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Australian Government
Australian Customs and
Border Protection Service

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R E P O R T

CUSTOMS ACT 1901 - PART XVB

INVESTIGATION OF THE ALLEGED DUMPING
SILICONE EMULSION CONCRETE ADMIXTURES
EXPORTED TO AUSTRALIA FROM
THE UNITED STATES OF AMERICA

IMPORTER VISIT REPORT

BASF CONSTRUCTION CHEMICALS AUSTRALIA PTY LTD

September 2009

THIS REPORT AND VIEWS OR RECOMMENDATIONS CONTAINED THEREIN WILL BE REVIEWED BY THE CASE MANAGEMENT TEAM AND MAY NOT REFLECT THE FINAL POSITION OF CUSTOMS AND BORDER PROTECTION.

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1 BACKGROUND AND PURPOSE

1.1 Background to the current investigation

On 22 July 2009, Tech-Dry Building Protection Systems Pty Ltd (Tech-Dry) lodged an application under section 269TB of the *Customs Act 1901* (the Act¹).

The application requested that the Minister for Home Affairs (Minister) publish a dumping duty notice in respect of silicone emulsion concrete admixtures (SECA) exported to Australia from the United States of America (USA).

Tech-Dry is the sole manufacturer of SECA in Australia.

Tech-Dry claims that the allegedly dumped exports of SECA from the USA have caused material injury in the form of:

- lost sales volume;
- lost market share;
- price undercutting;
- price suppression; and
- reduced profits and profitability.

Tech-Dry also claims that it has experienced injury across certain other economic factors as a consequence of the dumped exports, namely; reduced attractiveness to reinvest, reduced investment in research and development and reduced confidence in the ability to sign supply contracts with key suppliers of raw material, and thereby negotiate better purchase prices.

Tech-Dry claims that material injury attributable to dumped exports of SECA from the USA commenced from late 2007.

Tech-Dry identified BASF Construction Chemicals Australia Pty Ltd (BASF-CC) as the sole importer of the goods.

There have been no previous investigations into SECA.

1.2 Purpose of visit

The purpose of the visit was to:

- explain the dumping investigation process;
- verify information on imports of SECA to assist in the determination of export prices from the USA;
- confirm that BASF-CC is the importer of SECA and obtain information to assist in establishing the identity of the exporter;
- establish whether the purchases were arms length transactions;
- establish post exportation costs incurred in importing;
- gather other relevant information in relation to pricing in the Australian market;
- discuss and seek views on the goods and like goods; and
- seek views on injury to the Australian industry.

¹ references to any section or subsection shall be references to sections or subsections of the Act unless otherwise stated.

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1.3 Meeting details

Customs and Border Protection met with representatives of BASF-CC, the details of that meeting are summarised in the table below.

COMPANY	BASF Construction Chemicals Australia Pty Ltd
ABN	46 000 450 288
ADDRESS	11 Stanton Road SEVEN HILLS NSW 2147
TEL NO	02 8811 4200
FAX NO	02 8811 3299
DATE	15 September 2009
PRESENT	
Company	Leo van den Heuvel, Regional Director
Customs and Border Protection	Mick Kenna, A/g Director Operations 1 Wendy Hunt, Director Operational Support Rod Jones, Supervisor Operations 1

1.3.1 Investigation process

This was BASF-CC's first involvement in a dumping investigation.

On initiation of the investigation BASF-CC had been sent a non-confidential copy of the application, a copy of Australian Customs Dumping Notice (ACDN) 2009/27 and a booklet in regards to anti-dumping and countervailing investigations.

We explained to BASF-CC that Customs and Border Protection conducted such investigations in accordance with the provisions set out in the *Customs Act 1901*, and that these provisions reflect Australia's obligations under the World Trade Organisation Anti-Dumping Agreement.

We outlined the investigation process and timeframe requirements to BASF-CC at the visit.

- The investigation period is 1 July 2008 to 30 June 2009. Customs and Border Protection will examine exports to Australia during this period to determine if they were dumped.
- The injury analysis period is from 1 July 2005 for the purpose of analysing the condition of the Australian industry.
- A preliminary affirmative determination (PAD) may be made no earlier than 13 October 2009. Provisional measures may be imposed at the time of the PAD or at any time after the PAD has been made. Customs and Border Protection would not make such a determination until it was satisfied that there appears to be, or that it appears there will be, sufficient grounds for the publication of a dumping duty notice.
- A statement of essential facts (SEF) will be placed on the public record by 2 December 2009 or such later date as the Minister allows. Should the Minister approve an extension to the SEF, this would mean that the due date of the final report would also be extended. All interested parties would be notified and an ACDN would be issued should an extension be requested and approved.

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- The SEF will set out the material findings of fact on which Customs and Border Protection intends to base its recommendations to the Minister. The SEF will invite interested parties to respond, within 20 days, to the issues raised. Submissions received in response to the SEF will be considered when compiling the report and recommendations to the Minister.
- Customs and Border Protection's report to the Minister is due no later than 18 January 2010, or such later date as the Minister allows.

We informed BASF-CC that anti-dumping measures may only be imposed where the Minister was satisfied that the goods were dumped and the dumped goods had caused or were threatening to cause material injury to the Australian industry.

We informed BASF-CC that the Chief Executive Officer (CEO) could terminate an investigation before a report was sent to the Minister where the CEO was satisfied that there were negligible dumping margins or volumes, or where the dumping has caused negligible injury to the Australian industry.

We also informed BASF-CC that interested parties could appeal a decision of the CEO to terminate an investigation or a decision of the Minister after considering the CEO's report to the Trade Measures Review Officer.

1.3.2 Confidentiality and the public record

We outlined the public file system to BASF-CC, whereby a public record of relevant information pertaining to the investigation was maintained for all interested parties to access.

We informed BASF-CC that information claimed to be confidential was not required to be placed on the public file but that a summary that does not breach the confidentiality should be provided to allow a reasonable understanding of such information. The CEO may disregard information where a summary is not provided unless it can be demonstrated to be correct or where the CEO disagrees that the information is confidential and the party will not provide a summary.

We explained to BASF-CC a confidential draft report would be prepared following the visit and that BASF-CC would be provided with a copy to review its factual accuracy and to identify those parts of the report it considered confidential. Following consultation about confidentiality, a version of the report would be prepared for the public record. We emphasised to BASF-CC that the non-confidential version of the report would not be placed on the public record without the prior approval of BASF-CC.

We also advised BASF-CC that documents provided by and identified by them as confidential would be marked commercial in confidence and would not form part of the public record.

1.3.3 Cooperation and verified information

Prior to the visit BASF-CC had been sent a list of their imports from the Customs and Border Protection database as well as an importer sales route spreadsheet and an importer questionnaire.

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BASF-CC had completed the spreadsheet and supplied the requested information.

We advised BASF-CC that the cooperation of interested parties was an important element of the investigation and made more information available to Customs and Border Protection on which to base their recommendations.

We also advised BASF-CC that the information collected and verified from them may be used to in determining export prices in the event that the exporter does not cooperate, and may also be used in determining the non-injurious price (NIP) in the market and could assist in assessing prices and conditions in the market. We explained the concepts of the NIP and the unsuppressed selling price (USP) and their affect on any anti-dumping measures.

BASF-CC cooperated with Customs and Border Protection's verification process, made relevant staff available and provided copies of requested documents.

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2 THE GOODS

2.1 Goods under consideration

The goods the subject of the application (the goods) are silicon emulsion admixtures for concrete.

The following additional information was provided by Tech-Dry to assist in understanding the goods:

"(The imported goods) contains n-octyltriethoxysilane as the key active component. N-octyltriethoxysilane is part of the alkylalkoxysilane group or one of the organic silicone family including alkylalkoxysilanes with linear or branched alkyl carbon chain length from C1 to C20 or with a phenyl group. Such silicones also include alkylalkoxysiloxanes (siloxanes), polysiloxanes, silicone resins and functional silicones also including materials which contain silicones. The (imported goods) may also contain the above mentioned silicones as the key active or co-active ingredients. The product also contains non-silicone ingredients such as ionic or nonionic surfactants or stabilisation agents or additives including silicone additives which not only help to stabilise the emulsion but also contribute to the performance of the final product.

This silicone emulsion admixture is used for water-repellency and efflorescence control applications for concrete or similar cementitious products including concrete block, concrete paving, retaining wall units, concrete roof tiles and pre-cast or pre-stressed concrete. (T)his product also enables increased production rates and better visual appeal of the manufactured concrete products. The product also helps to increase strength and improve colour vibrancy of concrete and provides excellent wind-driven rain resistance...

Silicone emulsion admixtures are claimed to be higher value products than those of traditional concrete admixtures such as fatty acid types of concrete admixtures..."

The goods are classified to tariff subheading 3824.40.00 in Schedule 3 of the Customs Tariff Act 1995. The rate of duty for the goods from the USA is free.

Customs and Border Protection asked BASF-CC for its views as to what constitutes the goods under consideration and whether other products should be included or excluded.

BASF-CC agreed that the description of the goods matched the product it imported. The goods are imported under the brand name "Rheopel Plus".

BASF-CC provided a technical data sheet for Rheopel Plus and also data sheets for other non-SECA admixtures in its range.

The data sheets for Rheopel Plus and BASF-CCs other admixtures are at **Confidential Attachment Prod-1**.

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2.2 Like goods

Subsection 269T(1) defines like goods to mean:

Goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration.

Tech-Dry claims that the Australian goods are alike in most, if not all, characteristics to the imported goods and that similarity in characteristics is evident in the physical, commercial, functional and production likeness of the goods.

Tech-Dry stated in the application that the locally made SECA are marketed under the brand Tech-Dry Block Emulsion and that the imported goods are marketed under the name Rheopel Plus.

Customs and Border Protection examined the information provided in the application and noted the following similarities between Rheopel Plus and Tech-Dry's Block Emulsion:

- physical likeness: the application includes a comparative table as well as technical data sheets for both the goods made in Australia and the goods the subject of the application which include the technical specifications. The table shows that many of the technical specifications of the locally produced and imported goods are similar;
- commercial likeness: the goods made in Australia and the goods the subject of the application compete directly in the same marketplace. Both goods are used for the same applications in the same industries;
- functional likeness: the goods made in Australia and the goods the subject of the application are functionally substitutable; and
- production likeness: the goods made in Australia and the goods the subject of the application are manufactured from similar raw materials using a similar manufacturing process.

Customs and Border Protection concluded for the purpose of initiating the investigation that based on the information contained in the application that the applicant manufactures and sells goods in the Australian market that are like goods to the goods the subject of the application.

BASF-CC agreed that Rheopel Plus and the Tech-Dry SECA product were like products.

BASF-CC advised that there were also other products that were substitutable for the SECA products such as non-silicone admixtures, but was of the view that these would not be covered by the investigation or be like goods to the goods the subject of the investigation.

BASF-CC provided brief descriptions of a selection of admixtures available in Australia which provide waterproofing, efflorescence control or a combination of both. These descriptions are at **Non-confidential attachment G-1**.

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3 COMPANY DETAILS

3.1 Commercial operations

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3.1.1 Organisational structure of company

BASF-CC provided the following information on the company.

BASF-CC has been operating in Australia for approximately 70 years under a number of different company names and ownership structures.

The company was originally known as Embecon, a wholly owned subsidiary of Total. Throughout the 1970s and 1980s it underwent a number of name changes including Australia Master Builders and Master Builders Technology. In 2001 the company changed its name to Degussa.

In 2006 Degussa sold the construction and chemical division of its operations to the BASF Group. BASF-CC is a wholly-owned subsidiary of BASF Australia Ltd (BASF Aust).

BASF-CC is a separate company to BASF Aust [REDACTED] [company details]. BASF Aust is part of the BASF world wide group of companies (BASF).

3.1.2 Functions of company

BASF-CC said that it supplies chemicals for the construction industry in Australia and New Zealand. The company has a sales office and manufacturing site in each state capital in Australia (except Tasmania) as well as in Auckland, New Zealand. Each location has a manager and sales and customer service officers and manufactures admixtures. The Sydney site also manufactures epoxy and cementitious products.

BASF-CC also said that it imports chemicals it cannot manufacture or that are more cost effective to import from other companies within BASF.

BASF-CC advised that it has about 125 employees in Australia and New Zealand. The majority are located at the head office in Seven Hills, NSW, whilst each site office has about 11 staff.

BASF-CC told us that BASF Aust has its headquarters in Melbourne and employs about 350 staff. BASF Aust has a manufacturing site in Altona Victoria and has acquired [REDACTED] which now gives it manufacturing plants in Western Australia and NSW.

BASF-CC advised that the BASF companies manufacture and distribute a wide range of products including coatings, plastics, paper products and polyurethanes.

BASF-CC said it sells SECA in its original form to manufacturers of concrete products. At times the goods may be sold in smaller containers but there is no further manufacturing, alteration or dilution of the goods before they are sold to the customer.

3.2 [REDACTED]

[REDACTED] [company strategy]

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3.3 Accounting

BASF-CC's income tax year is from 1 July to 30 June. BASF-CC's financial year is from 1 January to 31 December. The company uses SAP accounting software. 61

The accounts are audited, however the accounts for the [REDACTED] financial year had not yet been finalised.

3.4 Relationship with suppliers of the GUC

BASF-CC advised that it purchases and imports the goods from BASF Construction Chemicals USA (BASF-CC USA). BASF-CC USA is part of the BASF group of companies.

[REDACTED] [company pricing policies]

3.5 Relationships with customers

BASF-CC sold the goods to [REDACTED] in the investigation period plus some minor cash sales.

[REDACTED] [customer information]

BASF-CC advised that there is no relationship between BASF-CC and its customers other than that of buyer and seller.

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4 IMPORTS

4.1 Volume of trade

BASF commenced importing SECA from the USA in [REDACTED]. BASF has imported a total [REDACTED] shipments, all of which were supplied by BASF-CC USA. The volume of trade is shown in the following table:

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED] [import and goods details] BASF said that this would be the concentration of the imported goods.

4.2 Ordering and import process

Each month, BASF-CC uses information from its sales force to forecast demand for the SECA product. This information is input into BASF-CC's Material Requirements Planning system (MRP) which the procurement area of BASF-CC considers in deciding whether to make an order. The normal order quantity for SECA is [REDACTED].

[REDACTED] [order details]

There is about a 12 to 14 week lead time between ordering to arrival. The shipping time between the goods leaving the factory in [REDACTED] and being shipped from [REDACTED] to Sydney is about 4 weeks.

BASF-CC advised that the goods are shipped in 1,040 litre pallets (also called an IBC) packed inside a 40 foot container. A container can [REDACTED]. The IBC has an aluminium frame with a plastic bladder [REDACTED].

On arrival the product is delivered to a BASF-CC site [REDACTED]

Terms for the [REDACTED] [shipment terms]

BASF-CC advised that an order could be cancelled at any time up until shipment date.

4.3 Verification of imports

BASF-CC had completed a cost to import and sell spreadsheet detailing all costs and associated data for the [REDACTED] shipments during the investigation period.

BASF-CC was requested to provide invoices and import related documentation for each of the selected imports and the company provided copies of the following documentation at the visit:

- Purchase order;
- Shipping invoices;
- Customs entry;
- Payment for shipping, port and delivery costs;
- Invoice from BASF-CC USA;
- Payment to BASF-CC USA;
- Packing list; and

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- Bills of lading.

These documents are at **Confidential Attachment Imp-1**.

The documents included charges for [REDACTED] and charges for Australian port costs, customs duty, customs and other fees and local delivery.

For the [REDACTED] [import details]

4.4 Verification of import costs

We matched the charges for import costs on the cost to import and sell spreadsheet to the documents provided.

We noted that the [REDACTED] [cost details].

BASF-CC advised that the [explanation of costs].

For the [REDACTED] shipments during the investigation period, we calculated the average Australian into store costs in AUD per litre as follows:

Cost Item	Included Items	Avg per litre
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
Total		[REDACTED]

4.5 Payment to Exporter

The documents at **Confidential Attachment Imp-1** also included proof of payment to BASF-CC USA.

[REDACTED] [payment details]

4.6 Who is the importer?

Subsection 269T(1) of the Act defines the importer as the beneficial owner of the goods at the time of their arrival within the limits of the port or airport in Australia at which they have landed.

BASF-CC purchased the goods from BASF-CC USA in the USA on [REDACTED] terms. BASF-CC took possession of the goods at their time of arrival in Australia and is invoiced by and pays BASF-CC USA for the goods and pays the relevant shipping, port and clearance charges.

We consider that BASF-CC is the beneficial owner of the goods at the time of importation and is therefore the importer of the goods.

4.7 Who is the exporter?

BASF-CC stated that BASF-CC USA in the USA is the manufacturer of the goods supplied.

Based on the information available we consider the exporter of the goods to be BASF-CC USA, subject to further information being obtained from the exporter.

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4.8 Export prices

We calculated a weighted average free on board (FOB) export price for the goods over the investigation period

[REDACTED] [details of calculation of export prices]

The calculated figures are below:

Invoice total USD FOB	litres imported	Average per litre
[REDACTED]	[REDACTED]	[REDACTED]

Calculations for import costs and fob prices are at **Confidential Appendix 1**.

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5 AUSTRALIAN MARKET

5.1 Market for admixtures

BASF-CC provided the following assessment of the market for admixtures in Australia.

The admixture market comprised five main sectors where the products are used:

- Normal concrete, pre-mixed such as for driveways and footpaths;
- Manufactured concrete products (MCP) such as pavers and masonry blocks;
- Pre-cast concrete;
- Cement additives and grinding for the production of concrete where the product is used to reduce friction and enhance the quality; and
- Shot-crete, spray concrete that is used in mines and tunnels.

There are three main products in the admixture range for MCP products:

- Water reducers - that reduce the amount of water required and thus the cement needed for the mixture;
- Colour emulsions - efflorescence control (colour enhancing) and water-repellence (to stop blooming or white spots appearing); and
- Slick enhancer - used to stop the concrete sticking to the steel plates that press the concrete blocks.

SECA generally falls into the second category - colour emulsions.

There are three main suppliers to the admixture market, BASF-CC, Sika Australia Pty Ltd (Sika) and Grace Australia Pty Ltd (Grace).

The estimated market shares are:

- Grace - 45%;
- BASF-CC - 35%;
- Sika - 15%; and
- Others including Tech-Dry 5%.

BASF said that they used to have a larger share of the market but lost a lot of this share to Sika, who are a relatively new entrant to the market.

The largest sector by volume is the pre-mixed concrete market where the main admixtures used are water reducers. The premix market uses about 20 million cubic metres of concrete each year with the house slab accounting for approximately 40% of this market.

5.2 Market for SECA

BASF-CC said that SECA is used primarily in the MCP sector as a colour enhancer for its efflorescence and water repellent properties in the premium end of that sector. BASF-CC stated by way of example that for the paving market where pavers sold in the ranges of \$5, \$10 and \$20 per square metre SECA would be used only for the \$20 per square metre pavers.

SECA would not be used on grey masonry products where there are cheaper alternatives available. Sika supplies a repellence admixture for grey masonry

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at around [REDACTED] per litre whereas the Tech-Dry and BASF-CC SECA sells for about [REDACTED] a litre.

Beside the SECA products there was also a non-silicon colour emulsion sold by Grace, called Darapel, that sold for about [REDACTED] per litre. 56

BASF-CC was unsure of the size of the admixture market for MCP but estimated the main suppliers by size as follows:

1. Sika;
2. Grace;
3. BASF; and
4. Tech-Dry

The major companies in the MCP market using admixtures are Adbri, Boral Limited (Boral) and Austral Bricks (Austral). Adbri Queensland is part of the Australian wide Adbri Masonry group.

BASF-CC believed that Tech-Dry's main customers for SECA were Boral, Austral and the Adbri companies apart from Adbri in Queensland. BASF-CC estimated that Boral used approximately [REDACTED] litres of the Tech-Dry product a month per plant and Austral perhaps [REDACTED] litres a year per plant. BASF-CC noted that the Tech-Dry SECA may be used in different concentrations to the BASF-CC product.

BASF-CC said some companies may prefer to use only one supplier for their range of admixture products and this may disadvantage Tech-Dry as BASF-CC believes that they may not have a water reducing product.

[REDACTED] [market information]

5.3 BASF-CC and SECA

BASF-CC said it is always looking for new markets for admixture and will seek input from their customers for the need for new products.

BASF-CC involvement with SECA started in early 2007 when [REDACTED] mentioned they were having problems with colour efflorescence.

BASF-CC initially trialled another BASF product called [REDACTED] with [REDACTED] but this did not work as well as expected so BASF-CC asked other BASF companies within the group if there were any other products available.

Following a response from BASF-CC USA for the Rheopel Plus product BASF-CC then trialled SECA with [REDACTED] using sample 20 litre pails from the USA.

These trials were successful and a quotation for supply was submitted to [REDACTED]. Supply of the SECA product to [REDACTED] did not commence until [REDACTED].

BASF-CC said that Tech-Dry and Grace also tendered to supply [REDACTED]. Tech-Dry and BASF-CC quoted on supplying a SECA product whilst Grace was quoting on Darapel, a non-silicon colour emulsion. BASF-CC believes that [REDACTED] had been using the Grace Darapel product prior to the request to quote.

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BASF-CC provided a copy of their price analysis it did for the [REDACTED] quotation that compares its quoted price with estimates of pricing for the Tech-Dry SECA product and the Grace Darapel product.

This price analysis is at **Confidential Attachment Sales 1.**

BASF-CC emphasised that it believed that Grace was the current supplier when [REDACTED] changed to BASF-CC and does not consider that [REDACTED] was a Tech-Dry customer that it gained.

We asked BASF-CC about the different mix rates that applied to the Tech-Dry, Rheopel and Darapel products. BASF-CC advised that mix rates were dependent on the concentration of the product and its intended use and type of masonry it was to be used in.

5.4 BASF-CC SECA customers

[REDACTED] is BASF-CC largest customer and has [REDACTED] [customer details]

BASF-CC advised that the original contract to supply SECA had been with [REDACTED] [customer details]

BASF-CC provided a copy of the contract to [REDACTED], this is at **Confidential Attachment Sales 2.**

BASF-CC said that they had approached [REDACTED] to see if they could supply SECA to [REDACTED] but had been advised that the current supply arrangements would stay in place until an expected tender to supply [REDACTED] was finalised.

[REDACTED] [customer details]

BASF-CC understands that Tech-Dry is supplying SECA to [REDACTED].

BASF-CC sold [REDACTED] [sales details]. This is at **Confidential Attachment Sales 3.**

[REDACTED] [sales details]

5.5 Distribution and selling system

BASF-CC said that the SECA was sold in three sizes, a 1040 litre IBC container, a 205 litre drum and a 20 litre pack.

The 20 litre pack sales were generally ex-works (from a BASF-CC sales office), to smaller customers or cash sales.

The larger sizes were sold to BASF-CC's [REDACTED] main customers free into store (FIS). Credit terms were end of the month following invoice date.

The FIS price consists of a base price for the SECA plus a freight component dependent on the location. BASF-CC explained the pricing was kept separate in this way to keep the price of fuel separate from the price of the product.

The SECA was delivered to the customer site and in most instances was pumped into tanks on the site.

BASF-CC explained that typically BASF-CC, Sika and Grace would supply equipment to customers [REDACTED]. This equipment usually consisted of a

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tank, 2,000-4,000 litres in size, a small electric pump and an electronic metre. The electronic metre was programmable and could be set to rate of admixture to be dispensed for concrete. 54

████████ [selling details]. If a customer changed suppliers the existing equipment could be sold to the new supplier. The pumps usually lasted ██████████ and were replaced ██████████ by the supplier of the admixture.

Where a customer did not use the bulk tanks then the IBC or drum may be used on site and hooked up to a metre and pump.

BASF-CC also provided free technical support services to customers, as did other companies, that included testing and advice on dosage rate.

Usually the customer would initiate an order by ringing a BASF-CC sales office, however if there was delivery scheduled for that customer's area then BASF-CC may contact other customers in that area to inquire if they needed stock.

BASF-CC said it works on a margin for pricing to customers of ██████████.

5.6 Stock holding and forward orders

BASF-CC provided a print out showing stock held of SECA as at 15 September 2009. This print out is at **Confidential Attachment Sales 4**.

████████ [stock, sales and import details]

The variance between imports and sales and stock was minor, noting that sales for the first two weeks of September 2009 were not included.

We are confident that we have total sales and imports figures of SECA by BASF-CC.

5.7 Sales volume and selling prices in Australia

BASF-CC had completed a sales spreadsheet detailing all sales on an individual invoice basis over the investigation period. The spreadsheet included customer details, volumes and prices.

████████ [sales details]

BASF-CC provided invoices, credit notes and recharges for all of the entries on the sales spreadsheet. These documents are at **Confidential Attachment Sales 5**.

5.8 Rebates or discounts

BASF-CC advised that there were no rebates and/ or discounts applicable for sales of SECA.

5.9 Sales verification

The invoices, credit notes and re-charges provided by BASF-CC at **Confidential Attachment Sales 5** matched the details on the sales spreadsheet.

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We selected three invoices and asked for proof of payment details.

BASF-CC provided details for the selected invoices. These details included credit notes and recharges, the remittance advice from the customer, electronic funds transfer (EFT) advice and the BASF-CC bank statement evidencing the EFT.

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The details in the documents matched the details on the sale spreadsheet, these documents are at **Confidential Attachment Sales 6**.

5.10 Verification to accounts

We viewed details of total sales of BAS-CC from their SAP system for 2008/09, sales totalled approximately [REDACTED]. BASF-CC also showed the total sales of Rheopel from SAP formed part of the total sales figure. We also matched the sales figure for [REDACTED] for April 2009 to the figure from SAP.

BASF-CC also provided spreadsheets demonstrating how the sales reports from SAP reconciled to the management accounts and profit and loss statements. There were minor variances due to sales classifications and some sales that were directly coded to the general ledger account without going through the sales module.

The complete reconciliation is available as an electronic attachment only. An extract from the reconciliation is at **Confidential Attachment Sales 7**.

5.11 Profitability of sales

5.11.1 Selling, general and administrative (SG&A) costs

BASF-CC provided a costing and purchasing documents from the SAP system detailing the EBIT contribution of Rheopel Plus sales to the divisional earnings.

Amounts included in the documents were sales, merchandised cost of sales, freight, selling costs and administration company costs. BASF-CC advised that the costs of the [REDACTED]. The documents are at **Confidential Attachment Sales 8**.

BASF-CC advised that they had calculated a SG&A cost of [REDACTED] for the sales. BASF-CC said that this figure comprised selling costs of [REDACTED] and administration costs of [REDACTED].

Details of the calculation of SG&A costs are included in the reconciliation extract at **Confidential Attachment Sales 7**.

We consider that the SG&A figure represents a reasonable cost for the SG&A costs associated with the sales of Rheopel Plus.

5.11.2 Profitability

We calculated profitability for the [REDACTED] shipments over the investigation period.

We used the average sales price of [REDACTED] per litre over the investigation period in the calculation for each shipment.

All shipments and sales over the period were profitable. We calculated an average profitability on sales of the goods of [REDACTED].

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Profitability calculations are included in **Confidential Appendix 1**.

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6 ARMS LENGTH

We did not find any evidence that:

- there is any consideration payable to BASF-CC USA in respect of the goods other than price; or
- BASF-CC will, directly or indirectly, be reimbursed, be compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

We note [REDACTED] [pricing policies] need to be examined further during the visit to BASF-CC USA.

Therefore, subject to further investigation regarding whether the price is influenced by a commercial or other relationship between BASF-CC and BASF-CC USA, for the purposes of this report at this stage, we consider that the transactions are at arms length

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7 INJURY AND CAUSAL LINK

BASF-CC did not consider that they had caused injury to Tech-Dry.

BASF-CC pointed out that their largest single customer, [REDACTED], had been using a non-SECA product Darapel, produced by Grace and thus was not a lost sale or lost customer of Tech-Dry.

BASF-CC said that it was actively seeking customers for its Rheopel Plus product and had approached [REDACTED].

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8 GENERAL COMMENTS

██████████ [strategy regarding SECA]

BASF said that it had been approached by Techlink International seeking to distribute Rheopel Plus.

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9 RECOMMENDATIONS

From our investigation, we consider that:

- the goods have been exported to Australia other than by the importer; and
- the purchase of the goods by the importer from the exporter was an arms length transaction.

On the available information, and subject to further inquiries, we would consider it appropriate that the export prices for SECA imported by BASF-CC be determined under s.269TAB(1)(a) being the price paid for the goods by the importer other than any part of that price that represents a charge in respect of the transportation of the goods after exportation.

Mick Kenna
A/g Director Ops3
Customs and Border Protection

Rod Jones
Supervisor Ops3
Customs and Border Protection

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10 ATTACHMENTS AND APPENDICES

Appendices

Confidential Appendix – 1 Import costs, FOB prices and profitability. 47

Attachments

Non-confidential Attachment G-1	Other admixture products
Confidential Attachment PROD-1	Technical data sheets BASF admixtures
Confidential Attachment PROD-2	██████████
Confidential Attachment IMP-1	Import documents
Confidential Attachment Sales-1	Price comparison
Confidential Attachment Sales-2	██████████ contract
Confidential Attachment Sales-3	██████████
Confidential Attachment Sales-4	Stock holdings
Confidential Attachment Sales-5	Sales invoices, credit notes and recharges
Confidential Attachment Sales-6	Proof of payment selected sales
Confidential Attachment Sales-7	Reconciliation to management accounts
Confidential Attachment Sales-8	Rheopel Plus costing document

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BASF CONSTRUCTION CHEMICALS AUSTRALIA PTY LTD IMPORTER VISIT REPORT

Non-confidential Attachment G-1 Other admixture products

Brief Descriptions of a Selection of Admixtures Available in Australia From Various Manufacturers or Suppliers Specifically Intended For Manufactured Concrete Which Provide Waterproofing, Efflorescence Control or a Combination Thereof.

SIKA AUSTRALIA

Data Sheet Extract

SikaPaver WP

Hydrophobic efflorescence control admixture

Description: SikaPaver WP is a specially designed admixture to improve the quality and appearance of finished concrete pavers and other machine processed concrete products. Formulated with unique chemistry of polymeric silicone compounds and efflorescence reducing chemicals.

Dose rate: 200 – 2000ml per 100kg cementitious material.

Material Safety Data Sheet Extract

1. Identification of the substance/preparation and company

Product name SikaPaver WP

Manufacturer/supplier information

Manufacturer/supplier:	Sika Australia Pty Ltd
Street/postbox:	55 Elizabeth Street
Town/City and Post Code:	WETHERILL PARK N.S.W.
Country:	AUSTRALIA

2. Composition/information on ingredients

Chemical characterization
Water thinnable siloxane

W R GRACE

Data Sheet extracts. No MSDS's available.

Darapel®

Integral Water Repellent Admixture for Concrete

Description

Darapel® admixture is a stable dispersion of stearate and other water repellent compounds that is added into ready mixed concrete during mixing.

Where it is Used

Darapel forms an internal barrier against water transmission in mixes used for ready mixed or precast concrete.

Benefits and Advantages

The addition of Darapel will reduce the amount of water that permeates through the concrete.

Reducing the passage of water will provide beneficial advantages by:

- Increasing resistance to weathering - wetting and drying - freezing and thawing
- Increase resistance to chemical attack
- Reduce the potential for efflorescence

Dose Rate: 190 – 390ml per 100kg cementitious material.

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OPTEC® EC-180C

Description

OPTEC® EC-180C admixture helps control primary efflorescence by reacting with alkaline salts before water can solubilise them. It is formulated as a ready-to-use admixture to enhance the quality and appearance of masonry units. OPTEC EC-180C can help in maintaining the colour intensity of decorative masonry units, and pavers.

Product Uses

OPTEC EC-180C admixture has been especially designed for the production of concrete blocks and pavers. However, it can also be used in other manufactured low or zero slump machined concrete products such as segmental retaining wall units.

Advantages

- Manages Primary Efflorescence
- Maintains Colour
- Superior Surface Finish

Dose rate: 195 – 650ml per 100kg cementitious material.

OPTEC® EC-250

Multi-Use Efflorescence Control Admixtures

Description

OPTEC® EC-250 is an innovative admixture developed by Grace Construction Products. OPTEC EC-250 was developed to enhance the quality and appearance of concrete pavers and other low slump concrete products. OPTEC EC-250 provides excellent mix plasticity and machinability. OPTEC EC-250 can enhance colour dispersion and help minimize efflorescence.

Dose rate: 400 – 800ml per 100kg cementitious material.

CEMENTAID

Data Sheet extracts. No MSDS's available

Cementaid Efflor-X

Efflorescence Control Admixture for Cement Based Pavers, Blocks & Mortar Beds

Permanent protection against unsightly efflorescence emanating from cement based pavers, tiles and blocks, and from mortar or tile beds.

Dose rate: 1 – 2.5 litres per 40kg cement (2500 – 5000ml per 100kg cementitious material).

ABILITY BUILDING CHEMICALS

Data Sheet extracts. No MSDS's available

Efflorein® Mark 2

Efflorein® Mark 2 is a ready-to-use, high-solids, easily dispersible, flowable off-white powder admixture for cement-bound materials. It has been specifically developed to control the occurrence of efflorescence and the problems associated with salt bloom in Portland cement concrete, mortar and grout products, while also helping to improve a range of other concrete performance characteristics in both the plastic and hardened states.

Dose rate: 1 – 1.5% (\pm 0.5%) by weight of total cementitious material.

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THOMSON WHITE AUST P/L

Data Sheet extracts. No MSDS's available

AFTEK

Waterproofer No 2

Economical water resisting admixture for concrete and masonry

DESCRIPTION

Integral water resisting admixture for concrete and masonry, above or below ground. Recommended for use where coloured mortar or integral floor colours are used.

Dose rate: 1 Litre per 40kg cement (2500ml per 100kg cementitious material).

AFTEK

No. 2 Paste

Water resisting admixture for concrete and masonry

DESCRIPTION

Integral water resisting admixture for concrete and masonry, above or below ground. Recommended for use where coloured mortar or integral floor colours are used.

Dose rate: 1 Litre per 40kg cement (2500ml per 100kg cementitious material).

BASF CONSTRUCTION CHEMICALS AUSTRALIA PTY LTD

Data Sheet Extract

Rheomix 790

Integral or surface waterproofer for wet or dry cast concrete

DESCRIPTION

Rheomix 790 is a highly penetrative, low viscosity emulsion for surface application to concrete, masonry and block work surfaces, or for use as a high performance integral waterproofer for wet or dry cast concrete. On curing it provides a waterproof surface/product with minimum effect on the original appearance and texture.

FEATURES AND BENEFITS

- Preserves original appearance
- Stops or reduces efflorescence
- Reduced water permeability
- Improves colour retention

Dose rate: Addition rate will depend on the type of product, mix and degree of waterproofing required. A typical addition rate would be in the range 0.5% to 2.0% by weight of cement. Users should carry out trials with their mix to achieve the optimum dosage.

Material Safety Data Sheet Extract

3. COMPOSITION / INFORMATION ON INGREDIENTS

INGREDIENTS

Chemical Name	CAS Number	Proportion
Octyltriethoxysilane	2943-75-1	10 -< 30%

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