approved evaluation specifications/standards.

Dorthy B. Fountain,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 05–17420 Filed 8–31–05; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–57,579]

Acme Gear Company, Englewood, NJ; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on July 19, 2005 in response to a worker petition filed by a New Jersey State official on behalf of workers at Acme Gear Company, Englewood, New Jersey.

The petitioner has requested that the petition be withdrawn.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

Signed at Washington, DC, this 10th day of August 2005.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–4780 Filed 8–31–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–57,518]

Boone International, Inc., Corona, CA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on July 8, 2005 in response to a petition filed by Company official on behalf of workers at Boone International, Inc., Corona, California.

The petitioner has requested that the petition be withdrawn.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

Signed at Washington, DC this 18th day of August, 2005.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–4779 Filed 8–31–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–57,145]

Columbia Lighting, Hubbell Lighting, Inc. Division, Spokane, WA; Notice of Revised Determination on Reconsideration

By letter of July 14, 2005, an International Brotherhood Electrical Workers, Local Union No. 73 requested administrative reconsideration regarding the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to the workers of the subject firm.

The initial investigation resulted in a negative determination signed on June 20, 2005 was based on the finding that there were no company imports of fluorescent lighting fixtures and no shift of production to a foreign source during the relevant period. The denial notice was published in the **Federal Register** on July 20, 2005 (70 FR 41792).

To support the request for reconsideration, the petitioner supplied additional information regarding the subject firm's foreign facilities which manufacture like or directly competitive products with those produced at the subject firm. Upon further contact with the subject firm's company official, it was revealed that the subject firm significantly increased its import purchases of fluorescent lighting fixtures from January through April of 2005 when compared with the same period in 2004.

In accordance with Section 246 the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor herein presents the results of its investigation regarding certification of eligibility to apply for alternative trade adjustment assistance (ATAA) for older workers.

In order for the Department to issue a certification of eligibility to apply for ATAA, the group eligibility requirements of Section 246 of the Trade Act must be met. The Department has determined in this case that the 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 additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with those produced at Columbia Lighting, Hubbell Lighting, Inc. Division, Spokane, Washington, contributed importantly to the declines in sales or production and to the total or partial separation of workers at the subject firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Columbia Lighting, Hubbell Lighting, Inc. Division, Spokane, Washington who became totally or partially separated from employment on or after May 9, 2004 through two years from the date of this certification, are eligible to apply for 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 in Washington, DC, this 19th day of August, 2005.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–4775 Filed 8–31–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–53,209]

Computer Sciences Corporation, Financial Services Group, East Hartford, CT; Notice of Negative Determination on Remand

On April 14, 2005, the U.S. Court of International Trade (USCIT) issued a second remand order directing the Department of Labor (Labor) to further investigate workers' eligibility to apply for Trade Adjustment Assistance (TAA) in the matter of *Former Employees of Computer Sciences Corporation* v. *United States Secretary of Labor* (Court No. 04–00149).

The Department's initial negative determination for the workers of Computer Sciences Corporation, Financial Services Group, East Hartford, Connecticut (hereafter ''CSC'') was issued on October 24, 2003 and published in the **Federal Register** on November 28, 2003 (68 FR 66878). The Department's determination was based on the finding that workers did not produce an article within the meaning of Section 222 of the Trade Act of 1974. It was determined that the subject worker group provided business and information consulting, specialized application software, and technology

outsourcing support to customers in the financial services industry.

By letter of November 24, 2003, the petitioner requested administrative reconsideration of the Department's negative determination. The Department issued a Notice of Affirmative Determination Regarding Application for Reconsideration on January 5, 2004. The determination Notice was published in the **Federal Register** on January 23, 2004 (69 FR 3391).

The Department issued a Notice of Negative Determination on Reconsideration was issued on February 3, 2004 and published in the **Federal Register** on February 24, 2004 (69 FR 8488). On reconsideration, the Department determined that the subject company produced widely marketed software on CD Rom and tapes but the workers were not eligible to apply for TAA because the subject company did not shift production, nor import completed software on physical media that is like or directly competitive with that which was produced at the subject facility.

On March 15, 2004, the petitioner sought judicial review of the negative determination, alleging that packaging functions (storing completed software on physical media and making a tape copy of the completed software on physical media) had shifted to India. On June 2, 2004, the USCIT granted the Department's request for voluntary remand and directed the Department to further investigate the subject workers' eligibility to apply for TAA.

On July 29, 2004, the Department issued a Negative Determination on Reconsideration on Remand for the workers of the subject firm on the basis that packing functions did not shift to India and that all storing and copying functions remained in the United States. The determination also stated that CSC did not import any software which is like or directly competitive with the software produced at the subject facility. The Department's Notice of determination was published in the **Federal Register** on August 10, 2004 (69 FR 48526).

In response to the petitioner's appeal of the negative determination on remand, the USCIT, in its April 14, 2005 order, directed the Department to: (1) Explain why code is not a software component; (2) examine whether the workers were engaged in the production of code; (3) investigate whether there was a shift of code production to India; (4) investigate whether code imported from India is like or directly competitive with the completed software of any component of software formerly produced by the workers; and (5) investigate whether there has been or is likely to be an increase in imports of like or directly competitive article by entities in the United States.

During the second remand investigation, the Department contacted the subject firm to determine what code and software is developed at the subject facility, how code is written and handled, and what services are provide to CSC clients.

The Department considered all information provided by the petitioners as well as solicited comments from the petitioners through their counsel.

In order to meet the criteria for TAA certification, the following criteria must be met:

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

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

(3) Imports of articles like or directly competitive with articles produced by such firm or subdivision have increased; and the increase in imports contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm or subdivision; or

(4) There has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and the country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States, is a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act or there has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Because 19 U.S.C. 2272(a)(2) requires that an article must be produced by the firm employing the workers covered by the petition, the first issue is whether CSC produces an article and whether the workers are engaged in production.

After completing its investigation, DOL still concludes that the plaintiffs should not be certified for TAA benefits. The first requirement that an applicant for TAA benefits must meet in a shift of production case such as this one, is that the production of an *article* was actually shifted. In the present case, what was shifted was the act of code writing. Code, not embodied on a physical medium, is not considered an article for TAA purposes. It is not found on the Harmonized Tariff Schedule (''HTS''). The USCIT has concluded in past cases that an item must be on the HTS to be an ''article'' for the purposes of the Trade Act. *See Former Employees of Murray Engineering* v. *Chao*, 358 F. Supp.2d 1269, 1272 n.7 (''the language of the Act clearly indicates that the HTSUS governs the definition of articles, as it repeatedly refers to ''articles'' as items subject to a duty''). Software code, not on a physical medium, is exempt from the HTSUS, and is, therefore, not an article under the HTSUS test. *See* HTSUS, General Note 3(I) (exempting ''telecommunications transmissions'' from ''goods subject to the provisions of the [HTSUS]''). Therefore, there was no shift of production of an article, and there can be no Trade Act coverage.

Although the preceding discussion resolves this case, DOL undertook the investigation required by the USCIT. First, DOL does not consider software code, not embodied on any physical medium, to be a component of completed software. To be a component, DOL requires that the item in question also be an article in and of itself. It is not enough that the item be indispensable to the function of the completed article. The code is like an idea that will eventually lead to the existence of an ''article''—it is, in fact, necessary—but it is not something that can be measured or ''imported.'' Therefore, software code, like an idea, is not a component of an ''article.''

With respect to the second and third directions of the USCIT, DOL has concluded that the plaintiffs did write software code, and that the code writing function was transferred to India. The software code written in India is similar to the software code plaintiffs wrote in the United States. It is impossible to answer whether it is ''like or directly competitive'' because that assumes the existence of articles to compare. Because software code, not embodied on a physical medium, is not an ''article'' for the purposes of the Trade Act, it is clearly not ''like or directly competitive'' with an actual article such as completed software on a physical medium.

Finally, in order to determine whether the universe of entities who are producing software like or directly competitive with the software produced by the subject company are importing or likely to increase its imports of those products, the Department conducted a survey of the subject company's major competitors. The survey was sent to

those seven companies who produce software which might be considered like or directly competitive with the four CSC software programs at issue: Performance Plus, JETS, Repetitive Payment System, and Vantage-One. Of the companies surveyed, none had imported software in a physical medium, and while some stated that new business opportunities were always possible, none had expressed that they were likely to import any software. Specifically, one competitor stated that it has ''never used offshore resources for *anything*,'' another competitor stated that their software was written ''100% Stateside'' and that there was ''no intention to import anything—no software, no code'' and a third competitor stated ''no way, no how'' that the company imports software. Because all the competitors are domestic, and none of them have increased or are likely to increase imports, it is impossible for consumers of the software code or software on a physical medium to buy an imported product ''like or directly competitive'' to CSC's. Obviously, CSC has increased its ''delivery'' of software code to the United States, but because software code is not an article for the purposes of the Trade Act, such an increase does not qualify to make plaintiffs eligible for TAA benefits.

Conclusion

After reconsideration on remand, I affirm the original notice of negative determination of eligibility to apply for adjustment assistance for workers and former workers of Computer Sciences Corporation, Financial Services Group, East Hartford, Connecticut.

Signed at Washington, DC, this 24th day of August, 2005.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–4774 Filed 8–31–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–57,508]

Deball, Inc., Olney Wallcoverings, Asheville, NC; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974, (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on July 11, 2005, applicable to workers of DeBall, Inc., Asheville, North Carolina. The notice will be published soon in the **Federal Register.**

At the request of the company, the Department reviewed the certification for workers of the subject firm. The workers were engaged in the production of velvet and velour.

New information shows that that all workers separated from employment at the subject firm had their wages reported under a separate unemployment insurance (UI) tax account for Olney Wallcoverings.

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 DeBall, Inc., Asheville, North Carolina who was adversely affected by a shift in production to Canada.

The amended notice applicable to TA–W–57,508 is hereby issued as follows:

All workers of DeBall, Inc., Olney Wallcoverings, Asheville, North Carolina, who became totally or partially separated from employment on or after July 6, 2004, through July 11, 2007, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 23rd day of August, 2005.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–4778 Filed 8–31–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–57,446]

Herules Incorporation, Aqualon Division, Parlin, NJ; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter dated August 11, 2005, a representative of the International Union of Operating Engineers, Local 68, requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to workers of the subject firm. The determination was signed on July 20, 2005, and will soon be published in the **Federal Register.**

The petitioner alleges in the request for reconsideration that workers were separated from the subject company's Power House, which provided steam to the subject company and Green Tea Chemical Technologies (TA–W–53,831, certified January 16, 2004). The petitioner further alleges that the separations were caused by the subject company's reduced need to provide steam to Green Tea Chemical Technologies facility.

The Department carefully reviewed the petitioner's request for reconsideration and has determined that the Department will conduct further investigation based on new information provided by the petitioner.

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 19th day of August 2005.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–4777 Filed 8–31–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–57,671]

Kellogg's Snack Division, Macon, GA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on August 4, 2005 in response to a petition filed on behalf of workers at Kellogg's Snack Division, Macon, Georgia.

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

Signed at Washington, DC, this 15th day of August, 2005.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–4782 Filed 8–31–05; 8:45 am]

BILLING CODE 4510–30–P