



Australian Government
Australian Customs and
Border Protection Service

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

DISTRIBUTOR REPORT

TECH-LINK INTERNATIONAL

October 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 Tech-Link International (Tech-Link) as the exclusive distributor of Tech-Dry's SECA products.

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 purchases and sales of SECA to assist in the analysis of the claimed injury to the Australian industry;
- confirm that Tech-Link is the exclusive distributor of Tech Dry's SECA products;
- establish whether the purchases were arms length transactions;
- establish costs incurred in selling;
- 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 Tech-Link, the details of that meeting are summarised in the table below.

COMPANY	Tech-Link International
ABN	30 183 360 551
ADDRESS	76 Upper Maud Street Ulverstone TAS 7315
TEL NO	(03) 6425 1941
FAX NO	(03) 64251936
DATE	22-23 October 2009
PRESENT	
Company	Craig Harrison, Manager

Customs and Border Protection

Rod Jones, A/g Manager Operations 1
Nathan Boss, Supervisor Operations 1

1.3.1 Investigation process

This was Tech-Link's first involvement in a dumping investigation.

Tech-Link 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 Tech-Link 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 Tech-Link 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 Tech-Link 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 Tech-Link 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 Tech-Link 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 Tech-Link, whereby a public record of relevant information pertaining to the investigation was maintained for all interested parties to access.

We informed Tech-Link 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.

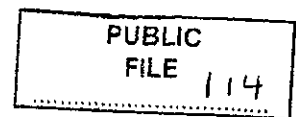
We explained to Tech-Link a confidential draft report would be prepared following the visit and that Tech-Link would be provided with a copy to review its factual accuracy and to identify those parts of the report it considered confidential. Following consultation about confidentiality, a version of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

We also advised Tech-Link 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.

We provided Tech-Link with a non-confidential copy of the Australian Industry Visit Report to illustrate the content and form of reports placed on the public record.

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1.3.3 Cooperation and verified information

Prior to the visit, we requested that Tech-Link provide us with information relating to costs incurred in the purchase and sale of SECA products and a monthly breakdown of the company's domestic and export sales of SECA.

Tech-Link supplied the requested information for the 2007/08 and 2008/09 financial years.

We advised Tech-Link 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 Tech-Link that the information collected and verified from them may be used in analysing the claimed injury to the Australian industry. We explained the concepts of the non-injurious price (NIP) and the unsuppressed selling price (USP) and their affect on any anti-dumping measures.

Tech-Link 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 Clarification of the goods and like goods**

The goods the subject of the application (the goods) are silicone 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.

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.

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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.

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

Tech-Link agreed that the SECA product it distributes, Tech-Dry Block Emulsion, and the products imported by BASF Construction Chemicals Australia Pty Ltd (BASF-CC) under the brand name "Rheopel Plus" are like goods.

Tech-Link advised that it also supplies Tech-Dry Mortar Additive to manufacturers within the concrete masonry industry. Tech-Link stated that this product was designed to be used in conjunction with Tech-Dry Block Emulsion. Tech-Link noted that whilst the product is a silicone based product, it could not be used as a substitute for Tech-Dry Block Emulsion, due to the lower level of active ingredient in the product.

Tech-Link also stated that there were no other products that were substitutable for the SECA products. It said that products such as SikaPaver, Daracel and other fatty acid based products are biodegradable, and as such will break down and wash away over time, as opposed to SECA, which is not biodegradable. Tech-Link also claimed that these fatty acid based products are not as effective in preventing the presence of efflorescence in the finished product.

Tech-Link indicated that the main differences between Tech-Dry's Block Emulsion and BASF's Rheopel Plus sold on the Australian market were:

- the percentage of active ingredient used in the respective products (BASF ■■■%, Tech-Dry ■■■%);
- the price of the products on the domestic market; and
- the dosage rates advised by the respective suppliers.

Tech-Dry recommend that one litre of Block Emulsion be added to every 1,000 kg of mixed cement, whilst BASF instruct their customers that only 300mL be added. A copy of Tech-Dry's mixing instructions can be found at **Non-confidential Attachment G-1**.

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3 COMPANY DETAILS**3.1 Commercial operations**

Tech-Link provided the following information on the company.

Tech-Link has been operating within Australia for approximately 20 years, as a partnership between Grant Carter and Paul Capel.

The partnership was originally known as Tasco Bricks, Blocks and Pavers (Tasco), operating out of Burnie, Tasmania.

In August 2008 Tasco sold the manufacturing arm of its operations and commenced trading as Tech-Link International from September 2008.

Tech-Link International was registered on 13 August 2008.

Sales of the Tech-Dry SECA products and mortar additive comprise 100% of Tech-Links business.

3.2 Accounting

Tech-Link's income tax year is from 1 July to 30 June. The company uses MYOB accounting software.

The accounts are not audited.

3.3 Relationship with applicant

Tech-Link advised that they act as a distributor and marketing agent for Tech-Dry's SECA products.

Initially the relationship with Tech-Dry was informal in nature, with Tech-Dry involved in producing the chemical design for the SECA products and Tech-Link carrying out the field testing on the products. Tech-Link advised that the two parties entered into a formal agreement in the mid 1990's whereby Tech-Dry owned the SECA formula and Tech-Link were given the distribution rights.

Tech-Link stated that there are no ownership ties between Tech-Dry and itself.

3.4 Relationships with customers

Tech-Link sold the goods to [REDACTED] customers in the domestic market during the investigation period.

Tech-Link advised that it has [REDACTED] major customers [REDACTED], [REDACTED] and [REDACTED] who accounted for approximately [REDACTED]% of its domestic sales during the investigation period.

Up until 1 September 2008 Tech-Link, under the name of Tasco, bought Tech-Dry's Block Emulsion for its own use in the manufacturing section of the business. The new owners of Tasco continue to purchase Tech-Dry's SECA products.

Tech-Link also sells the goods to manufacturers in [REDACTED] and [REDACTED].

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Tech-Link stated that it has developed a long standing business relationship with its customers, which has generated a large amount of goodwill for the company.

Tech-Link said that there is no relationship between itself and its customers other than that of buyer and seller.

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4 SECA MARKET**4.1 Australian Market for admixtures and SECA**

Tech-Link gave the following views on SECA and the market for SECA.

There are three main manufacturers in the concrete masonry industry:

- Adbri;
- Boral; and
- Austral Masonry (Austral).

Austral were traditionally clay brick manufacturers, but within the last year have broadened its operations into the concrete masonry industry.

[REDACTED] [market information]

SECA products have two main purposes:

- 1) Ensure the concrete block is water repellent; and
- 2) Prevent efflorescence.

Efflorescence is the leaching of salts, within the mortar blocks, to the surface of the blocks, this leaching causes white spots to appear on the surface.

On grey blocks the efflorescence may not be as noticeable or matter as much as on a coloured block.

The use of SECA is, therefore, especially prevalent in coloured masonry, as SECA assists in colour retention.

Major customers [REDACTED] [customer information] will use SECA on their coloured blocks and promote that the blocks are water resistant and are protected against the effects of efflorescence.

Whilst Tech-Dry is not tailored to the high end of the market, it is generally used in the manufacturer's higher priced product range rather than ordinary grey blocks.

The use of the product in grey block production is dependant upon the situation and market demand for the finished product.

There are fatty acid based products available that are used for the same purpose however these are animal based products that will break down over time whereas SECA will not. The SECA product will bind the salts in the block to stop them leaching out.

The company stated that the global financial crisis has probably shrunk the market for SECA products as a flow on effect from the downturn in the building industry. Tech-Link have not, however, suffered any significant loss in sales, as it has managed to retain the business of the larger manufacturers.

4.2 Tech-Link and SECA

Tech-Link said its involvement with SECA commenced in the early 1990s as Tasco when it was a manufacturer of concrete and masonry blocks.

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As Tasco it commenced an informal partnership with Tech-Dry to find solutions to the problem of efflorescence in the blocks. Tasco operated as a field testing agent for the Tech-Dry products, testing the solutions in its manufacturing plant and leaving finished blocks out to weather and recording the results.

A formal agreement was entered into in the mid 1990s after Tech-Dry had developed the Block Emulsion SECA product. Tasco continued to use and test the Tech-Dry SECA products in its plants and also acted as a distributor of the Tech-Dry SECA products in Australia and overseas.

There is no contract in place between Tech-Link and Tech-Dry for pricing. Prices fluctuate according to the price of silane, which is imported from overseas.

Tech Dry generally offer Tech-Link the best price available based on the cost to produce the product. Tech-Link noted that in most instances where it had to reduce the price to its customers Tech-Dry agreed to a reduction in price to Tech-Link.

Tech-Link is based in Tasmania, the two partners have relocated to Queensland and there are plans to relocate the Tasmanian office to Queensland.

4.3 Tech-Link customers

Tech-Link said that it promotes its products in the markets through direct approaches to large manufacturers, displays at shows, and through word of mouth.

Tech-Link advised that their largest customers are [REDACTED].

Sales to [REDACTED] totalled \$[REDACTED] during the investigation period.

Tech-Link sells to [REDACTED] [customer and sales information].

Tech-Link stated that it [REDACTED] [customer and sales strategy].

Tech-Link does not have preferred supplier status in relation to any of its customers; each plant determines its supplies independently.

4.4 Distribution and selling system

Tech-Link stated that it acts as the sales office for Tech-Dry. It receives orders from customers, which it passes on to Tech-Dry.

Tech-Link raises a sales invoice for the customer and is invoiced from Tech-Dry in relation to the products supplied.

Upon receiving an order from Tech-Link, Tech-Dry will send the SECA products directly to the customer. Tech-Dry arranges all the delivery on the domestic market.

Tech-Link does not physically handle any of the SECA and does not store or hold any stock of SECA.

Tech-Link advised that all domestic sales are quoted at a free into store price with credit terms of [REDACTED].

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Generally Tech-Dry will pay the cost of the freight to the customer. Tech-Link advised that in some instances the cost of the freight will be shared equally between Tech-Dry and Tech-Link. In these cases, such as a one off delivery to a new customer or where the freight cost is large, then the invoice from Tech-Dry to Tech-Link will also include an amount for freight that is shown separate to the price for the SECA.

Tech-Link said that SECA was sold in 200 litre and 1,000 litre drums. Pumps are also supplied free of charge to certain customers with the cost of the pumps being shared between Tech-Dry and Tech-Link.

Tech-Link offers technical support for the SECA product. This mainly consists of telephone support where a customer has a query or problem. Tech-Link advised it may also visit customers on site where required.

4.5 Export sales

Tech-Link exported Tech-Dry Block Emulsion to [REDACTED] during the investigation period.

Tech-Link said it had made informal attempts to break into the [REDACTED] market and has sent samples of the Tech-Dry SECA to [REDACTED] manufacturers. Tech-Link noted that sales into the [REDACTED] were difficult to obtain due to issues relating to climate and the state of the [REDACTED] economy.

The export sales process is similar to that for domestic sales.

Tech-Link will receive an order from an overseas customer and inform Tech-Dry. Tech-Link will invoice the overseas customer and Tech-Dry will issue an invoice to Tech-Link.

Sales to [REDACTED] are on an ex-factory basis with the customer arranging and paying for all delivery and clearance from the Tech-Dry factory. The SECA is sold and shipped to [REDACTED].

Sales to [REDACTED] are on a cost and freight basis. Tech-Link will arrange and pay for transport from the Tech-Dry factory, Australian port clearance and ocean freight to [REDACTED]. The SECA is sold and shipped to [REDACTED].

Payment terms for sales to [REDACTED] and [REDACTED] are [REDACTED].

4.6 Sales volume and selling prices

Tech-Link provided a monthly summary of its sales of SECA by volume and value for the 2007/08 and 2008/09 financial years. This summary is at **Confidential Attachment S-1**.

We calculated annual sales of SECA by Tech-Link as shown in the following table.

Year	Market	Volume (L)	Value (\$A)	\$ / litre
2007/08	Australian	[REDACTED]	[REDACTED]	[REDACTED]
	Export	[REDACTED]	[REDACTED]	[REDACTED]
Total 2007/08		[REDACTED]	[REDACTED]	[REDACTED]
2008/09	Australian	[REDACTED]	[REDACTED]	[REDACTED]
	Export	[REDACTED]	[REDACTED]	[REDACTED]

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Total 2008/09									
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The sales figures above are for the SECA block emulsion product, sales of the mortar additive are not included. Mortar additive was sold only in Australia and in low volumes. The mortar additive sales totalled \$[REDACTED] in 2007/08 and \$[REDACTED] in 2008/09.

Tech-Link advised that the concentration of silane in the Block Emulsion product was [REDACTED]% for product sold in Australia and to [REDACTED], whilst the concentration of silane in the product sold to [REDACTED] was [REDACTED]%.

Tech-Link did not know the concentration of silane in the mortar additive.

Note that the volume in the above table reflects adjustments made as noted further in this report. Unit prices for export SECA and for total sales also reflect values at [REDACTED]% concentration.

4.7 Rebates or discounts

Tech-Link advised that there were no rebates or discounts offered for the supply of the SECA products. Tech-Link stated that it previously provided rebates in certain circumstances, but this system was phased out around five years ago.

4.8 Sales verification

Prior to the visit Tech-Link provided three printed sales reports for the 2008/09 year from its MYOB system. The reports are not available in an excel format.

The first report details sales of SECA to Tech-Link's [REDACTED] major customers – [REDACTED] – and is at **Confidential Attachment S-2**.

The second report details sales of SECA to all customers and is at **Confidential Attachment S-3**.

The third report summarises sales on a monthly basis to customers and is at **Confidential Attachment S-4**.

Tech-Link identified the export customers on the sales listings.

The monthly sales volumes and values at **S-4** matched to the monthly values on the summary sheet at **S-1**. The yearly volumes and values at **S-3** matched the yearly values on the summary sheet at **S-1**.

We selected eight invoices from the listing at **S-3** for verification. The invoices included export and domestic customers, covered the range of the investigation period and were also selected for variances in prices.

Tech-Link provided copies of documentation for the selected sales, the documentation included:

- Customer order to Tech-Link;
- Tech-Link order to Tech-Dry;
- Tech-Link invoice to the customer;
- Proof of payment to Tech-Link;
- Tech-Dry invoice to Tech-Link;

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- Proof of payment to Tech-Dry; and
- Freight and other costs for the export sale to [REDACTED].

These documents are at **Confidential Attachment S-5**.

The details on the invoices matched the details on the listing at **S-3**.

Payment by Tech-Link customers was generally within the stated terms and mainly by internet transfer.

We noted for invoice No [REDACTED] that the unit value was very low at \$[REDACTED] per litre. Tech-Link explained that the invoice was issued to correct an undercharge on a previous invoice [REDACTED]. We discussed the issue further with Tech-Link as invoice [REDACTED] also had the quantity of [REDACTED] litres that was on invoice [REDACTED], meaning that the quantity had been invoiced twice. Tech-Link agreed that the quantity on the listing and summary would have been overstated by the [REDACTED] litres.

We asked Tech-Link for details on the freight charged to customers. Tech-Link advised that freight, where charged, was shown as a separate item to the SECA.

Tech-Link provided a listing of freight charges for the investigation period, from which we selected invoices from the listing for verification. The invoices included an export invoice to [REDACTED]. The details on the invoices matched the details on the listing. Documents regarding the freight charges are at **Confidential Attachment C-2**.

4.9 Cost verification

We asked Tech-Link for details of purchase volumes from Tech-Dry for the 2008/09 year.

Tech-Link provided a listing of purchases of SECA from Tech-Dry over the year (**Confidential Attachment C-1**). We matched Tech-Dry invoices provided with **S-5** to those in the listing.

We noted a discrepancy of [REDACTED] litres in the volumes purchased from Tech-Dry to the volumes sold by Tech-Link. The discrepancy was explained as being an overstatement of Tech-Link volumes by the [REDACTED] litres noted above to [REDACTED], and purchases from Tech-Dry for the [REDACTED]% concentrate showing as the equivalent [REDACTED]% amount in litres. The purchase of [REDACTED] litres of [REDACTED]% concentrate appears as [REDACTED] litres on the purchase listing, whilst the matching sale by Tech-Link is of [REDACTED] litres. There was also [REDACTED] litres of SECA provided free of charge to an exporter by Tech-Link that did not show on the purchase register.

After the above was taken into account purchase volumes from Tech-Dry matched the sales volumes by Tech-Link.

We adjusted the sales quantity for the [REDACTED] litre overstatement on the SECA sales summary at **S-1**. We also calculated unit values based on SECA with a concentration of [REDACTED]% taking into account the export sales of [REDACTED]%. The table at section 4.6 above reflects these calculations and adjustments. The adjusted sales summary **S-1** is at **Confidential Attachment S-6**.

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Payment from Tech-Link to Tech-Dry was generally within the stated terms of [REDACTED] and was by credit card via the internet. Tech-Link explained that the internet payments were made in [REDACTED]. Tech-Link also said that Tech-Dry would separately charge Tech-Link for the [REDACTED].

4.10 Verification to accounts

Tech-Link's accounts are not audited. Tech-Link prepares profit and loss statements from the MYOB system. Financial reports and tax returns for the business are prepared by a chartered accountant using the information provided by Tech-Link.

The profit and loss statement, financial reports and tax returns were available for the 2007/08 financial year. Copies of these documents are at **Confidential Attachment R-1**.

The chartered accountant notes in the compilation report for the financial reports that "our procedures do not include verification or validation procedures. No audit or review has been preformed and accordingly no assurance is expressed".

The financial reports and tax returns were not available for the 2008/09 year however we obtained copies of the quarterly Business Activity Statements (BAS) for that period. Copies of these documents are at **Confidential Attachment R-2**.

The accountant advised us that the BAS statements were prepared solely on the information provided by Tech-Link and that there was no checking procedure done on the information submitted.

Bearing in mind the qualifications in regards to the above reports we reconciled the figures to the profit and loss reports, financial reports, tax returns and BAS statements where applicable.

Details of our reconciliations are noted on the statements and reports and a summary of the reconciliations is at **Confidential Attachment R-3**.

We noted minor variances in our reconciliation but were satisfied that the profit and loss statements reflected the amounts stated in the summary.

4.11 Profitability of sales

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

We calculated domestic SG&A costs for the 2008/09 year using the Profit and Loss statements at **R-2**.

The 2008/09 statement included revenue and expenses relating to the Tasco business, including sales of blocks and pavers and the sale of the Tasco business in August 2008.

Tech-Link provided profit and loss statements for the periods July to August 2008 and September 2008 to June 2009. These statements reconcile to the profit and loss for the 2008/09 year and are included in the attachments at **R-2**.

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We used the profit and loss statement for the period September 2008 to June 2009 as this period related only to sales of SECA.

We excluded costs related to export sales such as international travel and freight. We were provided with a separate listing for freight which was not included in the SG&A calculation.

SG&A costs included wages, electricity, vehicle costs and the other expenses listed at R-2. After calculating an SG&A amount we apportioned the SG&A costs based on the proportion of domestic sales transactions to export sales transactions for the period September 2008 to June 2009.

We calculated an SG&A amount for domestic sales of SECA of [REDACTED] %.

Calculations for the SG&A are at **Confidential appendix 1**

4.11.2 Profitability

We calculated profitability for the period September 2008 to June 2009.

We calculated costs using the purchase cost of SECA for that period, less export purchases, the cost of domestic freight for that period and an SG&A cost as a percentage of domestic sales for that period.

We calculated profitability for domestic sales of SECA of [REDACTED] %.

Calculations of profitability are at **Confidential appendix 1**

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5 ARMS LENGTH

We did not find any evidence that:

- There is any consideration payable to Tech-Dry in respect of the goods other than price; or
- Tech-Link will, directly or indirectly, be reimbursed, compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

Therefore, we consider that the transactions between Tech-Link and Tech-Dry are at arms length.

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6 GENERAL COMMENTS**6.1 Customers lost to BASF-CC**

Tech-Link advised that they had lost three customers to BASF-CC since BASF-CC entered the Australian market. These customers were:

- [REDACTED]
- [REDACTED]
- [REDACTED]

Tech-Link said that they had sold to SECA to the three companies in 2007/08 and that their last sale had had been to [REDACTED] in [REDACTED] 2008. The sales to the companies had dropped off in volume and then stopped. Tech-Link found out after the sales had ceased that the companies had changed to the BASF SECA product.

Tech-Link provided copies of invoices to the above customers, which form **Confidential Attachment I-1**.

Tech-Link stated that the main reason that it had not yet lost a substantial portion of its customers was due to the goodwill generated in past business dealings and the concerns of customers that prices would increase if BASF-CC were to obtain a monopolistic position in the market.

Tech-Link further stated that if it lost one of its main customers to BASF-CC, [REDACTED], it would mean that it and most likely Tech-Dry would not be able to survive.

Tech-Link said it has been using and selling SECA for over ten years. The manufacturers it sells SECA to know there is a cheaper alternative available and cannot continue to ignore the difference in price between the two.

6.2 Price undercutting by BASF-CC

Tech-Link claimed that the price being offered by BASF-CC to its Australian customers significantly undercuts its prices.

Tech-Link provided copies of an email that BASF-CC sent to [REDACTED] as an example of the prices quoted by BASF-CC. This email is at **Confidential Attachment I-2**.

The price quoted in the email is for the BASF-CC Rheopel Plus SECA product at \$[REDACTED] per litre.

The sales records at **S-3** show that Tech-Link sold the Tech-Dry SECA product to [REDACTED] during the investigation period at \$[REDACTED] per litre.

Tech-Link provided a copy of a comparison done by the [REDACTED] site manager between the cost of the BASF-CC SECA product and the cost of the Tech-Dry SECA product.

The comparison is done on the cost of a mix for [REDACTED]. The workings show the cost of the Tech-Dry SECA works out at \$[REDACTED] whilst the cost of the BASF-CC SECA works out at \$[REDACTED].

Tech-Link said that the BASF-CC SECA product was quoted at a price of \$■ per litre whilst the Tech-Dry SECA product was quoted at \$■ per litre.

The pricing is exclusive of GST and the price of the Tech-Dry SECA product is shown to ■ as \$■ per litre in the sales listing at S-3.

A copy of the workings relating to the above comparison is at **Confidential Attachment I-3**.

Tech-Link stated that it was forced to decrease its price to ■ by \$■ per litre, from \$■ per litre to \$■ per litre, in ■ 2009 to retain the ■ business. Tech-Link provided a copy of the email it sent to ■ advising of the new price, this email is at **Confidential Attachment I-4**.

We note that the sales information provided by Tech-Link shows the reduction in pricing to ■ in ■ 2009.

Tech-Link advised that they had also entered into a verbal agreement with ■ to reduce the price of SECA to their plants.

Tech-Link also said that not only was the BASF-CC SECA product being quoted and sold at a cheaper price, it had a stronger concentration, with ■% active ingredient, than the Tech-Dry SECA product that has ■% active ingredient. This meant that less of the BASF-CC SECA product was required for use.

6.3 Non-injurious price and unsuppressed selling price

We explained the non-injurious price (NIP) and the unsuppressed selling price (USP) to Tech-Link and their use in the anti-dumping system.

USP and NIP issues are examined at an early stage of an investigation and, where possible and appropriate, preliminary examinations are made during the application consideration period for the purpose of assessing injury and causal link and therefore the appearance of reasonable grounds for the publication of a dumping duty notice under subsection 269TC(1)(c).

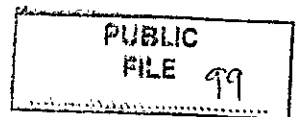
Customs and Border Protection generally derives the NIP by first establishing a price at which the applicant might reasonably sell its product in a market unaffected by dumping. This price is referred to as the USP.

Customs and Border Protection's preferred approach to establishing USPs observes the following hierarchy:

- industry selling prices at a time unaffected by dumping;
- constructed industry prices – industry cost to make and sell plus profit;
- or
- selling prices of un-dumped imports.

Having calculated the USP, Customs and Border Protection then calculates a NIP by deducting the costs incurred in getting the goods from the export FOB point (or another point if appropriate) to the relevant level of trade in Australia. The deductions normally include overseas freight, insurance, into-store costs and amounts for importer expenses and profit.

PUBLIC RECORD



We asked Tech-Link whether it had comments to make in regards to the USP and the NIP. Tech-Link did not offer any comments at this stage.

PUBLIC RECORD

PUBLIC RECORD

PUBLIC
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7 RECOMMENDATIONS

From our investigation, we consider that the sales and costs of Tech-Link are suitable to use in the assessment of the Australian market for SECA.

Rod Jones

A/g Manager Ops 1

Customs and Border Protection

Nathan Boss

Supervisor Ops 1

Customs and Border Protection

PUBLIC RECORD

8 ATTACHMENTS AND APPENDICES**Appendices****Confidential Appendix – 1**

SG&A costs, profitability calculations

Attachments**Non-confidential Attachment G-1**

Tech-Dry mixing instructions

Confidential Attachment S-1

Sales summary (Tech-Link version)

Confidential Attachment S-2

Detailed sales to major customers

Confidential Attachment S-3

Detailed sales to all customers

Confidential Attachment S-4

Monthly sales on a customer basis

Confidential Attachment S-5

Sales invoices

Confidential Attachment S-6Sales summary (with adjustments
from Customs)**Confidential Attachment C-1**

Detailed purchases from Tech-Dry

Confidential Attachment C-2

Costs of freight

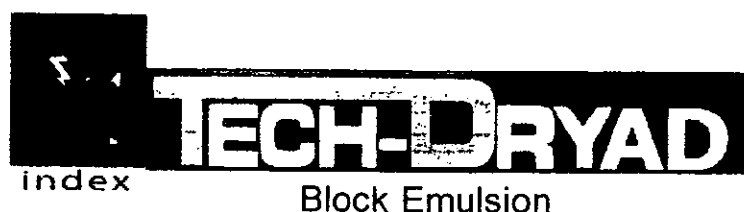
Confidential Attachment R-1Profit and loss statements, financial
reports and tax return 2007/08**Confidential Attachment R-2**Profit and loss statements, quarterly
Business Activity Statements
2008/09**Confidential Attachment R-3**Reconciliation of financial
information**Confidential Attachment I-1**

Lost customer invoices ■

Confidential Attachment I-2

BASF price quote

Confidential Attachment I-3Relative costs of BASF product and
Tech-Dry**Confidential Attachment I-4**Email from Tech-Link to ■ advising
of reduced price

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NON-CONFIDENTIAL G-1PUBLIC
FILE 96

Mixing Instructions for Tech-Dry Block Emulsion

Ratio

Add **one** Litre of Tech-Dry Emulsion to every 1000kg of mixed cement and aggregate eg: *if the wet weight* of your mix is 1700kg you will need to add 1.7 litres of Block Emulsion.

Mixing

* Tech-Dry Emulsion must be shaken or stirred well before use and at regular intervals throughout the production day.

* In a clean 20lt. container pour in the required amount of Block Emulsion as per the ratio above, then add water to the container at a ratio of approximately 10 to 1 and stir or shake. This is called the pre-mix (this helps the Block Emulsion mix quicker with your other ingredients). Tech-Dry Block Emulsion can be injected into the water line as the water enters the mixer.

* After adding your aggregate to the mixer, while it is rotating add the pre-mix and allow it to mix for about 30 seconds. Now add the appropriate cement, oxides and additional water.

Notes

It is **not** necessary to add a plasticiser to the mix.

Do not use high pressure Auto Claving when drying Tech-Dry products.

For more information see manufacturing notes.