Australian Government
Australian Customs and
Border Protection Service

R E P O R T

INVESTIGATION INTO THE ALLEGED DUMPING OF

SILCONE EMULSION CONCRETE ADMIXTURES

EXPORTED TO AUSTRALIA FROM THE UNITED STATES OF AMERICA

EXPORTER VISIT REPORT

BASF Construction Chemicals LLC

December 2009

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

TABLE OF CONTENTS

37

ABBREVIATIONS

36

The Act	*Customs Act 1901*
BASF	BASF Construction Chemicals LLC
BASF Australia	BASF Construction Chemicals Australia
CTM	Cost to Make
CTMS	Cost To Make & Sell
Customs and Border Protection	Australian Customs and Border Protection Service
FAS	Free Alongside Ship
CIF	Cost, Insurance and Freight
the goods	the goods the subject of the application
the Minister	the Minister for Home Affairs

1 BACKGROUND

35

1.1 Introduction

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 Act[1]).

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, the sole manufacturer of SECA in Australia, 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 LLC (BASF) as the sole exporter of the goods with a product called Rheopel Plus. As a result, BASF was forwarded, and completed, an exporter questionnaire. Customs and Border Protection assessed this questionnaire and determined that it warranted verification.

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 contained in the exporter questionnaire;
- determine the normal value of SECA and the export price;
- determine the dumping margin, if any; and
- give the company an opportunity to raise any issues or questions.

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

1.3 Meeting

DATES:	8-10 December 2009
ADDRESS:	23700 Chagrin Boulevard Beachwood, OH 44122
ATTENDEES:	**BASF Construction Chemicals LCC** John Pendergast – Senior Counsel, BASF Corporation Kenneth Kruse – Industry Manager, Admixture Systems Keith Wade – Manager, Strategic Planning and Services, Admixture Systems Keith Kocar – Financial Analyst Jerrold Kowtun – Assistant Controller Verne Manross – Cost Manager Robert Lemmo – Controller Donald Kehr – Vice President of Finance **Customs and Border Protection** Joanne Reid, Case Manager Lydia Cooke, Supervisor

BASF was cooperative and provided additional information when requested.

At commencement of the meeting we explained the background to the investigation and the Australian anti-dumping process. We also explained the following:

- the investigation period is 1 July 2008 to 30 June 2009.
- the injury analysis period is from 1 June 2005 for the purpose of analysing the condition of the Australian industry.
- the Statement of Essential Facts is now due on the Public Record on 31 January 2010.
- Customs and Border Protection's final report to the Minister is now due on or before 17 March 2010.

2 COMPANY DETAILS

2.1 Company information

2.1.1 Background & Organisational Structure

Company Background

The company was founded in 1909 and has had several ownership changes before it was purchased by BASF in 2006. BASF has several divisions, including the Admixtures Systems section that manufactures the goods under consideration. A brochure about Admixture Systems is at **non-confidential attachment 1** and a presentation about the company's operations is at **confidential attachment 2**.

Ownership Structure

BASF is a subsidiary of the global BASF SE. BASF Construction Chemicals is a limited liability company owned entirely by BASF Corporation, which is in term owned by BASF Americas Corporation and ultimately BASF SE. The company's organisational chart is at **confidential attachment 3**.

2.1.2 Functions of company

BASF manufactures and sells a range of chemicals for the construction industry, segregated into Admixture Systems and Construction Systems.

Admixture Systems' products are described in non-confidential attachment 1. Constructions Systems' products include:

- Grouts;
- Concrete repair systems;
- Tiling systems;
- Flooring;
- Waterproofing;
- Joint sealing; and
- Wood protection.

2.2 Accounting

BASF informed us that:

- The accounting period is the calendar year.
- The financial accounts of BASF are consolidated into BASF Corporation's financial statements and audited at that level. The company does not have separate audited accounts.
- The highest level to which we could verify the information provided is the management accounts, from SAP.

3 THE GOODS AND LIKE GOODS

3.1 Goods under consideration

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

ACDN 2009/27 includes additional information about the goods.

The goods manufactured by BASF are sold in Australia under the brand name Rheopel Plus. The goods were imported in 275 gallon (1040.98L) totes. Rheopel Plus product information and brochures are at **confidential attachment 4.**

3.2 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.

BASF sells Rheopel Plus on the domestic market that is identical to the exported Rheopel Plus, as per the product brochures at confidential attachment 4. On the domestic market Rheopel Plus is sold in 275 gallon totes, as well as 55 gallon drums and 3 gallon pails for samples.

While we sought to verify all domestic sales of Rheopel Plus, we considered the product sold domestically in 275 gallon totes to be identical in all respects to the goods under consideration and have used sales of this size to determine normal value.

3.3 Like goods – preliminary assessment

We are satisfied that Rheopel Plus produced by BASF for sale in the United States are like goods to those exported to Australia in terms of subsection 269T(1).

4 EXPORT PRICE

4.1 General

During the investigation period BASF exported four shipments to Australia. These shipments:

- were purchased by an associated company, BASF Construction Chemicals Australia (BASF Australia); and
- each comprised of 18 X 275 gallon totes.

4.1.1 Export sales

Sales Process

- BASF Australia submits a purchase order for the goods as required
- the lead time from manufacture to delivery is around [redacted]
- an invoice is issued following shipment
- payment is made via electronic transfer

Export Price

The export price to BASF Australia is determined by BASF world wide company policy and is based [redacted].

Delivery terms

The first two shipments were FAS due to a systems changeover at BASF at the time resulting in BASF being unable to coordinate delivery. Payment terms were [redacted] from date of invoice, which was the shipping date. The second two shipments were CIF with payment terms of [redacted]. BASF informed us that they had not taken out insurance on the CIF shipments but that they were covered by a corporate policy.

Rebates and discounts

BASF Australia does not receive any rebates.

Delivery Methods

Shipments to BASF Australia were by ocean freight. BASF organised the inland transport from the port in Australia.

Warranty

BASF does not provide a standard warranty on inter-company sales, such as the subject transactions.

Royalty Fees

Royalty fees do not apply to sales between companies in the BASF group. Refer to section 5.2.4 below for further information in relation to the royalty.

4.2 Verification up to financial statements

BASF informed us that while the company was audited as part of the consolidated accounts, it did not have separate audited accounts. Accordingly, we could only verify data to the management accounts. Sales verification for both domestic and export sales are in Section 6.1.2.

4.3 Verification down to source documents

BASF provided us with the export documents for all four shipments of Rheopel Plus. The documentation included (**confidential attachment 6**):

- Invoice
- Bill of Lading
- Purchase Order
- Order Confirmation
- Correspondence with customer regarding order
- Proof of payment; and
- For the two applicable shipments, inland transport and ocean freight invoices.

These documents reconciled with the information provided in the exporter spreadsheet and we were satisfied that this information was accurate.

4.4 Identification of the exporter

Customs and Border Protection will generally identify the exporter as:

- a principal in the transaction located in the country of export from where the goods were shipped who gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or their own vehicle for delivery to Australia; or
- a principal will be a person in the country of export who owns, or who has previously owned, the goods but need not be the owner at the time the goods were shipped.

Where there is no principal in the country of export Customs and Border Protection will normally consider the exporter to be the person who gave up responsibility for the good as described above.

Having regard to roles of the parties and who satisfies the requirements of truly being an exporter, we are satisfied that BASF is the exporter of the goods.

4.5 Identification of the importer

Having regard to the definition of importer at subsection 269T(1), we consider that BASF Australia is the importer of the goods. We note that BASF Australia:

- is named as the consignee on the Bill of Lading;
- takes ownership of the goods at the time of their arrival in Australia;
- is invoiced by BASF; and
- provides payment to BASF.

4.6 Arms length

We did not find any evidence that:

- there is any consideration payable for or in respect of the goods other than their price; or
- the buyer 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.

Although BASF and BASF Australia are related entities, we do not believe the price is influenced by that relationship in that the price to BASF Australia is not artificially high. We therefore consider the sales by BASF to BASF Australia were arms length transactions.

4.7 Export price – preliminary assessment

Based on the information provided in BASF's submissions and verified at their premises, we consider that:

- the goods have been exported to Australia otherwise than by the importer;
- the goods have been purchased by the importer from the exporter; and
- the purchases of the goods were arms length transactions.

We consider that the export price for these sales can be determined under s. 269TAB(1)(a) at an ex-works level using the invoiced price from BASF to BASF Australia less any part of that price that represents a charge in respect of the transport or movement of the goods after they left the manufacturer's premises.

Export price calculations are summarised at **confidential appendix 1**.

5 COST TO MAKE AND SELL

5.1 Cost of production

Components of cost of production:

Cost element	% of CTM
Silane	[redacted]
Other raw materials	[redacted]
Packaging	[redacted]
Overhead	[redacted]

5.1.1 Verification of cost data

Selected months for verification: October 2008 and January 2009.

Detail behind the CTM reported in **confidential attachment G-4** is in **confidential attachment 7**.

Silane costs

The Bill of Material[2] (BoM) shows the components of 1,000kg of Rheopel Plus. The main cost is a mixture called '[redacted]' in BASF's production records. We were also provided with a BoM for [redacted], showing the recipe for the mixture.

Silane makes up around [redacted]% of the cost of [redacted]. Silane is used in other non-admixture products manufactured at the [redacted] plant as well as Rheopel Plus.

The cost of silane is calculated at standard. Standards are reviewed monthly and revised when the difference from actual cost exceeds a certain tolerance.

Invoices for silane purchases were provided for selected months[3]. The invoices were matched to the purchases register for silane[4,5]. We were also provided with the receipt register for receipts of silane into inventory[6].

[2] Confidential attachments 8 and 9.

[3] Confidential attachment 10

[4] Confidential attachment 11

[5] We observed a discrepancy between the January 2009 invoice and the purchase register; however the reason for this was explained satisfactorily by the company. We selected an additional invoice from April 2009 to further satisfy ourselves

[6] Confidential attachment 12

27

We compared the invoice cost for the selected months to the standard cost:

Month	Std cost (USD) / lb (BoM)	Invoice price / lb	Variance – std to actual %
October 2008	[redacted]	[redacted]	[redacted]
January 2009	[redacted]	[redacted]	[redacted]

We calculated the average cost per kilogram of silane at standard cost over the investigation period and compared it to the average cost per kilogram from the silane invoices for the investigation period. The standard cost was around [redacted] than the actual cost[7].

Conclusion: the silane costs recorded in **confidential attachment 6**, and included in the CTM at Attachment G-4, are a reasonable reflection of the actual cost of silane used in the production of the goods.

Overheads

Overheads, both fixed and variable, are calculated at standard. The standard cost is revised annually. We were provided with the documents illustrating the calculation of the standard cost for the calendar years 2008 and 2009[8].

[redacted] [Method for calculating overhead rate]

The standard cost for overheads from the BoMs for the selected periods matched the overhead rates shown on confidential attachments 13 and 14.

We were provided with a calculation showing the overhead variance for production at the [redacted] plant (of which Rheopel Plus makes up around [redacted]%) for the calendar year 2008[9]. The document indicates a favourable variance of around [redacted]% of the actual spend for 2008. We verified the budgeted and actual spend for 2008 by reference to a cost centre report for the admixtures division[10].

Conclusion: the overhead is calculated at standard, and the variance for 2008 was around [redacted]% favourable; however given that overheads make up only [redacted]% of the total CTM we conclude that the overhead expense included in the CTM at confidential attachment G-4 is reasonable.

[7] Calculation at Confidential Appendix 2
[8] Confidential attachments 13 and 14
[9] Confidential attachment 15
[10] Confidential attachment 16

5.2 Selling, general and administration expenses

Calculations supporting the SG&A values in confidential attachment G-4 are set out in **confidential attachment 17**.

5.2.1 Selling costs

Selling costs include selling, marketing and expenses associated with the dispensers.

Expenses were obtained from the relevant cost centres for the admixture division. We were shown the cost centre reports on SAP for each of the periods January to December 2008, January to June 2008, and January to June 2009. These three periods were used to calculate the selling expenses for the investigation period. The values in the cost centre reports matched the values used in confidential attachment 17.

We were provided with a copy of the cost centre reports for January to June 2009 for direct selling[11], dispensers[12] and marketing[13].

5.2.2 Administration costs

Administration costs include research and development and general administration.

The values used in confidential attachment 10 were verified in the same manner described above for selling costs.

We were provided with a copy of the cost centre reports for January to June 2009 for research and development[14] and administration[15].

We observed that the administration costs included an allocated amount. The company advised that this related to general services shared by all the divisions in the company, such as finance and legal.

5.2.3 Finance costs

[redacted].[Details of financing arrangements] We were provided with a spreadsheet showing the calculation [redacted] for the investigation period[16].

5.2.4 Other costs

Other costs are royalty and bad debt expenses.

[11] Confidential attachment 18
[12] Confidential attachments 19 and 20
[13] Confidential attachment 21
[14] Confidential attachment 22
[15] Confidential attachment 23
[16] Confidential attachment 24

We were provided with a copy of the royalty contract evidencing the payment of [redacted]% royalties on domestic sales to third parties[17]. The company also identified the royalty expense item in the profit and loss report.

We were provided with the profit and loss reports for the admixture division that cover the investigation period[18]. We matched the bad debt expenses from these reports to the values in confidential attachment 17.

5.3 Cost to make and sell – summary

The CTMS amounts used in calculations for the domestic goods manufactured by BASF are at confidential appendix – G4. We are satisfied that these costs are derived from records kept in accordance with the generally accepted accounting principles and reasonably reflect the costs associated with manufacture of SECA sold by BASF in the USA.

[17] Confidential attachment 25

[18] Confidential attachments 26 and 27

6 NORMAL VALUE

6.1 Price paid or payable in domestic sales

6.1.1 Domestic sales

Who are the domestic customers? What level of trade are they?

BASF predominately sells Rheopel Plus on the domestic market to a range of pre cast concrete producers. There are a number of domestic competitors in the market offering water repellence products but no other products based on a silicone emulsion.

Are there any commercial or other relationships with domestic customers?

Customers are third parties. BASF has no ownership interest in any customers.

Describe the sales process.

- Customer/sales team places an order
- The order is dispatched from the inventory at distribution point and delivered to the customer within [redacted].
- Customer is invoiced
- Inventory at distribution points are restocked as required.

How are prices determined?

In the exporter questionnaire BASF provided a copy of their pricing band information list[19]. This list contains the floor price per region per gallon for different customer sizes as well as the level of authorisation required to sell below these prices.

BASF informed us that the reasons the price could vary include:

- Importance of customer
- Geographic location
- Bargaining power of customer
- Degree of competition

What are the delivery terms?

Delivery terms vary from customer to customer and include:

- FOB shipping point – freight is included in the price of the goods.
- FOB shipping point prepaid – freight is added as a separate line item in the invoice, which the customer pays for.
- FOB shipping point prepaid & add – freight is added as a separate line items on the invoice, which the customer pays for (essentially the same as FOB shipping point prepaid).

[19] Confidential attachment 28

- FOB shipping point pickup/arranged – customer picks up goods from distribution point.

Describe the distribution arrangements.

As Rheopel Plus was only produced at [redacted], the product was transported to distribution points around the country. Delivery to customers would then be made from these points. Due to the time taken to transport the goods, Rheopel Plus was not made to order; an inventory was maintained at the distribution points.

Are there any rebates or discounts?

Some customers received a VIP rebate, the amount of which was determined by the total amount of goods the company purchased – including products other than Rheopel Plus – and the specific VIP agreement. For example the rebate could be for purchases:

- [redacted] – [redacted]%
- [redacted] – [redacted]%
- [redacted] – [redacted]%

We noted that the rebated amounts could be up to [redacted]%.

Rebate took the form of a payment made at the end of the financial year. Throughout the year the customer would be invoiced for the full amount, however, rebate accruals would be listed in the SAP system. These accruals would be frequently updated as the year progressed and the company had more of an indication from the yearly sales as to the level of rebate the customer would be eligible for. Due to the nature of the rebate system rebates may not directly relate to a product and the percentage applied may vary from transaction to transaction, but the final rebate calculation for the customer will be at the agreed percentage.

Are any warranties provided?

BASF provides a standard warranty as per **confidential attachment 5**.

Other comments

BASF informed us that in order to compete in the market they place a heavy emphasis on customer service and therefore employ a large domestic sales team.

BASF also advised that in the US market admixture suppliers provided the dispensing equipment for the products at the customer's plant. As a result, the company was required to maintain a staff of dispenser technicians to install and maintain the dispensers for Rheopel Plus.

Sales to domestic customers attract a [redacted]% royalty fee, payable to the global BASF company. A copy of the royalty agreement is at **confidential attachment 25**.

6.1.2 Verification to management accounts

To verify the data provided to us in the exporter questionnaire, BASF:

1) demonstrated that no other Rheopel Plus products were sold other than the three packaging types mentioned in the questionnaire;
2) reconciled the domestic sales listing to the management accounts and the turnover of the goods figures in the turnover spreadsheet[20]; and
3) reconciled the company and sector turnover figures in the turnover spreadsheet to the management accounts.

1) Rheopel Plus Sales

BASF provided us with a SAP report that listed all Rheopel Plus products[21]. This report listed the three packaging types of Rheopel Plus in addition to a 197.335kg product. The company informed us that they had never sold this size good and noted that it was marked for deletion in the system.

BASF also provided us with a complete sales listing for the investigation period for all products sold by the company[22]. This listing showed sales amounts for the three packaging types plus the bulk product. [redacted] [Internal accounting issue] As the sales allocated to this code accounted for [redacted] of total Rheopel Plus sales we were satisfied with the data provided.

2) Domestic Sales Listing

In order to reconcile the domestic sales spreadsheet with the turnover figures and the management report, BASF provided us with the following table:

	Turnover spreadsheet ('000)	**Domestic Sales Listing ('000)**
Total Sales from management accounts	[redacted]	[redacted]
Less: drum and pail	[redacted]	
Less: drum and pail accrual items	[redacted]	[redacted]
Less: Australian Sales		[redacted]
Less: tote accrual items		[redacted]
	[redacted]	[redacted]
Amount reported in questionnaire	[redacted]	[redacted]

The above table indicates that total sales of $[redacted] were listed in the management accounts. We referred to the complete sales listing at **confidential appendix 3** and noted that the total was $[redacted] (or $[redacted] including the amounts accrued to the bulk product code). We considered this variance immaterial.

BASF explained that to reconcile the domestic sales listing to the management account figure it was necessary to:

[20] Confidential attachment 29
[21] Confidential attachment 30
[22] Confidential appendix 3

- Deduct accrual items for all goods types; and
- Deduct Australian sales.

BASF explained that to reconcile the management accounts figure to the turnover figure, it was necessary to:

- Deduct the drum and pail sales amounts
- Deduct the drum and pail accrual amounts.

We were satisfied that the domestic and export sales listing could be reconciled to the management accounts and the turnover figure.

3) Company and Sector Turnover

BASF explained that they had used the sales figures for Admixture Systems for the sector turnover figures in **confidential appendix A-3**.

In order to verify the figures in **confidential attachment 29**, BASF provided us with profit and loss statements from SAP for the whole company and Admixtures Systems for the following periods[23]:

- 2008 financial year
- January-June 2008
- January-June 2009

The net sales figure of the 2008 financial year reconciled to the profit and loss statement. To calculate the figures for the period of investigation, BASF deducted the January-June 2008 net sales figure from the 2008 financial year figure, and then added the January-June 2009 figure. We were able to reconcile the figures using the profit and loss statements provided.

The company also provided us with a complete sales listing by unit[24] for both the company and Admixture Systems for the 2008 financial year. The totals for these lists reconciled with the turnover figures. From these listings we could reconcile the company and sector figures for the domestic market, exports to Australia and exports to other countries.

The company explained that the volumes provided in the turnover spreadsheet were an extrapolation of the January - June 2009 volume[25] to value ratio. BASF explained that accurate summary information was unavailable for 2008 due to a change in its ERP system. Therefore, using the YTD June 2009 volume, the company calculated the ratio between volume and value and applied it to the remaining period. We were able to verify this ratio using the January - June 2009 SAP volume report at confidential attachment 29.

We consider the domestic sales data provided by BASF for Rheopel Plus to be complete and relevant.

[23] Confidential attachments 31 to 36

[24] Confidential attachment 37 and 38

[25] Confidential attachment 39

6.1.3 Domestic sales verification to source documents

BASF provided us with the domestic sales documents for 10 invoices[26].

The documents provided included:

- Invoice;
- Order confirmation;
- SAP document flow report (showing the movement of the order through the system from the time it was placed to delivery and the issuing of the invoice);
- SAP report showing shipping of the goods;
- Packing list;
- Bill of Lading;
- Copy of cheque as payment and remittance advice; and
- Purchase order.

These documents reconciled with the domestic sales spreadsheet provided by BASF. We noted that one shipment which had no volume listed in the sales listing was a credit note for two totes of Rheopel Plus. We could not find the original shipment in the domestic sales listing and the company explained that the shipment was credited as it was a sample shipment that the customer had been inadvertently billed for. As the original transaction was a sample, it had been excluded from the domestic sales listing. Accordingly, we disregarded this shipment, and all other transactions that had a sales value but no quantity value, from the normal value calculations.

We also noted that the shipments that received rebates did not indicate this on the invoice, as the company had stated. We asked to see the entries in the SAP system for two of these transactions to see the rebate recorded there. Due to the way one of the shipments (invoice #[redacted]) was recorded in the system an error had occurred and the rebate amount was doubled. The company informed us that this did not occur very often and all other rebate amounts should be accurate. The company provided us with a printout of the SAP report for this transaction[27]. We adjusted the rebated amounts for this customer.

6.1.4 Arms Length Transactions

Are BASF's domestic sales arms length transactions as per s. 269TAA?

In respect of BASF's domestic sales of Rheopel Plus, we found no evidence that:

- there is any consideration payable for or in respect of the goods other than their price; or
- the price is influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller.

[26] Confidential attachment 40
[27] Confidential attachment 41

Based on the above, we are satisfied that BASF's domestic sales of Rheopel Plus are arms length transactions in terms of s. 269TAA.

6.1.5 Ordinary Course of Trade

Are more than 80% of domestic sales in the Ordinary Course of Trade as per s.269TAAD?

Less than 80% of sales were either profitable when compared to the CTMS for the month, or recoverable when compared to the weighted average CTMS for the investigation period.

Only recoverable sales will be used to determine the normal value.

Ordinary course of trade calculations are at **confidential appendix 4**.

6.1.6 Volume and suitability of domestic sales

Is the volume of domestic sales more than 5% of the volume of export sales as per s. 269TAC?

The volume of domestic sales is greater than 5% of the volume of export sales across the investigation period and for the months that correspond to export sales.

Volume and suitability calculations are at **confidential appendix 4**.

6.1.7 Domestic sales - conclusion

We concluded in respect of BASF's domestic sales of Rheopel Plus that:

- There is reliable evidence of sales;
- The invoiced price was paid and adjustments to price accounted for;
- Sales were arms length; and
- Sufficient sales were in the ordinary course of trade.

Therefore, we consider that the normal value can be determined using domestic sales under s.269TAC(1) of the Act with adjustments made under s.269TAC(8).

6.2 Third country sales by the exporter

As we considered that we were in possession of enough verified information from the submission and our visit to calculate normal values using domestic sales, we did not undertake verification of the third country data.

7 ADJUSTMENTS

What adjustments were claimed by the company?

- Difference between domestic and export selling expenses;
- Difference between domestic and export administration expenses;
- Domestic other expenses;
- Difference between domestic and export transport expenses; and
- Credit terms.

BASF calculated the adjustments based on a percentage of net sales price. From our discussions with the company we concluded that revenue was the only available basis on which to calculate the total amount of expenses attributable to domestic and export sales. This is because the company produces goods in a range of different pack sizes and materials such that a common unit of measurement for volume is not available. However, we amended the adjustment calculation so that, after calculating the total amount of expense attributable to domestic and export sales, each adjustment item was calculated on a per litre basis, rather than as a percentage of the sale price for each transaction.

7.1 Selling expenses

BASF maintains a large sales team for its domestic sales. It also incurs significant expenses associated with the supply of dispensers to customers, including the cost of the dispensers themselves, repairs, and a team of maintenance personnel in each geographic location.

For export sales, BASF has only one customer service representative to manage inquiries and orders. BASF provided us with a cost centre report identifying the costs associated with this service[28].

We have adjusted the normal value for the difference between the domestic and export selling expenses.

7.2 Administration expenses

BASF's calculation of this adjustment resulted in different amounts of administration expense being allocated to domestic and export sales because it was calculated as a percentage of revenue, and the domestic selling price is higher than the export price. The percentage was the same for both domestic and export sales.

After discussion with the company we concluded that the administration expenses, on a per litre basis, were the same for both domestic and export sales because they relate to general and shared services not specific to either the domestic or export market. We conclude that no adjustment is required for administration expenses.

7.3 Other expenses

Other expenses relate to bad debt and royalty expense. BASF claimed a decreasing adjustment to the normal value for the full amount of these items.

[28] Confidential attachment 42

As royalties are not payable on export sales, and the Australian customer is a related party and has not had any bad debt, we agree that a decreasing adjustment should be made for bad debt and royalties as claimed by BASF.

7.4 Transport expense

BASF transports the domestic goods from the manufacturing plant to various distribution centres around the country. BASF also sometimes delivers the goods to the customer and includes delivery in the price.

The exported goods were sold FAS for two shipments and CIF for the other two shipments.

To calculate the domestic transport expense, BASF took the average of the inter-plant standard transportation costs to the five distribution points[29]. To verify this, the company provided us with an SAP printout of the standard cost, actual cost and variance for transport to one of the distribution points[30]. We noted that the variance was [redacted] and were satisfied that this reasonably reflected the actual cost.

7.5 Credit Adjustment

We adjusted the domestic sales price by the different credit terms for export sales. We determined that the average credit period of domestic sales was [redacted] days and for export sales [redacted] days and adjusted the selling price accordingly. The interest rate used was [redacted].

[29] Confidential attachment 7

[30] Confidential attachment 43

8 NORMAL VALUE – PRELIMINARY ASSESSMENT

We consider that information gathered from all sources and detailed in this report and its attachments, can be relied upon to establish normal values under s. 269TAC(1). We have made adjustments to the normal value under s. 269TAC(8), as applicable, for selling expenses, transport, bad debt, royalties and credit terms.

We calculated normal values using sales in the domestic market that were arms length transactions and sold at prices that were in the ordinary course of trade.

Normal value calculations are at **confidential appendix 5**.

9 DUMPING MARGINS – PRELIMINARY ASSESSMENT

The team has assessed a preliminary dumping margin, by comparing the weighted average of export prices over the whole of the investigation period with the weighted average of corresponding normal values over the whole of that period in accordance with subsection 269TACB(2)(a). The margin falls within the range of 100-110%.

The calculation of the dumping margin is at **confidential appendix 6**.

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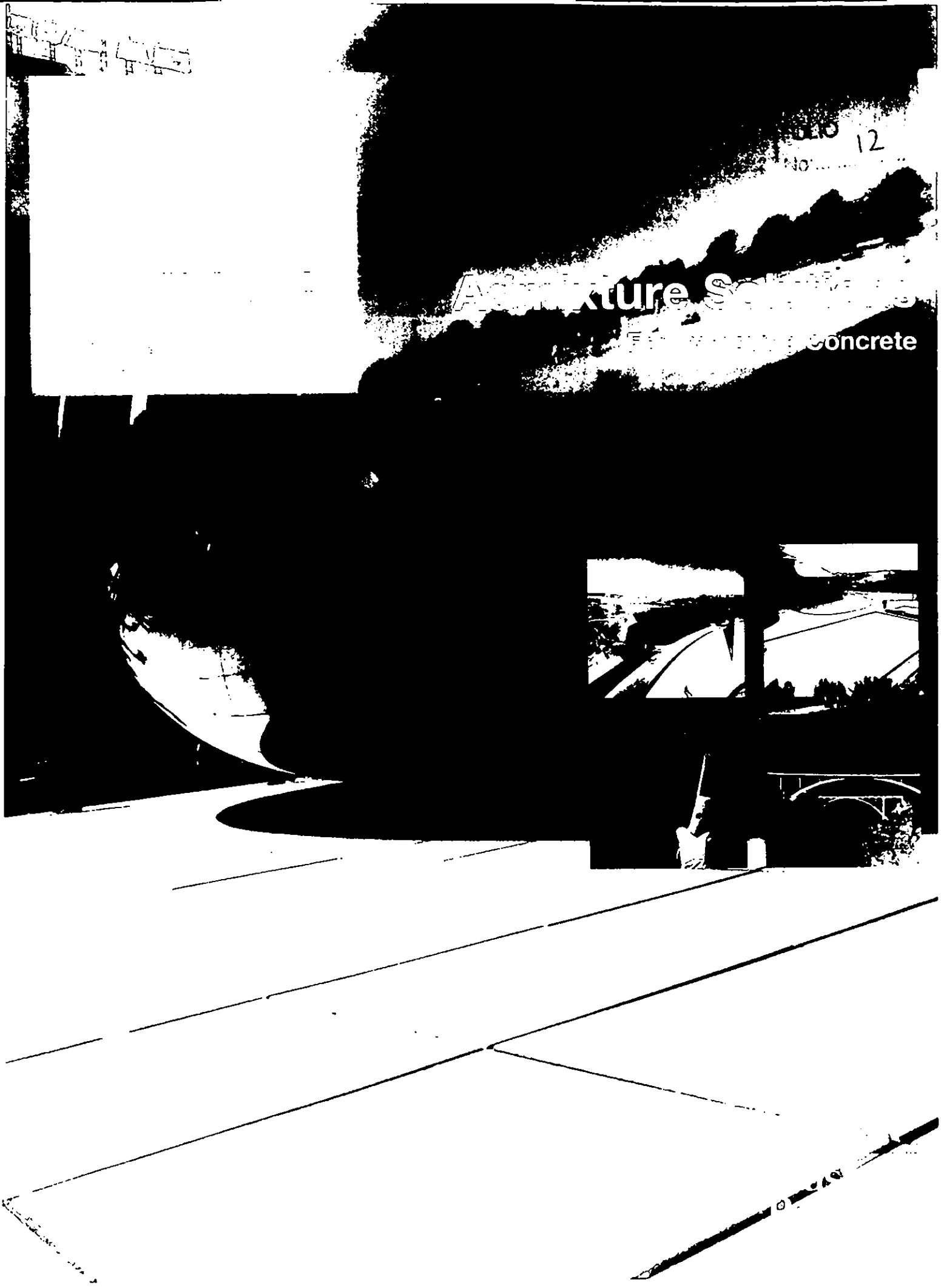
Supervisor
Operations 1

10 ATTACHMENTS

Non - Confidential Attachment 1	BASF Admixtures Brochure
Confidential Attachment 2	Company Presentation
Confidential Attachment 3	Company Organisational Chart
Confidential Attachment 4	Rheopel Plus Product Information
Confidential Attachment 5	Rheopel Plus Warranty
Confidential Attachment 6	Export Sales Documentation
Confidential Attachment 7	Costing Detail
Confidential Attachment 8	Bill of Materials
Confidential Attachment 9	Bill of Materials
Confidential Attachment 10	Silane Invoices
Confidential Attachment 11	Silane Purchase Register
Confidential Attachment 12	Silane Receipt Register
Confidential Attachment 13	Standard Cost of Overheads 2008
Confidential Attachment 14	Standard Cost of Overheads 2009
Confidential Attachment 15	Overhead Variances
Confidential Attachment 16	Cost Centre Report for Admixtures
Confidential Attachment 17	SG&A Calculations
Confidential Attachment 18	Cost Centre Report – Selling
Confidential Attachment 19	Cost Centre Report – Dispensers Mana
Confidential Attachment 20	Cost Centre Report - Dispensers
Confidential Attachment 21	Cost Centre Report – Marketing
Confidential Attachment 22	Cost Centre Report – R & D
Confidential Attachment 23	Cost Centre Report – Admin Finance
Confidential Attachment 24	Capital Cost Expense
Confidential Attachment 25	Excerpt from License Agreement
Confidential Attachment 26	P/L Statement BASF

Confidential Attachment 27	P/L Statement Admixtures
Confidential Attachment 28	Price List
Confidential Attachment 29	Turnover Spreadsheet
Confidential Attachment 30	Rheopel Plus Product Listing
Confidential Attachment 31	SAP P/L Statement BASF 2008
Confidential Attachment 32	SAP P/L Statement Admixtures 2008
Confidential Attachment 33	SAP P/L Statement BASF Jan – June 2009
Confidential Attachment 34	SAP P/L Statement Admixtures Jan – June 2009
Confidential Attachment 35	SAP P/L Statement BASF Jan – June 2008
Confidential Attachment 36	SAP P/L Statement Admixtures Jan – June 2008
Confidential Attachment 37	Sales Report 2008 – BASF
Confidential Attachment 38	Sales Report 2008 – Admixtures
Confidential Attachment 39	SAP Report – Jan – June 2009 Sales Volume
Confidential Attachment 40	Domestic Sales Documentation
Confidential Attachment 41	SAP Customer Rebate Report
Confidential Attachment 42	Cost Centre Report – Customer Service
Confidential Attachment 43	Variances in Standard Costing for Delivery
Confidential Appendix 1	Export Price
Confidential Appendix 2	Price Variation
Confidential Appendix 3	Sales Report
Confidential Appendix 4	OCOT Testing
Confidential Appendix 5	Normal Value
Confidential Appendix 6	Dumping Margin
Confidential Appendix G-4	CTMS
Confidential Appendix A-3	Turnover



Non-confidential Attachment 1

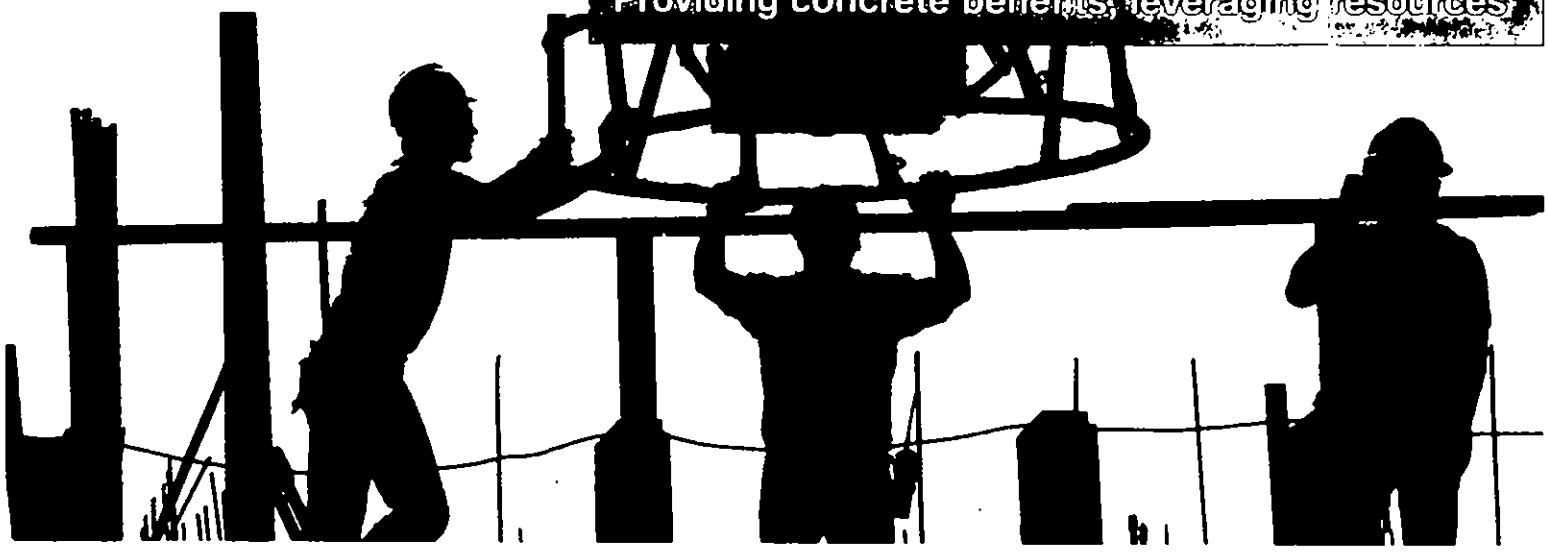
THE ADMIXTURE SYSTEMS BUSINESS OF BASF CONSTRUCTION CHEMICALS was founded in Cleveland, Ohio in 1909 as Master Builders, Inc. by chemist S.W. Flesheim. A visionary and pioneer in the construction market, Mr. Flesheim sought to bring innovative solutions to the industry. His first product was a cement/iron floor topping mix broadcast on top of freshly placed concrete to replace the wood block systems used by factories at the time, dramatically improving wear resistance and appearance. Later, the company invented non-shrink grouts used to secure massive machinery and as foundations for large structures.

Early in the 20th century, the company was one of the first to supply water-reducing and air-entraining admixtures and to provide waterproofing for concrete mortars. These products and many others were used on such well-known construction projects as the Field Museum in Chicago, Hoover Dam, the Panama Canal and the Sears Tower.

For 100 years, the company has continued to push the limits of chemistry and convention to develop and introduce products that improve concrete in any application. Today, the Admixture Systems business remains a leading innovator in the development, manufacturing and marketing of chemical admixtures and silica fume for concrete used in the read-mixed, precast, paving, manufactured concrete products and underground construction markets. We offer the widest range of concrete admixtures available from a single source, used to improve the plastic properties of concrete such as placing, pumping, finishing and appearance. Our respected Master Builders brand products improve hardened, engineering properties of concrete. They ensure high strength and durability, inhibit corrosion of steel embedded in concrete, reduce permeability, improve resistance to chemical attack, allow effective placement of concrete in extreme weather conditions, and even enable concrete to be placed under water. New liquid coloring admixtures ensure enduring, structurally sound colored architectural concrete.

Non-confidential Attachment 1

Providing concrete benefits, leveraging resources



TO BE SUCCESSFUL, WE BELIEVE WE MUST THINK WITH OUR CUSTOMERS, and we strive to learn their needs so that we can provide new and innovative ways to meet those needs and exceed expectations. We help our customers grow by providing the most innovative products, services and expertise in the industry. We develop solutions to current construction challenges, and we think beyond what is happening today to provide products and services for tomorrow and beyond.

The future is what motivates the employees of BASF. The key to that future is a solid commitment to research and develop imaginative and innovative technologies. We convert them into a steady stream of value-added products and services that contribute to the profitability of our customers and the industry.

It begins with building an organization using our most valuable resource – our people. Then we provide them with an environment for growth and opportunity. We foster excellence by incorporating the industry's best practices, and by encouraging and rewarding risk. Our culture centers around people who work successfully together to develop, manufacture and market the best admixture products. By pursuing this vision, we believe we can achieve exponential and sustainable growth for our employees, our company and our customers.

The Admixture Systems business is part of the Constuction Chemicals division of BASF, the world's leading chemical company. Headquartered in Ludwigshafen, Germany, BASF comprises more than 160 subsidiaries and affiliates with customers in over 170 countries and more than 95,000 dedicated employees.

FOLIO 9
No:

Technology, innovation, support

THE BASF TECHNICAL CENTER IN CLEVELAND, OHIO IS ONE OF THE world's largest private facilities dedicated to the science of concrete technology. Equipped with sophisticated analytical and physical concrete testing equipment, the Technical Center also houses thirteen laboratories and five humidity- and temperature-controlled rooms.

Our development group formulates products and serves as a testing and support resource for our customers. Scientists skilled in polymer synthesis work collaboratively with researchers in Germany to synthesize new materials and conduct research studies with polymer molecules in portland cement-based systems. The technical team in Cleveland also works closely with our production facility in Greensboro, North Carolina to manufacture polymer products to stringent internal specifications. Our product development group focuses on conceiving technologies and chemical applications – the foundation for new products to handle a broad range of specific and uniquely challenging circumstances – and our technical support is considered the most comprehensive in the industry.

Non-confidential Attachment 1.

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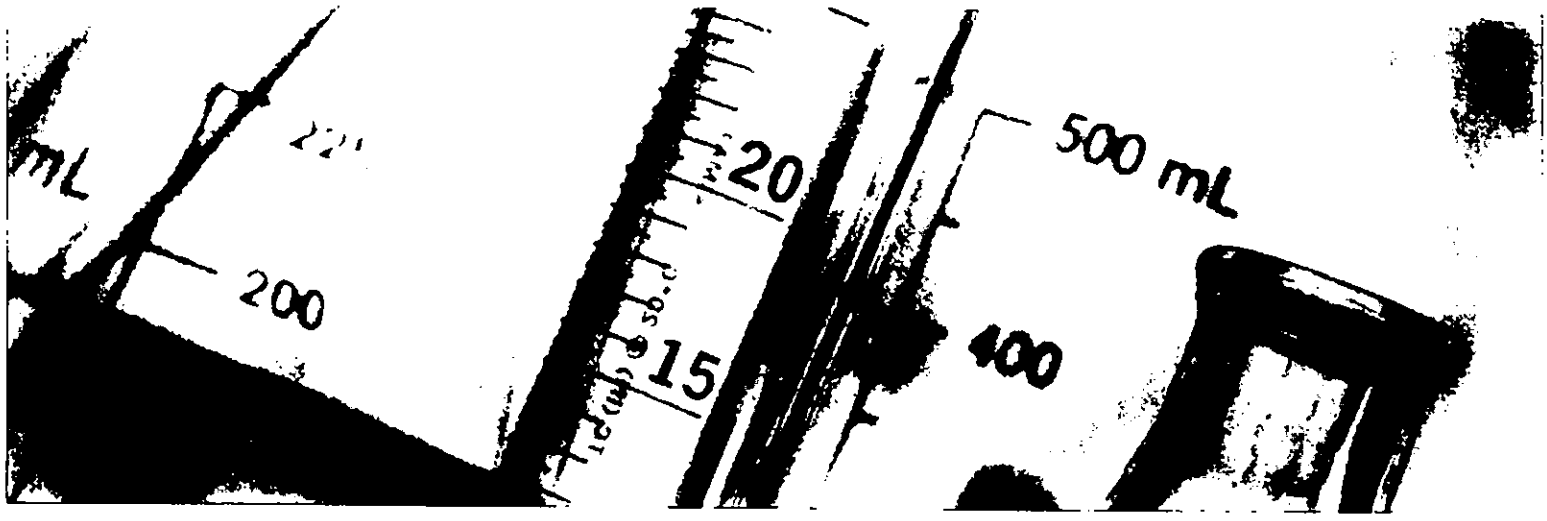

FIRMLY COMMITTED TO INNOVATION IN ALL ASPECTS OF OUR BUSINESS, BASF continues to invest in major capital improvements to enhance and upgrade the hardware and physical assets used for the manufacture and delivery of our products. The company operates out of 15 distribution and manufacturing plants across North America and ships more than 50 million gallons of admixtures annually. We are the first and only chemical admixture company to employ our own MasterTRAC remote inventory monitoring system to continuously track customers' inventories to ensure timely, efficient delivery of product.

Consistent quality is our main focus, and in each plant, dedicated quality control personnel and processes are used to validate optimum performance and ensure consistent, predictable results of our products. Raw materials are analyzed and certified prior to delivery to make certain that customers receive products formulated exactly to meet published specifications. A sophisticated, computerized system provides the flexibility required for us to adapt and adjust our manufacturing and delivery network to meet the demands of our various markets and regional requirements. We are ISO 14000 and ISO 9001 2000 certified, and operate under the American Chemistry Council's (ACC) Responsible Care initiatives.

We work constantly to find and implement operational efficiencies and enhancements. It is through this dedication that we are able to make new investments that allow us to grow and improve our capabilities to research new technologies, develop new products, and create new support services, all in an effort to give our customers new and profitable opportunities.

FOLIO 7
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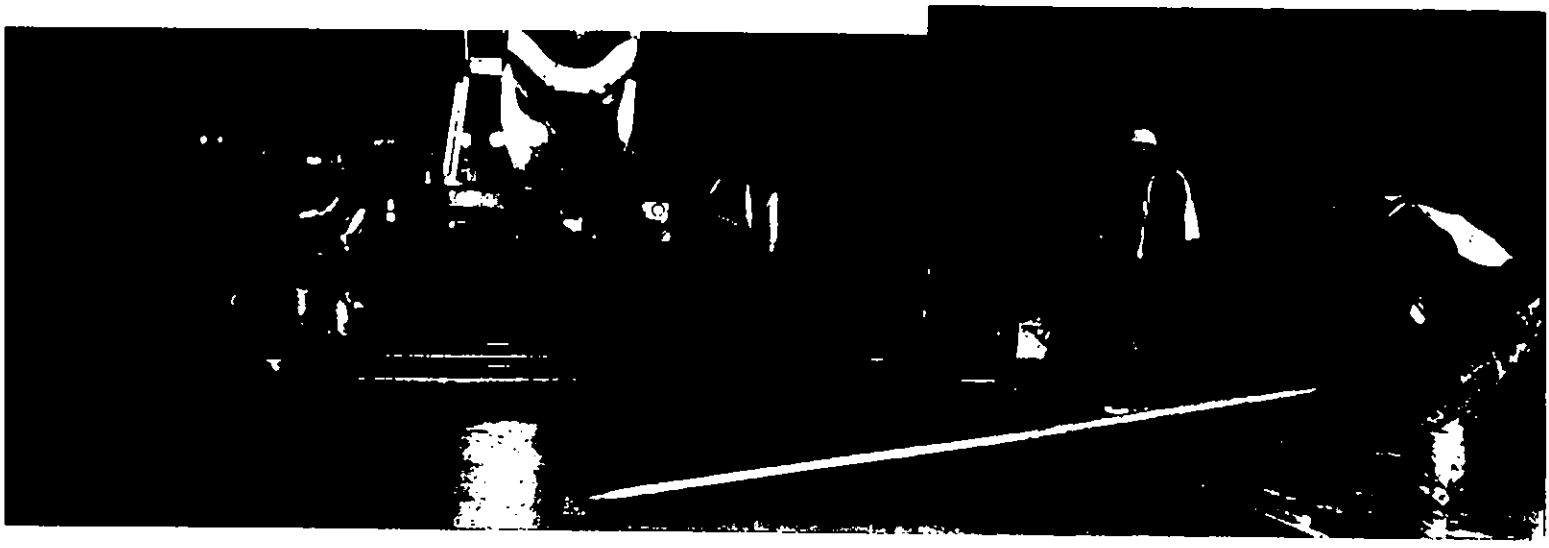


OUR COMMITMENT IS TO PROVIDE SOLUTIONS TO OUR CUSTOMERS.
We believe that in order for the concrete industry to thrive, industry leaders, concrete producers, material suppliers, equipment manufacturers and industry associations must work together to promote concrete as the preferred building material. That is why BASF supports many of the technical and trade organizations that serve and represent the construction industry. We provide financial support and employee participation on technical committees responsible for the development of standard tests and practices, technical guides, codes and specification procedures, as well as industry and technology reports. Our employees are actively involved in leading initiatives with several of these organizations, and also serve on promotion committees and expert panels that oversee these initiatives.

Non-confidential Attachment 1.

FOLIO 6

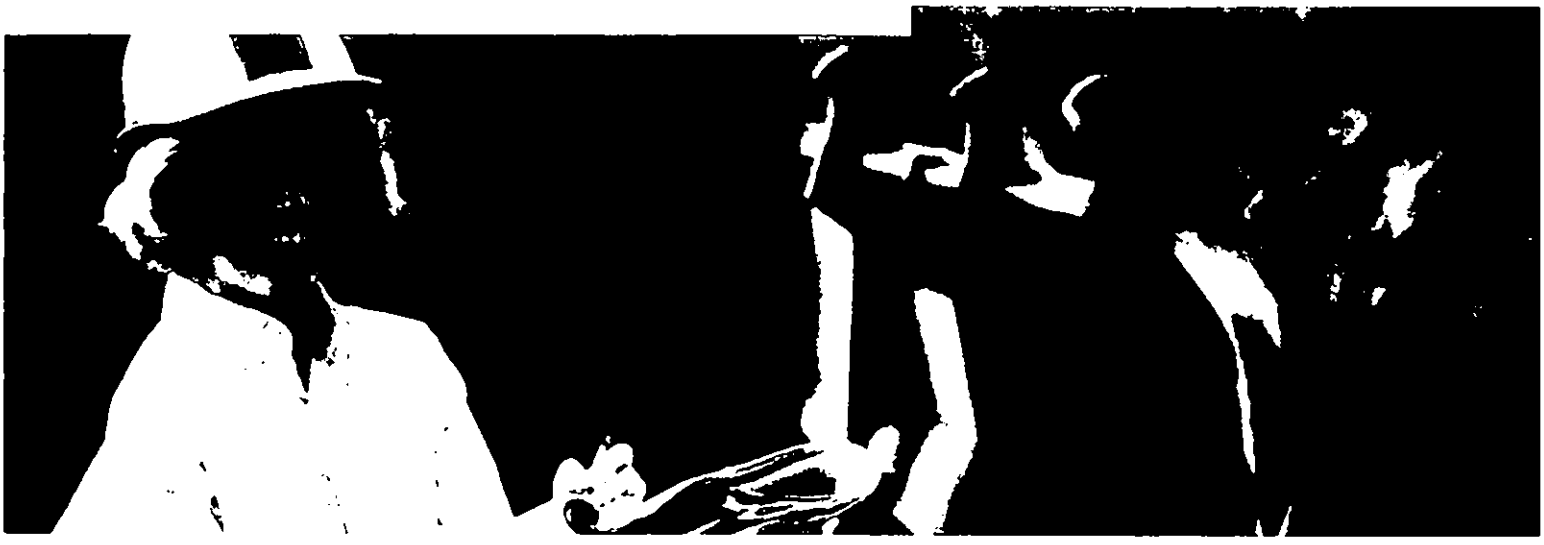
Industry involvement to foster growth

BASF is involved with the following associations:

- American Association of State Highway and Transportation Officials (AASHTO)
- ACI International (American Concrete Institute)
- American Concrete Paving Association (ACPA)
- American Concrete Pipe Association (ACPA)
- American Shotcrete Association (ASA)
- American Society for Civil Engineers (ASCE)
- American Society of Concrete Contractors (ASCC)
- American Society for Testing and Materials (ASTM)
- American Underground Association (AUA)
- Canadian Institute of Mining and Metallurgy
- Canadian Precast/Prestressed Concrete Institute (CPCI)
- Center for Advanced Cement Based Materials (ACBM)
- Concrete Corrosion Inhibition Association (CCIA)
- CSA International (Canadian Standards Association)
- Construction Specification Institute (CSI)
- Design Build Institute of America (DBIA)
- Innovative Pavement Research Foundation (IPRF)
- Interlocking Concrete Pavement Institute (ICPI)
- NACE International (National Association of Corrosion Engineers)
- National Concrete Masonry Association (NCMA)
- National Precast Concrete Association (NPCA)
- National Ready Mixed Concrete Association (NRMCA)
- Precast/Prestressed Concrete Institute (PCI)
- Society of Mining Engineers (SME)
- Standards Council of Canada (SCC)
- Transportation Research Board (TRB)
- U .S. Green Building Council (USGBC)
- World Center for Concrete Technology (WCCT)

Non-Confidential Attachment 1

EXHIBIT 5



BASF HAS EARNED A WORLDWIDE REPUTATION AS AN INNOVATIVE producer of high-quality admixtures used in a number of different market segments in the concrete industry. We offer the widest range of chemical admixtures available from a single source designed to improve and customize the performance of concrete mixtures used in a variety of applications. BASF products are used in five primary markets.

Ready-Mixed

BASF PROVIDES THE READY-MIXED CONCRETE INDUSTRY WITH A FULL range of technologically advanced product solutions. Our Master Builders brand admixtures are easy to use and cost-effective. Project delays are minimized because concrete treated with admixtures can be placed and finished in a broader range of climates and at a much faster rate than untreated concrete. Our impressive durability-enhancing admixtures increase the service life of concrete structures. New liquid coloring admixtures open new markets and expand the use of concrete as a building material by ensuring long-lasting, esthetically pleasing colored architectural concrete.

Precast/Prestressed

BASF SERVES THE PRECAST/PRESTRESSED CONCRETE MARKET WITH products, services and innovations that provide specific solutions. Producers have come to rely on our respected Master Builders brand products – and our people – to develop and implement innovations that bring value, such as: self-consolidating concrete, workability and placeability improvements, set control and shrinkage reduction, durability and corrosion control, and production efficiencies. With the resources of the worldwide BASF organization, we work to develop advanced technologies and innovative products that will ensure our customers achieve reduced operating costs, improved plant efficiency and superior finished products.

Manufactured Concrete Products

PRODUCERS OF CONCRETE BLOCK, PAVERS, SEGMENTAL RETAINING wall units, pipe, roof tile, and hollow-core plank recognize and respect BASF's Master Builders brand products and the innovations that help them improve their end products and their operations. A complete line of advanced chemistries designed to improve flow and extrusion characteristics, ensure resistance to water penetration and the damage from freeze/thaw cycles, control efflorescence and improve color vibrancy ensure producers of manufactured concrete products are able to meet and exceed today's demanding production, performance, and aesthetic requirements.

Paving

AS INFRASTRUCTURE AGES, THE ABILITY TO PRODUCE CONCRETE THAT is durable and maintains a long service life is critical. BASF continually seeks new ways to improve the strength, durability and performance of concrete used in highways, roads, bridges and airport runways. We offer a comprehensive line of products designed to improve the placement, smoothness and durability of pavements, ensuring maximum service life for these concrete applications to keep the public safe and on the move.

Underground Construction

THE UNDERGROUND CONSTRUCTION TEAM OF BASF IS FOCUSED ON providing high performance products and services to the mining and civil markets, including advanced technologies for sprayed concrete, tunnel boring machine applications, anchoring, waterproofing, injection, backfilling, support liners, shotcrete, and abrasion and protection technologies. Our approach – combining products, equipment and technical expertise to offer unique, tailored solutions for individual underground construction projects – ensures contractors and owners throughout the industry and around the world benefit from advanced technologies and practices that improve the quality, safety and speed of the underground construction process.

Non-confidential Attachment 1

BECAUSE WE ARE AN ORGANIZATION COMMITTED TO CUSTOMER satisfaction, we strive to develop and maintain dynamic relationships. BASF employees work in the field alongside customers to gain first-hand knowledge of their operations and the challenges they face each and every day, and spread this knowledge throughout the organization to develop products and services that satisfy our customers' needs.

Our experienced sales staff receives ongoing training on current construction practices, concrete technology and newly developed products. By combining a solid foundation in concrete, cement and polymer technologies with an understanding of our customers' needs, they are uniquely prepared to offer timely, focused, and valuable input for every project. We provide on-site technical expertise and function as a source of information, conducting seminars and hands-on training to help our customers in their daily business and their local markets, and developing and disseminating up-to-the-minute information on concrete and market related subjects. Together with our customers, we assess the industry, determine future needs and design strategies to meet those needs.

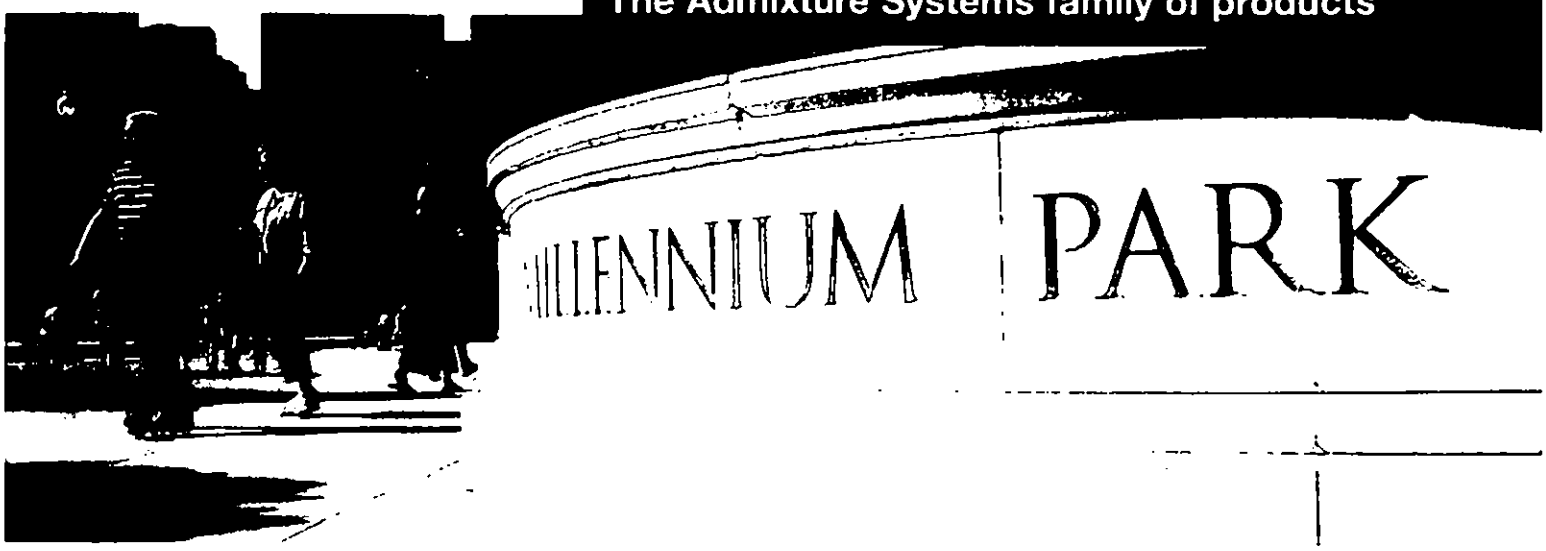
Looking to the future

AT BASF WE REMAIN STEADFASTLY COMMITTED TO DELIVERING QUALITY products and service to our customers and the concrete industry. We see the future as a journey – one in which we will constantly examine and evaluate our corporate strengths and balance those strengths with the demands of the industry and the desires of our customers. Through this, we will position our company for growth and help our customers and partners compete in the future and prosper.

Our journey is guided by our beliefs, and it is driven by our employees and their desire to better serve our customers and the concrete industry today and tomorrow.

Non-confidential Attachment 1

The Admixture Systems family of products



Product categories

- Accelerating
- Air-Entraining
- ASR Inhibiting
- Coloring
- Curing
- Efflorescence Control
- Fibers
- Fill
- Grouting
- High-Range Water-Reducing
- Hydration Control
- Impact/Abrasion Resistance
- Mid-Range Water-Reducing
- Plasticizing
- Retarding
- Rheology-Controlling
- Shotcrete Accelerators
- Shrinkage-Reducing
- Silica Fume
- Thin Support Liners
- TBM Soil Conditioners/Tail Seal Grease
- Viscosity Modifying
- Underwater Concreting
- Water-Reducing
- Water-Repelling
- Waterproofing
- Workability-Retaining

Brand names

- Confilm
- Delvo
- Delvocrete
- Glenium
- MasterFiber
- Masterpave
- Masterseal
- MEYCO
- Micro Air
- Navitas
- Pave-Air
- PolyHeed
- Pozzolith
- Pozzutec
- Rheobuild
- Rheocell
- RHEOCOLOR
- Rheocrete
- RheoFIT
- Rheomac
- Rheomix
- Rheopel
- RheoTEC™
- Tetraguard™

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