

DEPARTMENT OF LABOR**Employment and Training Administration**

[TA-W-53,209]

Computer Sciences Corporation, Financial Services Group, East Hartford, Connecticut; Notice of Revised Determination On Remand

On January 27, 2006, the U.S. Court of International Trade (USCIT) issued a third remand order directing the Department of Labor (Department) 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 initial determination for the workers of Computer Sciences Corporation, Financial Services Group, East Hartford, Connecticut ("CSC") was issued on October 24, 2003 and published in the **Federal Register** on November 28, 2003 (68 FR 66878). The Department's negative determination was based on the findings that the subject worker group provided business and information consulting, specialized application software, and technology outsourcing support to customers in the financial services industry, and that the workers did not produce an article within the meaning of Section 222 of the Trade Act of 1974.

The Department issued a Notice of Negative Determination on Reconsideration on February 3, 2004 and published the Notice in the **Federal Register** on February 24, 2004 (69 FR 8488). The Department determined that while CSC produced software, the workers were ineligible to apply for TAA because CSC neither shifted software production abroad nor imported software like or directly competitive with that produced at the subject facility.

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, that all storing and copying functions remained in the United States, and that CSC did not import software like or directly competitive with software produced at the subject facility. The Department's Notice was published in the **Federal Register** on August 10, 2004 (69 FR 48526).

On August 24, 2005, the Department issued a Notice of Negative Determination on Remand. The Notice of the second remand determination was published in the **Federal Register**

on September 1, 2005 (70 FR 52129). The Department determined that the Vantage-One software code produced by CSC, not embodied on a physical medium, is not an article, that CSC did not shift production of an article abroad, and that there were no increased imports of software like or directly competitive with the software produced at the subject facility.

Since the publication of the last remand determination, the Department has revised its policy to acknowledge that, at least in the context of this case, there are tangible and intangible articles and to clarify that the production of intangible articles can be distinguished from the provision of services. Software and similar intangible goods that would have been considered articles for the purposes of the Trade Act if embodied in a physical medium will now be considered to be articles regardless of their method of transfer.

The Department stresses that it will continue to implement the longstanding precedent that firms must produce an article to be certified under the Act. This determination is not altered by the fact the provision of a service may result in the incidental creation of an article. For example, accountants provide services for the purposes of the Act even though, in the course of providing those services, they may generate audit reports or similar financial documents that might be articles on the Harmonized Tariff Schedule of the United States. Because the new policy may have ramifications beyond this case of which the Department is not fully cognizant, the new policy will be further developed in rulemaking.

Moreover, because it is the Department's practice to apply current policy instead of the policy which existed during the investigative period if doing so is favorable to the workers, the Department conducted the third remand investigation under the new policy.

After careful review of the facts, the Department has determined that the subject firm produced an intangible article (financial software for Vantage-One) that would have been considered an article if embodied in a physical medium, that employment at the subject facility declined during the relevant period, that CSC shifted production of the such software abroad, and that CSC increased imports of software like or directly competitive with that produced at the subject facility.

Conclusion

After careful review of the facts generated through the immediate remand investigation, I determine that increased imports of software like or

directly competitive with that produced by the subject firm contributed importantly to the total or partial separation of a significant number of workers at the subject facility. In accordance with the provisions of the Act, I make the following certification:

All workers of Computer Sciences Corporation, Financial Services Group, East Hartford, Connecticut, who became totally or partially separated from employment on or after September 22, 2002, through two years from the issuance of this revised determination, are eligible to apply for Trade Adjustment Assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 24th day of March 2006.

Elliott S. Kushner,
Certifying Officer, Division of Trade Adjustment Assistance.

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DEPARTMENT OF LABOR**Employment and Training Administration**

[TA-W-50,486]

Electronic Data Systems Corporation, I Solutions Center, Fairborn, Ohio; Notice of Revised Determination on Remand

The United States Court of International Trade (USCIT) remanded to the Secretary of Labor for further investigation the case of *Former Employees of Electronic Data Systems Corporation v. U.S. Secretary of Labor* (Court No. 03-00373).

On January 15, 2003, the Department of Labor (Department) issued a negative determination regarding the eligibility of workers at Electronic Data Systems (EDS) Corporation, I Solutions Center, Fairborn, Ohio to apply for Trade Adjustment Assistance (TAA). The determination was based on the Department's finding that the workers at the subject facility performed information technology services, and did not produce or support the production of an article. Therefore, the workers did not satisfy the eligibility criteria of section 222 of the Trade Act of 1974. 19 U.S.C. 2272. On February 6, 2003, the Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for Electronic Data Systems Corporation, I Solutions Center, Fairborn, Ohio was published in the **Federal Register** (68 FR 6211).

In a letter dated March 4, 2003, the petitioner requested administrative reconsideration of the Department's