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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-61,083]

#### Intel Corporation, Optical Platform Division, Newark, CA; Notice of Negative Determination Regarding Application for Reconsideration

By application dated April 20, 2007, petitioners 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) and Alternative Trade Adjustment Assistance (ATAA). The denial notice was signed on April 6, 2007 and published in the **Federal Register** on April 24, 2007 (72 FR 20371).

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, filed on behalf of workers at Intel Corporation, Optical Platform Division, Newark, California engaged in production of optical modules for networking and communication equipment was denied because the "contributed importantly" group eligibility requirement of Section 222 of the Trade Act of 1974 was not met. The investigation revealed that production of optical modules for networking and communication equipment was shifted to Thailand, however, there were no imports of optical modules into the United States in 2005 and 2006.

In the request for reconsideration, the petitioner stated that the subject firm also manufactured transponders and that this production was shifted to Malaysia in 2003. The petitioner further stated that the subject firm has been importing transponders back into the United States.

A contact with the company official confirmed what was revealed during the initial investigation. It was determined

that the subject firm ceased production of transponders at the end of 2005, when all production of transponders was shifted to Malaysia.

In its investigation, the Department must conform to the Trade Act and associated regulations. Therefore, the Department considers production and imports that occurred within a year prior to the date of the petition. Thus the events occurring in 2005 are outside of the relevant period as established by the current petition date of February 28, 2007. Shift in production of transponders and imports of transponders are irrelevant for this investigation as Intel Corporation, Optical Platform Division, Newark, California did not manufacture transponders for sale in 2006 and January through February of 2007.

The request for reconsideration also states that production of optical modules for networking and communication equipment was shifted to Thailand and that the subject firm has been progressively increasing imports of optical modules from Thailand into the United States.

The review of the initial investigation and further contact with the company official did reveal that the subject firm shifted production of optical modules to Thailand. However, Thailand is not a country that is a party to a free trade agreement with the United States or is a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act. The company official stated that modules, which are manufactured in Thailand are not sold directly to customers, with the exception of one customer in Japan. All modules are shipped from Thailand to Intel's facility in Malaysia to be further integrated into finished product, transponders. Transponders are further sold to customers, who might import them into the United States.

In order to establish import impact, the Department must consider imports that are like or directly competitive with those produced at the subject firm. The company official verified that Intel Corporation, Optical Platform Division, Newark, California did not import optical modules for networking and communication equipment in 2006 and January through February of 2007. Any imports of transponders are not like or directly competitive with optical modules as required by the Trade Act.

#### 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 9th day of May, 2007.

**Richard Church,**

*Certifying Officer, Division of Trade  
Adjustment Assistance.*

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## DEPARTMENT OF LABOR

### Employment and Training Administration

#### Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA-W) number and alternative trade adjustment assistance (ATAA) by (TA-W) number issued during the period of *April 30 through May 4, 2007*.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

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

B. The sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. Increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

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

B. There has been a shift in production by such workers' firm or