

DEPARTMENT OF LABOR**Employment and Training
Administration**

[TA-W-53,209]

**Computer Sciences Corporation,
Financial Services Group, East Hartford,
Connecticut; 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 Computer Sciences Corporation v. Elaine Chao, U.S. Secretary of Labor*, 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 were not engaged in the production of an article, but 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's 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 workers produced widely marketed software components on CD Rom and tapes but were not eligible to apply for Trade Adjustment Assistance (TAA) because the subject company did not import completed software on physical media that is like or directly competitive with that which was produced at the subject facility and did not shift abroad functions performed at the subject facility.

In his letter to the Court, the petitioner infers 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. The Department requested, and was granted, a voluntary remand. On June 2, 2004, the Court ordered that the Department further investigate the matter and determine whether the subject worker group is eligible for certification for worker adjustment assistance benefits.

As part of the remand investigation, the Department reviewed previously submitted information and contacted the subject company officials to determine the process in which software code is fixed onto tangible media, identify which functions were shifted to India, and determine whether the subject worker group meets the statutory criteria for TAA certification.

In response to the Department's inquiries regarding CSC's software delivery processes, the company official stated that the software is copied from a central computer system onto physical media. When the software is ordered by a customer, a copy is made at the subject facility and delivered to the customer. Delivery of the software could be a CSC employee physically bringing the physical media and instruction materials to the customer from the subject facility, a customer physically picking up the physical media and instruction materials from the subject facility, or sending an electronic message to the customer with the software and instruction materials attached.

During the remand investigation, the Department found that no "packaging" functions were shifted to India, as asserted by the petitioner. The investigation revealed that the storing of the completed software onto physical media, the copying of the completed software onto physical media, and the delivery of the software continue to take place at the subject facility.

To determine the workers' TAA eligibility, the Department inquired into CSC's production, sales, and import levels during the relevant time period, determined whether there was a shift of production abroad, and investigated whether increased imports of completed software like or directly competitive with those produced at the subject facility contributed importantly to the workers' separations.

In response to the Department's inquiries, CSC submitted sales and production figures for the software produced at the subject facility during the relevant period (2002 and 2003). An examination of the submission shows increased sales in three lines of software

and declines in a fourth line of software. To clarify this matter, the Department sought an explanation from the subject company. The Department was repeatedly informed that during the period of sales decline, CSC was enhancing that particular line of software and decided not to market it while it was being enhanced; and that while the existing version was available for purchase, most customers decided to wait until the new version was released because any enhancements would have to be separately purchased later to make it perform as well as the newly released version.

As previously discussed, the Department determined that there was no shift of production abroad by the subject company during the relevant period.

According to the company official, CSC does not import any completed software which is like or directly competitive with those produced at the subject facility which experienced sales declines during the relevant time period.

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 29th day of July 2004.

Elliott S. Kushner,

*Certifying Officer, Division of Trade
Adjustment Assistance.*

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DEPARTMENT OF LABOR**Employment and Training
Administration**

[TA-W-54,768]

**Crystal Springs Apparel, LLC, Crystal
Springs, MS; Notice of Affirmative
Determination Regarding Application
for Reconsideration**

By letter of July 7, 2004, the company official 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 June 21, 2004 and will soon be published in the **Federal Register**.

The Department has reviewed the request for reconsideration and will