802.50

From: [redacted]
To: FTC.SERIOS("mverne@ftc.gov")
Date: 3/22/02 6:54PM
Subject: Intercompany sales question

Mike: this follows on my questions of last week regarding calculating intercompany sales under the new 802.50 exemption.

In our client's case, product is shipped to it facility out of the U.S., repaired and shipped back to either the U.S. or other distribution centers other than the U.S. The questions involves how they "book" the product into the repair facility:

The cost of the product is booked in as a cost when shipped to the facility and booked as a sale when it is shipped out. So that intercompany sales reflect this "wash" of the cost of product, plus the repair plus a markup. The cost of the product is a large part of the intercompany sales' figures. Because it is a wash, the company feels that it ought not to count towards the exemption threshold. My reading was that we con't look to the other side of the book to determine sales but I told them I would run it by you. I'll be in early Monday a.m. thanks, [redacted]

[redacted]

SINCE THE PRODUCT COST IS NOT THAT OF A PRODUCT PRODUCED BY THE COMPANY, BUT RATHER A "CORE COST" OF THE UNREPAIRED PRODUCT, IT SHOULD NOT BE INCLUDED IN THE AMOUNT OF THE "SALE" FROM THE FOREIGN REPAIR FACILITY TO THE U.S. FACILITY. INCLUDE ONLY THE VALUE OF THE REPAIR.

N. OVUKA CONCURS.

B. Michael Verne
3/25/02