

and published in the **Federal Register** on November 6, 2003 (68 FR 62832).

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 Océ Groupware Technology, Inc. (OGT), a subsidiary of Océ—USA Holding, Inc., a member of the Océ Group, a subsidiary of Océ N.V., Boise, Idaho engaged in development of software. The petition was denied because the petitioning workers did not produce an article within the meaning of Section 222 of the Act.

The petitioner contends that the Department erred in its interpretation of work performed at the subject facility as a service and refers to the production of software as a final “master” package product. As a proof, the petitioner attached a description and price lists of the software, and an example of a Software License and Transfer Agreement dated May, 1999.

A company official was contacted for clarification in regard to the nature of the work performed at the subject facility. The official stated that workers of Océ Group, a subsidiary of Océ N.V., Boise, Idaho are software engineers, engaged in IT solution and development, and administrative workers, engaged in sales, support, marketing and product planning. The official further clarified that the subject facility develops a unique software which is transmitted from the subject facility to Itasca, Illinois for software “duplicating” or stamping on to CD-roms in response to orders received. The CDs are further packaged and shipped to customers. The company official reported that the development stage of software is currently in the process of being outsourced to Belgium. The company official further stated that development process which is done in Belgium will consist of engineers developing updated and new versions of the software which further will be transmitted either to the Netherlands for stamping and delivering to European and Asian markets, or to the Itasca, Illinois facility in the United States for further stamping and distribution to customers.

The sophistication of the work involved is not an issue in ascertaining whether the petitioning workers are eligible for trade adjustment assistance, but rather only whether they produced an article within the meaning of section 222 of the Trade Act of 1974.

Software design, developing and coding are not considered production of an article within the meaning of Section 222 of the Trade Act. Petitioning workers do not produce an “article” within the meaning of the Trade Act of 1974. Formatted electronic software and codes are not tangible commodities, that is, marketable products, and they are not listed on the Harmonized Tariff Schedule of the United States (HTS), as classified by the United States International Trade Commission (USITC), Office of Tariff Affairs and Trade Agreements, which describes articles imported to the United States.

To be listed in the HTS, an article would be subject to a duty on the tariff schedule and have a value that makes it marketable, fungible and interchangeable for commercial purposes. Although a wide variety of tangible products are described as articles and characterized as dutiable in the HTS, informational products that could historically be sent in letter form and that can currently be electronically transmitted, are not listed in the HTS. Such products are not the type of employment work products that customs officials inspect and that the TAA program was generally designed to address.

The petitioner also alleges that imports impacted layoffs, asserting that because workers lost their jobs due to a transfer of job functions to Belgium, petitioning workers should be considered import impacted.

The petitioning worker group is not considered to have engaged in production, thus any foreign transfer of their job duties is irrelevant within the context of eligibility for trade adjustment assistance.

#### **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 12th day of February, 2004.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 04–4962 Filed 3–4–04; 8:45 am]

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## **DEPARTMENT OF LABOR**

### **Employment and Training Administration**

[TA–W–52,855]

#### **ON Semiconductor, East Greenwich Division, Including Leased Workers of Kelly Services, East Greenwich, RI; 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) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on October 30, 2003, applicable to workers of ON Semiconductor, East Greenwich Division, including leased workers of Kelly Services, East Greenwich, Rhode Island. The notice was published in the **Federal Register** on November 28, 2003. (68 FR 66879).

At the request of a company official, the Department reviewed the certification for workers of the subject firm. The workers produce power management and standard analog semiconductor components.

The review shows that the company provided information in response to questions from the Department with respect to Alternative Trade Adjustment Assistance (ATAA) that were not addressed in the decision document. The Department has determined that this information together with semiconductor industry information warrants ATAA certification for workers of the subject firm.

Therefore, the Department is amending the certification to reflect its finding.

The amended notice applicable to TA–W–52,855 is hereby issued as follows:

All workers of ON Semiconductor, East Greenwich Division, including leased workers of Kelly Services, East Greenwich, Rhode Island, who became totally or partially separated from employment on or after September 3, 2002, through October 30, 2005, 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, as amended.

Signed in Washington, DC, this 17th day of February, 2004.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 04-4977 Filed 3-4-04; 8:45 am]

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-52,925]

#### **SKF USA, Inc., Altoona Division, Including Leased Workers of Motion Industries, Inc., Altoona, PA; 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) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on November 3, 2003, applicable to workers of SKF USA, Inc., Altoona Division, Altoona, Pennsylvania. The notice was published in the **Federal Register** on November 28, 2003 (68 FR 66879).

At the request of the petitioners, the Department reviewed the certification for workers of the subject firm. New information shows that leased workers of Motion Industries, Inc. were employed at SKF USA, Inc., Altoona Division at the Altoona, Pennsylvania location of the subject firm.

Based on these findings, the Department is amending this certification to include leased workers of Motion Industries, Inc. working at SKF USA, Inc., Altoona Division, Altoona, Pennsylvania.

The intent of the Department's certification is to include all workers employed at SKF USA, Inc., Altoona Division, who were adversely affected by increased imports.

The amended notice applicable to TA-W-52,925 is hereby issued as follows:

All workers of SKF USA, Inc., Altoona Division, including leased workers of Motion Industries, Inc., Altoona, Pennsylvania, who became totally or partially separated from employment on or after September 11, 2002, through November 3, 2005, 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 17th day of February, 2004.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 04-4976 Filed 3-4-04; 8:45 am]

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-52,831]

#### **SPX Dock Products, United Dominion Industries, Inc., Mechanical Dock Lever Division, Carrollton, TX**

#### **Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Negative Determination Regarding Eligibility To Apply for Alternative Trade 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 October 1, 2003, applicable to workers of SPX Dock Products, Mechanical Dock Lever Division, Carrollton, Texas. The notice was published in the **Federal Register** on November 28, 2003 (68 FR 66880).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of safety lock restraints.

New information shows that some workers separated from employment at the subject firm had their wages reported under a separate unemployment insurance (UI) tax account for United Dominion Industries, Inc.

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 SPX Dock Products, United Dominion Industries, Inc., Mechanical Dock Lever Division, Carrollton, Texas, who were adversely affected by a shift in production to Mexico.

The amended notice applicable to TA-W-52,831 is hereby issued as follows:

All workers of SPX Dock Products, United Dominion Industries, Inc., Mechanical Dock Lever Division, Carrollton, Texas, who became totally or partially separated from employment on or after September 3, 2002, through October 1, 2005, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974, and

I further determine that all workers of SPX Dock Products, United Dominion Industries, Inc., Mechanical Dock Lever Division, Carrollton, Texas, are denied eligibility to apply for alternative trade adjustment assistance under section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 6th day of February, 2004.

**Richard Church,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 04-4963 Filed 3-4-04; 8:45 am]

BILLING CODE 4510-30-P

## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-53,928]

#### **Tech-Tran Corp., Rancocas, NJ; Notice of Termination of Investigation**

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on January 2, 2004, in response to a petition filed on behalf of workers at Tech-Tran Corporation, Rancocas, New Jersey. The workers produced electrical transformers.

Two of the petitioning workers were separated from the subject firm more than one year before the date of the petition. Section 223(b) of the Act specifies that no certification may apply to any worker whose last separation occurred more than one year before the date of the petition. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 20th day of February, 2004.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 04-4975 Filed 3-4-04; 8:45 am]

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-52,665]

#### **Textron Fastening Systems, a Wholly Owned Subsidiary of Textron, Inc., PFPD Plant, Tooling Department, Rockford, IL; Notice of Termination of Reconsideration**

By application of November 5, 2003, a petitioner requested administrative reconsideration of the Department's negative determination regarding