



Australian Government
Australian Customs Service

AUSTRALIAN CUSTOMS SERVICE
CUSTOMS ACT 1901 - PART XVB

TRADE MEASURES BRANCH
STATEMENT OF ESSENTIAL FACTS NO. 135

CONTINUATION INQUIRY

IRON AND STEEL GRINDING MILL LINERS
FROM
CANADA

11 JUNE 2008

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2 ABBREVIATIONS & SHORTENED FORMS

ABARE	Australian Bureau of Agricultural and Resource Economics
ACDN	Australian Customs dumping Notice
AG	autogenous
Bradken	Bradken Limited
Cadia	Cadia Valley Operations
Customs	Australian Customs Service, including the Chief Executive Officer
Ernest Henry	Ernest Henry Mining Pty Ltd
GML	iron and steel grinding mill liners
Minister	Minister for Home Affairs
Newcrest	Newcrest Mining Limited
Norcast	Norcast Castings Company Limited
Roche	Roche Castings Pty Ltd
SAG	semi-autogenous
SEF	statement of essential facts
Telfer	Telfer Gold Mine

3 SUMMARY

This statement of essential facts (SEF) presents the facts on which the Australian Customs Service (Customs) proposes to base its recommendation to the Minister for Home Affairs (Minister) concerning its inquiry into whether the continuation of the anti-dumping measures applying to iron and steel grinding mill liners (GML)¹ exported to Australia from Canada is justified.

Customs must not recommend that the Minister take steps to secure the continuation of the anti-dumping measures unless Customs is satisfied that the expiration of the anti-dumping measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the anti-dumping measures are intended to prevent.

Customs found that:

- GML have not recently been exported to Australia from Canada;
- it is likely that exports of GML from Canada will resume and it is likely these will be at dumped prices if anti-dumping measures applying to GML from Canada were allowed to expire;
- it is likely that material injury would recur if the anti-dumping measures applying to GML from Canada were allowed to expire.

On the basis of information currently before it, Customs considers that the expiration of the anti-dumping measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the anti-dumping measure is intended to prevent. Therefore, Customs proposes to recommend that the Minister take steps to secure the continuation of the anti-dumping measures.

¹ Refer to the full description of the goods in section 5.1

4 INTRODUCTION

4.1 Inquiry process

Anti-dumping measures expire five years after the date on which they were published, unless revoked earlier. Not later than nine months before anti-dumping measures expire, Customs must publish a notice advising that the anti-dumping measures are due to expire on a specified day and invite certain persons to apply to Customs for a continuation of those anti-dumping measures.

Where Customs undertakes a continuation inquiry it is required to place on the public record, within 110 days of the initiation of an inquiry, a SEF on which it proposes to base its recommendation to the Minister concerning the continuation of those anti-dumping measures. In certain circumstances the Minister may extend the due date. In formulating this SEF, Customs must have regard to the application and timely submissions relating generally to the inquiry that are received by Customs in response to the initiation notice. Customs may have regard to any other matter that Customs considers to be relevant to the inquiry.

In deciding on the recommendation to be made to the Minister in Customs' report, Customs must also have regard to any submissions made in response to this SEF that are received by Customs no later than 20 days after the SEF is placed on the public record. Customs may have regard to any other matter that Customs considers to be relevant to the inquiry.

4.2 The current continuation inquiry

On 12 November 2007, Customs published a notice inviting certain persons to apply to Customs for continuation of the anti-dumping measures applying to GML from Canada. Applications for continuation of the anti-dumping measures were required to be lodged by 11 January 2008. The current anti-dumping measures are due to expire on 17 September 2008.

On 11 January 2008, Bradken Limited (Bradken), the Australian manufacturer of GML, lodged an application for continuation of the current anti-dumping measures applying to GML exported to Australia from Canada. Customs examined the application and decided not to reject the application.

Public notification of initiation of the continuation inquiry was made on 1 February 2008 - refer to Australian Customs Dumping Notice (ACDN) No. 2008/05.

Norcast Castings Company Limited (Norcast), a manufacturer (and former exporter to Australia) of GML from Canada, claimed that the evidence submitted in the application did not provide any evidence upon which Customs could possibly have found reasonable grounds to decide that the expiration of the anti-dumping measures to which the application relates might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the

anti-dumping measures are intended to prevent. It stated Customs' decision to initiate the inquiry was made in excess of its powers and that the inquiry should be terminated immediately.

Customs must not reject an application if it complies with s. 269ZHC² and if it is satisfied that there appear to be reasonable grounds for asserting that the expiration of the anti-dumping measures to which the application relates might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the anti-dumping measures are intended to prevent. Customs was so satisfied and therefore did not reject the application. The reasons for Customs' decision are contained in Customs' Initiation Report No. 135. In any case, once a decision has been made not to reject an application for continuation, Customs does not have the power to terminate the inquiry.

In May 2008, the Minister agreed to extend the deadline for Customs to place the SEF on the public record to 11 June 2008. The extension was notified in ACDN 2008/20.

The report to the Minister was originally due no later than 7 July 2008. Due to the extension of time for publication of the SEF, Customs will now report to the Minister on or before 28 July 2008.

4.3 Notification and participation

Customs examined details of all imports under the relevant tariff subheading from October 2005 to December 2007. This tariff subheading is very broad and includes goods other than GML and Customs was unable to readily identify imports of GML. Customs did not identify any imports from Canada that appeared to be GML. Customs notified Norcast and an Australian company identified from Norcast's website that it was conducting a continuation inquiry. It asked Norcast to complete an exporter questionnaire.

Norcast made submissions to Customs and completed the exporter questionnaire. In response to queries by Customs, Norcast provided supplementary data to support its exporter questionnaire response. Customs did not verify the information provided by Norcast, but did have regard to that information in formulating this SEF.

Customs visited Bradken to verify the data submitted in support of its application. Bradken also made a submission to the inquiry.

Customs wrote to six end users of GML in Australia. It received responses from Newcrest Mining Limited (Newcrest) on behalf of two end users and Ernest Henry Mining Pty Ltd (Ernest Henry).

2 References to legislation in this report refer to provisions of the *Customs Act 1901* unless explicitly expressed otherwise.

Customs contacted ME Elecmetal, a US manufacturer of GML that had made a submission to Customs during the original investigation. It subsequently received a submission from ME Elecmetal.

Customs placed non-confidential versions of all the above submissions and visit reports on the public record. These versions are available to interested parties.

4.4 Responding to the SEF

The SEF is an important stage in the inquiry process. Submissions made in response to the SEF, that are received within 20 days of the SEF being placed on the public record, will be taken into account when Customs formulates its final report and recommendation to the Minister.

Responses to this SEF should be made by **1 July 2008**.

Submissions should be sent to:

The Director
Trade Measures Operations 3
Australian Customs Service
5 Constitution Avenue
CANBERRA ACT 2601
AUSTRALIA

Submissions can be faxed to 02 6275 6990 or emailed to tmops3@customs.gov.au.

Interested parties intending to respond to the SEF must include a non-confidential version of their submission for placement on the public record³. Submissions provided in confidence must be clearly marked “**IN-CONFIDENCE**”.

As well as non-confidential submissions already received from interested parties, and this SEF, the public record also contains non-confidential versions of Customs’ visit reports and other publicly available documents such as Customs’ initiation report, notices and other information. These documents should be read in conjunction with the SEF.

Any party wishing to examine the public record before lodging a submission in response to this SEF should contact Trade Measures Office Management staff on 02 6275 6547. All ACDNs and published reports are available on the internet at www.customs.gov.au (follow prompts for “anti-dumping”).

³ In preparing a non-confidential version interested parties should take account of the requirements set out in ACDN 2006/54.

5 GOODS SUBJECT TO THE CONTINUATION INQUIRY

5.1 Goods subject to measures

GML are cast articles of iron and steel used to line grinding mills. Trade Measures Report No. 70 stated:

Grinding mills are large rotating structures used in the hard ore mining industry to grind ore as part of the process to recover minerals such as gold, copper and zinc and in refining bauxite. Grinding mills are also used in the cement industry to grind clinker. The goods do not include items used in fitting mill liners to grinding mills such as fillers, rings, bolts and washers.

The inside of the grinding mill is fitted with various liner pieces that make up the mill lining system. The liner pieces are replaced as they wear out as a result of abrasion and impact in the grinding process.

The most common types of grinding mills are:

- *autogenous (AG) mills that use the ore itself as the grinding media;*
- *semi-autogenous (SAG) mills that use a combination of the ore and grinding balls to grind the ore;*
- *ball mills that use grinding media to grind the ore; and*
- *rod mills that use long cylindrical rods to grind the ore.*

Depending on a consumer's requirements, mill liner pieces are typically cast from what the industry describes as either white iron or pearlitic steel. White iron is a harder wearing material but has brittle characteristics and is suitable for low impact grinding. Pearlitic steel is not as hard as white iron but is less brittle and therefore suitable for higher impact grinding.

GML are classified to subheading 8474.90.00 statistical code 28 in Schedule 3 to the *Customs Tariff Act 1995*. The general rate of duty is 5% and the rate for goods from Canada is free.

5.2 Current anti-dumping measures

Anti-dumping measures currently apply to GML exported from Canada to Australia by all exporters. Different anti-dumping measures apply to:

- steel GML, a metal GML that has a chemical composition of less than 2% carbon; and
- iron GML, a metal GML that has a chemical composition of equal to or more than 2% carbon.

Anti-dumping measures were initially imposed in September 2003. There has been no review of the anti-dumping measures since that time. The current anti-dumping measures are due to expire on 17 September 2008.

5.3 Like goods

The report of the visit to Bradken in 2003 stated:

Mill liners are consumable elements within grinding mills, partly degrading over time in the grinding process. The mill owner will typically become involved in the design of the mill liner in an effort to maximise performance and reduce down time for the mill.

The three main segments of the mill to be lined are known as the feed end, the shell (or main body of the mill) and the discharge end. A grate located between the shell and the discharge end determines the size of particle that can escape from the shell of the mill. At the visit, Bradken provided diagrams showing the various mill liner components and how they are used in a grinding mill [attachment].

As explained above, mill liners are manufactured from one of two broad classes of material: pearlitic steel or white iron. White iron is a harder wearing material but has brittle characteristics and is suitable only for low impact grinding or parts of a mill that is not subject to significant impact. Pearlitic steel is not as hard as white iron but is less brittle and therefore can withstand higher impact grinding. Bradken provided an 'alloy selection guide' showing the chemical composition of its pearlitic steel and white iron alloys.

Based on the information collected during the original inquiry and on comments made by interested parties during this inquiry, Customs is satisfied that GML produced by the Australian industry are like goods to GML produced by Norcast. It also accepted Customs' 2003 findings, supported by comments by interested parties during this inquiry, that GML exported from Indonesia were like goods.

5.4 Australian industry

The original application was lodged in December 2002 by Bradken, with a supporting submission from Roche Castings Pty Ltd (Roche). Customs stated in Trade Measures Report No. 70 that the Australian industry producing GML comprised Bradken and Roche.

In its application for continuation of the anti-dumping measures, Bradken stated that it has since acquired Roche. Based on information currently before it, Customs considers that Bradken is the Australian industry producing like goods.

6 AUSTRALIAN MARKET

6.1 Market structure

The Australian market for GML is supplied by the Australian industry and imports. The Australian industry in its application identified Indonesia as the main source of imports. Responses from other interested parties stated they source GML from Indonesia. Customs understands the GML exported to Australia from Indonesia are manufactured and exported by PT Growth.

The applicant claimed that GML are predominately used in the hard rock mining industry and are principally used in the process to recover minerals such as gold and copper, and to a lesser extent zinc. No interested party has disputed this claim. Customs notes references in Trade Measures Report No. 70 to the use of GML in the refining of bauxite and in the grinding of cement clinker. It considers that, based on comments made by the Australian industry and a review of the Australian industry's sales, the market for GML for use in the processing of alumina and bauxite or in the cement industry is small.

Most GML are sold as replacement liners for those worn out during abrasion and impact in the grinding process. The rate of wear is determined by factors such as the type of mill, the design of the liners and the characteristics of the ore being ground.

Mill operators work with GML producers in an effort to maximise the grinding efficiency of the mill in terms of ore throughput and the durability of the GML. Newcrest stated it considered a range of factors when entering into an arrangement to purchase GML. Typical factors taken into account are product quality, price (including freight), reliability and continuity of supply, and service and technical support.

The Australian industry normally supplies GML direct to end users. Overseas suppliers may sell directly to end users or through re-sellers in Australia.

6.2 Market size

Customs has estimated the size of the Australian market based on information supplied by the Australian industry in its application. Customs had limited responses from end users and information from Customs' commercial database for the relevant tariff classification is not sufficiently detailed to assist in determining the volume of imports from Indonesia and other countries. However, information supplied by interested parties suggest the Australian industry's estimate is reasonable. This information indicates that the Australian industry is the largest supplier to the market, but that significant quantities are supplied from Indonesia.

The Australian industry estimated the annual value of the Australian market for GML was about 55 million dollars, up from 30 million dollars in 2002. It attributed the higher market value compared with 2002 to the rising costs of

special alloys such as chrome and molybdenum that are used in the production of GML.

The Australian industry claimed that the size of the Australian market for GML, in tonnes, had decreased in recent years. It claimed that GML are only used in hard rock mining and that statistics for copper and gold production reflected the state of the GML market. To support its claims on the state of the hard rock market it provided extracts of reports by the Australian Bureau of Agricultural and Resource Economics (ABARE) illustrating quarterly mining volumes of copper, gold, iron ore and coal and calendar year production summaries. The Australian industry claimed that this is in contrast with the Australian soft rock mining industry (iron ore and coal) which is still experiencing the mining boom.

Customs considers that the ABARE calendar year reports indicate copper production fell slightly from 2006 to 2007, while gold production remained stable. Customs also notes that press reports on 2 June 2008 stated that in the March quarter of 2008, Australia's gold industry had its worst quarterly result, in terms of production, for nearly two decades.

Norcast claimed demand for copper, zinc, bauxite and gold are indicators of demand for GML. It claimed the mining boom has resulted in the dramatic rise in prices for key resource commodities. Norcast claimed that this has encouraged greater exploration, extraction and processing of many kinds of minerals, both in Australia and globally. Norcast provided data from ABARE on the export volumes of copper, zinc, alumina and gold for the period from 2003 to 2006 in support of this claim.

Customs notes that the information provided by Norcast is only for export volumes and that Norcast provided no evidence to suggest this is indicative of production volumes of these commodities in Australia. Customs also notes, as discussed in section 6.1, the market for GML for use in the processing of alumina and bauxite is small.

Customs accepts that prices for these commodities have risen dramatically, but considers that hard rock mine production (which represents the volume of ore processed in grinding mills), not the commodity prices, is the primary driver of demand for GML. It considers that hard rock mine production does not appear to have matched the increasing prices for commodities extracted from hard rock mining.

Customs notes information provided by the Australian industry indicates that a number of mines have closed recently and a lesser number of new mines have come on stream. It also notes the Australian industry's domestic sales volume in the first six months of 2007-08 indicates that sales by the Australian industry may fall in 2007-08.

Based on the information provided by the Australian industry, Customs does not consider that demand for GML is increasing and considers that it is more likely to be decreasing in the short term.

7 RECENT EXPORT ACTIVITY FOR GML FROM CANADA

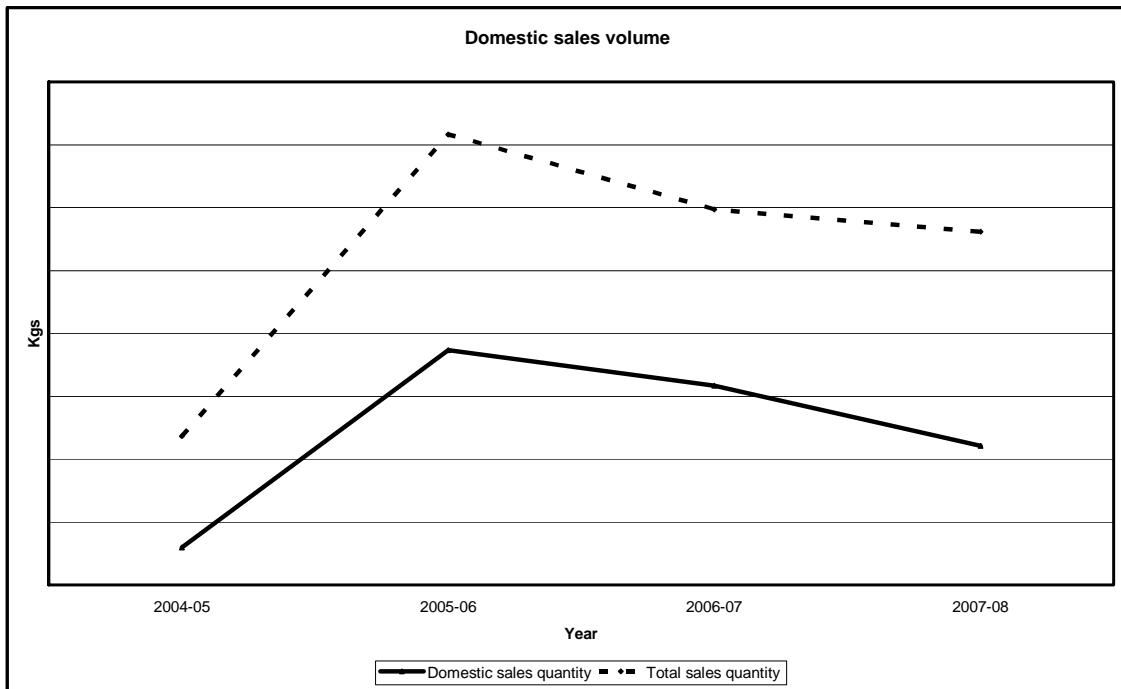
Norcast claimed that it has received no new orders to supply GML to Australia since anti-dumping measures were imposed in 2003. Customs reviewed information in its commercial database and did not identify any recent imports of GML from Canada.

8 ECONOMIC CONDITION OF THE INDUSTRY

Customs examined the performance of the Australian industry in 2004-05, 2005-06, 2006-07 and the first six months of 2007-08.

8.1 Volume trends

Movements in the Australian industry's sales volumes is illustrated in the following chart.



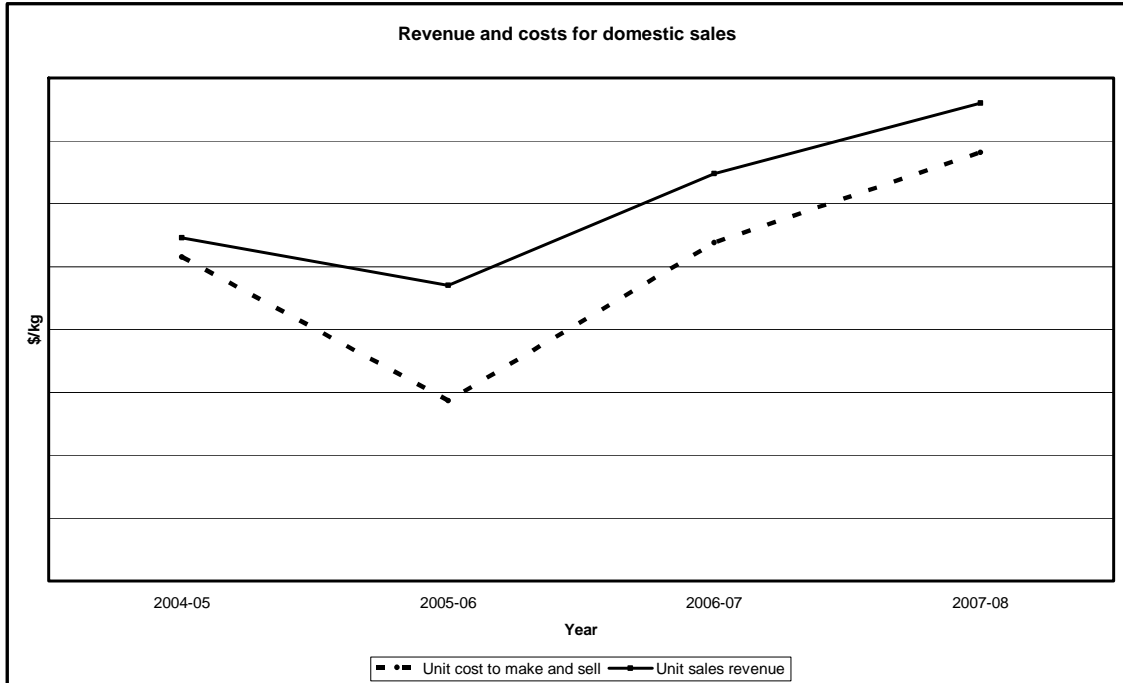
The data for 2007-08 is based on actual sales for the six months to December 2007 extrapolated for the full year.

Both domestic and total sales rose in 2005-06, but have fallen each year since.

Customs noted that the majority of GML produced by the Australian industry are sold on the domestic market, although the export volumes were significant. Export sales of GML improved in 2005-06, remained stable in 2006-07 and may improve slightly in 2007-08.

8.2 Revenue, price and cost trends

Movements in the Australian industry's unit prices and costs for domestic sales are illustrated in the following chart. The Australian industry stated that these movements reflect the effect of higher alloy costs.



The data for 2007-08 is based on the actual results for the six months to December 2007.

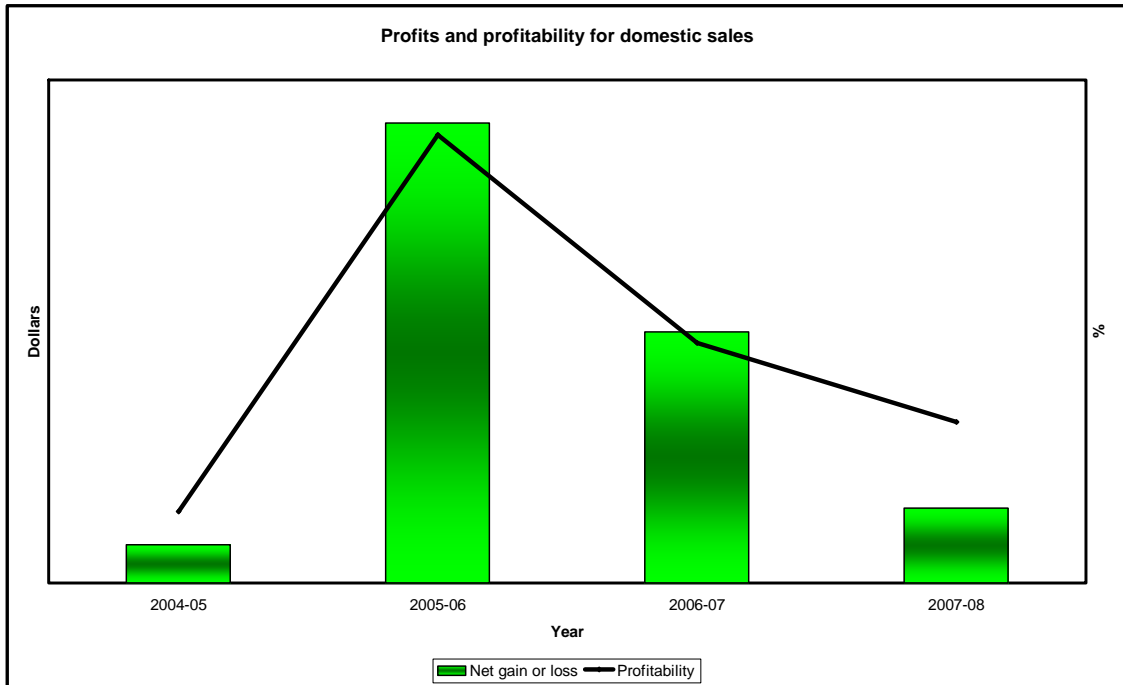
Both unit revenue and costs fell in 2005-06, although the fall in costs was greater than the fall in revenue. Both costs and revenue rose each year since. The margin between unit revenue and costs increased in 2005-06, but decreased in both 2006-07 and 2007-08. The margin in 2007-08 is greater than it was in 2004-05.

In respect of export sales, unit revenues and costs followed a similar trend, however the margin between unit revenue and costs improved each year.

In respect of total sales, unit revenue and costs followed a similar trend to domestic sales.

8.3 Profits and profitability

Movements in the Australian industry's total profit and profitability (profit measured as a percentage of revenue) for domestic sales are illustrated in the following chart.



Both total profit and profitability rose in 2005-06, but have since fallen each year. Total profit for 2007-08 reflects the Australian industry's performance in the six months to December 2007, but extrapolation of this data for the full year indicates that total profit in 2007-08 will be less than in 2006-07.

In respect of export sales, total profit and profitability rose each year.

In respect of total sales, total profit and profitability followed a similar trend to domestic sales.

8.4 Conclusion

Customs compared the Australian industry's performance over the period reviewed with that observed during the 2003 investigation. It noted that in 2004-05 compared with 2002-03:

- domestic and total sales volumes were similar;
- unit prices and costs have risen; and
- total profit and profitability in on domestic sales rose.

Customs considers that the economic performance of the Australian industry improved in 2004-05 following the imposition of anti-dumping measures in 2003 and in the absence exports of GML from Canada. It notes that GML from Indonesia maintained a significant presence in the Australian market during this period.

The data indicates that there was further improvement in 2005-06, but the Australian industry's performance in both 2006-07 and 2007-08 has declined.

9 LIKELIHOOD OF DUMPING OR INJURY CONTINUING OR RECURRING

9.1 Claims by interested parties

9.1.1 Norcast

Norcast provided submissions to Customs and completed an exporter questionnaire. In response to queries by Customs, Norcast provided supplementary data to support its exporter questionnaire response. The points raised by Norcast are summarised below and are discussed in more detail in the relevant sections of this SEF.

The current continuation inquiry

- Norcast claimed that the evidence submitted in the application did not provide any evidence of the likelihood of dumping or of any material injury to the Australian industry and that Customs' decision to initiate the inquiry was made in excess of its powers and that the inquiry should be terminated immediately.
- Norcast claimed that the burden of proving that the anti-dumping measures should be continued lies with the applicant and that insufficient evidence has been presented to justify Customs recommending to the Minister that the anti-dumping measures be continued for another five years.

The Australian industry

- Norcast claimed that since Bradken acquired Roche it effectively became the sole Australian manufacturer of GML and that it holds a dominant position in relation to the supply of GML to Australian customers.

Dumping

- Norcast claimed that it has not exported GML to Australia since anti-dumping measures were imposed in 2003 and that this provides compelling evidence that dumping is unlikely to continue or recur.
- Norcast stated that it is operating at full capacity as a result of favourable economic conditions resulting from the mining boom and that its production of GML in 2008 is on track to reach a near record level of output. It stated that it had achieved similar production volumes in each of the last five years.
- Norcast stated that it has a second foundry which is not operating at full capacity. It stated that this foundry produces grinding media and cannot produce GML.
- Norcast stated that it has encountered no difficulty in selling GML in recent years, that it has agreements with some long term customers to

always be in a position to supply GML and any new customers must wait for supply because of the capacity constraint and strong demand.

- Norcast stated that Bradken's claim that it currently has excess capacity following reported losses of contract work is incorrect.
- Norcast stated that

It is inconceivable that any rational business seeking to maximise its profits would "dump", when it can sell at profit-maximizing prices into growing markets where consumers hold its products in high regard.

- Norcast stated that as it has not exported GML to Australia in the last five years there is no export price. It considered that Parliament did not intend to allow the Minister to calculate export prices if there have been no recent exports to Australia.
- Norcast recognised that Customs may attempt to calculate an export price by reference to third country sales. It stated that if Customs did attempt to calculate such an export price, it should ensure that the export price is comparable to the normal value for the same type of GML.
- Norcast claimed that if Customs is going to rely on exports to a third country, the legislation requires that Customs select an appropriate third country rather than use a weighted average for all countries. Norcast provided details of all exports, but claimed comparable exports exclude exports to certain countries where the GML were for use in new grinding mills or to countries with certain identified characteristics.
- Norcast claimed Chile was the best available market to establish third country export prices. The reasons advanced by Norcast were that:
 - Chile is a significant purchaser of Norcast products;
 - Chile has a large well developed minerals industry; and
 - Chile has a significant local manufacturer of GML and has significant import competition.
- Norcast claimed that because of the variable factors that affect prices, any dumping margin of less than 15% should be regarded as negligible.
- In response to the Australian industry's claim that Norcast maintains a presence in Australia, Norcast stated that its South East Asian representative tendered his resignation in March 2007. It further stated that his duties related entirely to Papua New Guinea and Indonesia following the imposition of anti-dumping measures in 2003. Norcast stated that this representative has not been replaced.
- Norcast stated that it holds a controlling interest in a shelf company in Australia, but this company has no offices or staff and has not performed any function since 2003. It claimed that this does not amount to a material presence in Australia.
- Norcast claimed that Bradken provided inadequate evidence of the current Canadian normal value for GML.
- Norcast provided details of its domestic sales and estimates of the cost to make and sell GML in Canada. It claimed that this indicates that these sales in Canada were in the ordinary course of trade.

- Norcast also identified differences in GML that should be taken into account when comparing export prices with normal values - type of grinding mill, alloy used, end use and quantity supplied.
 - Norcast stated that SAG mills are larger and as a result the GML used in them are also significantly larger. This, in turn, means that a larger casting is used to make the GML. It is more efficient and less costly to make GML for use in SAG mills.
 - Norcast claims SAG mills make up a much larger proportion of grinding mills in Australia than in North America.
 - Norcast stated that the difference between GML for use in SAG mills and those used in rod and ball mills has important implications for pricing comparisons. GML for use in SAG mills are significantly cheaper per kilogram than those for use in rod and ball mills.
- Norcast stated that it has not engaged in selling GML at dumped prices anywhere in the world in the last five years. It claimed that Bradken's unsubstantiated claims of price undercutting are factually incorrect. Norcast stated that it is difficult to respond to these claims because so little information was provided in the public file version of the application. It claimed that these unsubstantiated claims by Bradken should be disregarded by Customs.
- Norcast provided information on its domestic and export sales. It claimed that this information indicates that Norcast's export prices to these markets were above the normal value and that these exports were therefore not dumped.
- Norcast further stated that no anti-dumping inquiry has been instigated against Norcast or any other manufacturer of GML in the last five years. It claimed that this is a further indication that Norcast has not engaged in dumping.
- Norcast claimed there is no evidence that dumping would recur if the anti-dumping measures were allowed to expire.
- Norcast commented on Bradken's continued reference to price undercutting. It stated that price undercutting is not evidence of dumping.
- Norcast provided a summary of the data provided for calendar year 2007 domestic and export sales invoice data and a calculation of the price differential between comparable domestic sales and all export sales, export sales to Papua New Guinea; and export sales to Chile. Norcast considers that the summary information indicates, when the calendar year 2007 invoice sales data is corrected to achieve comparability between domestic and export sales, there is a *de minimis* theoretical price differential.

Material injury

- Norcast claimed that any future exports of GML to Australia from Canada would not result in material injury to the Australian industry. It claimed that:

- Bradken's position as the only Australian producer of GML, combined with the favourable economic conditions arising from the mining boom, have allowed Bradken to "raise its domestic prices significantly";
- any future loss of "supranormal" profits by Bradken should not be regarded by Customs as material injury;
- Bradken does not have the capacity to meet the current and immediate future Australian and global demand for GML; and
- Bradken is winning major deals in other countries and any lost domestic sales can be replaced by export sales.
- The mining boom.
 - Norcast claimed demand for copper, zinc, bauxite and gold are indicators of demand for GML.
 - Norcast claimed the mining boom has resulted in the dramatic increase in prices for key resource commodities. It stated that this has encouraged greater exploration, extraction and processing of many kinds of minerals, both in Australia and globally.
 - Norcast claimed the mining boom is likely to continue. It quoted figures from a report for the Mineral Council of Australia estimating 50 "advanced" minerals, mining and processing projects and 182 "less advanced" projects were scheduled in Australia in 2007 and 2008. Advanced projects are committed or under construction and less advanced projects are undergoing a feasibility study or no decision has been made on whether to proceed. (Norcast did not identify the commodities, volumes or when the projects will become operational.)
 - Norcast estimated 2008 capacity and production of GML by all major global producers. This data indicates that all major producers are producing at or near full capacity.
 - Norcast claimed that the Australian industry in its application stated that "Demand for GML is relatively flat, reflecting modest growth in the hard rock mining sector". Norcast claimed that this statement is incorrect and referred to published data such as the export volumes provided by ABARE; the statement in Bradken's application that Bradken is considering a 65 million dollar capacity expansion at its Adelaide foundry; and a statement by Bradken that it believes long term mining production expansion will continue. Norcast also referred to a statement from Bradken's 2007 annual report that Bradken is well placed to continue to benefit from the growth in resource processing in China.

- Loss of “supranormal” profits.
 - Norcast claimed that Bradken’s prices appear to be well in excess of its costs of production plus a reasonable amount of profit. It attributed this to the favourable effect of the mining boom and the acquisition of Roche, Bradken’s only domestic competitor.
 - Norcast claimed that if it provided competition to Bradken in the future, any reduction in its “supranormal” profits should not be regarded as material injury.
 - Norcast claimed the Australian domestic industry prices which are reflective of the exploitation of patent rights should not be taken into consideration when determining the non-injurious price (“NIP”).
- Bradken’s capacity constraints.
 - Norcast stated it has been informed that Bradken has capacity limitations and that it is quoting significant lead times for deliveries of GML.
 - Norcast claimed that further evidence of Bradken’s capacity limitations is the proposed 65 million dollar expansion of its Adelaide foundry.
 - Norcast quoted an extract from Bradken’s application stating Customs’ decision on the GML continuation will be an important factor for Bradken’s board to consider in making the decision to expand the Adelaide foundry. Norcast stated that

There is no scope for Customs to consider any future diminution of investment as “material injury”.
 - Norcast also quoted comments from Bradken’s 2007 annual report that made reference to approval from the South Australian government in respect of the Adelaide foundry proposal. It concluded that Bradken is more concerned with this approval rather than the outcome of the current continuation inquiry.
- Bradken’s ability to compete domestically and globally.
 - Norcast stated that Bradken has significantly improved its sales and profitability since anti-dumping measures were imposed. It provided information in respect of the financial performance of the mineral processing segment from Bradken’s annual reports to support this claim. Norcast also claimed that Bradken’s improved earnings have enabled it to launch a series of acquisitions and that its employee numbers have increased.
 - Norcast claimed that Bradken’s acquisition of Roche has lowered its costs and that material injury is unlikely to recur as a result of the resumption of exports from Canada.
 - Norcast claimed that Bradken’s intention is to further develop export sales and considered that the expansion of the Adelaide foundry would help achieve this goal. It claimed that any loss in domestic sales would be offset by increasing exports.
- Other possible causes of injury

- Norcast claimed that other producers of GML may cause injury to Bradken, notably PT Growth of Indonesia and ME Electrical.

Other comments

- Norcast claimed that the Australian industry in its application stated that tenders are placed electronically, either direct to the customer or by “reverse tender auction”. Norcast stated electronic reverse auctions have been largely abandoned and the vast majority of tender processes are by way of a closed bid process. It claimed that these processes place greater weight on quality, long term supply relationships and other non-price factors. Norcast claimed that this is a further indication that instances of “anomalous pricing” will not continue or recur.
- Norcast claimed that Bradken enjoys a degree of natural protection because of the significant freight costs that are incurred on GML exported to Australia from other countries, Canada in particular.

9.1.2 The Australian industry

The Australian industry provided the following comments on Norcast’s submission.

Dumping

- The Australian industry stated that the fact that Norcast has not received any new orders indicates that it cannot be competitive, in terms of price, in the Australian market. It also stated that the failure of exporters to win business for their products subsequent to the imposition of anti-dumping measures indicates that they cannot compete on normal commercial terms and have to quote and sell at dumped prices.
- The Australian industry recognised that Norcast may be currently operating at full capacity, but claimed there is no guarantee that it will not have excess capacity in future. It referred to stated reduced capacity utilisation in quarterly reports contained in the Norcast Income Fund⁴. The Australian industry claimed that such fluctuations in capacity utilisation are typical of Norcast’s operations over most, if not all, years. It claimed that Norcast, during periods of reduced capacity utilisation, is likely to seek export work at lower prices to recover marginal costs plus some contribution of fixed costs and unavoidable overheads.
- The Australian industry claimed Norcast has reported lower profitability in some of its quarterly reports for the Norcast Income Fund as a result of operating at lower capacity.

⁴ The Fund was established on May 10, 2005 and acquired all the shares of Norcast Castings Company Ltd on June 22, 2005, on the completion of the Fund’s Initial Public Offering.

- The Australian industry claimed that the aim of any GML factory is to gather sufficient forward orders to ensure that the plant operates as closely as possible to its optimum production capacity level at all times.
- The Australian industry identified locations where Norcast has lost contracts and has questioned whether these losses have created spare capacity that needs to be filled by other sales.
- The Australian industry referred to Norcast's statement that it has a second foundry that is not currently operating at full capacity, that produces grinding media and cannot produce GML. It accepts this statement, but claimed this business consumes comparatively few administration, finance, selling and marketing resources and that the majority of these costs should be allocated to GML.
- The Australian industry claimed it is normal for new orders to be scheduled with many months lead time, especially if the maintenance is well scheduled and the mine has good backup inventory.
- The Australian industry referred to Norcast's statement that it has not engaged in dumping anywhere in the world in the last five years. It pointed out that anti-dumping measures were imposed against imports of GML from Canada in September 2003 and that Customs found that the dumping margins were significant.
- The Australian industry referred to a letter from Norcast to its customers dated 10 December 2002 in which it stated

that Norcast does not believe that it has been dumping grinding mill liners ... and ...We also should mention that we have received legal advice that dumping is neither illegal nor unlawful in Australia or in any other country and that differential pricing between countries is a legitimate business practice.

- The Australian industry claimed plans to initiate anti-dumping actions in relation to GML from Canada have been considered in two countries. It also claimed that GML manufacturers in Chile are prevented from taking anti-dumping action against Canada under the terms of the Canada/Chile Free Trade Agreement.
- The Australian industry referred to Norcast's statement that it has severed all business ties in Australia. It claimed that the presence or otherwise of an appointed agent at this time in Australia is of little relevance to the question of the likelihood of Norcast resuming activities in Australia for the following reasons.
 - Norcast can easily get an agent with Australian experience, as they did when they appointed an ex-Bradken sales employee on 10 July 2000. This provided them with instant, contemporary market information.
 - Additionally, Jan Castro, Director of Norcast, is a Board member of Avoca Resources Limited in Perth, Western Australia, as well as having links through membership of another board to an important major Bradken and Norcast GML customer.
 - Norcast has well established contacts with existing original equipment manufacturers and mining customers operating in

- Australia either as a result of the dumping activity in 2002-03 or through relationships established in other countries with “trans-national” firms.
 - The Australian industry claimed that Norcast relies on exports for more than 60% of its production, has a marginal cost at about half its average cost and is focussed on operating at very high capacity levels at all costs.
- The Australian industry claimed that because of the Canada/Chile Free Trade Agreement, GML sales from Canada to Chile are unsuitable for comparison with GML prices in Canada. It claimed Peru and Brazil are more comparable markets.
- The Australian industry submitted that normal values in Canada will reflect pricing from both Norcast and the company that provided normal value information that was included in the application. It stated that this company was active in the Canadian market.
- The Australian industry claimed, in response to Norcast’s claims that GML made for SAG mills are less costly than GML for other grinding mills, that there is often no direct correlation between mill type and GML size.

Material injury

- The Australian industry referred to Norcast’s reference to a definition of dumping as goods being introduced into the commerce of another country at less than their normal value. It stated that during the original investigation, it was demonstrated that the Australian GML industry suffered material injury at the quotation and tender stage. The Australian industry claimed price undercutting by offer of products is an indicator of potential material injury by Canadian GML manufacturers if anti-dumping measures were allowed to expire.
- The Australian industry stated that its improved financial performance was the intended consequence of imposing anti-dumping measures.
- The Australian industry stated comments made by Norcast must be taken in the context that the segment figures quoted by Norcast are for the whole of the mineral processing business unit. It stated it has allowed Customs to verify financial information in respect of GML only and its linkage to audited financial statements.
- The Australian industry submitted that GML production is a capital intensive process, with marginal costs much lower than average costs, so any production volume losses quickly lead to material injury as high fixed costs need to be covered by lower production volumes.
- The Australian industry claimed that when assessing material injury, Customs can have regard to the impact of dumped goods on the local industry’s investment decisions.
- The Australian industry referred to Norcast’s statement that any future exports are unlikely to result in material injury to the Australian industry. It referred to stated reduced capacity utilisation, and resultant higher production costs in quarterly reports for the Norcast Income Fund. It considered that this demonstrates that any sales lost to GML from Canada must lead to material injury.

- The Australian industry referred to Norcast's statement that any future loss of "supranormal" profits should not be regarded material injury to the Australian industry. It stated that neither the Australian legislation nor the World Trade Organisation Anti-Dumping Agreement recognised the term "supranormal" profits. It claimed all that is recognised is the need to have regard to a range of factors to determine whether injury is material.
- The Australian industry referred to Norcast's statement that the Australian industry is currently facing capacity constraints and consequently cannot meet current and near term demand for GML. It stated it has been able to demonstrate to Customs that it has significant available capacity.
- The Australian industry referred to Norcast's reference to the mining boom and its effect on the resources industry. It stated that in Australia the mining boom related to iron ore and coal and provided ABARE statistics on actual Australian production for relevant commodities. The Australian industry stated that the demand for GML is related to quantities processed, not prices for those commodities.
- The Australian industry referred to Norcast's reference to a number of quotations from public documents attributed to Bradken. It stated these comments applied to the business as a whole, not GML. The Australian industry referred to a Bradken media release commenting on Bradken's half yearly results to December 2007.

Sales in the Mineral Processing Division were flat in HY08 compared to the corresponding period. Copper and gold mine production volumes in Australia were lower in HY08 resulting in reduced demand for repeat consumable products.

- The Australian industry referred to Norcast's statement that all major producers are producing at or near full capacity. It claimed these were Norcast's own estimates and they incorrectly and significantly underestimate Bradken's GML capacity and capacity utilisation.
- The Australian industry stated it faces competition from a number of sources, including other foundry businesses. It stated Norcast's comments about return on assets are based on figures that include businesses in addition to GML.
- The Australian industry claimed PT Growth exports more than 90% of its production to many countries and the issue of dumping has never been of interest to the Australian industry, who present a different "market offer" to customers with a "value", rather than "price" focus.
- The Australian industry stated ME Elecmetal has employed a representative in Australia for many years that is focussed on trying to win Australian business against the Australian industry at undumped prices. It claimed this representative also looks after South East Asia and Africa. The Australian industry claimed that this demonstrates that the Australian industry faces competition that prevents it from making "supranormal" profits.
- The Australian industry stated, in response to Norcast claim that sales of GML subject to a patent should not be considered for NIP

calculations, that sales of GML sold under a patent only account for only a small fraction of sales and “would be irrelevant” when calculating weighted average prices.

9.1.3 ME Elecmetal

ME Elecmetal described itself as a world recognised leader in the supply of impact and abrasion resistant castings to the mineral processing industry.

- ME Elecmetal stated its position in the Canadian market is to offer quality, price, delivery and after market field support. It has reviewed its historical sales records for exports from the USA to Canada and orders already committed.
- ME Elecmetal stated it has increased its market share in Canada.
- ME Elecmetal stated that mining activity in North and South America continues to grow with new projects and expansion of existing mines. It claimed there is currently a balance between supply and demand for GML, but claimed that there could be a shortage of supply if too many projects come on line before GML suppliers increase their capacity.

9.1.4 Newcrest

Newcrest stated it owns and operates two mines in Australia that use GML, the Telfer Gold Mine (Telfer) in the Pilbara and Cadia Valley Operations (Cadia) near Orange in NSW.

- Newcrest stated it uses pearlitic steel GML for its SAG and ball grinding mills at Telfer, with GML consumption being about 2,500 tonnes per annum. It stated it trialled the use of white iron GML in 2006, but they were about 20% more expensive and only provided a marginally longer life. Newcrest stated that the current supplier was PT Growth of Indonesia. It stated that PT Growth has a cost advantage over Bradken because of the location of Telfer.
- Newcrest stated it used both pearlitic steel and white iron GML for its SAG and ball grinding mills at Cadia, with consumption being about 3,500 tonnes per annum. It stated the current supplier was Bradken (in 2003-04 it was a combination of Norcast, Bradken and Roche).
- Newcrest stated that when purchasing GML, it considered the following attributes:
 - product quality;
 - price (including all costs of getting the GML on-site);
 - reliability and continuity of supply; and
 - after product service and technical support.
- Newcrest stated that, from its perspective, the quality of GML from Norcast, Bradken and PT Growth was similar.
- Newcrest stated that since the imposition of anti-dumping measures in 2003, Norcast has not been price competitive against either PT Growth or Bradken.

- Newcrest considers that allowing the anti-dumping measures to expire would increase competition for GML by encouraging the re-entry into the Australian market of alternative northern hemisphere suppliers.

9.1.5 Ernest Henry

- Ernest Henry stated it has two grinding mills, one uses steel GML and the other uses white iron GML. It stated that Growth Asia Australia Pty Ltd is the current supplier and has been for the last five years, sourcing the GML from Indonesia.
- Ernest Henry stated that when purchasing GML, it considered quality, cost and support. It stated quality was the major factor because of the need to ensure that there is no premature breakage or severe wear.
- Ernest Henry was unable to comment on GML from other suppliers.
- Ernest Henry considered that allowing the anti-dumping measures to expire would allow consumers a greater choice of GML suppliers. It could not see this affecting prices because of the high cost of freight from Canada.

9.2 What is the likelihood of dumping continuing or recurring?

Having regard to claims by interested parties, evidence provided in support of those claims and other relevant information, Customs has made the following assessment of whether it is likely that exports of GML from Canada to Australia at dumped prices would be likely to resume if the anti-dumping measures were allowed to expire.

9.2.1 Norcast export reliance

Customs notes that Norcast exports GML to a number of countries around the world and that the volume of its export sales represents a significant proportion of its total sales of GML. Information from publicly available Norcast Income Fund documents indicated that Norcast's revenue derived from export sales was 63% of total revenue in the nine months to September 2006.

9.2.2 Norcast representation and distribution

Customs notes that Norcast has had a representative in Australia for most of the period since anti-dumping measures were imposed. It accepts Norcast's claim that this representative's duties related entirely to Papua New Guinea and Indonesia, but considers that it would be relatively simple for Norcast to appoint such a representative to service the Australian market. Customs notes that when Norcast was previously exporting to Australia it had just the single Australian based representative.

Customs therefore considers the logistics issues associated with Norcast exporting GML to Australian consumers, whether directly or indirectly, provides no significant impediment to exports resuming in the absence of anti-dumping measures. However, Customs recognises the cost of those logistics, particularly ocean freight costs, would be substantial.

9.2.3 Norcast capacity utilisation

Customs notes Norcast's comments about it operating at full capacity as a result of favourable economic conditions resulting from the mining boom, that it is on track to reach a near record production levels in 2008, and that it had achieved similar production volumes in each of the last five years. It appears that capacity utilisation is an important issue to Norcast as depicted in the publicly available Norcast Income Fund documents that indicate lower EBITDA results in 2006 were "...reflecting the higher production costs associated with the reduced capacity utilisation...".

Customs accepts that there is often a commercially valid rationale for manufacturers to maintain a high level of capacity utilisation, especially where the marginal cost of each extra unit of production represents a relatively small proportion of average total costs. In these circumstances, Customs considers it is conceivable that manufacturers motivated by profit maximisation may be attracted to producing extra units with a view to selling at a price that recovers little more than marginal costs. This would provide a contribution to fixed costs and the "bottom line". Indeed, these practices can lead to dumping.

Although Norcast's own outlook for capacity utilisation may be a positive one, Customs notes that Norcast has typically been reliant upon export sales for a significant proportion of its GML sales. Customs considers that the Australian market is likely to be an attractive one for Norcast, whether it is to restore less than optimal capacity utilisation as required, or to replace production and sales that would otherwise be directed to less profitable markets.

Customs also considers that Australian consumers may see Norcast as an attractive supplier of GML. Norcast is recognised as a supplier of high quality GML and has pattern equipment and manufacturing experience with significant Australian customers. End-users of GML also stated that the expiry of the measures would allow consumers a greater choice of GML suppliers.

Customs also notes the ME Elecmetal statement that mining activity in North and South America continues to grow and that ME Elecmetal had increased its market share in Canada. Customs considers the observation of a growing GML market at the same time that ME Elecmetal is gaining market share in Canada is inconclusive for assessment of Norcast's likely capacity utilisation.

9.2.4 Norcast price competitiveness in Australia

Customs notes interested party claims that Norcast has not recently exported GML to Australia because it was not competitive in terms of price against either PT Growth or the Australian industry following the imposition of anti-dumping measures in 2003. Customs notes no evidence was provided to support this claim, but recognises that the amount of interim dumping duty payable on imports of GML from Canada would be a significant disincentive to potential importers.

In order to test the potential price competitiveness of Norcast GML in Australia, Customs undertook its own analysis to determine whether it is likely that

Norcast would have to export at dumped prices in order to compete in the Australian market. Customs firstly established a weighted average selling price for domestic sales of GML by the Australian industry in 2007 and then, assuming Norcast's selling price in Australia would have to be at or around this level to be competitive, deducted amounts for post exportation expenses to calculate a notional FOB Canada export price. Customs compared this notional export price to various estimates of normal values using Norcast's response to the exporter questionnaire. Customs considers this analysis indicates that, in 2007, Norcast would have needed to export at prices less than its normal value to be competitive in Australia.

9.2.5 Pricing behaviour in other markets

Customs analysed Norcast's pricing behaviour in other markets. It compared export prices and normal values in relation to Norcast exports to third countries to assess whether there were any indications of dumping.

Norcast completed an exporter questionnaire and provided detailed information on its export sales of GML. It stated domestic and export sales are generally made on an ex-works basis. Customs considers that export prices and normal values should be compared for the same type of GML and that the alloy used in the GML is the most significant difference. Norcast provided sufficient information to enable Customs to calculate a weighted average export price by alloy type for each country and for each quarter during 2007.

Norcast provided details of its domestic sales in its exporter questionnaire response. It provided sufficient information to enable Customs to calculate a weighted average domestic price, by alloy type, for each quarter during 2007.

Norcast claimed exports to a number of countries should be excluded (referred to as non-comparable countries). It claimed:

- exports of GML for use in new grinding mills should be excluded because initially the grinding mill is generally used inefficiently and the first set of GML tends to wear out relatively quickly;
- exports to a country where there were local and customer specific factors that constrained Norcast's efforts to increase prices should be excluded;
- exports to a country where the importer was a reseller and operated at a different level of trade should be excluded; and
- exports to a country where many sales were based on long term relationships established when comparisons of exchange rates were different should be excluded.

Norcast claimed Chile was the best available market to establish a third country export price. The reasons advanced by Norcast were that:

- Chile is significant purchaser of Norcast products;
- Chile has a large well developed minerals industry; and
- Chile has a significant local manufacturer of GML and has significant import competition.

Norcast calculated a weighted average domestic price for each model comparable to those models exported to Chile. Norcast classified GML to models based on the alloy used. It then calculated a single weighted average domestic price for all comparable models, weighted by domestic volumes. Norcast calculated weighted average export prices for each model exported to Chile. It then calculated a single weighted average export price for all models exported to Chile, weighted by export volumes. Norcast compared these single weighted average export and domestic prices. It undertook similar comparisons for exports to Papua New Guinea and to all comparable countries. It claimed these comparisons indicated that there is a *de minimis* theoretical price differential.

Customs is concerned that this approach pays no regard to appropriate model matching and does not provide a reasonable comparison between export prices and normal values. For example, if the majority of domestic sales are made up of lower priced models, while the majority of export sales are higher priced models, Customs considers that any comparison using this methodology would be inaccurate.

In conducting such comparisons, Customs firstly compares weighted average export and domestic prices on a model by model basis, usually by quarter. It then assesses a weighted average dumping margin for all models (that is, a product dumping margin) by weighting the calculation for each model in accordance with export volume. Customs considers that this method avoids distortions caused by having improper or no regard to model and/or period matching.

Customs compared Norcast's domestic GML prices with its export prices in three different confidential analyses. For reasons of confidentiality, Customs cannot be specific about the results, but it considers the analyses support a view that indicates Norcast is likely to export to Australia at prices lower than its normal value.

9.2.6 Anti-dumping and countervailing actions by other authorities

Customs is not aware of any anti-dumping or countervailing measures applied to GML from Canada by any other authorities.

9.2.7 Conclusion

Customs considers that:

- a significant proportion of Norcast's revenue is derived from export sales;
- logistics issues associated with Norcast exporting GML to Australian consumers provides no significant impediment to exports resuming;
- the Australian market is likely to be an attractive one for Norcast, whether it is to restore less than optimal capacity utilisation as required, or to replace production and sales that would otherwise be directed to less profitable markets;

- Norcast is recognised as a supplier of high quality GML and has pattern equipment and manufacturing experience with significant Australian customers;
- in 2007, Norcast would have needed to export at prices less than its normal value to be competitive in Australia;
- Norcast is likely to export to Australia at prices lower than its normal value.

Based on the above, Customs concludes that exports of GML from Canada to Australia at dumped prices would be likely to resume if the anti-dumping measures were allowed to expire.

9.3 What is the likelihood of injury continuing or recurring?

9.3.1 Current condition of the Australian industry

As noted in section 8.4, Customs considers that the economic performance of the Australian industry improved in 2004-05 following the imposition of anti-dumping measures in 2003 and in the absence exports of GML from Canada. It notes that GML from Indonesia maintained a significant presence in the Australian market during this period. The data indicates that there was further improvement in 2005-06, but the Australian industry's performance in both 2006-07 and 2007-08 has declined.

Norcast claimed that the Australian industry's prices appear to be well in excess of its costs of production plus a reasonable amount of profit. It claimed that any reduction in its "supranormal" profits should not be regarded as material injury. Customs notes that Norcast did not provide a definition of "supranormal" profits or what would be regarded as normal profits for a producer of GML.

Norcast claimed that favourable economic conditions arising from the mining boom have allowed Bradken to "raise its domestic prices significantly". Customs notes that verified financial information indicates that Bradken's prices have risen, but costs have risen to a greater extent and profits and profitability has fallen over the last two years.

Customs notes that Norcast made references to public statements by Bradken that indicated that the company would benefit from future growth in the mining sector. It notes these statements were in respect of Bradken's total business, not GML. Customs notes a Bradken media release commenting on Bradken's half yearly results to December 2007 stated

Sales in the Mineral Processing Division were flat in HY08 compared to the corresponding period. Copper and gold mine production volumes in Australia were lower in HY08 resulting in reduced demand for repeat consumable products.

9.3.2 Capacity

Norcast stated it has been informed that Bradken has capacity limitations.

The public file version of Customs' visit report to Bradken stated that since Bradken's acquisition of the Roche foundry at Henderson, production of most GML at Bradken's Runcorn foundry was switched to Henderson. Bradken also stated that the Runcorn foundry now mainly produced other Bradken products, but still has the capacity to make GML if required. The report stated that a number of Bradken's other foundries currently produce small quantities of GML, but have the capacity to produce significantly higher volumes of GML if required.

When verifying the financial information provided by the Australian industry, Customs observed in which foundries Bradken produced GML. It is satisfied that the Australian industry does not have capacity constraints such that would affect its ability to supply the Australian market.

9.3.3 Australian market for GML

Customs notes references by Norcast to dramatic increases in prices for relevant commodities, but recognises that demand for GML is related more directly to quantities of commodities processed, rather than prices for those commodities.

Customs also notes information supplied by the Australian industry supporting its claim that there were very few new grinding mills either under construction or planned in Australia and that a number of mines had recently closed.

Customs notes:

- that Norcast and Bradken have presented differing views on the effect of the mining boom on the Australian market for GML;
- that the information relied on by Norcast is for export volumes, not mine production; and
- the Australian industry's domestic sales volume in the first six months of 2007-08 indicates that sales by the Australian industry may fall in 2007-08.

Customs also notes that press reports on 2 June 2008 stated that in the March quarter of 2008, Australia's gold industry had its worst quarterly result, in terms of production, for nearly two decades.

Based on the information available, Customs does not consider that demand for GML is increasing and may even be decreasing in the short term. It concludes that demand for GML in Australia is relatively flat.

9.3.4 Lower production volumes

The Australian industry claimed that the flat demand for GML places it in a susceptible position for material injury to recur should Norcast be able to export GML to Australia at dumped prices. Customs recognises that GML production is a capital intensive process with marginal costs lower than average costs. It considers that any loss of production volumes to imports of GML from Canada

is likely to quickly lead to material injury as higher unit costs would result in lower profits and profitability.

9.3.5 Price undercutting

In this case Norcast has not exported GML to Australia since the anti-dumping measures were imposed. Customs is unable to make any conclusion about possible future price undercutting.

9.3.6 Timing of injury

The Australian industry stated that during the original investigation, it was demonstrated that the Australian GML industry suffered material injury at the quotation and tender stage, and that price undercutting by offer of products is an indicator of potential material injury. Customs notes that no evidence has been presented to the inquiry to suggest that Norcast is quoting at such prices. Customs is uncertain how the Australian GML industry's argument about injury at the quotation and tender stage is relevant to its considerations in the continuation inquiry.

9.3.7 Investment in the industry

Norcast stated that

There is no scope for Customs to consider any future diminution of investment as "material injury".

Norcast also quoted comments from Bradken's 2007 annual report that made reference to approval from the South Australian government in respect of the Adelaide foundry proposal. It concluded that Bradken is more concerned with this approval rather than the outcome of the current continuation inquiry.

Section 269ZHE(2) states that, in formulating the SEF, Customs must have regard to the application and any submissions received by Customs in response to the initiation notice. Customs may have regard to any other matter that Customs' considers to be relevant to the inquiry.

Customs notes that Bradken has South Australian State Government approval for the redevelopment of the Adelaide foundry. However, Bradken has stated that it is currently re-assessing those plans due to the flat Australian market conditions for its products, including GML.

Customs considers the points raised in relation to investment in the manufacturing industry for GML are inconclusive. It has therefore not relied on these points in forming its conclusions for the SEF.

9.3.8 Other factors that may be causing injury

Norcast claimed that other producers of GML may cause injury to Bradken, notably PT Growth of Indonesia and ME Electrical of the USA. Customs notes that Bradken's financial performance improved following the imposition of anti-dumping measures in 2003, despite the presence of imports of GML from PT

Growth. It also notes that, based on information supplied by the Australian industry and comments from interested parties, ME Elecmetal does not appear to be a major supplier of GML to Australia.

No evidence has been presented to Customs that GML from Indonesia have increased their market share.

Customs recognises that GML from Indonesia has held, and continues to hold a significant market share for GML in Australia. Customs notes this was also the case when dumping of GML from Canada was found to have caused material injury to the Australian GML industry in the original investigation. It also notes that the Australian industry's economic performance improved after anti-dumping measures were applied to GML from Canada. Customs therefore considers the presence of Indonesian GML in the Australian market does not diminish the likelihood that GML exported from Canada at dumped prices would cause material injury to the Australian GML industry.

Customs also reviewed the Australian industry's export performance to determine if that may contribute to any possible future injury. It noted that the majority of GML produced by the Australian industry are sold on the domestic market. It calculated that the financial indicators in respect of export sales of GML improved in 2005-06, remained stable in 2006-07 and may improve slightly in 2007-08. Customs observed trends in financial indicators for Bradken's total sales of GML reflected the trends observed for domestic sales.

Customs is satisfied the export performance of the Australian is unlikely to contribute to any possible future injury.

9.3.9 Conclusion

Customs considers that:

- the economic performance of the Australian industry improved in 2004-05 and 2005-06, but declined in both 2006-07 and 2007-08;
- the Australian industry does not have capacity constraints such that would affect its ability to supply the Australian market;
- demand for GML in Australia is relatively flat;
- GML from Indonesia have retained a significant presence in the market but have not increased their market share;
- improvement in the economic performance of the Australian industry in 2004-05 and 2005-06 followed the imposition of anti-dumping measures in 2003, and the subsequent decline appears to coincide with a flat Australian market for GML;
- that any loss of production volumes to imports of GML from Canada is likely to quickly lead to material injury as higher unit costs would result in lower profits and profitability;
- the presence of Indonesian GML in the Australian market does not diminish the likelihood that GML exported from Canada at dumped prices would cause material injury to the Australian GML industry; and
- the export performance of the Australian is unlikely to contribute to any possible future injury; and

Based on the above, Customs concludes that it is likely that material injury would recur if the anti-dumping measures applying to GML from Canada were allowed to expire.

9.4 Overall conclusion

Customs found that:

- GML have not recently been exported to Australia from Canada;
- it is likely that exports of GML from Canada will resume and it is likely these will be at dumped prices if anti-dumping measures applying to GML from Canada were allowed to expire;
- it is likely that material injury would recur if the anti-dumping measures applying to GML from Canada were allowed to expire.

On the basis of information currently before it, Customs considers that the expiration of the anti-dumping measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the anti-dumping measure is intended to prevent. Therefore, Customs proposes to recommend that the Minister take steps to secure the continuation of the anti-dumping measures.