

"Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination," dated November 21, 2003.

During the POI, Funai Malaysia purchased a major input, printed circuit boards (PCBs), from an affiliated PCB-board producer in Hong Kong. This affiliate purchased the raw materials necessary to produce the PCB from both market and NME suppliers, and then it subcontracted the assembly operations with an entity located in the People's Republic of China (PRC). In order to demonstrate that the affiliate's purchases from its PRC suppliers reasonably reflect the costs associated with the production and sale of the merchandise, Funai Malaysia provided quotes from various market economy suppliers of the same parts which showed that the prices recorded in the normal books and records closely approximated market values.

The petitioners have requested that, in applying the major input rule under section 773(f)(3) of the Act, the Department disregard the Hong Kong affiliate's actual costs as recorded in its books and records and instead determine the costs incurred in the PRC using a factors of production approach. Specifically, the petitioners assert that the Hong Kong affiliate and its subcontractor are themselves affiliated by virtue of an exclusive supply relationship between the two entities, and thus the Department is required to rely on surrogate values for labor and overhead incurred by the Chinese subcontractor, as well as for those transactions where raw material inputs are transferred from Chinese suppliers to the Chinese subcontractor through Funai Hong Kong.

We find that there is no legal basis to adopt the petitioner's approach, given that the Act directs the Department to employ a factors of production methodology only in cases involving non-market economy producers. In contrast, in cases involving market economy producers, section 773(f)(1)(A) of the Act requires the Department to calculate costs on the basis of a company's financial records, provided that such records are maintained in accordance with generally accepted accounting principles (GAAP) and reasonably reflect the costs associated with the production and sale of the merchandise. *See Certain Welded Carbon Steel Pipes and Tubes From Thailand: Final Results of Antidumping Duty Administrative Review*, 64 FR 56759-02 (Oct. 21, 1999); *see also Notice of Final Results of Antidumping Duty Administrative Review and Determination Not To Revoke the*

*Antidumping Duty Order: Brass Sheet and Strip From the Netherlands*, 65 FR 742 (Jan. 6, 2000).

In accordance with our practice and 19 CFR 351.401(h), in this case we find that the Hong Kong company is the producer of the PCBs in question because it provides the design of the PCB, purchases all of the raw materials necessary to produce it, arranges for the conversion of these materials into the finished product, and then controls the relevant sale to Funai Malaysia. *See, e.g., Remand Redetermination: Static Random Access Memory Semiconductors from Taiwan* (June 30, 2000); *Notice of Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol From Taiwan*, 61 FR 14064, 14070 (Mar. 29, 1996); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Forged Stainless Steel Flanges from India*, 58 FR 68853, 68855 (Dec. 29, 1993). Therefore, we have looked to the books and records of the Hong Kong affiliate to determine the cost of the PCB, rather than to the books and records of the PRC subcontractor.

In addition, we have examined the information on the record regarding the relationship between Funai Malaysia and its subcontractor and preliminarily find that these companies are not affiliated within the meaning of section 771(33) of the Act. Specifically, we find that there is no cross-ownership in these entities, and that neither Funai Malaysia nor Funai Hong Kong is in a position to exercise control or restraint over the subcontractor. Rather, the subcontractor has numerous manufacturing facilities in the PRC, not all of which assemble PCBs, and it makes a variety of other products. *See Funai Malaysia's* October 14, 2003, submission at pages 10-11 and Exhibit 1. Additionally, we find that the subcontractor is not in a position to exercise control or restraint over Funai Hong Kong, as the technical know-how, designs, and equipment needed to manufacture the PCBs are all owned and controlled by Funai Hong Kong. Moreover, Funai Hong Kong and the subcontractor have not entered into formal exclusive supplier arrangements which would prohibit this company from sourcing its PCB assembly elsewhere or the subcontractor from assembling merchandise for other producers. Thus, we find that the indicia of control necessary to find these parties affiliated are not present here.

Given these factual conclusions, we disagree with the petitioners that it would be appropriate to determine the cost of producing the PCBs using a factors of production methodology based on the production experience of the subcontractor because the Chinese

subcontractor is not the "producer" of the PCB and, thus, the subcontracting services provided by this entity merely represents one of the inputs into the final PCB product. In any event, we disagree with the petitioners that, even assuming that these parties were deemed to be affiliated, it would be appropriate to collect factors data from the subcontractor because the assembly operations constitute a minor portion of the total cost of the CTV (and thus the major input rule does not apply to the assembly operations).

Because the Hong Kong company is the producer of the PCB and the Department treats Hong Kong as a market economy, the statute directs us to use the company's recorded costs unless they are not consistent with GAAP or do not reasonably reflect the costs of production or sale. The Department may find that a respondent's costs recorded in its normal books and records do not reasonably reflect the costs of the merchandise where the costs are allocated to the merchandise under consideration in a manner which distort the dumping analysis. *See, e.g., Final Determination of Sales at Less Than Fair Value: Oil Country Tubular Goods From Argentina*, 60 FR 33539, 33547 (June 28, 1995); and *Elemental Sulphur From Canada: Final Results of Antidumping Finding Administrative Review*, 61 FR 8239, 8241-8243 (Mar. 4, 1996). While the Hong Kong company made purchases from unaffiliated PRC suppliers, these purchases were made in a market economy (*i.e.*, Hong Kong) by a market-economy entity which maintains that its books and records are kept in accordance with Hong Kong GAAP. Thus, we preliminarily find that its purchases from PRC entities reasonably reflect the costs associated with the production and sale of a PCB. Therefore, in determining the cost of the PCBs under the major input rule for purposes of the preliminary determination, we have relied upon the costs stated in this company's normal books and records.

#### Price-to-CV Comparisons

In accordance with section 773(a)(4) of the Tariff Act, we based NV on CV because there was no viable home or third-country market.

For comparisons to EP, we made circumstances-of-sale adjustments by deducting home market direct selling expenses and adding U.S. direct selling expenses. We made no adjustment for differences in credit expenses between markets because we had inadequate information to do so.