuel. The primary duties of Wackenhut, as described in the contract between Wackenhut and BHP, were to control ingress and egress of all employees, visitors, deliveries and service providers, and to escort material deliveries to appropriate unloading areas and assure correct paperwork is completed.

Under the contract, Wackenhut provided security services. The Department determined that such

services are not related to the production of copper cathodes.

The Department contacted the Wackenhut official at the Phoenix, Arizona, office about who would be the Wackenhut person most knowledgeable about the day-to-day activities for the Wackenhut employees at BHP in San Manuel. Although the TAA petition for workers of Wackenhut identified the Area Manager as the contact person, the plaintiffs cited that this individual would not have the day-to-day knowledge of the work performed by Wackenhut employees at the BHP operations. The Area Manager, however, identified himself and the Captain/OIC at BHP in San Manuel, Arizona.

The Department asked the Area Manager for Wackenhut how the workers were involved in production and shipping of copper cathodes at BHP in San Manuel, Arizona. He responded that the workers of Wackenhut did not produce any sort of tangible product for BHP; involvement of copper cathode production was limited to access/egress control and building/perimeter patrol at the mine site. He added that Wackenhut did perform some OSHA/MSHA and First Responder training to BHP mine personnel in support of mine operations. The Area Manager was also asked if the Wackenhut employees at BHP in San Manuel did work other than that specified in the contract. He responded that all duties would be detailed in the site's security Post Orders and any amendment to those Orders. Furthermore, Wackenhut employees were not authorized to perform any duties other than those in the Post Orders.

Under the Post Orders, Wackenhut provided security services. The Department determined that such services are not related to the production of copper cathodes.

Since the services described by the OIC cannot be considered producing the article, on remand the Department asked the Wackenhut OIC to explain how they prepared the finished copper cathodes for shipment. She responded that after the BHP Shipping Clerks were laid off, Wackenhut was left with the responsibility to inspect the load and complete the paperwork. Without the proper paperwork completed and signed by security, the load was not allowed to leave BHP San Manuel. She made similar statements with respect to the receipt and delivery of a wide variety of products and by-products essential to BHP manufacturing.

The former Corporate Manager for Safety, Health and Security for BHP was asked how Wackenhut workers were engaged in the production of copper cathodes. He responded that they would weigh out and count the number of copper cathodes leaving the BHP premises. Furthermore, they would weigh in copper anodes that were entering the BHP premises for further processing.

When a worker group applies for Trade Adjustment Assistance TAA, the fundamental test the Department of Labor applies is whether the workers' firm or appropriate subdivision is producing an import-impacted article during the relevant time period. If the worker group produces an article they are considered production workers.

Section 222 of the Trade Act establishes that the Department must not certify a group unless increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production. The phrase of particular importance in this case is ''articles produced by such workers' firm or an appropriate subdivision thereof.'' Under this requirement, the Department cannot issue a certification of eligibility to a worker group unless the workers' firm or an appropriate subdivision of the workers' firm produces an import-impacted article.

An appropriate subdivision is limited to the workers' firm and section 90.2 of the Trade Adjustment Assistance program regulations permits the inclusion of multiple entities within the firm only if they are affiliated entities. The Department's investigation indicates that substantially the same persons do not control Wackenhut or BHP. The contract between Wackenhut and BHP indicate that they are separate corporations. Therefore, the Department finds that Wackenhut and BHP are not controlled or substantially beneficially owned by the same persons. They are independent business entities and as such the word firm as defined in section 90.2, workers' firm cannot mean both Wackenhut and BHP.

The Department's interpretation of ''appropriate subdivision hereof'' is limited to related or affiliated firms and cannot be expanded to encompass an unaffiliated firm. This interpretation is consistent with section 222 of the Trade Act of 1974 which requires the Department to consider whether a significant number of workers have been separated from the workers' firm or appropriate subdivision of the firm.

The contract between BHP and Wackenhut (the independent contractor) establishes that all persons employed by the contractor shall be deemed to be employees of the contractor; in this case Wackenhut. The Department has consistently determined that the critical employment factor is which firm was obligated to pay the employee during the relevant period. Because Wackenhut was so obligated, the Department has determined that Wackenhut is the workers' firm.

Therefore, the Department finds that the petitioners are employees of Wackenhut and cannot be certified as an appropriate subdivision (or as part of an appropriate subdivision) of BHP.

In order to consider the petitioners producing articles, the Wackenhut workers would have to transform a thing into something new and different. Security services, weighing incoming and outgoing shipments, completing paperwork for incoming and outgoing shipments, escorting trucks to the proper location, and providing safety training for both BHP and Wackenhut employees could be considered ''services'' related to the production of the articles produced at BHP. The Department thoroughly investigated and could not find any evidence that any employees of Wackenhut actually produced any articles or that the petitioners transformed anything into something new and different. Consequently, they are not eligible for certification as production workers.

Conclusion

Whether the performance of services by the petitioners is related or unrelated to production is not relevant to determining their eligibility for certification. Under section 222 of the Act, what is relevant is whether the workers' firm or an appropriate subdivision of the workers' firm produces an article. The workers' firm in this case is Wackenhut. Wackenhut is not affiliated with BHP. The evidence clearly establishes that Wackenhut does not produce, directly or through an appropriate subdivision, an import-impacted article. Once the Department concludes that the workers' employer was not a firm that produced an import-impacted article, it may conclude that the workers are not eligible for assistance without further analysis. Because the petitioners are employees of a firm or subdivision that does not produce a trade-impacted article, they are not eligible for certification.

After reconsideration on voluntary remand, I affirm the original notice of negative determination of eligibility to apply for adjustment assistance for workers and former workers of The Wackenhut Corporation, San Manuel, Arizona.

Signed at Washington, DC, this 29th day of July, 2003.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–20116 Filed 8–6–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–51,194]

Weyerhaeuser Company, Plymouth, North Carolina; Notice of Negative Determination Regarding Application for Reconsideration

By application of July 17, 2003, two petitioner requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on June 13, 2003, and published in the **Federal Register** on July 3, 2003 (68 FR 39976).

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 mis-interpretation of facts or of the law justified reconsideration of the decision.

The petition for the workers of Weyerhaeuser Company, Plymouth, North Carolina was denied because the ''contributed importantly'' group eligibility requirement of Section 222 of the Trade Act of 1974, as amended, was not met. The company did not import fluff pulp, packaging liner and corrugated filler products, and uncoated freesheet in the relevant period nor did it shift production to a foreign country.

The initial investigation established that most of the layoffs are attributable to the shutdown of machinery for corrugated packaging filler. Corrugated packaging filler and linerboard produced is sold within the Weyerhaeuser Company. Fluff pulp produced at the subject firm was mostly exported, and there were no significant declines associated with the production of uncoated freesheet.

Two requests for reconsideration were received from separate petitioners on the same day. One petitioner includes copies of newspaper articles that draw particular attention to industry experts indicating that the market timber and paper products, including fluff pulp and fine paper are shifting from the U.S. to foreign sources. Another petitioner alleges that, for years, the company has been reporting that paper product declines are attributable to import competition.

In order to establish import impact, the Department must consider imports that are like or directly competitive with those produced at the subject firm. As all of the production of corrugated packaging filler was used to supply internal demand, and the company reported no imports, there is no evidence of import impact in regard to this product in conjunction with an assessment of eligibility for affected workers at the subject plant. Further, an examination of associated aggregate U.S. Trade data revealed that there was no increase of imports in the relevant period.

The petitioners state that the paper packaging components produced by the subject firm have been displaced as a result of an increase in imports of packaged goods.

As noted above, the Department considers imports of like or directly competitive products (in this case, corrugated packaging filler, as the initial investigation established that layoffs are predominantly attributable to the shut down of this product) when conducting TAA investigations. Thus, although the products produced by the subject firm workers may be indirectly import impacted, the import impact of packaged goods is not relevant to an investigation of eligibility for trade adjustment assistance on behalf of subject firm workers producing corrugated packaging filler.

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 at Washington, DC, this 24th day of July, 2003.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–20111 Filed 8–6–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–52,036]

WiCat Systems, Inc., Linden, UT; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on June 13, 2003, in response to a worker petition filed by a state agency representative on behalf of workers at WiCat Systems, Inc., Linden, Utah.

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

Signed at Washington, DC, this 28th day of July, 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–20108 Filed 8–6–03; 8:45 am]

BILLING CODE 4510–30–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services; Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons

AGENCY: Institute of Museum and Library Services.

ACTION: Final guidance.

SUMMARY: The Institute of Museum and Library Services (IMLS) is publishing final policy guidance on Title VI's prohibition against national origin discrimination as it affects limited English proficient persons.

DATES: This policy guidance is effective immediately.

FOR FURTHER INFORMATION CONTACT: Nancy Weiss, Office of General Counsel, Institute of Museum and Library Services, 1100 Pennsylvania Avenue, NW., Suite 802, Washington, DC 20506 or by telephone at 202–606–8696, e-mail: *nweiss@imls.gov.*

SUPPLEMENTARY INFORMATION: On April 10, 2003, the IMLS published in the **Federal Register** at 68 FR 17679, proposed policy guidance on Title VI's prohibition against national origin discrimination as it affects limited English proficient persons. The agency publishes this as its Final Guidance.

Under IMLS regulations implementing Title VI of the Civil