



**TRADE MEASURES BRANCH**  
CUSTOMS ACT 1901 - PART XVB

**IRON AND STEEL GRINDING MILL LINERS**

**EXPORTED TO AUSTRALIA FROM**

**CANADA**

**STATEMENT OF ESSENTIAL FACTS NO. 070**

**5 MAY 2003**

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## ABBREVIATIONS & ACRONYMS

ACDN	Australian Customs Dumping Notice
AWAA	Alcoa World Alumina Australia
Bradken	Bradken Resources Pty Limited
Mill liners	Iron and steel grinding mill liners
Minister	Minister responsible for Customs
NIP	Non-injurious price
Rio Tinto	Rio Tinto Limited
Roche	Roche Castings Pty Limited
SEF	Statement of essential facts
the Act	The <i>Customs Act 1901</i>
the goods	The goods the subject of the application
USP	unsuppressed selling price

# 1 INTRODUCTION

In November 2002, Bradken Resources Pty Limited (Bradken) lodged an application under section 269TB of the *Customs Act 1901* (the Act) requesting that the Minister publish a dumping duty notice in respect of iron and steel grinding mill liners (mill liners) exported to Australia from Canada.

Also in November 2002, the other Australian industry member, then Walkers Pty Ltd, lodged a submission supporting Bradken's application. In the course of the investigation, a corporate restructure saw the operations of Walkers Pty Ltd transferred to Roche Castings Pty Ltd (Roche).

Customs considered the information provided by the Australian industry and decided that there were grounds to initiate an investigation. The investigation, initiated on 2 December 2002, was announced by notice in *The Australian* newspaper and by Australian Customs Dumping Notice (ACDN) 2002/57.

Customs is required to place on the public record within 110 days of initiation, a statement of the essential facts (SEF) on which it proposes to base its recommendations to the Minister. Interested parties are given 20 days to respond to the statement.

Customs will consider responses made within 20 days of the SEF being placed on the public record in making its report to the Minister. The report will recommend whether or not a dumping duty notice should be published and the extent of any dumping duties that are, or should be, payable.

The original dates for the SEF and report to the Minister were 24 March 2003 and 6 May 2003 respectively. On 7 March 2003, under the provisions of section 269ZHI of the Act, the Minister agreed to extend the deadline for Customs to place the SEF on the public file to 5 May 2003. The extension was notified in ACDN 2003/10 dated 18 March 2003. Due to the extension of time for publication of the SEF, Customs will now report to the Minister on or before 17 June 2003.

On 20 February 2003, Customs made a preliminary affirmative determination and imposed securities on mill liners imported into Australia from Canada from that date.

In making the following statement, Customs has had regard to:

- the application by Bradken, a member of the Australian industry;
- the completed exporter questionnaire from Norcast Castings Company Limited (Norcast), the sole Canadian exporter;
- reports of Customs' visits to:
  - Bradken;
  - Roche, a member of the Australian industry;
  - Norcast;
  - Northparkes Mines, an end user;
  - Cadia Valley Operations, an end user;
  - Alcoa World Alumina Australia, an end user;
  - WMC Resources Ltd, an end user;

- FFE Minerals Australia Pty Ltd, a manufacturer of grinding mills;  
and
- Metso Minerals (Asia Pacific), a manufacturer of grinding mills.
- submissions from the following parties:
  - Bradken;
  - Roche;
  - Norcast;
  - Alcoa World Alumina Australia;
  - The CEPU, a union organisation representing the foundry industry in Western Australia;
  - Rio Tinto Ltd, the majority joint venture partner of Northparkes Mines;
  - ME Global Inc., an exporter of mill liners from the U.S.A.;
  - Magotteaux Australia Pty Ltd, an importer of mill liners from countries other than Canada; and
  - Outokumpu Technology Pty Ltd, a manufacturer of grinding mills.
- written responses to questions posed by Customs from a number of Australian end users of mill liners.

## **2 PURPOSE**

This statement sets out the essential facts on which Customs proposes to base its recommendation to the Minister.

Responses to this statement should be made before 26 May 2003. Submissions should be limited to the issues of fact as outlined in this document. Because of the statutory time limit to report to the Minister, it will generally not be possible for Customs to consider new issues or facts raised at this stage.

Submission should be sent to:

Director Operations 2  
Trade Measures Branch  
Australian Customs Service  
Customs House  
5 Constitution Avenue  
CANBERRA ACT 2601

Customs is not obliged to have regard to any submissions made in response to this statement received after 26 May 2003 if to do so would prevent the timely preparation of the report to the Minister.

Interested parties intending to respond to the statement should include a non-confidential version of their submission for placement on the public record.

As well as the non-confidential submissions by interested parties, and the SEF, the public record contains non-confidential versions of Customs' reports covering visits to the exporter, Norcast and other interested parties. The SEF should be read in conjunction with these documents.

Any party wishing to examine the public record before lodging a submission in response to this statement should contact the Trade Measures Office Management staff on (02) 6275 6547.

All Customs dumping notices are available at the Customs web-site at [www.customs.gov.au](http://www.customs.gov.au).

### **3 THE GOODS UNDER CONSIDERATION**

The goods under consideration are cast articles of iron and steel used to line grinding mills. The goods do not include items used in fitting mill liners to grinding mills such as fillers, rings, bolts and washers.

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 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 in the grinding process.

Depending on a consumer's requirements, mill liner pieces are typically cast from 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.

The goods are classified to subheading 8474.90.00 statistical code 28 in Schedule 3 to the *Customs Tariff Act 1995*. The applicable duty rate for goods classified to subheading 8474.90.00 from Canada is free. The rate of duty for goods not qualifying for the Canadian preference is 5%.

## **4 AUSTRALIAN INDUSTRY**

### **4.1 AUSTRALIAN INDUSTRY**

The Australian industry producing grinding mill liners comprises Bradken and Roche.

Bradken's principal mill liner manufacturing facilities are in Adelaide and Runcorn in Queensland. Roche manufactures mill liners primarily at its foundry in Henderson, just south of Perth in Western Australia. Both companies sell mill liners throughout Australia and compete against each other on most Australian mill liner contracts. Bradken and Roche each export significant quantities of mill liners although their principal market is Australia.

Customs visited Bradken and Roche and verified information they provided to Customs.

### **4.2 LIKE GOODS**

The Minister may decide to publish a dumping duty notice only if dumping has caused or threatens to cause material injury to an Australian industry producing like goods.

The term 'like goods' is defined 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 goods.

In determining whether goods are like goods, Customs first considers whether the goods are identical. If not, Customs then considers the physical characteristics of the goods.

Customs found that the physical characteristics of mill liners exported from Canada are similar to those made by the Australian industry. Similar materials are used to manufacture the mill liners in the casting process and the mill liners have the same end-use and are substitutable. Customs observed several instances where the Canadian and Australian mill liners had competed in tender processes.

### **4.3 PRODUCED IN AUSTRALIA**

Subsections 269T(2) and 269T(3) of the Act specify that for goods to be regarded as being produced in Australia:

- they must be wholly or partly manufactured in Australia; and
- where the goods have been partly manufactured in Australia, then at least one substantial process in the manufacture of the goods must be carried out in Australia.

Having observed the manufacturing processes of mill liners at Bradken's Adelaide foundry and Roche's foundry in Henderson, Western Australia, Customs is satisfied that mill liners manufactured by Bradken and Roche are produced in Australia.

## **5 AUSTRALIAN MARKET**

### **5.1 MARKET STRUCTURE**

The Australian market for mill liners is supplied by the two Australian industry members, Bradken and Roche, and imports from a number of countries including Canada, Indonesia, Belgium and the United States of America.

Grinding mills are 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 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.

Grinding mills are typically situated at processing facilities close to mine sites.

The mining industry is by far the greatest consumer of mill liners with a number of large consumers dominating the Australian market. The lack of abrasion in the cement grinding process means that mill liners are longer lasting and, consequently, the cement industry forms only a small part of the Australian market.

Most mill liners are sold as replacement liners for those worn out during abrasion in the grinding process. The rate of wear is determined by factors such as the type of mill, the design of the liners, the level of ore and/or grinding media used in the mill and the characteristics of the ore being ground. Some mills require mill liners to be replaced in a matter of weeks whereas liners in other mills may last for months or even years.

Mill operators work with mill liner producers in an effort to maximise the grinding efficiency of the mill in terms of ore throughput and the durability of mill liners. Mill operators told Customs of the importance of mill liners for the efficient operation of a mill and the high costs associated with unplanned maintenance if problems were experienced with mill liners.

Mill operators consider a range of factors when entering into an arrangement to purchase mill liners. Typical factors taken into account are price, consistency of quality, reliability of supply, service, product development and innovation. While price is important, the relevance of other factors means that the lowest price option is not always selected.

As would be expected, the factors and the weight placed on each factor varies from consumer to consumer based on many considerations including the type and size of mills operated and the type of ore being ground. Manufacturers or their representatives invariably sell replacement mill liners directly to mill operators, often under medium to long term supply arrangements. These

arrangements are normally put in place through formal or informal tender processes.

Another market segment is the supply of mill liners for new grinding mills. The grinding mill manufacturer, normally in consultation with the mill purchaser, will purchase one or two full sets of liners for supply with the new mill. The mill purchaser would typically form an arrangement directly with a mill liner manufacturer for the supply of replacement liners.

The sole exporter of mill liners from Canada, Norcast, first employed a representative in Australia in mid 2000. Norcast was successful in obtaining its first contract for the ongoing supply of replacement mill liners following the tender process for the Northparkes Mines conducted in late 2001. Up until that time, the two Australian industry members were the dominant suppliers in the Australian market.

An Indonesian manufacturer of mill liners, PT Growth Asia (Growth Asia), has offered mill liners for sale in Australia for a number of years. On evidence available to Customs, Growth Asia has in recent years increased its share of the Australian market from a small base.

Imports from other sources are minor suppliers of the Australian market.

## **5.2 MARKET SIZE**

Based on information provided by the Australian industry, the Australian market for mill liners in the twelve months ending June 2002 was approximately 13,000 metric tonnes with a value of approximately \$30 million.

Customs has not been able to confirm these figures. One reason for this was that the Australian subsidiary of the Indonesian manufacturer, Growth Asia, declined to provide Customs with information. Another reason was that information from Customs' commercial database on the relevant tariff classification is not sufficiently detailed to assist in determining the volume of imports from Indonesia.

On information available to Customs, it appears that the Australian market for mill liners is fairly stable. The number of grinding mills in operation or under construction dictates demand. In recent years, the closure of some mining projects using grinding mills and the opening of others appears to have left the market largely unchanged.

The improvement of rubber and synthetic liners in recent years has allowed their use in grinding mills previously lined by metal mill liners. However, this has been limited because of the continued use of metal mill liners in high abrasion mills.

## **6 THE DUMPING INVESTIGATION**

### **6.1 BACKGROUND**

Dumping occurs when a product of one country is exported to another country at a price less than its normal value. A normal value is usually established from the price paid for like goods in the exporter's domestic market or from the cost of production and sale. Export price and normal value are ascertained under subsections 269TAB and 269TAC of the Act respectively.

The investigation period is 1 October 2001 to 30 September 2002.

Customs identified Norcast as the sole exporter of mill liners to Australia from Canada during the investigation period.

### **6.2 EXPORT PRICE**

Norcast exported five shipments containing mill liners to Australia during the investigation period. All were manufactured from steel. Customs considers that Norcast was both the exporter and importer of the goods.

The exported mill liners were part of supply arrangements Norcast had established with Cadia Holdings Pty Ltd (Cadia) and Northparkes Mines. Cadia and Northparkes Mines operate mineral processing sites as part of their gold mining operations in rural New South Wales.

Customs was satisfied that invoices produced by Norcast for Customs purposes reflected the price paid or payable by Cadia and Northparkes Mines. Customs was also satisfied that the sales were arms length transactions.

Customs has assessed export prices under subsection 269TAB(1)(c) of the Act. As Norcast was both the exporter and importer of the mill liners, Customs could not establish export prices under paragraphs (a) or (b) of subsection 269TAB(1).

Customs calculated free-on-board (FOB) export prices under paragraph 269TAB(1)(c) using the delivered duty paid price paid or payable less amounts for:

- inland freight costs in Australia (or an estimate of inland freight costs in Australia for one shipment sold to Northparkes Mines);
- port and handling costs in Australia (including an estimate of the costs for one shipment sold to Cadia);
- ocean freight costs or air freight costs as applicable; and
- marine insurance costs.

Where shipments included goods other than mill liners, costs to be deducted from the invoice price were apportioned between the goods. Marine insurance was apportioned on the basis of invoice value and all other costs on the basis of weight.

Where necessary Customs has converted amounts in United States dollars and Australian dollars to Canadian dollars using exchange rates used by

Norcast for its accounting purposes. Customs compared Norcast's exchange rates with rates used by Customs and found them to be reasonable.

### **6.3 NORMAL VALUE**

#### **6.3.1 Basis of normal values**

Customs established the normal value of mill liners exported to Australia under subsection 269TAC(1) of the Act using Norcast's selling prices of like goods sold in Canada. In particular, Customs based the normal values on Norcast's selling prices of its Norsteel product as these corresponded to its exports of Norsteel mill liners during the investigation period.

Customs was satisfied that Norcast's sales on the domestic market were sales for home consumption made in the ordinary course of trade in arms length transactions. Norcast's domestic sales were in sufficient volume in terms of subsection 269TAC(14) of the Act.

#### **6.3.2 Adjustments for fair comparison**

Customs considered that adjustments should be made to the prices paid or payable for Norcast's domestic sales of Norsteel mill liners for the following factors to make a fair comparison to export prices:

- commission paid on some domestic sales (downward adjustment);
- inland freight costs in Canada (downward adjustment);
- export inland freight costs in Canada (upward adjustment);
- export handling costs (upward adjustment);
- an estimate of export port costs (upward adjustment);
- fumigation costs on export sales (upward adjustment).

Customs was not satisfied that Norcast had provided sufficient evidence to show that adjustments for the following factors were required to allow a fair comparison:

- specification differences;
- differences in selling expenses.

### **6.4 DUMPING MARGINS**

A dumping margin is the amount by which the export price is less than the normal value. It is expressed as a percentage of the export price.

Customs assessed the dumping margin for Norcast using a comparison of weighted average export prices determined over the investigation period with weighted average normal values determined over the same period pursuant to paragraph 269TACB(2)(a) of the Act.

Customs found the mill liners exported from Canada to be dumped with a dumping margin within the range of 80% to 90%.

## **7 THE ECONOMIC CONDITION OF THE INDUSTRY**

### **7.1 INTRODUCTION**

This section reports on the economic condition of the industry and facts related to whether the industry has suffered injury. The injury assessment period is from July 1999. Customs examined the Australian industry's sales data from July 1999 to December 2002. References to financial years relate to periods ending 30 June.

### **7.2 AUSTRALIAN INDUSTRY'S CLAIMS**

The two members of the Australian industry, Bradken and Roche, each claimed to have suffered injury in the form of:

- price undercutting;
- price depression;
- price suppression;
- lost sales;
- lost market share;
- loss of production capacity utilisation;
- employment losses; and
- damaged customer relationships.

### **7.3 CUSTOMS' ASSESSMENT**

#### **7.3.1 Preliminary**

There are two issues that impact on assessing injury suffered by the Australian industry for this investigation.

First, the Australian industry charges different prices per kilogram for the many different liner pieces sold. Second, overall sales volumes and revenues are influenced by the liner replacement schedules of consumers. This can make sales patterns irregular, particularly in the case of low volume consumers. Thus, a rise or fall in total sales volumes or average price received per kilogram could reflect a difference in the mix of liner pieces sold or a variation in usage due to customers' replacement schedules, rather than injury.

To address this issue, Customs has concentrated on a customer by customer assessment of the Australian industry's performance. In some cases, confidentiality concerns have limited the amount of detail Customs has been able to include in this statement.

The following sections summarise Customs' analysis of the industry's injury claims.

### 7.3.2 Volume effects

#### Lost sales/tenders

The Australian industry claimed to have suffered injury as a result of Norcast being selected in tenders to supply certain Australian mill liner consumers. The first case of a tender lost to Norcast occurred in December 2001 when Norcast tendered dumped prices in an internet tender process for the Northparkes Mines contract. A contract between Norcast and Northparkes Mines was signed in March 2002. Since that time, the Australian industry has lost a further seven tenders to Norcast to supply of mill liners to Australian consumers.

The eight cases of tenders lost to Norcast are summarised below.

<b>Nature of tender</b>	<b>Entities</b>	<b>Approximate volume (metric tonnes)</b>
Ongoing business previously held by Australian industry	<ul style="list-style-type: none"><li>• Northparkes Mines</li><li>• Cadia Holdings Pty Ltd</li><li>• Alcoa World Alumina Australia</li></ul>	2,300 per annum
Potential ongoing business with a company previously sourcing from the Australian industry	<ul style="list-style-type: none"><li>• Cadia Holdings Pty Ltd</li></ul>	850 per annum
One-off supply to Original Equipment Manufacturers (OEM)	<ul style="list-style-type: none"><li>• FFE Minerals Australia Pty Ltd (2 cases)</li><li>• Metso Minerals (Asia Pacific)</li></ul>	2,000
One-off supply to a company previously supplied by the Australian industry	<ul style="list-style-type: none"><li>• Pasminco Century Mine</li></ul>	Less than 100

Except for Pasminco Century Mine which provided only limited information for the investigation, Customs visited each of the mill liner consumers that had conducted tender processes won by Norcast. Customs concluded that the consumers fell into two categories.

<b>Category</b>	<b>Description</b>	<b>Entities</b>	<b>Approximate volume (metric tonnes)</b>
A	Consumers that have put in place arrangements and commenced purchasing from Norcast	<ul style="list-style-type: none"> <li>• Northparkes Mines</li> <li>• Cadia Holdings Pty Ltd</li> <li>• FFE Minerals Australia Pty Ltd</li> <li>• Pasminco Century Mine</li> </ul>	<p>2,000 per annum</p> <p>450 (one off)</p>
B	Consumers confirmed as having selected Norcast as their supplier of mill liners who were in the process of negotiating the terms of the arrangements	<ul style="list-style-type: none"> <li>• Alcoa World Alumina Australia</li> <li>• Metso Minerals</li> </ul>	2,800 (partly annual and partly one-off)

These lost tenders have occurred in a market where, in 2001/2002, the Australian industry sold between 8,000 and 10,000 metric tonnes of mill liners in Australia and a total of between 12,000 and 14,000 metric tonnes.

There is an issue as to how Customs and the Minister should view injury covered by Category B, where consumers have indicated an intention to buy from Norcast but have delayed finalising arrangements following the announcement of the dumping investigation.

Customs' view is that the circumstances covered by consumers in Category B represent a threat of injury to the Australian industry in addition to the injury suffered as a result of lost sales under Category A. The change in circumstances that would make injury foreseeable and imminent is the tender processes undertaken by each of the consumers that resulted in the selection of Norcast.

Also in terms of threat, Customs notes that the Australian industry continues to supply a portion of Cadia's mill liner requirements under supply arrangements which will expire in 2003.

In the injury examination period, the Australian industry has also lost sales to imports of mill liners manufactured by Growth Asia of Indonesia. The Australian industry's losses to Growth Asia appear to be in the order of 1,300 metric tonnes per annum. One consumer accounted for the majority of this loss. Customs is aware that Growth Asia also supplied mill liners for new mills to one OEM over the injury period. Customs has isolated the effect of these imports when examining the injury arising from contracts won by imports from Canada.

The Australian industry made sales to one new export customer in the period July to December 2002. Otherwise, the Australian industry's export customer base was stable with fluctuations in demand associated with liner replacement schedules and a one off increase in demand when a damaged mill shell required all shell liners to be replaced simultaneously.

#### Market share

In section 5.2 Customs explained why it could not precisely measure the size of the Australian market. The available information indicates that the Australian market for mill liners has been relatively stable, meaning that the Australian industry's loss of sales, in particular to large consumers that had previously bought mill liners from the Australian industry, would represent a loss of market share.

#### **7.3.2 Price effects**

##### Price undercutting

In all cases of tenders lost by the Australian industry to Norcast, mill liners offered by Norcast significantly undercut prices offered by the Australian industry.

##### Price depression

Average prices achieved by the Australian industry have generally declined in the period examined by Customs.

The Australian industry nominated three instances where it claimed that it had reduced prices as a result of price pressure from the dumped goods from Canada.

In two of these, Customs verified that lower prices were negotiated with members of the Australian industry in 2002. In the third case, relating to a purported depression of prices in 2000, Customs was not satisfied that the Australian industry had supplied sufficient evidence of price depression.

The loss of revenue from the fall in prices in the two instances verified by Customs represented 3% of the Australian industry's total sales revenue in 2001/2002.

##### Price suppression

The Australian industry claimed that the decline in production volumes as a result of the loss of sales to Norcast would increase average costs and lead to price suppression in a market where prices were depressed through dumping.

Customs notes that changes in the Australian industry's average cost to make and sell mill liners from year to year are potentially due to a change in the mix of mill liners produced. However, a comparison with the average selling prices is likely to provide a good guide as to whether the Australian industry has suffered price suppression.

The Australian industry's cost to make and sell mill liners remained steady from 1999/2000 to 2000/2001 before increasing marginally in 2002/2003. Average prices declined in 2000/2001 over 1999/2000 and remained steady in 2001/2002. These effects produced some price suppression in 2001/2002 as higher average costs were not matched by a higher average selling price.

### **7.3.3 Profit effects**

#### Profit and profitability

Australian industry profits on sales on the Australian market declined from the previous year in both 2000/2001 and 2001/2002. A steady performance on the export market resulted in total profits declining in both years.

Customs has used the Australian industry's costs in 2001/2002 to assess lost profits in the six months to December 2002, the period when tenders lost to Norcast began to translate into lost sales. On this basis, the Australian industry has suffered lost profits in the six months to December 2002.

Profitability also declined over the period. In 2000/2001 this was due to lower average prices with similar costs. In 2001/2002 this was the result of steady average prices and slightly higher costs.

### **7.3.3 Other factors**

#### Loss of production capacity utilisation

The Australian industry has not provided evidence that it has suffered a loss of production capacity utilisation to date. However, it is likely that the Australian industry faces a threat of lost production capacity utilisation as the loss of tenders translates into lower production volumes.

#### Employment losses

In the case of Bradken, no information was provided to support actual employment losses, although it has indicated that its loss of sales will result in future employment losses.

On 18 February 2003, Roche provided a submission stating that it had terminated the employment of a number of employees due to price reductions under intense market competition caused by Norcast. Roche has not provided further information to Customs on the circumstances of the employment losses.

#### Damaged customer relationships

The Australian industry claimed that it has suffered a loss in this regard as its customers believe that they are high cost producers compared with Canada because of the low pricing of Canadian imports.

Customs has not considered this issue, focussing instead on the more quantifiable measures of injury.

## **8 HAS DUMPING CAUSED MATERIAL INJURY?**

### **8.1 AUSTRALIAN INDUSTRY'S CLAIMS**

Australian industry claimed that injury suffered as a result of certain lost tenders and the depression of prices to certain consumers was directly attributable to the dumped mill liners from Canada.

The Australian industry sought to exclude mill liners imported from Indonesia from the investigation on the grounds that they were not like goods.

#### *Relevant facts*

*On the information available to Customs, Growth Asia liners have similar physical characteristics to mill liners made by the Australian industry and the same end-use. Customs observed several instances where both Growth Asia and Australian mill liners were regarded as substitutes in tender processes. In other instances, consumers using liners made by the Australian industry are now using mill liners manufactured by Growth Asia.*

*Customs received comments from interested parties on the performance of mill liners offered for sale in Australia by Growth Asia as well as those offered by members of the Australian industry. On both counts, some of the comments were favourable and some unfavourable. Customs notes that different consumers will, for a variety of reasons, differentiate between the products offered by the various suppliers and also that the differentiation may change over time.*

### **8.2 CLAIMS BY OTHER INTERESTED PARTIES**

#### **8.2.1 Norcast**

The Canadian exporter, Norcast claimed that

- any injury that may have been incurred by the Australian industry is likely to have been caused by the loss of contracts to Growth Asia, not Norcast.

#### *Relevant facts*

*Customs has identified sales/tenders lost to Norcast and sales lost to Growth Asia. Customs recognises that where injury is being caused by a number of factors, the injury caused by dumping must be, in itself, material.*

- the loss of one major contract by the Australian industry, with Northparkes Mines, could not be considered as injury caused by dumping as in the absence of Norcast, the contract would have been awarded to Growth Asia of Indonesia.

#### *Relevant facts*

*See comment under same claim made by Rio Tinto.*

- an OEM that had selected Norcast to supply mill liners for new mills for an upcoming mining project would purchase the liners from Growth Asia of Indonesia and not the Australian industry if unable to purchase from Norcast.

### *Relevant facts*

*Customs visited the OEM to obtain information about the tender process. On the information available to Customs it is not evident that the OEM would not consider sourcing mill liners from the Australian industry if mill liners from Canada were not available at dumped prices.*

- as a result of the preliminary affirmative determination and securities, an OEM had cancelled an order for Norcast to supply mill liners and placed the order with Growth Asia.

### *Relevant facts*

*Customs contacted the OEM who advised that Norcast had not been its first choice of supplier for the project regardless of the preliminary affirmative determination and securities.*

- Norcast uses technology not present in the Australian industry that enables it to achieve levels of economies and performance not available to the Australian industry.

### *Relevant facts*

*For dumping duties to be imposed the Minister must be satisfied that dumping has caused or threatens to cause material injury to the Australian industry. The exporter's costs to make and sell the goods under consideration are relevant to determining if its selling prices in the country of export are in the ordinary course of trade and, therefore, suitable for establishing normal values. The exporter's costs and how these may relate to the costs of the Australian industry are not otherwise relevant to the Minister's decision.*

## **8.2.2 Rio Tinto**

Rio Tinto Limited (Rio Tinto), the joint partner and manager of Northparkes Mines, stated that if Norcast had not been involved in its tender process the Australian industry would have lost the contract to Growth Asia.

Rio Tinto claimed that, on the basis of a pre-qualification process, it was equally happy to source liners from whichever of the pre-qualified bidders tendered the lowest price.

### *Relevant facts*

*Customs must consider this claim in the light of the following:*

- *prior to the tender process, Northparkes Mines had for many years sourced its mill liners from the Australian industry;*
- *Northparkes Mines had not previously purchased mill liners from Growth Asia notwithstanding that they had been available in Australia for several years;*
- *the only document Rio Tinto was able to supply Customs in relation to the trial results, pre-qualification process or tender evaluation was dated after the commencement of the dumping investigation and considerably after these events took place;*

- *trial liners supplied by Growth Asia as part of the pre-qualification process failed before replacement liners performed satisfactorily;*
- *a condition of the Northparkes Mines tender was that it did not have to accept the lowest bid from the pre-qualified suppliers;*
- *the difference between prices tendered by Growth Asia and those tendered by Australian industry would have been far smaller in the absence of competition from dumped prices tendered by Norcast;*
- *all other parties providing information to Customs that had purchased from Norcast or indicated an intention to buy from Norcast placed different valuations on mill liners offered by Growth Asia when compared to those supplied by the Australian industry or Norcast.*

Rio Tinto claimed that different production processes employed by Bradken and Norcast and a lack of investment in technology by Bradken allowed Norcast to be a more efficient producer than the Australian industry member, Bradken.

*Relevant facts*

*See comment under similar claim by Norcast.*

**8.2.3 Alcoa World Alumina Australia**

Alcoa World Alumina Australia (AWAA) claimed that the low prices offered by certain overseas bidders in its internet tender process represented the current rate for mill liners within the global market.

*Relevant facts*

*Customs notes that other overseas bidders tendered prices above those of the Australian industry.*

AWAA claimed that there were no material quality differences between Growth Asia, Norcast and the Australian industry. Further, AWAA submitted that another company, offering mill liners manufactured in South Africa, appeared to have the necessary capabilities required to present serious competition to the current players in Australia.

*Relevant facts*

*AWAA did not nominate which company it might have selected if Norcast mill liners had not been available at dumped prices. On the available evidence, an Australian industry member was a candidate to retain AWAA's business if it had not selected Norcast.*

AWAA stated that Norcast had invested significant resources into providing a world class foundry with many advantages, not the least being a significantly smaller rejection rate which allowed them to produce the goods at a markedly lower price.

*Relevant facts*

*See comment under similar claim by Norcast.*

### **8.3 CUSTOMS' ASSESSMENT**

#### **8.3.1 Volume effects**

The Australian industry has lost sales for existing and potential business to both Norcast and Growth Asia.

Customs has determined those sales lost to Norcast and those lost to Growth Asia. Customs recognises that where injury is being caused by a number of factors, the injury caused by dumping must, in itself, be material.

Having focussed on sales lost to Norcast, Customs must consider the proposition that injury associated with some lost tenders was not injury caused or threatened by the dumped goods. Some parties have claimed that, had Norcast mill liners not been available at dumped prices, the tenders would have been won by imports from countries other than Canada, and not by a member of the Australian industry.

Customs agrees that it would be difficult to regard the loss of a tender as injury caused by dumping if it was established that the Australian industry, in the absence of the dumped goods, would not have won the tender. However, Customs considers that evidence that the Australian industry would not have won the contract should be strong and positive, and not mere assertion.

Other than AWAA, one consumer that had selected Norcast provided Customs with contemporaneous documents dealing with its assessment of the potential mill liner suppliers. In that case, the documents showed that if Norcast had not tendered dumped prices this particular contract would have been awarded to a member of the Australian industry.

When asked by Customs how they perceived various suppliers, other Australian consumers who had selected Norcast indicated that all foundries could experience problems with quality and supply from time to time. However, all stated that they perceived, based on various factors, differences in buying mill liners from Growth Asia as opposed to the Australian industry.

Customs also contacted a number of mill liner consumers in Australia, some of which were buying Growth Asia liners, some buying from the Australian industry, and some buying from both. Responses received by Customs confirmed that a range of factors are involved in the decision to source mill liners. Customs observed several examples of where consumers did not choose the lowest price option.

#### **8.3.2 Price effects**

The Australian industry claimed that it had reduced prices to three consumers as a result of price pressure from dumped mill liners from Canada. As stated above, Customs was satisfied that the Australian industry had suffered price depression in two of the three cases. Both price reductions occurred in 2002.

Customs contacted the two consumers concerned. Confidentiality concerns prevent Customs making greater details available in this statement. However, both consumers appeared to be aware of mill liners from Canada being offered at dumped prices at the time when lower prices were renegotiated with the Australian industry. In the absence of contrary submissions by the parties concerned, it is reasonable to assume that the presence of dumped

goods influenced the approach of both the consumers and the Australian industry in the renegotiation of lower prices.

Aside from these specific instances, it is difficult to associate the overall decline in average prices experienced by the Australian industry with dumped goods in the market.

The general trend of lower prices appears to be attributable to:

- an increase in the size of mill liner pieces sold with a lower average price due to a trend towards larger mills and the ability to fit larger pieces as liner handling equipment improves;
- an increased focus on cost-cutting by the Australian mining industry; and
- the competitive nature of the mill liner industry.

Similarly, price suppression suffered by the Australian industry appears to relate to these factors impacting on the market.

### **8.3.3 Other effects**

The Australian industry has suffered lost profits and profitability, primarily as a result of lost sales volumes. A significant proportion of the lost sales is attributable to dumped goods from Canada. As discussed above, the Australian industry has also lost some sales, and therefore profits, to mill liners manufactured in Indonesia.

## **8.4 OTHER POSSIBLE CAUSES OF INJURY**

### **8.4.1 Other imports**

As stated elsewhere in this statement, the Australian industry has lost sales to imports from Indonesia as well as Canada. Customs has been careful to isolate injury associated with the Indonesian imports.

### **8.4.2 Contractions in demand/changes in consumption patterns**

Customs found no evidence that these factors contributed to injury suffered by the Australian industry.

### **8.4.3 Restrictive trade practices and competition between foreign and Australian producers**

Customs found no evidence that these factors contributed to injury suffered by the Australian industry.

### **8.4.4 Developments in technology**

Norcast and some Australian consumers of mill liners claimed that the Australian industry used outdated manufacturing methods and suffered from a lack of investment. These parties claimed that Norcast, in contrast, benefited from advanced technology, lower production costs and a focus on mill liner production. The Australian industry member, Bradken, rejected this view.

Customs is satisfied that both the Australian industry and Norcast are capable of producing mill liners that meet consumers' requirements. Customs found no evidence that developments in technology had contributed to injury suffered by the Australian industry.

#### **8.4.5 Export performance and productivity of the Australian industry**

Customs found no evidence that these factors contributed to injury suffered by the Australian industry.

## **9 NON-INJURIOUS PRICE**

### **9.1 INTRODUCTION**

Dumping duties may be applied where it has been established that dumped imports have caused or threaten to cause injury to the Australian industry producing like goods. The level of dumping duty cannot exceed the margin of dumping, but lesser duties may be applied if it is determined that a lesser level of duty is sufficient to remove the injury. This lesser duty provision is contained in the World Trade Organization Anti-Dumping Agreement. Australian legislation reflects the principle in subsection 8(5A) of the *Customs Tariff (Anti-Dumping) Act 1975*.

A non-injurious price (NIP) is calculated to determine the level of dumping duty that needs to be applied to dumped imports to remove the injury suffered by the Australian industry. The NIP is defined in section 269TACA.

Anti-dumping and countervailing duties are based on FOB prices in the country of export. Therefore a NIP is also calculated in FOB terms for the country of export. The method of calculating a NIP is not defined in the legislation, however Customs will generally derive a NIP from the Australian industry's unsuppressed selling price (USP).

### **9.2 UNSUPPRESSED SELLING PRICE**

A USP is the price at which the Australian industry would be able to sell the goods in a market unaffected by dumped imports.

There are a number of options available to establish the USP including:

- the price for locally produced goods when the Australian market was not affected by dumping and adjusting that price to the current date;
- the Australian industry's cost to make and sell plus an estimated profit (if any) that the industry could achieve in a market unaffected by dumping;
- using the lowest Australian domestic price for non-dumped imports, if it can be shown that those imports set the market price or that those imports influence the price; or
- another appropriate method suggested by an interested party.

Norcast submitted to Customs that "it would seem that a price the Australian producers could reasonably expect to achieve in a market unaffected by dumping" was a price reflected by imports from Indonesia. Norcast provided an amount per kilogram but has not yet responded to Customs' request for it to provide the basis for the figure or evidence to support it.

Customs disagrees with the proposition that there is a single market price for mill liners. Factors other than price are important to the purchasing decision and consumers differentiate on these factors as well as price. Customs' preference is to calculate a USP based on the Australian industry's selling prices prior to it being affected by dumping.

### **9.3 NON-INJURIOUS PRICE CALCULATION**

To calculate the NIP, post FOB exportation costs such as: overseas freight and insurance, costs incurred in Australia and where appropriate an amount for the importer's profit are deducted from the USP. An example of this calculation follows.

<b>Unsuppressed selling price</b>		<b>100</b>
<b>Less post exportation costs</b>		
Ocean freight & marine insurance	10	
Duty	5	
Port & broker charges	1	
Cartage to store	2	
SG&A expenses	8	
Profit	10	
<b>Total</b>		<b><u>36</u></b>
<b>Non-injurious price</b>		<b><u><u>64</u></u></b>

Customs will use this method to calculate a NIP at the FOB level, based on verified information obtained on Customs visits to the exporter.