

Verne, Michael

From: [REDACTED]  
Sent: Monday, August 18, 2003 4:10 PM  
To: Verne, Michael  
Subject: RE: Further Questions on Deal under Japan Exchange Laws

Hi Mike,

I have two more follow up questions regarding intercompany sales and exports under 802.51 and Item 5 of the HSR Notification in the deal we are doing under the new Japan Exchange laws.

First, for the purpose of determining sales that count toward the \$50 million limit of 802.51, do we include sales for products sold/exported by the US subsidiary to an unrelated third party outside the US?

Second, also for the purpose of determining sales that count toward the \$50 million limit of 802.51, do we include the full value of sales for products sold/exported by the US subsidiary to its parent in Japan? We are trying to determine whether there is a double counting theory that can be applied to the value added on the products sold back to the parent in Japan. As you recall, the parent in Japan sells products to its US subsidiary in the US. The US subsidiary in the US then adds value to the product and sells a small portion of the products (with value added) back to the parent in Japan. We are not double counting the value of the product sold by the parent to the US subsidiary in the US, but are we permitted to deduct any portion of the value added to the products by the US subsidiary in the US that are then sold back to the parent in Japan?

Would your responses to these two questions be the same for calculating revenues under Item 5 of the HSR Notification?

Thank you again for your guidance. Please let me know if you have any questions.

[REDACTED]

[REDACTED], Attorney at Law | [REDACTED]  
[REDACTED]  
direct tax: [REDACTED]

-----Original Message-----

From: [REDACTED]  
Sent: Friday, August 08, 2003 2:09 PM  
To: 'mverne@ftc.gov'  
Subject: Further Questions on Deal under Japan Exchange Laws

- ① COUNT SALES BY US SUB TO FOREIGN THIRD PARTY.
- ② INCLUDE FULL VALUE OF U.S. SUB SALES TO FOREIGN PARENT
- ③ BOTH WOULD BE REPORTED IN ITEM 5.

Hi Mike,

I want to follow up with you again on some additional questions that have arisen in the deal we are doing under the new Japan Exchange laws. I have spoken with you before on this matter and you have spoken with [REDACTED] a number of times as well. As you may recall both acquired and acquiring persons are foreign companies with some US subsidiaries and sales into the US.

*B. Michael*  
8/18/03