

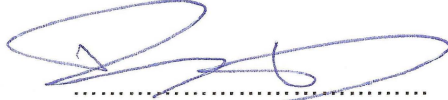
SNF (AUSTRALIA) PTY LTD  
Applicant

COMMISSIONER OF TAXATION  
Respondent

**AFFIDAVIT OF BRIAN C. BECKER**

On 2 March 2009, I, Brian C. Becker of 1901 Pennsylvania Avenue NW, Washington, DC 20006, USA, affirm as follows:

1. I am the President and CEO of Precision Economics, LLC, an economic research and consulting firm based in Washington, DC in the United States of America.
2. I have prepared a report dated 2 March 2009 for use in this proceeding, at the request of the Australian Government Solicitor.
3. Exhibited to this affidavit and marked "BCB-1" is a true copy of my report.



.....  
Brian C. Becker  
2 March 2009

DISTRICT OF COLUMBIA ) SS: 220-56-4694

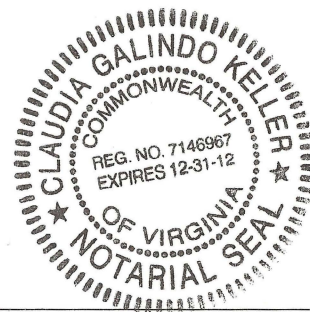
On this the 2nd day of March 2009, before me personally appeared Brian C. Becker known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same as his free act and deed for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand.

*Claudia Galindo Keller*

Notary Public

My Commission Expires: *December 31, 2012*



Filed on behalf of the Respondent by:

Australian Government Solicitor  
Level 21, 200 Queen Street  
Melbourne VIC 3000

Contact: Eli Bursky

File ref: 08021392  
Telephone: 03 9242 1302  
Facsimile: 03 9242 1215

**IN THE FEDERAL COURT OF AUSTRALIA  
VICTORIA DISTRICT REGISTRY**

**SNF (AUSTRALIA) PTY LTD**

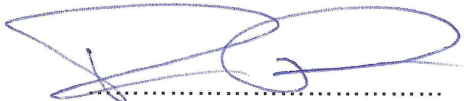
Applicant

**COMMISSIONER OF TAXATION**

Respondent

**CERTIFICATE OF EXHIBIT BCB-1**

I certify that the document to which this certificate is attached is the exhibit BCB-1 referred to in the affidavit of Brian C. Becker affirmed on 2 March 2009:



.....  
Brian C. Becker

2 March 2009

DISTRICT OF COLUMBIA ) SS: 220-56-4694

On this the 2nd day of March 2009, before me personally appeared Brian C. Becker known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same as his free act and deed for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand.

*Claudia Galindo Keller*  
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Statement of Brian C. Becker

In the Federal Court of Australia  
Victoria District Registry

Between:

SNF (Australia) PTY Limited, Applicant

The Commissioner of Taxation of the Commonwealth of Australia, Respondent

NO: VID 132 of 2008

2 March 2009

Prepared on instructions of:

Australian Government Solicitor

**Statement of Brian C. Becker**

**TABLE OF CONTENTS**

	<u>Page</u>
I. Executive Summary	1
II. SNF Background	15
III. Arm's Length Standard	19
IV. Economic Consideration of the Taxpayer's Evidence and Proposed Transfer Prices	25
V. Affirmative Transfer Pricing Valuation	37

Tables 1A-16B

Appendices

Appendix A: Resume of Brian C. Becker, Ph.D.

Appendix B: List of Documents Relied Upon

Appendix C: Companies Used in Statistical Analyses

Appendix D: Worldwide Search for Benchmark Companies for TNMM Analysis

Appendix E: Australian Search for Benchmark Companies for TNMM Analysis

Appendix F: Instructions and Other Communication from the Australian Government Solicitor

**Statement of Brian C. Becker**

**LIST OF TABLES**

**SNF Financials and Background (Tables 1A-3)**

- Table 1A: SNF AUSTRALIA's Income Statement Per Financial Statements: 1997-2003
- Table 1B: SNF AUSTRALIA's Balance Sheet Per Financial Statements: 1997-2003
- Table 1C: Transfer Prices Proposed by Taxpayer Normalized to \$100 Sale Price
- Table 2A: SNF Worldwide Consolidated Income Statement: 1997-2003
- Table 2B: SNF Worldwide Consolidated Balance Sheet: 1997-2003
- Table 3: SNF Supply Chain in Australia (Levels of Market): 1997-2003

**Transfer Pricing Step 1—Defining the Hypothetical Arm's Length Transactions to Value (Tables 4-5)**

- Table 4: Characteristics of the Actual Transaction Between SNF Related Parties (Seller) and SNF AUSTRALIA (Buyer)
- Table 5: Characteristics of the Hypothetical Transaction Between Arm's Length Seller and Buyer

**Summary of Taxpayer's Evidence (Table 6)**

- Table 6: Summary of Taxpayer's CUP Analyses

**Economic Consideration of the Taxpayer's Analysis (Tables 7A-11)**

- Table 7A: Levels of the Market in the Polyacrylamide Supply Chain
- Table 7B: Different Levels of the Market in the SNF Supply Chain
- Table 8A: Example of the Same Product Being Sold to SNF AUSTRALIA and BETZ AUSTRALIA from SNF FRANCE
- Table 8B: Example of Products Directly Shipped to Customers in Australia from SNF FRANCE, But Billed to SNF AUSTRALIA

## **Statement of Brian C. Becker**

Table 8C:	Example of Wide Range of Prices Paid for Cationic Emulsion in 1999
Table 8D:	Example of Wide Range of Prices Paid by Independent Parties to SNF USA
Table 8E:	Example of Discounts Provided to Some Independent Parties
Table 8F:	Example of High Transportation Costs Paid by Some Independent Parties
Table 8G:	Example of Unrelated Party Not Included in Either Taxpayer CUP Analyses
Table 9:	Summary of ABS Study of Australian Profitability: 1998-2003
Table 10:	Financial Statistics for Broad Group of OECD Country Distributors
Table 11:	SNF AUSTRALIA Proposed Results Compared to Analogous OECD Country Distributors: 1997-2003

### **Transfer Pricing Step 2—Affirmative Valuation (Tables 12A-16B)**

Table 12A:	Potential CUPs Using Independent Purchases by SNF AUSTRALIA
Table 12B:	Potential Resale Price Approach
Table 12C:	Potential Cost Plus Approach
Table 13A:	Operating Profit Margins for BECKER REPORT Benchmark Companies in OECD Countries: 1997-2003
Table 13B:	Operating Profit Margins for BECKER REPORT Benchmark Companies in Australia: 1997-2003
Table 14A:	BECKER REPORT Arm's Length Return for SNF AUSTRALIA Distribution Operations: 1997-2003
Table 14B:	Annual Adjustments for SNF AUSTRALIA: 1997-2003
Table 14C:	BECKER REPORT Calculation of Arm's Length Transfer Prices Normalized to \$100 Sale Price
Table 15:	Statistical Ranges for SNF AUSTRALIA's Operating Margins: 1997-2003

**Statement of Brian C. Becker**

Table 16A: Profit Splits Based on SNF AUSTRALIA Proposed Transfer Prices

Table 16B: Profit Splits Based on BECKER REPORT Transfer Prices

## Statement of Brian C. Becker

### I. Executive Summary

#### A. Assignment and Valuation Issues

SPCM SA (formerly known as SNF SA) (“SNF FRANCE”)<sup>1</sup> is the French parent of the multinational chemicals company known as the SNF Floerger Group. As seen in **Table 2A**, SNF enjoyed sales of €3.7 billion and operating profit of €275 million (7.5 percent operating margin) over the 1997-2003 time period.<sup>2</sup>

SNF operates through a related entity, SNF (Australia) Pty. Ltd. (“SNF AUSTRALIA”) in Australia that has imported and distributed polyacrylamide products since beginning its operations in 1990.<sup>3</sup> During the audit period, SNF AUSTRALIA’s sales more than tripled from its 1996 levels—translating to an annualized growth rate of 19.1 percent.

SNF AUSTRALIA’s financial statements in **Table 1A** provide more detail on its: (a) “market” transactions—arm’s length transactions whose prices are subject to market forces; and (b) its intercompany transfers at proposed prices *not* subject to market forces.<sup>4</sup> On its arm’s

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<sup>1</sup> In this report, SNF FRANCE refers generally to the French parent and any other SNF entities located in France, unless otherwise specified. SNF refers to the company when no particular country/entity designation (*e.g.*, French parent, Australian subsidiary, etc.) or when multiple country/entity designations are intended—including the consolidated company.

<sup>2</sup> Unless otherwise stated, my references will be to the calendar year.

<sup>3</sup> In 2003, SNF AUSTRALIA opened its first manufacturing plant, which accounted for a small portion of products sold by SNF AUSTRALIA in that year. Schroeter, Russell H. (11 July 2008). “Affidavit of Russell Henry Schroeter,” pp. 27-28; and Pich, Rene. (22 July 2008). “Affidavit of Pich,” p. 2.

<sup>4</sup> Companies like SNF do not typically have a *commercial* reason for pricing intercompany transfers. Such companies, however, have financial reporting reasons for stating a “price” for an intercompany transfer. In this case, the SNF manufacturers must state a sales price (to SNF AUSTRALIA) in order to complete the net sales portion of their financial statements and to calculate the resulting tax in their respective jurisdictions. Analogously, SNF AUSTRALIA requires a cost of goods sold value for these products to complete its own financial statements.

Arm’s length transactions are impacted by market forces—the buyer wants to pay as little as possible and the seller wants to receive as high a price as possible—where the transacting parties are at *cross* purposes. For example, a buyer in such a competitive situation cannot simply propose to pay \$1 for a new automobile—unless the seller agrees to such a price. By contrast, the parties in intercompany transactions are not at cross purposes. That is, the parties could cooperate to propose their transfer prices in a way that is most beneficial to the company on a worldwide basis. Typically—and in this case specifically—companies are restrained from this type of behavior by tax authorities who require that these proposed/cooperative prices be at levels consistent with prices that would result from market/arm’s length/competitive transactions. As detailed throughout this report, SNF AUSTRALIA has provided evidence where it opines that the quantum of its proposed transfer prices is consistent with such a market/arm’s length/competitive price.



length market transactions, SNF AUSTRALIA distributed—and received payment for—approximately \$93.6 million worth of product sales to unrelated parties in the Australia/New Zealand/Papua New Guinea region.<sup>5</sup> On these sales, SNF AUSTRALIA incurred approximately \$26.8 million of third party selling costs. Thus, it received a “net” price on its resales of approximately \$66.9 million.<sup>6</sup>

Corresponding to its (net) resales, SNF AUSTRALIA proposed that it record \$77.6 million for (principally<sup>7</sup>) its costs of sales on products sourced through the SNF “family”—SNF FRANCE, SNF USA, SNF CHINA, and SNF KOREA.<sup>8</sup> Thus, SNF AUSTRALIA reported operating losses of approximately \$10.7 million.

**Summary of SNF AUSTRALIA’s Proposed Financial Results: 1997-2003**

<b>SNF AUSTRALIA Income Statement</b>	<b>Amount (Million)</b>	<b>Normalized \$100 Sale Price</b>	<b>Formula</b>
Sales	\$93.6	\$100.00	A
Selling Expenses Incurred	\$26.8	\$28.57	B
<b>Net Sale Price (After Selling Expense)</b>	<b>\$66.9</b>	<b>\$71.43</b>	C = A-B
<b>Proposed Cost of Sales</b>	<b>\$77.6</b>	<b>\$82.88</b>	D
<b>Proposed Operating Profit (Loss)</b>	<b>(\$10.7)</b>	<b>(\$11.45)</b>	E = C-D

In this sense, the taxpayer has essentially proposed that its Australian distributor would pay on average approximately \$82.88 (normalized to \$100 sale price) for products that it can resell at a net price (including selling cost) of approximately \$71.43—that is, a loss of \$11.45. See **Table 1C**.

The taxpayer’s evidence (affidavits) focused on two general areas:

<sup>5</sup> For the fiscal years 2000-2002, SNF AUSTRALIA generated sales to related parties that represented less than 0.3 percent of its total sales. I was not provided these data for the other years. Pich, Rene. (22 July 2008). “Affidavit of Rene Pich,” Exhibit 10: SNF (AUSTRALIA) PTY LIMITED. (3 May 2002). “Special Purpose Financial Report for the Year Ended 31 December 2001,” p. 21; and Pich, Rene. (22 July 2008). “Affidavit of Rene Pich,” Exhibit 11: SNF (AUSTRALIA) PTY LIMITED. (27 October 2003). “Special Purpose Financial Report for the Year Ended 31 December 2002,” p. 23.

<sup>6</sup> Unless otherwise specified, all references in this report to either “\$” or “dollars” refer to Australian dollars.

<sup>7</sup> As seen in **Table 1A**, SNF AUSTRALIA purchased a small portion of its cost of sales from unrelated parties.

<sup>8</sup> Chemtall Corporation and Pearl River Polymers, Inc. represent the two U.S. entities at issue. SNF (China) Flocculant Co. Ltd. is the formal name of SNF CHINA. SNF KOREA’s legal name is Eyang Chemical Co. Ltd.

- certain comparisons of SNF's proposed transfer prices to the polyacrylamide prices paid by unrelated parties (otherwise known as the taxpayer's "CUP" analysis);<sup>9</sup> and
- a list of business reasons for the losses SNF AUSTRALIA has proposed over the 1997-2003 period.

As described in the AGS Instructions in Appendix F of this report, I have been engaged as an independent expert to opine on the following six issues:

- 1) Opining whether the transactional pricing (otherwise known as the Comparable Uncontrolled Price or "CUP" method) information provided by the taxpayer was sufficient to determine whether such transactions could be applied in the manner proposed by the taxpayer in an arm's length transfer pricing analysis.
- 2) If such material were not sufficient, describing the types of information that would be necessary to form such a determination.
- 3) To the degree the evidence allows, opining on whether the transactions provided in the taxpayer evidence's CUP analysis were truly comparable to the intercompany transfer prices at issue.
- 4) Describing and applying any transactional profit method that could help determine arm's length prices for the transactions at issue.
- 5) Opining on whether the applied transactional profit approaches (in Question 4 above) would be more relevant to the determination of arm's length prices than the CUP approach proposed by the taxpayer.
- 6) Describing any information that has not been provided that would assist in determining the resulting profits to SNF AUSTRALIA after paying arm's length prices.

## B. Summary of Findings

I summarize my findings below, and they are more fully detailed in the body of this economic report. As of the date on the cover of this report, I have made all the inquiries which I

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<sup>9</sup> My references to the CUP analysis throughout the report are to the taxpayer's evidence that compares the proposed prices to SNF AUSTRALIA to the prices paid by certain unrelated parties.

believe are desirable and appropriate and no matters of significance which I regard as relevant have, to my knowledge, been withheld from the Court.<sup>10</sup>

I have followed the above instructions throughout the course of this report, although my report is not specifically ordered to answer each of these requests independently, nor in the order above. Rather, these requests are naturally answered as part of my overall economic review of the taxpayer evidence and my affirmative determination of arm's length prices. In this summary section of the report, to correspond with the Instructions, I specifically respond to each of the six issues above. In addition, I attempt to cross reference these questions in certain relevant areas in the main body of my report.

*Instructions Questions 1 & 3: Sufficient Information for CUP Opinion & Application*

a. Sufficient Information

All transfer pricing analyses are constrained by the data and information available publicly or provided by the taxpayer in documents or through interviews and facility tours. With the taxpayer providing more information than some taxpayers but less information than others, this case is not unusual in terms of data constraints. My opinions on the taxpayer's CUP analyses are based upon *sufficient* information, but not *complete* information. That is, as detailed below, I found certain characteristics in many of the CUP invoices that I reviewed that would make them inappropriate/inaccurate price-to-price benchmarks for the SNF AUSTRALIA transfer prices at issue. See **Tables 6-8G**. As more than 50,000 invoices were provided to me—and this appeared to represent only a subset of the invoices the taxpayer applied in its CUP analysis—I was not able to perform a thorough review of each invoice in evidence (and/or used in the taxpayer's CUP analysis).<sup>11</sup> As such, my opinion could potentially change if the other invoices (in evidence and otherwise) for which I could not perform a detailed review displayed noticeably different characteristics than the invoices/data that I have been able to review.<sup>12</sup>

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<sup>10</sup> As part of my consideration for this opinion, I have reviewed the Guidelines for Expert Witnesses in Proceedings in the Federal Court of Australia. I have attempted to follow these guidelines—including the statement above—in drafting this opinion.

<sup>11</sup> While the information I reviewed led to the conclusion of inappropriate usage of potential CUP comparables, I was not able to confirm these findings through interviews with the taxpayer and/or explicit documentation on these points.

<sup>12</sup> Schroeter, Russell H. (14 August 2008). "Affidavit of Russell Henry Schroeter," Electronic Exhibits; and Karoudjian, David. (22 July 2008). "Affidavit of David Karoudjian," Exhibits 6 & 7. (I was provided supporting documentation that included SNF USA invoices and the data analysis for the Affidavit of Russell Schroeter in electronic format by the AGS. It was unclear if these documents were part of a specific exhibit to the Affidavit of Schroeter. As such, I generally reference these documents that were provided to me electronically as the Electronic Exhibits throughout the text and tables of my report.)

## b. Economic Review of Taxpayer CUPs, etc.

The taxpayer's proposed prices/rationale revealed certain problems with the comparables applied. See **Table 6**. The independent sales CUPs presented by the taxpayer provided invoices and/or other data on sales to unrelated companies.<sup>13</sup> However, the taxpayer's proposed CUPs differed/varied in certain other ways that would make them inappropriate/inaccurate price-to-price benchmarks:

- Different levels of the market (see **Table 7B**);<sup>14</sup>
- Wide range of pricing within defined categories;<sup>15</sup>
- Wide range of pricing across independent parties (see **Table 8D**);<sup>16</sup>

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<sup>13</sup> As detailed in Chapter IV, I did not have sufficient information to formally audit all of the assumptions and/or adjustment data applied in this analysis.

<sup>14</sup> Several of the Australian CUP customers *were also customers of SNF AUSTRALIA*. See, for example, **Table 8A**. That is, two of the five distributors designated for the CUPs in the taxpayer's evidence, invoices and other documents in evidence are shown to be direct customers of SNF AUSTRALIA (*i.e.*, Betz Laboratories ("BETZ") and Buckman Laboratories, Inc. ("BUCKMAN")). I found no evidence that SNF (either SNF manufacturers or SNF AUSTRALIA) sold to the other three CUP distributors in Australia. "May Monthly Report," Fax Transmission from Dennis Crowley to R. Pich. (5 June 2001). p. 3; "October Monthly Report," Fax Transmission from Dennis Crowley to R. Pich. (13 November 2001). p. 2; "December Monthly Report," Fax Transmission from Dennis Crowley to R. Pich. (11 January 2002). p. 2; and Karoudjian, David. (22 July 2008). "Affidavit of David Karoudjian," Exhibit 1.

<sup>15</sup> SNF USA invoices showed that prices could vary over *100 percent* within a product category (*e.g.*, cationic emulsion) based on a product's characteristics. See, for example, **Table 8C**. I also find a wide range of prices across product categories in both of the taxpayer CUP analyses. Karoudjian, David. (13 November 2008). "Affidavit of David Karoudjian," Exhibit 13; and Schroeter, Russell H. (14 August 2008). "Affidavit of Russell Henry Schroeter," Electronic Exhibits. As such, the relevance of any price-to-price comparison may be limited within such a widely-priced category. Further data on the product characteristics would be required to determine with precision what adjustments would be applicable.

<sup>16</sup> For example, the taxpayer finds Hercules, Inc. ("HERCULES") received a price of 2.40 Euros per kg for cationic powder whereas BUCKMAN received a price of 3.34 Euros per kg. I found similar price difference between BUCKMAN and other CUP distributors throughout the period at issue. Karoudjian, David. (13 November 2008). "Affidavit of David Karoudjian," Exhibit 17.

- Pricing discounts;<sup>17</sup>
- Packaging and freight costs;<sup>18</sup> and
- Proposed transfer prices lead to results (consistent losses) not witnessed at arm's length among similarly situated companies.<sup>19</sup>

Of these issues, the level of the market may give the clearest example of how the potential CUPs differed from the transactions at issue.<sup>20</sup> That is, polyacrylamide is manufactured and sold through supply chains that include manufacturers, importers/regional distributors, resellers, wholesalers, and end users. See **Tables 7A-7B**. As is typical in market economies, prices increase as the product moves along the supply chain.<sup>21</sup> Consequently, benchmark evidence of arm's length polyacrylamide prices to the market in which SNF AUSTRALIA *sells* would not be relevant (from a price-to-price comparison perspective) in determining an arm's length price at the level of the market in which SNF AUSTRALIA *purchases*. However, the taxpayer evidence that I have reviewed on the CUP transactions is consistent with such transactions being at the level of the market into which SNF AUSTRALIA sells, not the market into which it would be purchasing.

While one would not logically compare prices at different levels of the market, a transfer pricing analysis might choose to examine whether the *quantum* of this differential (analogous to a resale margin) was consistent with arm's length expectations. In this case, the taxpayer's proposed differential (SNF AUSTRALIA resale vs. purchase prices) is *not* large enough to allow SNF AUSTRALIA to earn a positive profit on its operations. Rather, the proposed differential leads to SNF AUSTRALIA reporting losses in each year of the audit period, at an average operating margin of negative 11.5 percent. See **Table 1A**.

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<sup>17</sup> Some pricing discounts were as high as 15 percent. It is not clear if and how these discounts were incorporated into the taxpayer's CUP analyses. See, for example, **Table 8E**. The taxpayer evidence also stated that, "The negotiation of prices downwards in this context [volume discounts] is common...." Pich, Rene. (22 July 2008). "Affidavit of Rene Pich," p. 9.

<sup>18</sup> It is unclear whether the taxpayer's CUP analyses' adjustments for packaging and freight costs were correctly applied. The taxpayer provided limited documentation for its adjustments. See, for example, **Table 8F**.

<sup>19</sup> See, for example: **Tables 9-11**.

<sup>20</sup> The other characteristics above also present other non-trivial comparison problems.

<sup>21</sup> Johnston, et al. (October 2000). "Productivity in Australia's Wholesale and Retail Trade." Productivity Commission. Staff Research Paper, pp. 99-102; and Gerstner, Eitan et al. (December 1994). "Price Discrimination Through a Distribution Channel: Theory and Evidence." The American Economic Review. Vol. 84, Iss. 5, pp. 1437-1445.

## c. Evidence Relating to SNF AUSTRALIA's Proposed Losses

In addition to its CUP analyses, the taxpayer evidence listed business reasons explaining the consistent and significant losses during a period in which SNF AUSTRALIA enjoyed annualized growth rates of nearly 20 percent. See below and in **Tables 9-11**.

**Financial Results of Worldwide Independent Distributors and SNF AUSTRALIA**

<b>Independent Chemical Wholesaling Distributors</b>	<b>1997-2003</b>
Sales Growth Rate	
Highest Growth Rate of Independent Distributors (1996-2003)	<b>7.7%</b>
SNF AUSTRALIA's Growth Rate (1996-2003)	<b>19.1%</b>
Operating Profit Margin	
Lowest Operating Margin of Independent Distributors	<b>0.6%</b>
Proposed for SNF AUSTRALIA	<b>-11.5%</b>
Predicted Operating Margin for SNF AUSTRALIA Based on Growth	<b>7.6%</b>

The taxpayer evidence included a discussion stating that the Australian operations provided a benefit to SNF globally ("global footprint") despite reporting a loss at its operating entity in Australia. That is, SNF AUSTRALIA may have reported losses, but SNF's other related parties could benefit from having an Australian presence. It is economically accurate that a *related* distributor might accept losses for the benefit of its related manufacturer/parent. However, this arm's length transfer pricing analysis requires setting prices in a *hypothetical* transaction between *unrelated* parties: defined as multinational A and multinational B in **Table 5**. As multinational B would not benefit from multinational A gaining a presence in Australia, at *arm's length*, such a distribution subsidiary of multinational B would be unlikely to accept losses on behalf of an unrelated manufacturer.

The taxpayer also provided evidence that SNF AUSTRALIA's proposed losses over the 1997-2003 period were accepted for the potential of gaining future profits. I have not been provided any realistic quantitative evidence to confirm this. First, no contemporaneous projections/discussions of when and how SNF AUSTRALIA would expect to earn profits to compensate for such losses have been provided to me. Additionally, SNF AUSTRALIA did not report financial statements that were moving closer to profitability, as SNF AUSTRALIA's reported losses during the later parts of the 1997-2003 period were consistent with its losses over the early parts of that period. See **Table 1A**.

**Instructions Question 2: Additional Helpful Information**

While the evidence provided was *sufficient* to draw my conclusions on the taxpayer's CUPs, further information could have potentially strengthened my opinion. My findings could

potentially be reinforced by a review of the invoices used in the taxpayer CUP analysis that *were not provided* in evidence, interviews with the taxpayer, and/or an explicit document that highlighted each transaction's position on the supply chain (and other characteristics identified above).

Related to the above discussion, information on potential CUP analyses that the taxpayer did *not* employ would also have been potentially helpful. In particular, SNF AUSTRALIA purchased some product from unrelated parties; however, prices on such transactions were not provided in the taxpayer evidence. See **Table 1A**. It is possible that such transactions would have relevance to compare their prices (potentially, with adjustments) to the proposed related party prices on an apples-to-apples basis.

**Instructions Question 3:**     *Answered Above Under Instructions Questions 1 & 3*

**Instructions Question 4:**     *Affirmative Valuation Using Profitability and/or Other Approaches*

There are a number of ways to apply various benchmarks that have resulted from market forces (*i.e.*, at arm's length) in setting the hypothetical arm's length prices at issue. As described above, the CUP benchmark data—that are currently available in this case—do not provide evidence that could serve as appropriate/accurate price-to-price comparisons for the SNF AUSTRALIA purchases. Similarly, data have not been provided that would allow for a thorough calculation of arm's length cost plus markups on the manufacturing operations or resale price margins from the distribution entity.<sup>22</sup> As such, I focus on the dynamics of this business and the resulting expected profits therefrom.

SNF chose to continue operating SNF AUSTRALIA for 13 years (through the end of the audit period). This period of continuing (and expanding) operations suggests that—as a profit maximizing entity—SNF was benefitting from this operation on a combined basis (manufacturing, distribution, and global footprint). How this benefit would be split within SNF, however, is *not* dependent on economic/market forces, but rather on how SNF chose to set its transfer prices. In an arm's length hypothetical transaction, the Australian resale market would affect the distributor's demand, while the manufacturing costs would impact the manufacturer's

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<sup>22</sup> As described in more detail in Chapter V, a cost plus approach would use the gross margin earned by SNF FRANCE, SNF USA, SNF CHINA, or SNF KOREA on sales to unrelated companies in similar situations as a comparable to apply to the related party transaction. Similarly, SNF AUSTRALIA's resale gross margin on products purchased from unrelated parties under similar circumstances could also potentially serve as a comparable to the related party transaction.

supply. These market factors (and others) would potentially result in a “bargaining range” of price over which both parties were satisfied—*i.e.*, expect to earn some level of positive profit.<sup>23</sup>

This bargaining range can be thought of from a product *price* perspective, but the lack of data described above—and the need to replicate such a range for each different product/time period/etc.—make such an analysis inexact at best. Rather, the existence of a bargaining range implies that both parties are better off than not transacting—that is, they expect positive profits. From a comparable perspective to set such *profit* levels, I consider:

- the splits of profits seen in similar manufacturer/distributor transactions at arm’s length;
- the level of profits earned by similar manufacturers at arm’s length; or
- the level of profits earned by similar distributors at arm’s length.

Unfortunately, the first two of these options cannot be feasibly applied in this case. Profit split benchmarks are generally not possible to determine from arm’s length transactions, and I have not found any such evidence/comparables in this matter. On a more practical matter, the overall “system” profits earned by SNF globally on the full supply chain of its Australian operations (*i.e.*, the profits that would be split) is not part of the evidence to which I have had access.<sup>24</sup>

I could potentially benchmark the profitability of the SNF manufacturing entities, but there are certain constraints with this. First, I have not been provided with the total costs incurred by the manufacturing entities, much less *data that are restricted to their operations on sales to SNF AUSTRALIA*. Second, to the degree an economist chooses to benchmark the profit of one of the two entities (seller or purchaser) to the intercompany transaction, it is generally more accurate to benchmark the simpler operation. That is, it is easier to locate independent companies with more routine operations than to have to “match” companies’ operational comparability in addition to the comparability of their less routine/intangible assets (*e.g.*, name ownership, proprietary products, etc.). As described below, the facts of the case are fairly clear that SNF AUSTRALIA had a simpler, less risky operation than its related manufacturers in this supply chain.

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<sup>23</sup> Chapter IV reveals that many potential transactions do not have overlapping bargaining ranges. As a result, these potential transactions do not take place, as the parties are better off doing nothing and earning a profit of \$0. With SNF benefitting from the Australian operation as evidenced by its 13 years of operations and growth, it suggests that a bargaining range (*i.e.*, positive total system/supply chain profit) did exist in this case. To the degree the hypothetical transaction would have a different result—potentially due to lowered global footprint profits—it is possible these transactions would not exist at arm’s length at all. Of course, this would result in a hypothetical arm’s length Australian distributor earning a profit of \$0 from these operations.

<sup>24</sup> As seen in **Table 2A**, SNF earned operating margins of approximately 7.5 percent globally, but it is unclear whether it enjoyed higher (or lower) profit margins on its Australian operations.



With the above in mind, I focus my comparable search on the profits earned by independent companies whose operations are similar to SNF AUSTRALIA's distribution operations—typically referred to as a Transactional Net Margin Method (“TNMM”) approach. The TNMM essentially establishes the point in the bargaining range based on similar points that have resulted from transactions between unrelated parties. As seen in **Tables 13A-13B**, such transactions resulted in the purchasers (distributors) earning operating profit margins of approximately 1-2 percent of sales. By setting SNF AUSTRALIA's profits at such a level, I estimate the profit it would have recorded had it purchased its products at arm's length. At arm's length, I find that SNF AUSTRALIA would have paid approximately \$12.3 million less than the transfer prices it proposed. See **Tables 14A-14B**.

*Instructions Question 6: Additional Profitability Information*

The lack of information available had a greater potential impact on CUP applications than on the TNMM analysis<sup>25</sup> described above. In that sense, public records of potential comparable companies—and documents provided by the taxpayer on the SNF entities—allowed me to complete a full TNMM. It is possible that additional profitability information—profits earned by the manufacturing entities and the “global footprint” profits attributed to an Australian presence—would have allowed for additional thorough profitability approaches (e.g., profit split, TNMM for manufacturing, etc.). However, such approaches would be unlikely to result in SNF AUSTRALIA being in a consistent loss position.

*Instructions Question 5: Best Method*

Transfer pricing economists are frequently requested to determine the “Best Method” to set arm's length pricing, and I have been requested to opine on a variant in this report with regard to the relative precision/accuracy/relevance of the taxpayer's proposed CUP methodologies compared to the TNMM that I have applied. With the constraints of the CUP data that I have reviewed and, more importantly, the lack of a clear apples-to-apples price comparison, the evidence of CUPs would be less precise/accurate/relevant in comparison to the result of the profitability approach I affirmatively applied. Rather, the CUP data appear to reinforce the reported income statement of SNF AUSTRALIA—that is, its proposed purchase prices exceeded its net resale prices.

*Overall Conclusion: Test of Reasonableness and Guidance of Opinions*

Further understanding of my opinions expressed above can result from certain tests of reasonableness and additional discussion of the precision/accuracy of the calculations available in this matter.

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<sup>25</sup> There did not exist sufficient information to apply the cost plus or resale price methods at all.

## a. Test of Reasonableness

It is helpful to understand how my opined transfer prices would translate to the financial results of the parties involved in the transaction. While the data available do not allow for a clear/complete set of calculations like this, they do reveal:

- My opined transfer prices would allow SNF AUSTRALIA to earn an operating profit of between 1 and 2 percent of sales.
- SNF, on average throughout the world, earned operating profit margins of approximately 7.5 percent for its total supply chain that included manufacturing, distribution, corporate overhead, etc.

Thus, the results suggest that *if* SNF's Australian operations were of average profitability (from a worldwide perspective), the transfer prices I have determined would: (a) allow the distribution activity to earn a minority of the total profits; and (b) allow the manufacturing/other activities to earn a majority of such profits. As seen in **Tables 16A-16B**, these results are robust to various levels of SNF profitability in Australia—and contrast with the results proposed in the taxpayer's transfer prices. While this characterization could change if evidence revealed that SNF earned significantly lower profit margins in Australia, the calculation that can be made from the available evidence would not likely fail a test of reasonableness at this level.<sup>26</sup>

## b. Precision/Accuracy of Results

Finally, I comment on the level of precision/accuracy that was available for these calculations/opinions relative to a typical transfer pricing matter. Quantitatively, the bullet points below speak to the size of a range of price/profits that an economist would require to confidently opine where arm's length transfer prices would result. In particular, there were certain aspects to this case that would lead to *more* accurate/less variable results—leading to more confidence, all else being equal:

- No significant intangibles: Perhaps most important to the quantum of resulting transfer prices, valuable intangibles like patents, customer base, brand names, etc. often allow companies in certain industries to earn profits that are relatively unique (high) and generally harder to benchmark. That was *not* the case here with SNF globally earning operating profit margins below 8 percent, making benchmarking a simpler task.

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<sup>26</sup> In this case, for example, if the results suggested that 250 percent of the profits would accrue to manufacturing/corporate and *negative* 150 percent to distribution (as proposed by the taxpayer's evidence), they would not pass this test of reasonableness—based upon the data available in evidence regarding SNF profitability in Australia.

- Simple Supply Chain/Fact Pattern: More complicated relationships that involve multiple transactions, inconsistent fact patterns, round trip transactions, etc. are generally more difficult to benchmark than simple supply chain/fact patterns. A sale of product from a manufacturer to a distributor that resells the product represents one of the simpler fact patterns in transfer pricing.

While the overall facts involving these transactions would suggest a relatively simple analysis—with relatively precise/accurate benchmarks—other factors worked against this conclusion (*i.e.*, required a wider range of results for the same level of confidence, all else being equal):

- Transactional Approach Data: The transactional evidence that I reviewed did not allow for an accurate opinion of the prices or gross margins that would be expected at arm's length. As such, a profitability approach was applied.
- Closeness of Benchmark Companies: All else being equal, analyses that are able to benchmark the tested party's profits to companies within similar geographies and within the same industry are more likely to reflect what would happen in the hypothetical arm's length transactions at issue. While the practical implications typically are not so high—distributors for different industries and across different countries tend to broadly earn similar profits, for example—an economist would have more confidence in the accuracy of a TNMM approach using more “exact” than “inexact” comparable companies. The TNMM comparables in this case would likely be classified as less exact than the average set of comparables used in a transfer pricing report, as there were relatively few comparables for consideration in Australia and/or other OECD countries.<sup>27</sup>
- Test of Reasonableness Confirmation: Transfer pricing economists often apply a secondary approach and/or a test of reasonableness. While I was able to perform the latter here with profit splits, it was a less direct test than tests that are typically available, primarily due to the lack of (total profit) data for the Australian operations of SNF.

The above discussion suggests that the resulting opinions/prices are probably overall at an average level of precision/accuracy in comparison to the set of transfer pricing projects on which I have been engaged. While this provides me with a level of certainty that my opined

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<sup>27</sup> Somewhat counteracting this issue is the inclusion of multiple sets of (arm's length) profit data in the analysis—all consistently suggesting distributors typically earn positive, modest profits.

prices are *consistent* with arm's length expectations, I cannot say that the arm's length prices would have been *exactly at* the single point estimate. The single point estimate is necessary for various calculations—and was part of my assignment—but economists (myself included) typically view this work as finding a *range* of prices (in this case, operating margins of between approximately 0 and 8 percent as compared to the proposed negative 11.5 percent) that statistically/probabilistically would result at arm's length, as summarized in **Table 15**.

The final product of these requests has resulted in this signed economic report. This report accurately reflects my opinions as of the date on the cover page.

### C. Materials Reviewed

To perform these analyses, I reviewed a number of documents provided by SNF AUSTRALIA to AGS (or to ATO) as well as a number of publicly available documents. Appendix B contains a complete listing of the documents I relied upon in these analyses.

### D. Qualifications

My name is Brian C. Becker. I am the founder and President of Precision Economics. A copy of my current curriculum vitae, which includes a complete listing of my publications, teaching experience, and expert testimony, is attached to this report as Appendix A.

Prior to founding Precision Economics, I gained experience with several consulting firms. My primary areas of focus in these positions were in transfer pricing, business valuation, international trade, intellectual property, and financial damages.

In the transfer pricing/valuation area, I have qualified to testify (and testified) as an expert witness, published more than a dozen articles, and spoken to a number of industry/government groups. In total, this experience includes more than 250 economic reports. While most of this work is not public information, my role in certain recent transfer pricing disputes is common knowledge. In 2006, I served as a lead transfer pricing economic expert for the IRS in a dispute with GlaxoSmithKline, which produced the largest tax settlement in history. In 2007, I served as a transfer pricing economic expert for the Australian Government Solicitor and the Australian Taxation Office, in Australia's first major transfer pricing trial.

My experience in international trade, intellectual property, and financial damages includes many assignments, publications, and speaking engagements. I have provided expert deposition and trial testimony in matters before The Administrative Appeals Tribunal (Australia), the Canadian International Trade Tribunal, U.S. Tax Court, U.S. District Court, various Superior Courts, U.S. Bankruptcy Court, Delaware Chancery Court, and the U.S. International Trade Commission.

My academic background includes teaching positions at four universities and a variety of published research. Most recently, at Johns Hopkins University, I taught Corporate Finance and Derivative Securities to MBA students. I have published more than two dozen articles and book chapters, including in the *Tax Management Transfer Pricing Report*, *Corporate Business Taxation Monthly*, *Business Valuation Review*, and *Business Valuation Digest*.

I earned my B.A. in Applied Mathematics and Economics from the Johns Hopkins University. I received my M.A. and Ph.D. in Applied Economics from the Wharton School of the University of Pennsylvania.

### E. Organization of Report

This report is organized into five chapters. In this first chapter, I outline the scope of the project and summarize the conclusions. The second chapter summarizes SNF (generally, and SNF AUSTRALIA, specifically), the industries in which it operates, and its financial results over the tax years at issue. In Chapter III, I define the arm's length standard in general and analyze the principle in particular as it applies to this case. The taxpayer's evidence regarding the proposed transfer prices—and the justification thereof—are economically reviewed in Chapter IV. In Chapter V, I affirmatively estimate the intercompany payments that would be consistent with arm's length transactions. Tables and appendices follow the text.

## II. SNF Background

### A. Brief History & Operations

#### 1. SNF Consolidated

Headquartered in Andrézieux, France, SNF has operated since 1978. It is now the world's leading producer of flocculants for water treatment, currently marketing four primary sets of products: (1) flocculants;<sup>28</sup> (2) superabsorbents;<sup>29</sup> (3) thickeners;<sup>30</sup> and (4) other products.<sup>31</sup> As one of the leaders in the global water soluble polymer market, it has captured approximately 38 percent of this market.<sup>32</sup>

SNF owns manufacturing plants and 30 wholly owned subsidiaries in France, the United States, China, South Korea, and other locations. With 18 total production facilities (and additional offices), SNF worldwide employs more than 2,000 persons.<sup>33</sup>

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<sup>28</sup> Flocculants clarify water by combining with suspended solids such that these particles quickly and easily separate from the water. "SNF Floerger – Flocculants." *SNF Floerger Website*. Retrieved 26 February 2009 from <http://www.snf-group.com/Flocculants.html>.

<sup>29</sup> For the agriculture market, superabsorbents may absorb up to 500 times their weight. In addition to this application, SNF supplies the cosmetic and personal care industries. "SNF Floerger – Superabsorbants." *SNF Floerger Website*. Retrieved 26 February 2009 from <http://www.snf-group.com/Superabsorbants.html>.

<sup>30</sup> Thickeners affect the texture and viscosity of products, including shampoos and creams. SNF also supplies thickeners for the textiles and oil recovery industries. "SNF Floerger – Thickeners." *SNF Floerger Website*. Retrieved 26 February 2009 from <http://www.snf-group.com/Thickeners-coagulants-and-others.html>.

<sup>31</sup> SNF produces other products, including antifoaming agents and heavy metal chelatants to supplement its three product lines. These other products are supplied in various types and in several categories. "SNF Floerger – Other Products." *SNF Floerger Website*. Retrieved 26 February 2009 from <http://www.snf-group.com/50-Others-Products.html>.

<sup>32</sup> Pich, Rene. (22 July 2008). "Affidavit of Rene Pich," p. 2.

<sup>33</sup> "SNF Floerger – Introduction." *SNF Floerger Website*. Retrieved 26 February 2009 from <http://www.snf-group.com/Introduction,52.html>.

## 2. SNF AUSTRALIA

SNF AUSTRALIA began operations in 1990. Over the period at issue, SNF AUSTRALIA acted as a importer/regional distributor<sup>34</sup> of polyacrylamide in the SNF supply chain, purchasing products from related (and some unrelated) party manufacturers and shipping them to third party distributors/resellers and end users in Australia.<sup>35</sup> See **Table 3**. SNF AUSTRALIA imported these products in both powder and emulsion form.

SNF AUSTRALIA sold product through four channels: (1) direct; (2) branded distributors; (3) local resellers; and (4) international resellers. See **Table 3**. During the audit period, SNF AUSTRALIA sold most of its products directly to end users, in contrast to other SNF entities that primarily sold to other resellers/distributors.<sup>36</sup> Distributors/resellers in Australia, however, purchased from SNF AUSTRALIA itself as well as directly from SNF manufacturing operations (outside of Australia).<sup>37</sup>

### B. Financial Results

#### 1. SNF Consolidated

The audit period witnessed healthy and fairly consistent results for SNF globally. SNF's sales grew at an annualized rate of 9.2 percent over the audit period, reaching €60 million in 2003.<sup>38</sup> SNF earned positive operating margins during each year of the audit period, recording a total operating margin of 7.5 percent. See **Table 2A**.

SNF's balance sheet also experienced growth over the period at issue, with total assets rising from €78 million in 1997 to €78 million in 2003. Over the same period, liabilities also increased by a similar amount, leading to a relatively modest net growth in equity. See **Table 2B**.

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<sup>34</sup> SNF AUSTRALIA had been in operation for approximately 13 years from 24 July 1990 through the end of 2003. Near the end of the audit period—in 2003—SNF AUSTRALIA opened its own local manufacturing plant. Pich, Rene. (22 July 2008). "Affidavit of Rene Pich," p. 3.

<sup>35</sup> SNF AUSTRALIA outsourced the warehousing and delivery functions for products that it delivered to its customers. Schroeter, Russell H. (11 July 2008). "Affidavit of Russell Henry Schroeter," p. 15.

<sup>36</sup> As such, SNF AUSTRALIA often performed the functions of both the regional distributor and reseller in the supply chain for these end users. Pich, Rene. (22 July 2008). "Affidavit of Rene Pich," pp. 6-7.

<sup>37</sup> For example, SNF AUSTRALIA purchased products from SNF FRANCE that it then sold to BETZ, as shown in the product designation on invoices from SNF FRANCE to SNF AUSTRALIA. BETZ also purchased directly from SNF FRANCE. See, for example, **Table 8A**.

<sup>38</sup> This growth rate calculation covers the years 1996 to 2003.

## 2. SNF AUSTRALIA

SNF AUSTRALIA's results over the audit period cannot be analyzed as clearly as its parent due to transfer prices. Some parts of its operations, however, report results independent of proposed transfer prices. For example, SNF AUSTRALIA's third party revenue more than tripled over the audit period, representing an annualized growth rate of 19.1 percent. Thus, its sales grew at approximately twice the rate of its parent company. SNF AUSTRALIA's profits are related to the transfer prices that are the subject of this economic report.

**Summary of SNF AUSTRALIA and SNF Consolidated: 1997-2003**

<b>Financial Calculation</b>	<b>SNF Consolidated</b>	<b>SNF AUSTRALIA</b>
Revenue Growth Rate	9.2%	19.1%
Operating Profit Margin	7.5%	To Be Determined (in <b>Table 14A</b> ) <sup>39</sup>
Number of Years of Losses	0	To Be Determined (in <b>Table 14B</b> )

SNF AUSTRALIA's balance sheet also witnessed growth with total assets increasing from \$8.4 million in 1997 to \$24.5 million by 2003. As of 2003, SNF AUSTRALIA's total liabilities amounted to \$7.6 million, implying total equity of \$16.9 million. See **Table 1B**.

## C. Products and Competition

The SNF group of companies competes in the polyacrylamide market.<sup>40</sup> Polyacrylamides and other related products are water-soluble polymers, both in powder and emulsion base, used in a variety of processes (*e.g.* water treatment, papermaking, farming, mining, etc.) by commercial and government entities.<sup>41</sup>

Global capacity for polyacrylamide is mainly supplied from Western Europe and the Asia Pacific region. Waste and wastewater treatment, petroleum applications and pulp and paper applications account for more than 70 percent of polyacrylamide consumption.<sup>42</sup>

<sup>39</sup> The taxpayer proposed that SNF AUSTRALIA would earn losses in each year at arm's length—a total operating margin of negative 11.5 percent. In Chapter V and the associated tables, I find that SNF AUSTRALIA would have earned an operating margin of approximately (positive) 1.7 percent over the audit period at arm's length.

<sup>40</sup> Pich, Rene. (22 July 2008). "Affidavit of Rene Pich," p. 2.

<sup>41</sup> The polyacrylamide market is a subset of the flocculant and coagulant markets. In this report, when I reference the flocculant and coagulant markets I am generally referring to the polyacrylamide market. "Flocculants Info." *Flocculants*. Retrieved 24 December 2008 from <http://www.flocculants.info/>; and Schroeter, Russell H. (11 July 2008). "Affidavit of Russell Henry Schroeter," pp. 4-6.

<sup>42</sup> Anonymous. (21 February 2005). "Polyacrylamide." *European Chemical News*, p. 14.



In the Australian market, 80 percent of coagulants and flocculants are imported, including essentially all SNF AUSTRALIA products during the audit period.<sup>43</sup> Within this market, SNF AUSTRALIA focuses on the distribution of water-soluble polymers used for water purification. In particular, SNF AUSTRALIA sells flocculants (sold in solid form) and coagulants (sold in liquid form).

#### D. Intercompany Transfers at Issue

Throughout the audit period, SNF AUSTRALIA acquired most of its product from its related parties. In addition to purchasing approximately \$5.1 million of product from unrelated parties, SNF purchased an additional \$72.6 million from related parties—at its proposed transfer prices.<sup>44</sup> See **Table 1A**.

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<sup>43</sup> Frost & Sullivan. (2007). “Strategic Analysis of Australian Water Treatment Chemicals Market,” p. 5-9.

<sup>44</sup> At arm’s length, I find that SNF AUSTRALIA would pay approximately \$12.3 million less in transfer prices than it had proposed. See **Table 14A**.

### III. Arm's Length Standard

As summarized in Chapter I, I have been requested to opine upon valuation approaches and results regarding the intercompany transfer prices under examination. Thus, it is first important to define and describe the arm's length standard considered in such valuations. This chapter describes how such a standard attempts to mimic the (supply, demand, etc.) market forces inherent in unrelated transactions to related party transfers. That is, the standard demands the valuation of *hypothetical* unrelated transactions under circumstances that are otherwise similar to those of the related party transfers at issue. While this concept is relatively simple to describe, it requires further discussion to fully define and value specific transactions.

#### A. Arm's Length Principle: Definition

Transactions that are typically witnessed in markets around the world involve two parties that are not commonly owned—*i.e.*, they are transacting at “arm's length.” These transactions' resulting prices are naturally impacted by market forces. Put more broadly, the buyer attempts to pay as little as possible and the seller attempts to extract as high a price as possible—with the ultimate price largely determined by the positions/bargaining power of the two parties.<sup>45</sup>

While multinational companies have various business reasons to transfer tangible property, intangible property, and services from one *related party* to another, the pricing of these transfers does *not* respond to inherent market forces. Rather, the multinational company could set its transfer prices at whatever levels it chose—but for transfer pricing regulations and enforcement thereof.<sup>46</sup>

Related company transfer pricing is not directly governed by market forces, but it is broadly governed by a consistent standard that attempts to mimic market forces—generally

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<sup>45</sup> Often referred to as the “invisible hand” (coined by Adam Smith in 1776), a generally accepted economic principle states that market economies include many buyers and sellers of numerous goods and services that act to promote their self-interest. Mankiw, N. Gregory. (2007). Principles of Economics. South-Western, pp. 9-10, and Chapter 16.

<sup>46</sup> See, for example: Li, Jinyan. (2002). “Global Profit Split: An Evolutionary Approach to International Income Allocation.” Canadian Tax Journal, Vol. 50, Iss. 3.

known as the arm's length standard.<sup>47</sup> This standard requires intercompany transfer prices to be set at the level (in terms of price, fee, rate, etc.) that would have been achieved under hypothetically similar circumstances, but assuming that the trading parties had *not* been related to each other.

The *concept* of the arm's length standard is relatively simple, but its *application* is often complicated, as it requires the economist to artificially separate all of the operations/relationships existing between the transacting parties while keeping all other characteristics of each related party intact. Economists can perform this application in two steps. Step 1 defines the terms/characteristics of a transaction by creating/defining a hypothetical (arm's length) transaction. This hypothetical serves as a proxy for the intercompany transfer under arm's length circumstances.

Once the hypothetical transaction is fully defined and described, the determination of the price/fee/rate that would result represents Step 2. These valuations largely focus on locating and comparing various benchmarks/comparables that would provide information (*e.g.*, price, fee, rate, margins, profit splits, etc.) about the expectations of the transaction's pricing at arm's length. By considering the relative strengths of the various benchmarks (*e.g.*, reliability, adjustments, etc.), a single point or range of values can be determined.<sup>48</sup>

## B. Transfer Pricing Step 1: Defining the Hypothetical Transaction

The arm's length standard would price a related party transfer at the level that would be expected if the parties were operating at arm's length. As such, it is important to define all of the important characteristics that would be inherent in such a hypothetical arm's length transaction. This definition potentially includes:

- a description of the product, service, intangible, etc. being transferred;
- the timing of the transfer;

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<sup>47</sup> I do not intend this statement to reflect a comprehensive opinion on transfer pricing rules and regulations in each country of the world. In that sense, it is possible that certain provisions in certain countries may be interpreted to disagree with the arm's length standard, but it is the typical standard applied in valuations by economic practitioners in this field—and the standard I have been asked to follow in drafting my opinions for this report. See, for example: Organisation for Economic Co-operation and Development. (July 1995). [Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrators](#), Chapter I; and Australian Taxation Office. (April 2005). "International Transfer Pricing." Retrieved 26 February 2009 from [http://www.ato.gov.au/content/downloads/LBI\\_35285\\_Applying\\_arms\\_length\\_principle.pdf](http://www.ato.gov.au/content/downloads/LBI_35285_Applying_arms_length_principle.pdf).

<sup>48</sup> I interpret this "best method" determination as being similar to Question 5 of the Instructions I received from AGS.

- the primary terms in the transaction (*e.g.*, time period, volume, termination terms, etc.);
- the characteristics of the seller (*e.g.*, U.S./French/Chinese/Korean manufacturing subsidiary of a multinational) that would potentially influence its bargaining power; and
- the characteristics of the buyer (*e.g.*, regional distribution subsidiary of a *different* multinational located in Australia)<sup>49, 50</sup> that would potentially influence its bargaining power.

While the definition step in transfer pricing is quite important, it often requires relatively little *analysis*, as it simply reflects a listing of known facts.<sup>51, 52</sup> In certain cases, however, further adjustments/descriptions are required:

- **Terms not followed:** Related parties do not face the same level of market forces (*e.g.*, threats of lawsuits and/or the termination of an agreement) that require them to follow the terms of their agreements. As such, related parties' behavior does not always coincide with the terms in their intercompany agreements. In such cases, the transaction's description in the hypothetical construct in Step 1 of the transfer pricing analysis would focus on the actual behavior of the parties, not the terms stated in the intercompany agreement.

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<sup>49</sup> This concept of independent parties transacting at arm's length is similar to the standard posed by AGS in its Questions A and B for the Court. See Appendix F.

<sup>50</sup> It has been my experience that many economists implicitly or explicitly define the hypothetical transaction by assuming one or both of the independent parties is a "standalone" operation. That is, for example, the economist would assume the manufacturer to be a local Korean company with no foreign operations/relationships or the distributor to be a local Australian operation with no foreign operations/relationships. Such alterations do not necessarily lead to a significantly different valuation opinion in all cases, but they do unnecessarily change the dynamics of the actual transaction being valued. As the actual transaction at issue involved the sale *from* a subsidiary of a *multinational* to a subsidiary of a *multinational*, that same dynamic in a hypothetical would—all else being equal—results in a more accurate valuation than defining a transaction from a *standalone* manufacturer to a *standalone* distributor.

<sup>51</sup> Thus, most research and discussion on transfer pricing focuses on the valuation step as opposed to the definition step. See, for example: Feinschreiber, Robert. (2004). Transfer Pricing Methods. John Wiley & Sons, Inc: New Jersey, Table of Contents.

<sup>52</sup> The definitional step is often implicitly incorporated into the second step (valuation). That is, for example, the economist may analyze strategic issues of the parties as part of a valuation analysis.

- **Strategic Issues:** A multinational company may have strategic issues that impact its consideration of any particular transaction with regard to its overall impact on the company. For example, an independent company might not profit from distributing *another company's* surfboards in Iceland, but a multinational might establish a subsidiary in Reykjavik so that it could advertise “worldwide service” and/or cater to its own multinational customers. This dynamic should be captured in the Step 1 description of the hypothetical transaction.
- **Identity of the Selling/Licensor Party Itself Being Transferred:** In most transfer pricing analyses, the product/service/asset being transferred is of primary importance, while the identity and characteristics of the selling entity itself have less importance. However, in cases where the identity or reputation of the selling entity is essentially being transferred/licensed (*i.e.*, royalty rate for company name, guarantee fee, etc.), the focus of the hypothetical description would be more heavily weighted to the seller's characteristics.<sup>53</sup>

### C. Transfer Pricing Step 2: Valuation

Transfer pricing economic reports are similar to other economic expert witness reports in that they benefit from not only the economist's opinion, but also from a description of the data, methodologies, and assumptions applied in reaching such opinion. In the case of transfer pricing, the *valuation* methods largely center on: (1) the consideration of benchmark data (comparables) that have been naturally impacted by market forces; and (2) the potential comparables' relevance to the pricing of the hypothetical transaction at issue.

Various types of data exist publicly—and/or through the multinational taxpayer being analyzed—that show the impact of market forces. Prices, royalty rates, and service fees agreed to in transactions between unrelated parties provide one such type of benchmark data, or comparable.<sup>54</sup> Transactional gross margins also provide potential comparable data used by economists to calculate transfer prices. In addition to transactional benchmarks, overall

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<sup>53</sup> Analogously, the characteristics of the buyer would potentially be more relevant in some of these situations also. For example, a small food supplying company may gain some instant credibility if it begins selling to McDonald's.

<sup>54</sup> In transfer pricing, it is common practice to refer to the arm's length benchmarks (impacted by market forces) as comparables. See, for example: Broomhall, David. (21 March 2007). “Updating Comparables in Advance Pricing Agreements.” Tax Management Transfer Pricing Report, Vol. 15, No. 22.

corporate or product line for one (or both) of the parties to the transaction can be set at a level determined by comparables.<sup>55</sup>

In this valuation step in transfer pricing, the various methods (including their comparables) would be evaluated based upon their relative reliability. In this sense, the economist would compare how close (“exact”) the comparables are to the hypothetical construct at issue. To the degree differences exist, the economist would evaluate how such differences were adjusted for<sup>56</sup>—if they could be quantified at all. In general, methods that are more direct and require fewer adjustments/assumptions are preferred to methods requiring a significant number of adjustments and assumptions/estimations. In transfer pricing terminology, this process would ultimately determine a best method(s)<sup>57</sup> and a resulting transfer price.<sup>58</sup>

#### D. Step 1 Applied to SNF

Step 1 in transfer pricing analyses typically creates/defines the hypothetical arm’s length transaction based upon the characteristics of the actual related party transaction. **Table 4** describes the actual transfers at issue between the foreign SNF entities and SNF AUSTRALIA, including the characteristics of the buyer and seller.<sup>59</sup> While any of the characteristics could potentially impact pricing, some that are likely to be at issue in this case are:

- level of the market of the transactions (see **Tables 7A-7B**);
- chemical composition of product/product code;
- volume purchased;

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<sup>55</sup> Economists also consider market values, useful lives, interest rates, Betas, debt ratings, debt/equity ratios, and other benchmarks. Rosenblum, Jeffrey I. (16 October 2002). “Estimating an Arm’s-Length Interest Rate on Intercompany Loans.” Tax Management: Transfer Pricing. Vol. 11, No. 12, p. 602.

<sup>56</sup> In theory, any benchmark could potentially be adjusted to any hypothetical, but some are easier to imagine than others. For example, it would be relatively difficult to adjust the price of a diamond to the price of a kilogram of polyacrylamides. By contrast, it would be easier to adjust the price of a particular type of unpackaged polyacrylamide to the same, packaged product.

<sup>57</sup> Often, multiple primary methods are applied in tandem and/or a secondary test of reasonableness is used to confirm the results of a primary method.

<sup>58</sup> See, for example: Feinschreiber, Robert. (2004). Transfer Pricing Methods. John Wiley & Sons, Inc: New Jersey, pp. 40-42.

<sup>59</sup> There are actually multiple sellers (all part of SNF) that have slight differences in their descriptions (*i.e.*, the U.S. operation is somewhat different from the French parent, etc.).

- revenue growth rate over the audit period (19.1 percent) for the purchaser;<sup>60</sup>
- operating profit margin (7.5 percent) earned by the multinational parent;
- functions of the parties (*e.g.*, manufacturer for sales around the world, Australia-area distributor, etc.); and
- time period of transactions.

Translating the SNF transaction characteristics into the hypothetical arm's length transaction is mostly a matter of "cutting and pasting" except for the company descriptions. That is, both the buyer and the seller in the *actual* transaction are subsidiaries (and/or the parent) of *the same* multinational company. In the *hypothetical* arm's length transaction, the transacting parties would be subsidiaries of *different* hypothetical multinational companies—labeled "A" and "B" in **Table 5**.<sup>61</sup> This hypothetical construction allows the transaction/companies to retain as much of their characteristics as possible in the arm's length setting.

#### E. Step 2 Applied to SNF

Determining arm's length prices for the hypothetical polyacrylamide sales from a subsidiary of multinational A to a subsidiary of multinational B is dependent on the data available. I work through this process in Chapter IV by economically reviewing the taxpayer's evidence and resulting proposed transfer prices.<sup>62</sup> Thereafter, in Chapter V, I perform my own affirmative valuation of the intercompany transfers at arm's length.

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<sup>60</sup> High growth rates—especially for mature/non-development focused companies like SNF AUSTRALIA—may often lead to higher profit margins. The research I conducted here—on OECD country distributors—showed positive correlations (common direction of movement) between revenue growth and profit margins. See **Tables 10-11**.

<sup>61</sup> In this sense, for example, the strategic issues of multinational A would not directly impact a subsidiary of multinational B and vice versa.

<sup>62</sup> As discussed in Chapter IV, the taxpayer has not explicitly defined the hypothetical transaction in the same manner as I have above (*i.e.*, Step 1). It appears as though, however, the taxpayer is essentially focused on valuing a similar hypothetical transfer as that defined in my Step 1 above.

#### IV. Economic Consideration of the Taxpayer's Evidence and Proposed Transfer Prices

The AGS has engaged me to answer three questions regarding the taxpayer's evidence on transfer pricing: Questions 1-3. This "Economic Consideration" chapter—and its associated tables/references—provide the reasoning behind, and summarize my opinions on, these three questions.

##### A. Description of Intercompany Transactions

During the years 1997-2003, SNF AUSTRALIA purchased polyacrylamide from related parties in four countries. The terms of the transactions between SNF AUSTRALIA and its aforementioned parties were not formally documented into an intercompany agreement; however, the facts surrounding the transactions provide context. In particular, SNF AUSTRALIA was focused on the polyacrylamide market with essentially no other significant source of supply than its related parties during this time period. The taxpayer has proposed that SNF AUSTRALIA record a cost of goods sold of approximately \$72.6 million for these intercompany transfers. See **Table 1A**.

##### B. Summary of Taxpayer's Evidence

The taxpayer evidence on the SNF AUSTRALIA intercompany pricing focused on two sets of data and documentation:

- Price-to-price comparisons: Generally known as a CUP analysis in the transfer pricing profession, the taxpayer evidence proposed to show that certain intercompany prices (or price lists) to SNF AUSTRALIA were consistent with prices paid by certain unrelated parties.<sup>63</sup> In particular, the taxpayer's CUP evidence proposes to show that the prices (or price lists) set to SNF AUSTRALIA were generally no greater than the prices for product sold to certain unrelated companies worldwide. See **Table 6**.
- Business rationale for performance: The taxpayer evidence also focused on the performance (profitability) reported by SNF AUSTRALIA. While

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<sup>63</sup> The taxpayer evidence included only a limited sample of SNF AUSTRALIA invoices. Instead, the taxpayer evidence relies on the "relevant information from the SNF SAS sales records," price lists and a selection of SNF USA invoices when comparing SNF AUSTRALIA prices to the CUPs. That is, I was not provided a complete list of SNF AUSTRALIA's transactions with related parties. Schroeter, Russell H. (14 August 2008). "Affidavit of Russell Henry Schroeter," p. 5; and Karoudjian, David. (13 November 2008). "Affidavit of David Karoudjian," pp. 2 & 10.



the evidence does not formally compare the resulting losses to any particular profitability benchmark, the evidence includes several business reasons that may have contributed to such reported losses.

### C. Economic Evaluation

The taxpayer evidence covers both pricing data as well as the overall economic situation potentially impacting SNF AUSTRALIA's results. While both sets of data/analyses provided significant documentation, neither analysis was sufficient for an economist to conclude that the arm's length prices would result in: (a) SNF AUSTRALIA paying approximately \$72.6 million for its product; and (b) SNF AUSTRALIA consistently purchasing products at a net loss.

#### 1. CUP Analyses

The taxpayer CUP analyses initially followed economic logic/theory by searching for any potential transactional comparable in assessing the intercompany prices at issue. That is, both logically and economically, the most direct way to determine an arm's length price that would be impacted by natural market forces is to find an actual transaction—under similar circumstances—that *was* impacted by market forces. However, the transactions identified in the taxpayer evidence covered different circumstances that would potentially impact prices. See **Table 6**.

While there was potentially some relevance to the taxpayer's CUP evidence, ultimately, such data would not serve as appropriate price-to-price comparisons. The taxpayer's CUPs compared the prices proposed to SNF AUSTRALIA with the prices seen in certain arm's length transactions.<sup>64</sup> These latter sales correctly covered broadly similar products in similar time periods as SNF AUSTRALIA, and they were naturally impacted by market forces because they involved transactions between unrelated parties. However, the evidence provided showed that the proposed CUPs differed/varied in certain other ways that would make them inappropriate/inaccurate price-to-price benchmarks:

- Level of the Market: Some of the taxpayer's proposed CUP customers *were also customers of SNF AUSTRALIA*, which suggests that the CUPs were at a different level of the market than the SNF AUSTRALIA prices. See, for example, **Tables 7B & 8A**. Of the five distributors designated for the CUPs, two were direct customers of SNF AUSTRALIA (BETZ and

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<sup>64</sup> The taxpayer evidence included two separate CUP analyses in the Affidavits of Russell Schroeter and David Karoudjian.

BUCKMAN).<sup>65</sup> Generally, SNF AUSTRALIA stated that international resellers—such as the CUP distributors—would be managed nationally by SNF AUSTRALIA “...to ensure consistency of commercial approach and single communication channels with the rest of SNF internationally.”<sup>66</sup>

- Differences in Characteristics of the Products: The taxpayer’s analyses made no adjustments for products sold with different product characteristics. In certain situations, SNF adds a suffix code following the description of a product to identify the product’s intended market or other characteristics.<sup>67</sup> Whether such characteristics/categorizations would require a material change/adjustment could not be determined with precision from the data/information provided to me; however, SNF USA invoices showed that prices could vary over *100 percent* within a product category.<sup>68</sup> See, for example, **Table 8C**.
- Independent Party Pricing: The taxpayer’s CUP analyses show large variation in pricing within its defined product categories for sales to different independent customers for similar products sold at similar dates. For example, the Affidavit of David Karoudjian finds that in 2001,

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<sup>65</sup> As I was not provided a client list for SNF AUSTRALIA or SNF related entities for Australia, I was unable to conclusively determine if Akzo-Nobel (“NOBEL”), Hercules Inc. (“HERCULES”) or Ashland Inc. (“ASHLAND”) were also direct customers of SNF AUSTRALIA or other SNF related parties in Australia. “May Monthly Report,” Fax Transmission from Dennis Crowley to R. Pich. (5 June 2001). p. 3; “October Monthly Report,” Fax Transmission from Dennis Crowley to R. Pich. (13 November 2001). p. 2; “December Monthly Report,” Fax Transmission from Dennis Crowley to R. Pich. (11 January 2002). p. 2; and Karoudjian, David. (22 July 2008). “Affidavit of David Karoudjian,” Exhibit 1.

<sup>66</sup> Pich, Rene. (22 July 2008). “Affidavit of Rene Pich,” Exhibit 13: SNF Australia Pty Ltd. “Strategic Plan: SNF (Australia) 2002-2005,” p. 5.

<sup>67</sup> Karoudjian, David. (22 July 2008). “Affidavit of David Karoudjian,” p. 5. These suffixes often refer to differences in the molecular weight of the products. For example, the products with the suffixes “SSH” and “VHM” “are more expensive than low and medium molecular weight products and are sold at a premium to the lower molecular weight products.” Sinn, Peter. (21 November 2008). “Suffix Price Information Produced Pursuant to the Order of Justice Gordon Made on 31 October 2008.” Middletons, p. 2.

<sup>68</sup> The issue of a price range applies to both of the taxpayer CUP analyses. Karoudjian, David. (13 November 2008). “Affidavit of David Karoudjian,” Exhibit 13; and Schroeter, Russell H. (14 August 2008). “Affidavit of Russell Henry Schroeter,” Electronic Exhibits. For example, the taxpayer classified EM 140 and EM 145 in the same category (cationic emulsion) as EM 640, despite significant price differences between the products. See **Table 8C**. The taxpayer’s evidence would not allow me to determine whether SNF AUSTRALIA bought more of the higher priced EM 640 or the lower priced EM 140 to make more appropriate price comparisons.

HERCULES paid a price of 2.40 Euros per kilogram for cationic powder, whereas BUCKMAN paid a price of 3.34 Euros per kilogram.<sup>69</sup>

- Pricing Discounts: SNF provided price discounts for certain customers and/or in certain situations.<sup>70</sup> See, for example, **Table 8E**. In analyzing these CUPs, it would be important to identify when and how such price discounts would be implemented.
- Freight Adjustment: In both of the taxpayer's CUP analyses, estimates were made for freight charges. It is unclear whether these adjustments were consistent with actual market costs, as some invoices showed significantly higher freight amounts or different terms than those described by the taxpayer.<sup>71</sup>
- Packaging Adjustment: The proposed CUP prices in the Affidavit of Russell Schroeter are adjusted for packaging costs based upon certain estimates provided. Whether such adjustments were consistent with actual packaging costs could not be confirmed by the data/information in the taxpayer evidence. Further complicating this issue, in some cases, packaging adjustments were made to proposed CUPs when packaging appeared to be included in the invoice price. See, for example, **Table 8C**.
- Selective Invoices/Data: The taxpayer provided a selection of invoices that I was able to review. I was not able to view all of the invoices to: (a) audit/replicate the taxpayer's work product; or (b) analyze other data in their invoices.<sup>72</sup> Some of the SNF USA invoices suggest the existence of

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<sup>69</sup> I found similar price difference between BUCKMAN and the other CUP distributors throughout the period at issue. Karoudjian, David. (13 November 2008). "Affidavit of David Karoudjian," Exhibit 17. In the Affidavit of Russell Schroeter, HERCULES' and BETZ prices also consistently appear to be beneath those of BUCKMAN. See **Table 8D**. Schroeter, Russell H. (14 August 2008). "Affidavit of Russell Henry Schroeter," Electronic Exhibits.

<sup>70</sup> The taxpayer evidence stated that, "The negotiation of prices downwards in this context [volume discounts] is common...." Pich, Rene. (22 July 2008). "Affidavit of Rene Pich," p. 9.

<sup>71</sup> The Affidavit of Russell Schroeter makes no freight adjustments to the CUP transactions. A review of a sample of SNF USA invoices on the CUP transactions had varying terms for freight payments including "Collect" and "Bill". See, for example, **Table 8C**. The taxpayer evidence did not include detail on these terms and/or an explanation of whether adjustments were appropriate. The Affidavit of David Karoudjian provides limited support for its freight adjustments of 0.137 Euros/kg and 0.91 Euros/kg. On some invoices, freight charges were found to be as high as 1.27 Euros/kg. See, for example, **Table 8F**. Schroeter, Russell H. (14 November 2008). "Affidavit of Russell Henry Schroeter," p. 3.

<sup>72</sup> For example, I did not receive all of the invoices that supported the Affidavit of David Karoudjian or SNF USA's invoices for the period 2000-2003 used in the Affidavit of Russell Schroeter.

other unrelated parties that also bought similar products over the period at issue.<sup>73</sup> See, for example, **Table 8G**.<sup>74</sup>

- **Taxpayer Accounting System**: The taxpayer states that its old accounting system “...did not have the capacity to show real costs associated with the supply of the product...”<sup>75</sup> The taxpayer did not provide formal evidence supporting its transfer prices using the product supply costs, but it would require further analysis of such accounting data/system to formally evaluate whether any types of analyses and comparisons could be performed.
- **Reasonableness of Result**: There are many ways to analyze potential CUPs from level of market to product grouping to adjustments. However, ultimately, the resulting analysis must be grounded in economic reality. That is, the applied prices would typically produce a result that would be expected at arm’s length. In this case, however, the proposed CUP prices lead to: (a) SNF AUSTRALIA purchasing product below the (net) price it receives upon resale (see **Table 1C**); and (b) SNF AUSTRALIA reporting operating losses outside the bounds seen among similarly situated arm’s length companies (see **Tables 9-11**). While such results are possible, at arm’s length, they would be highly unlikely—especially for a company that expanded operations during this time.

Of these issues above, the level of the market offers a clear reason that the proposed CUPs were inappropriate to make *price-to-price* comparisons. That is, as some of the unrelated parties that were part of the taxpayer’s proposed CUP transactions *were also customers of SNF AUSTRALIA*, this suggests the CUPs proposed by the taxpayer were at a different level of the market.

**Tables 7A-7B** display how the level of the market typically impacts pricing in supply chains. In particular, as a product moves down the supply chain—from manufacturer to purchaser/end user—each station along the chain adds additional value, which allows it to charge successively higher prices. For example, a retailer of hair brushes may add value to consumers/end users by sourcing/transporting the product from a remote warehouse to a store next to the consumer’s office building. Similarly, a regional distributor may source product at

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<sup>73</sup> It is unclear if these other distributors sold products at the same level of the market as SNF AUSTRALIA.

<sup>74</sup> Some other distributors not used as CUPs include Hychem Inc, Nalco Chemical Co. and Polychem Ltd. Schroeter, Russell H. (14 August 2008). “Affidavit of Russell Henry Schroeter,” Electronic Exhibits.

<sup>75</sup> Schroeter, Russell H. (11 July 2008). “Affidavit of Russell Henry Schroeter,” p. 22.

the high volumes required by the manufacturer and move the product to more convenient locations to make the product accessible to smaller/local distributors in its market.<sup>76</sup> In a market economy, such value-added services receive payment, which has the impact of increasing the product's unit price as it moves down the supply chain.<sup>77</sup> Thus, I further review the taxpayer's evidence regarding the level of the market below.

The taxpayer evidence consisted of two broad types of CUP transactions with unrelated parties: (a) Australian purchasing companies; and (b) foreign purchasers. While the two taxpayer CUP analyses showed that SNF AUSTRALIA did not pay more than these independent companies, the evidence provided in this case consistently places these transactions at a different level of the market to the SNF AUSTRALIA purchases (see **Table 7B**):<sup>78</sup>

- **SNF AUSTRALIA Customers:** The domestic CUPs provided by the taxpayer evidence that I have reviewed are customers (*e.g.*, BETZ and BUCKMAN) to whom *SNF AUSTRALIA* sells its products.<sup>79</sup> See, for example, **Table 8A**. In that sense, it would be difficult for SNF AUSTRALIA to purchase products at the same/similar price at which it intended to resell the same product.
- **Direct Ship:** The SNF manufacturing entities sold product to unrelated parties in several ways. In some cases, they sold and shipped directly to their customer. However, in other cases, they shipped the product to customers, but billed SNF AUSTRALIA. See **Table 8B**.

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<sup>76</sup> As SNF AUSTRALIA primarily sold to end users in Australia, it often performed the functions of both the regional distributor and reseller/local distributor in the supply chain for these end users. That is, SNF AUSTRALIA took on the functions and risks of both a regional and local distributor for SNF products. See **Tables 3 & 7A**. SNF AUSTRALIA not only had to provide various technical services to end users but also had to, for example, manage international resellers "...to ensure consistency of commercial approach and single communication channels with the rest of SNF internationally." Pich, Rene. (22 July 2008). "Affidavit of Rene Pich," pp. 6-7; and Pich, Rene. (22 July 2008). "Affidavit of Rene Pich," Exhibit 13: SNF Australia Pty Ltd. "Strategic Plan: SNF (Australia) 2002-2005," p. 5.

<sup>77</sup> Johnston, et al. (October 2000). "Productivity in Australia's Wholesale and Retail Trade." Productivity Commission. Staff Research Paper, pp. 100-102.

<sup>78</sup> This is true for both the foreign and Australian CUPs, as they tend to represent subsidiaries of the same multinational companies. Karoudjian, David. (22 July 2008). "Affidavit of David Karoudjian," pp. 2-3.

<sup>79</sup> The foreign CUPs appear to be at a similar level of the market as these domestic CUPs. As such, they would be not only in a different geographic market but also at a different level of the market than the SNF AUSTRALIA purchases. Schroeter, Russell H. (11 July 2008). "Affidavit of Russell Henry Schroeter," Exhibit 18, p. 1.

- Customer Designation on SNF AUSTRALIA Purchases: SNF AUSTRALIA purchased various products from its related parties with a product name designating one of the former's customers. These invoices appear to show SNF AUSTRALIA purchasing the same products as these unrelated companies at prices that would allow SNF AUSTRALIA to earn a modest markup on its resales. See **Table 8A**.

Thus, the taxpayer has provided evidence that its proposed CUPs are at a different level of the market from the SNF AUSTRALIA purchases. See **Table 7B**. While a “same-level-of-the-market” CUP would allow for a price-to-price comparison, a “different-level-of-the-market” CUP is really not a CUP at all, but rather confirms the *resale margin* reported by the taxpayer at the proposed transfer prices. As seen in **Table 1C**, in total, the taxpayer has proposed transfer prices that result in a resale margin of approximately 17.1 percent for SNF AUSTRALIA.<sup>80</sup> Accepting that the proposed prices provide SNF AUSTRALIA with a positive gross resale margin, the *quantum* of the resulting resale margin becomes the issue under consideration:

- Would the arm's length price require a regional distributor to accept a mark up on its resales that would not cover its own selling costs? See **Table 1C**.
- Using data from the case, would arm's length prices require a regional distributor to pay approximately \$82.88 for a product that would provide a net price of approximately \$71.43 on resale (*i.e.*, after incurring selling costs)? See **Table 1C**.

While the questions above would *typically* be answered in the negative, a formal economic analysis like this must examine whether extenuating circumstances existed in this situation. In particular, the analysis must first quantify how unlikely such a result would be.<sup>81</sup> To the degree the economic/business situation facing SNF AUSTRALIA was found to be *atypical*, the questions above could potentially be answered in the affirmative *if* the level of the extenuation of these circumstances were consistent with the outlier status of the proposed result.<sup>82</sup>

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<sup>80</sup> That is,  $(\$93.6 \text{ million} - \$77.6 \text{ million})/\$93.6 \text{ million} = 17.1 \text{ percent}$ .

<sup>81</sup> As seen below, such a *proposed result* for SNF AUSTRALIA is not seen at all among similarly situated arm's length distributors that I located. That is, the proposed SNF AUSTRALIA result is worse than that of the poorest performing outlier.

<sup>82</sup> I did not find the total circumstances facing SNF AUSTRALIA to be particularly dire or extenuating. As such, I would not expect any “outlier” result at all—much less a result that was worse than any of the outliers observed among similarly situated companies.

## 2. Business Reasons for Losses

Reported losses need not always imply inappropriate transfer prices, as other business factors could potentially place a company in a loss position. While the taxpayer evidence generally addressed this issue, it did not quantify a level of loss and/or a length of time over which a company would be expected to suffer due to various business reasons.

The transfer prices proposed by the taxpayer place SNF AUSTRALIA in a loss position for each of the seven audit years. The losses—which amount to negative operating margins of 11.5 percent—do not have accompanying evidence of any contemporaneous forecast of future profits.

To provide some context to the negative 11.5 percent operating margins proposed for SNF AUSTRALIA, I first show the results of 41 wholesaling industries in Australia summarized by the Australian Bureau of Statistics (“ABS”). As seen below and in **Tables 9**, the *least* profitable Australian industry earned negative 0.2 percent operating margins. Overall, the Australian wholesaling industries earned profits of approximately 3.3 percent over the years at issue, with the Australian chemical wholesaling industry earning 4.6 percent over the same time period.

### Financial Results of Australian Wholesale Industry and Proposed for SNF AUSTRALIA: 1997-2003

Australian Wholesaling Industry	1997-2003
Number of Australian Wholesaling Industries with Positive Profits	40
Number of Australian Wholesaling Industries with Negative Profits	1
Lowest Operating Margin of All Australian Wholesaling Industries	-0.2%
Operating Margin for All Australian Wholesaling Industries	3.3%
Operating Margin for Australian Chemical Wholesaling Industry	4.6%
<b>SNF AUSTRALIA Proposed Operating Margin</b>	<b>-11.5%</b>

I also located chemical wholesale distributors around the world for further profitability comparisons.<sup>83</sup> As seen in **Table 10**, the common experience of growing operations and

<sup>83</sup> As detailed below, it should be mentioned that the companies summarized below were located as per the description in Appendix C for the broad purpose of performing statistical analysis of the proposed SNF AUSTRALIA financial results. These companies have not been “screened” in a detailed enough manner to serve as affirmative comparable companies for the purposes of a TNMM analysis. Rather, further screening of financial, business descriptions, etc. of these sets of companies eventually results in my affirmative sets of comparable companies. See Appendices D and E.

proposed losses for SNF AUSTRALIA does not exist among independent companies reporting arm's length financial results. That is, SNF AUSTRALIA's proposed results are *worse* than any actual results seen for similarly situated companies I located worldwide, despite having a higher growth rate than any of these companies.

#### Financial Results of Worldwide Independent Distributors and SNF AUSTRALIA

Independent Chemical Wholesaling Distributors	1997-2003
Sales Growth Rate	
Highest Growth Rate of Independent Distributors (1996-2003)	7.7%
SNF AUSTRALIA Growth Rate (1996-2003)	19.1%
Operating Profit Margin	
Lowest Operating Margin of Independent Distributors	0.6%
Proposed for SNF AUSTRALIA	-11.5%
Predicted Operating Margin for SNF AUSTRALIA Based on Growth	7.6%

I also examined the relationship between sales growth and operating profits amongst the worldwide chemical wholesale distributors I located. I found a high correlation between the growth in sales and operating margins. See **Table 10**. This relationship shown in **Table 11** would predict<sup>84</sup> (based upon SNF AUSTRALIA's growth rate of approximately 19.1 percent) that SNF AUSTRALIA's operating margin would have been approximately 7.6 percent over the period at issue.<sup>85</sup> Thus, SNF AUSTRALIA's proposed profits are well below the outlier companies and statistics summarized above.

The taxpayer evidence did not explicitly compare SNF AUSTRALIA's proposed profits to any quantitative benchmark, but it included several business reasons that affected SNF AUSTRALIA's profitability. However, it is not clear that the business reasons presented in evidence are *atypical* at all (or significant in size) for any company that: (a) attempts to profit-maximize; but (b) ex-post realizes some of its decisions were not optimal. In addition, the reasons in evidence do not quantify (or anecdotally) the type of catastrophic problems that would be associated with a company outside the range of similarly situated companies:

<sup>84</sup> Certain research has also found that there exists "...a positive and significant influence of growth on profit rates, whether growth is measured in terms of sales, employment or value added." Coad, Alex. (10 May 2007). "Testing the principle of 'growth of the fitter': the relationship between profits and firm growth." Structural Change and Economic Dynamics, p. 384.

<sup>85</sup> This prediction is based upon a statistical regression. Triola, Mario and LeRoy Franklin. (1994). Business Statistics. Addison-Wesley: USA, Chapter 12.



- Management Issues: The taxpayer evidence included a discussion of management and operational issues associated with SNF AUSTRALIA. However, the evidence shows limited impact on operating profits from these issues.<sup>86</sup> In point of fact, all businesses *attempt* to maximize profits, but experience management issues that have the potential to increase or decrease profit.<sup>87</sup> In that sense, the “negative” management issues of any company are implicitly incorporated into its financial statements and/or levels of reported profitability.
- Revenue and Sales: The taxpayer provided evidence in the form of an opinion by an executive that SNF AUSTRALIA’s sales were too low—due to low production from sales personnel and unit prices to customers.<sup>88</sup> However, such a comment would not be unique to SNF AUSTRALIA, as all companies would prefer to have more production from their sales force and would prefer to sell their products at higher prices. As a profit maximizing company, it is difficult to imagine SNF AUSTRALIA selling product below market prices and continuing to retain unproductive sales personnel throughout the audit period.
- Difficult Australian Market: The taxpayer evidence describes a saturated Australian market that required a high level of operating costs, but may not have offered the potential for correspondingly high resale prices to cover such costs.<sup>89</sup> To the degree this were true, it would offer an independent distributor two primary options: (a) successfully negotiate a lower price with the supplier (SNF) so that it could earn a positive profit consistent with its other options; or (b) choose to distribute a different set

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<sup>86</sup> The taxpayer stated savings from the closing of certain offices and more timely payment of invoices to related parties reduced interest payments. Interest payments by SNF AUSTRALIA, however, are not part of its operating profit calculation; as such, any savings from these payments would not impact their operating losses. SNF AUSTRALIA stated that “poor sales skills” and the capacity of its old accounting system led to pricing on some products below costs. After identifying these issues in 2002, SNF AUSTRALIA continued to earn negative operating profits in 2003. See **Table 1A**. Schroeter, Russell H. (11 July 2008). “Affidavit of Russell Henry Schroeter,” pp. 16-20.

<sup>87</sup> “Management issues” can range from conflicting opinions about business projects to principal-agent problems to fraudulent activities, all of which may impact profits. See, for example: Ashland Inc. (1 December 2003). Form 10-K for Fiscal Year Ended 30 September 2003, p. M-2; Ward, Andrew et al. (2007). “Improving the Performance of Top Management Teams.” MIT Sloan Management Review. Vol 48, No. 3, pp. 84-90; and Collis, David and Cynthia Montgomery. (1998). Corporate Strategy. McGraw-Hill: Boston, p. 195.

<sup>88</sup> Schroeter, Russell H. (11 July 2008). “Affidavit of Russell Henry Schroeter,” pp. 17-20.

<sup>89</sup> Pich, Rene. (22 July 2008). “Affidavit of Rene Pich,” pp. 7-8.

of products potentially from a different supplier.<sup>90</sup> Of course, in the short-term, a distributor may lose money on products that do not sell as well as expected, but the types of consistent long-term losses proposed for SNF AUSTRALIA are not consistent with the experience/results of independent profit-maximizing firms that could choose to exit a losing venture. See **Tables 9 & 13B**.

- Australian Presence: The taxpayer evidence describes the creation and continued operations of SNF AUSTRALIA as partially resulting from a global strategy for SNF worldwide.<sup>91</sup> Such a strategy might cause a *related* distributor to accept losses for the benefit of its *related* parent.<sup>92</sup> This transfer pricing analysis requires setting prices in a *hypothetical* transaction between *unrelated* companies: multinational A and multinational B. Of course, multinational B would not benefit from multinational A gaining a geographical presence in Australia, and would not accept a loss on multinational A's behalf.
- Poor Decisions and Operations: The taxpayer evidence included certain descriptions (without confirmation/quantification) of potentially poor decisions, including poor inventory management and sales write offs impacting its profitability.<sup>93</sup> It is not clear that these were truly poor

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<sup>90</sup> Of course, the company could also choose to simply shut down/not open operations.

<sup>91</sup> As stated by Rene Pich, "Australia is viewed as a key market for [SNF] in its core acrylamide derivatives market and also a center of excellence in the mining industry globally. It is for this reason that the position of Global Manager Mining Reagents has been created and located in Australia as part of our diversification strategy." Pich, Rene. (22 July 2008). "Affidavit of Rene Pich," Exhibit 12: SNF (AUSTRALIA) PTY LIMITED. (19 April 2004). "Special Purpose Financial Report for the Year Ended 31 December 2003," Letter from Rene Pich. See also Pich, Rene. (22 July 2008). "Affidavit of Rene Pich," pp. 2-3.

<sup>92</sup> Multiple examples exist of products sold at a loss in one part of a company in order to benefit the overall sales/profits of the company in total. For example, Gillette's razor operations operated at a loss as a benefit to its blade business. Similarly, in the 1960's cameras were almost given away in order to sell the more profitable film. Samli, A. Coskun and Shaw, Eric H. (15 February 2001). "Achieving Managerial Synergism: Balancing Strategic Business Units and Profit Centers." Journal of Market-Focused Management, p. 70. The taxpayer also mentions this as part of its corporate strategy. "Affidavit of Rene Pich," Exhibit 12: SNF (AUSTRALIA) PTY LIMITED. (19 April 2004). "Special Purpose Financial Report for the Year Ended 31 December 2003," Letter from Rene Pich; and Pich, Rene. (22 July 2008). "Affidavit of Rene Pich," p. 10.

<sup>93</sup> The taxpayer evidence estimated that SNF AUSTRALIA saved up to \$2,000 per week (approximately \$700 thousand throughout the audit period) through improved inventory management, but the evidence did not show whether such improvements were ever realized. Schroeter, Russell H. (11 July 2008). "Affidavit of Russell Henry Schroeter," pp. 25-26.

decisions, nor has the taxpayer evidence compared SNF AUSTRALIA's decision making with that of other similarly situated companies.

- Only Profitable as a Manufacturer: Some of the taxpayer evidence opined that SNF AUSTRALIA could only be profitable as a manufacturing operation.<sup>94</sup> Whether that is accurate has not been quantitatively demonstrated, but an arm's length company would not likely enter into an operation (distribution of polyacrylamide) for 13 years which it knew could not be profitable.

Thus, the evidence suggests that SNF AUSTRALIA did not experience particularly extenuating circumstances that would lead it to an atypical profit at arm's length, much less a loss below the worst results experienced by similarly situated companies and industries.

### 3. Summary and Review

I find above that the taxpayer's CUP evidence does not support the proposed transfer prices of SNF into Australia. Rather, there are numerous issues with the completeness of the data that have been provided into evidence. In addition, the data that are in evidence suggest that the proposed CUPs are not accurate/appropriate price-to-price comparisons for the SNF AUSTRALIA purchases due to their level of the market, quantification of adjustments, price ranges, and other issues. From a practical perspective, the proposed prices to SNF AUSTRALIA *exceed* the net prices that SNF AUSTRALIA will receive on its resales. Thus, the proposed prices result in SNF AUSTRALIA reporting losses that are inconsistent with the actual profits/losses earned by similarly situated companies.

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<sup>94</sup> See, for example: Schroeter, Russell H. (11 July 2008). "Affidavit of Russell Henry Schroeter," p. 27; and Pich, Rene. (22 July 2008). "Affidavit of Rene Pich," p. 7.

## V. Affirmative Transfer Pricing Valuation

The AGS has engaged me to answer three affirmative questions including my ultimate opinion regarding the prices that would have resulted at arm's length: Questions 4-6. This "Affirmative Valuation" chapter—and its associated tables/references—provide the reasoning behind and summary of my opinions on these three questions.

### A. Overview

In this chapter, I consider and perform various analyses to determine the prices that would result in hypothetical arm's length sales of polyacrylamide under the circumstances defined in Step 1 of this analysis in **Table 5**. Based upon the analysis below (and/or alluded to in Chapter IV), I determine that an arm's length distributor under these circumstances would expect to pay approximately \$65.3 million for its polyacrylamide purchases at issue.<sup>95</sup> At these estimated arm's length prices, such a hypothetical arm's length Australian distributor would report operating profits of approximately \$1.6 million, or 1.7 percent of sales over the audit period. See **Table 14A**. This represents approximately \$12.3 million more in profit than proposed by SNF. See **Table 14A**.

In order to arrive at the conclusion above, I first analyze the Australian operations as well as SNF's overall results on a worldwide basis. Next, I determine pricing between SNF AUSTRALIA and its related manufacturing entities under the arm's length standard—*e.g.*, hypothetical sale from a subsidiary of multinational A to a subsidiary of multinational B. See **Table 5**. I later compare these arm's length prices to the prices proposed by SNF.

### B. Australian Operations

SNF AUSTRALIA began operations in Australia in 1990 by selling product to unrelated parties throughout the Australia-area. Although it sourced some product independently, it typically received its product internally through an SNF manufacturing entity. See **Table 3**. The success of this operation for SNF in Australia can, in part, be seen in the *revenues* it booked from unrelated parties:

- Sales grew every year during the 1997-2003 audit period, totaling approximately \$94 million. See **Table 1A**.
- SNF AUSTRALIA's 19.1 percent compounded annual sales growth rate over the audit period was more than double the corresponding growth rate

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<sup>95</sup> This includes approximately \$5 million additional polyacrylamide that is not subject to this analysis. See **Tables 1A & 5**.

for SNF globally, and exceeded the corresponding growth rate of other (publicly held) similarly situated distribution companies. See **Tables 1A, 2A, & 10**.

While the operations and sales levels of SNF AUSTRALIA can be reported as facts, its level of profitability cannot. That is, the transfer prices it sets (and/or agrees to) directly impact its stated profitability. This chapter determines the prices and profits that SNF AUSTRALIA would expect at arm's length.

One can reach a conclusion on intercompany pricing by examining each transaction and setting a specific dollar price for each transaction. While such a process can be time consuming and data intensive for a company with thousands of purchases, that option is considered below (as well as being critically analyzed in Chapter IV). Additionally, the total results of such transactions can be summarized from SNF AUSTRALIA's reported financial statements.<sup>96</sup> In particular, the data in evidence reveal that SNF AUSTRALIA required selling/operating costs of \$28.57 for each \$100 in sales. Thus, in total, the transfer pricing analysis will determine—on average—the price that a hypothetical distributor would expect to pay for a product that would provide a net of \$71.43 (\$100 less \$28.57) upon resale. See below and **Table 1C**.

#### Transfer Pricing Analysis to Determine Distributor's Operating Profit Per \$100 Sale

Financial Item	Arm's Length Value	Formula
Price by Distributor Upon Resale	\$100.00	A
Selling/Operating Expenses for Distributor	\$28.57	B
Net Selling Price Received by Distributor	\$71.43	C – A – B
Distributor's Purchase Price	To Be Determined in <b>Table 14C</b>	D
Operating Profit of Distributor	To Be Determined in <b>Table 14C</b>	E = C – D

### C. Transfer Pricing Methodologies and Results

In determining the transfer prices that would exist at arm's length, I focus on economic theory and overall logic. That is, I apply the most direct evidence related to pricing as possible. In particular, benchmark: (1) prices; (2) margins; and (3) overall profitability levels apply different levels of directness/precision to price the hypothetical transaction defined in **Table 5**. Theoretically, economic logic suggests the following type of reasoning with regard to these three types of benchmarks:

- Arm's length evidence of a *price* in an actual transaction for the same/quantifiably similar tangible property under similar circumstances

<sup>96</sup> It can also be considered from the perspective of the manufacturer's profits, but as detailed below, such data are not as readily available in this case.

would logically provide the most direct benchmark in estimating the arm's length tangible property price among *hypothetical* arm's length parties. The Organisation for Economic Co-operation and Development ("OECD") refers to this as the Comparable Uncontrolled Price ("CUP") Method.<sup>97</sup>

- Arm's length evidence of pricing for a different product would not provide a relevant *price* benchmark, but it would potentially provide a relevant *gross margin* benchmark. That is, for example, a reseller might be expected to earn similar gross margins when reselling pens as it would for reselling pencils.<sup>98</sup> The OECD refers to these transactional gross margin analyses as the Cost Plus and the Resale Price approaches.<sup>99</sup>
- When reasonable transactional benchmarks are not available and/or as an alternative approach, one can also benchmark prices by setting the parties to benchmark profitability levels.<sup>100</sup> That is, the logic follows that *prices* consistent with arm's length expectations lead to *profits* consistent with arm's length expectations. These approaches work "backwards" from that logic by first setting one (or both) entity's profit levels to the levels earned by similar independent firms. This approach then allows one to essentially "solve for" the transfer price that will result in such arm's length profit levels. The two profitability methods defined by the OECD are the Transactional Net Margin Method ("TNMM") and the Profit Split Method.<sup>101</sup>

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<sup>97</sup> Organisation for Economic Co-operation and Development. (August 1997). Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrators, p. II-2. It should be mentioned that I footnote the OECD Guidelines for reference purposes only. I rely exclusively on my experience as an economist and my assignment to determine arm's length pricing in shaping my conclusions.

<sup>98</sup> This type of approach could work in the opposite direction. That is, a manufacturer might be expected to earn similar gross profit margin markups on different products.

<sup>99</sup> Organisation for Economic Co-operation and Development. (August 1997). Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrators, pp. II-5 and II-11.

<sup>100</sup> Profitability approaches also have the advantage of implicitly "covering" multiple relationships/transactions between two related parties in a single approach, when applicable. That is, the sum total of the related party transfers could potentially be analyzed as arm's length depending on overall resulting profitability.

<sup>101</sup> Organisation for Economic Co-operation and Development. (August 1997). Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrators, pp. III-1 and III-9.

While the above ordering is consistent with economic logic, there exist certain constraints imposed by data. That is, while the price or transactional margin benchmark approaches might appear to be theoretically more direct/superior, in practice, closely matching/relatively “exact”<sup>102</sup> price/transactional margin benchmark data under similar market forces/circumstances are not often available. As such, practitioners in this field analyze relatively inexact transactions and overall profitability approaches more than would likely be expected given the ordering above.<sup>103</sup>

I consider the above logic in determining the best method(s)<sup>104</sup> for the hypothetical arm’s length prices at issue. The best method in any potential case is a *relative* measure in comparing the reliability/directness/precision of its arm’s length data to the corresponding data in a potentially competing method. Thus, a particular method would not be classified as absolutely “correct” or “incorrect”, but rather better or worse than other options. With this in mind, I summarize my considerations and results below.<sup>105</sup>

### 1. Transactional Approaches

I first considered setting the hypothetical arm’s length prices by reference to the prices seen in actual arm’s length transactions. Chapter IV made it clear that there exist some potential price benchmarks to consider under such an approach. However, Chapter IV also found that the evidence consistently showed the proposed CUPs at a different level of the market than where the hypothetical distributor (and SNF AUSTRALIA) would be purchasing, and that the proposed prices resulted in financial statements outside the outlier results of analogous, groups of independent companies. For these and the other reasons detailed in Chapter IV, these are not appropriate price-to-price CUP comparisons.

Besides the polyacrylamide sale *prices* from SNF manufacturers to unrelated parties, there exist at least two more potential sets of data that could serve in a transactional CUP (or Resale Price) Method role in this analysis. First, SNF AUSTRALIA purchased some of its

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<sup>102</sup> Of course, there is no definitive distinction between exact and inexact transactional comparables. Rather, there is a continuum of relevance/accuracy ranging from a perfect match requiring no adjustments, to a transaction with almost no likeness that will require significant adjustments and assumptions. I use the terms exact and inexact to help simplify the discussion in the main text above.

<sup>103</sup> I make this point not to justify the approaches used in this field, but merely to point out that transfer pricing is a mixture of economic theory and practical data analysis.

<sup>104</sup> As would be expected, choosing the best method(s) is standard practice in economic analysis. The OECD describes this choice as being dependent on the facts and data at issue. Organisation for Economic Co-operation and Development. (August 1997). Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrators, pp. I-26 and I-27.

<sup>105</sup> Therefore, for example, my answer to the AGS Question 3 focuses not solely on whether the taxpayer’s approach is “correct”, but whether it is the best method available given the data/information provided.

product from unrelated parties.<sup>106</sup> See **Table 1A**. I attempted to benchmark these transactions to the hypothetical transactions in **Table 5** in one of two ways:

- A CUP-like price-to-price comparison with adjustments for differences in sales terms (see **Table 12A**); and
- A Resale Price-like approach in which the gross margins earned by SNF AUSTRALIA on its resales of these unrelated purchases could serve as an arm's length resale margin to apply in the hypothetical transaction (see **Table 12B**).

It is not clear that such analyses would have proven fruitful due to volume and other potential differences in such purchases. In any event, I was not provided such data to perform such an analysis (prices and gross margins).

The other set of potential transaction data that could serve as pricing benchmarks in this case focuses on the SNF manufacturers. In particular, they sold some of their product to unrelated parties. While there may be potential issues associated with using the types of “price-to-price” comparisons on these transactions as summarized in Chapter IV (*e.g.*, level of the market, etc.), the SNF manufacturing profit markup on these sales could potentially be applied to the hypothetical arm's length manufacturer at issue. See **Table 12C**. This application might face difficulty: (a) isolating costs by product; (b) allocating overhead to products; (c) determining selling and service costs to unrelated companies; and (d) other factors. Whether such an analysis would provide useful information for this transfer pricing analysis is not certain, but the data to perform such an exercise are not part of the evidence I have reviewed to date.

Based upon the above descriptions and further detail from Chapter IV, there exists little price benchmarking relevance to the potential CUP, Resale Price, or Cost Plus data that have been provided in evidence. As such, my pricing focus turns to other benchmarks.

## 2. Profit Split

A profit split approach would split the consolidated (system) profits earned by the transacting entities in the hypothetical transaction over the tax years at issue.<sup>107</sup> A profit split is generally applied in one of two ways:

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<sup>106</sup> Schroeter, Russell H. (11 July 2008). “Affidavit of Russell Henry Schroeter,” p. 13. I have not been provided the underlying data on these transactions.

<sup>107</sup> By definition, all potential methods would *implicitly* split the profit on the transfer price applied. A profit split method *explicitly* splits the profit based on pre-specified percentages.



- **Comparable Profit Split:** The entire “pie” of profit is split into pre-specified percentages.
- **Residual Profit Split:** The profit pie is split in two steps. First, all of the routine functions are assigned “slices” of the pie—typically based upon the profit rates of similarly situated independent companies in a TNMM-like manner. Second, the remainder of the pie is then split into pre-specified percentages.

While a profit split approach could potentially have some relevance in this matter,<sup>108</sup> the practical fact is that the total system profit “pie” of SNF profits on Australian operations cannot be accurately determined from the data provided.<sup>109</sup> That is, while sufficient data have been provided to me regarding SNF AUSTRALIA’s reported profitability; no corresponding data have been provided regarding: (a) SNF manufacturing profits on sales to the Australian market; or (b) SNF worldwide “global footprint” profits resulting from its Australian presence. As such, I do not affirmatively apply a profit split approach.

### 3. Transactional Net Margin Method (“TNMM”)

A TNMM approach typically sets the level of profitability of one of the parties in the hypothetical arm’s length transaction (the “tested party”) at a level consistent with the actual profits earned by similarly situated, independent firms on the theory that arm’s length prices will lead to arm’s length profits and vice versa. Under such an approach, one locates independent benchmark companies that perform similar functions and incur similar risks as the tested party. The profits of such comparable companies presumably reflect the results of multiple arm’s length transactions with broadly similar functions/risks as in the hypothetical transaction being valued. As such, their “arm’s length profit levels” are applied/compared to those of the tested party.

When considering which of the related parties to “test” and where/how to locate appropriate benchmark companies, practical considerations dominate. In particular, it is easier to benchmark a company that conducts simple operations without unique/valuable intangibles, as one would simply search for companies with that functionality without also having to additionally “match” a similar level of valuable intangible property in the search procedure.

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<sup>108</sup> Often, a profit split provides a better test of reasonableness than an affirmative valuation. That is, it is often difficult to locate arm’s length profit split benchmarks that have been the result of market forces.

<sup>109</sup> The evidence available shows that SNF earned operating profit margins of 7.5 percent worldwide. See **Table 2A**. SNF enjoyed growth rates in Australia that were more than twice its worldwide growth rates. However, this would be modest evidence from which to estimate the overall (Australian supply chain) system profits in this hypothetical.

Similarly, entities that provide income statements and balance sheets for the operations at issue (*i.e.*, Australian distribution operation) can obviously be benchmarked more easily than those that have not provided such information (*i.e.*, foreign manufacturing operations).<sup>110</sup>

In this case, the identification of the tested party would be relatively obvious. First, the Australian distribution operation would be simpler to define/describe/match than the foreign manufacturing operations.<sup>111</sup> Second, only the Australian distribution operation has provided financial statements that are broadly indicative of the supply chain at issue.<sup>112</sup>

For most TNMM searches/applications, the amount of information actually applied directly to the tested party is relatively modest, but the search procedure and documentation itself often cover dozens of pages and multiple files. With this in mind, I present the applied information below in the main text, and direct the reader to Appendices D and E<sup>113</sup> for the detailed documentation of my search procedures and intermediate results.

A TNMM analysis generally proceeds in two parts. First, the economist searches for independent, public companies that are similarly situated to the taxpayer tested party (*i.e.*, Australian distributor of polyacrylamide).<sup>114</sup> Second, the economist determines how to compare (*e.g.*, definition of profit, number of years to compare, etc.) the comparable companies to the tested party.

I searched for independent (and publicly traded) Australian distributors of polyacrylamide that had operated over the 1997-2003 time period to compare to the tested party. However, the main distributors of these products tend to be subsidiaries of multinational

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<sup>110</sup> To be clear, it is often difficult to create such statements for certain entities due to allocations of various costs, assets, etc.

<sup>111</sup> One place this can be substantiated is through risk. For example, SNF AUSTRALIA was able to return product to its related manufacturers when it could not sell it. "May Monthly Report," Fax Transmission from Dennis Crowley to R. Pich. (19 June 2002). p. 1.

<sup>112</sup> In point of fact, the SNF AUSTRALIA reported income statement in **Table 1A** also includes costs and revenues associated with a modest level of purchases from unrelated parties. With the relatively low level of purchases from independent parties, this is likely to be only a minor issue, however. See **Tables 1A & 1C**.

<sup>113</sup> As described below, I locate two sets of comparables in Appendix D (worldwide benchmarks) and Appendix E (Australian-only benchmarks).

<sup>114</sup> This case is like most others in that, for example, an Australian subsidiary of a multinational company would be a closer *functional* "match" to the hypothetical distributor than would an independent company based in Australia. However, subsidiaries of public companies do not typically report financial results based upon market forces. That is, they include *proposed* values for intercompany transactions that need not reflect arm's length values/market forces. As such, TNMM searches like this typically focus on independent companies whose financial statements are not potentially distorted by proposed transfer prices.

companies (*e.g.*, Cytec, CIBA, etc.) whose financial statements—when available at all—simply reflect the proposed transfer prices of their own multinational enterprises. As such, I found no publicly traded companies that only/principally distribute polyacrylamide in the Australia-area. In fact, I found no independent companies that focused on distribution of any chemical product similar to polyacrylamide in the Australia-area at all. As such, I continued/widened my comparable search taking two independent strategies designed to match as many characteristics to the hypothetical distributor as possible:

- I located seven independent companies from around the world (besides the Australia-area)<sup>115</sup> that exclusively/principally distribute products broadly similar to polyacrylamide. See **Table 13A**.
- I found four independent Australian-area companies that were exclusively/principally limited risk distributors. See **Table 13B**.

For the second part of this TNMM analysis, I consider various ways to measure/compare profit. Often, distributors' operating margins and Berry ratios (gross profit/operating expenses) are applied to the tested party. The latter measure, which focuses on the return to a distributor's value-added expenses, is particularly useful when all companies (comparables and tested party) distinguish between operating expenses and cost of goods sold in the same way. However, the distinctions across countries with different accounting rules and/or when translated to a database<sup>116</sup> do not consistently provide an apples-to-apples comparison in this case.<sup>117</sup> As such, I focus my comparison on operating margins. In particular, I set the Australian distributor operating margins from 1997-2003 by reference to the comparable companies' operating margins over the same time period.

The two sets of comparables suggest that an independent distributor in Australia could expect an operating margin typically between approximately 0 and 5 percent of sales. See **Tables 13A-13B**. For a single point estimate within this range, I consider various factors:

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<sup>115</sup> As described in Appendix D, I only consider companies located in countries with relatively strong economies.

<sup>116</sup> I have acquired the financial data on the comparable companies from a database known as Compustat that is commonly used by transfer pricing (and other economic/financial) professionals. Compustat may make adjustments to publicly filed financial statements for a variety of reasons, including reporting consistency. For the purposes of this report, I have relied on the financial statements as presented by Compustat.

<sup>117</sup> This is less of an issue in the Australia-only set of comparables, but there is still some potential for inconsistent treatment of operating expenses among the companies and/or by SNF AUSTRALIA. Although the operating margin approach is superior from a data perspective, from a practical perspective, the use of the Berry Ratio would make little mathematical impact on my opinion of the arm's length prices.

- On a worldwide basis, SNF earned operating margins of 7.5 percent on a worldwide basis.<sup>118</sup> See **Table 2A**.
- SNF grew its Australian operations at a faster rate than similarly situated companies as well as SNF globally. See **Tables 1A, 2A & 10**.
- Some of the taxpayer evidence suggests that SNF AUSTRALIA faced unique/significant problems in 1997-2003, but I did not interpret the data and evidence in the same way. See Chapter IV.
- ABS compiled data showing that (the total) Australian wholesaling industry and the Australian chemical wholesaling industry reported total operating margins of approximately 3 to 5 percent over the period at issue. See **Table 9**.

With these (partially) counteracting factors in mind, I focus on the medians of the two ranges of comparable companies, or an operating margin of approximately 1.7 percent. This translates to a cost of sales of approximately \$65.3 million, or approximately \$12.3 million *less* than the prices proposed by the taxpayer. See **Tables 14A-14B**. Translated to a typical resale price of \$100, this suggests a hypothetical distributor would pay approximately \$69.74 for a product that it could resell (net) for approximately \$71.43. See below and **Table 14C**.

#### Arm's Length Transfer Prices

SNF AUSTRALIA Income Statement	Amount (Million)	Normalized \$100 Sale Price	Formula
Sales	\$93.6	\$100.00	A
Selling/Operating Expenses	\$26.8	\$28.57	B
Net Sale Price (After Selling Expenses)	\$66.9	\$71.43	C = A-B
<b>Arm's Length Cost of Sales (Transfer Prices)</b>	<b>\$65.3</b>	<b>\$69.74</b>	D
Arm's Length Distributor Profit	\$1.6	\$1.69	E = C-D

#### 4. Tests of Reasonableness

Further understanding of my opinions expressed above can result from certain tests of reasonableness. On this point, it is helpful to understand how the opined transfer prices would translate to the financial results of the parties involved in the transaction. While the data available do not allow for a thorough/accurate set of calculations like this, they do reveal:

<sup>118</sup> This result is not surprising in that SNF generally performs more functions than the comparables. For example, it manufactures and distributes, while the comparables are focused only on the latter.

- The opined transfer prices would allow SNF AUSTRALIA to earn operating profits of approximately 1 to 2 percent of sales for their distribution operations.
- SNF, on average throughout the world, earned operating profits of approximately 7.5 percent for their total supply chain that included manufacturing, distribution, corporate overhead, etc.

Thus, the results suggest that *if* SNF's Australian operations were of average profitability (from a worldwide perspective), the transfer prices I have determined would: (a) allow the distribution activity to earn a minority of the total profits; and (b) allow the manufacturing/other activities to earn a majority of such profits. As seen in **Tables 16A-16B**, these results are robust to various levels of SNF profitability in Australia—and contrast with the results proposed in the taxpayer's transfer prices. While this characterization could change if evidence revealed that SNF earned significantly lower profit margins in Australia, the calculation that can be made from the available evidence would not likely fail a test of reasonableness at this level.<sup>119</sup>

## 5. Accuracy

Similar to other transfer pricing studies, the analysis conducted above presented various data, statistics, and other evidence to assist in the analysis of transfer prices. With that in mind, I include this final discussion to comment on the level of precision/accuracy that was available for these calculations/opinions *relative* to a typical transfer pricing matter. Quantitatively, the bullet points below speak to the size of a range of price/profits that an economist would require to confidently opine where arm's length transfer prices would result. In particular, there were certain aspects to this case that would lead to *more* certain/less variable results—leading to more confidence, all else being equal:

- No significant intangibles: Perhaps most important to the quantum of resulting transfer prices, valuable intangibles like patents, customer base, brand names, etc. often allow companies in certain industries to earn profits that are relatively unique (high) and generally harder to benchmark. That was *not* the case here,<sup>120</sup> making benchmarking a simpler task.

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<sup>119</sup> In this case, for example, if the results suggested that 250 percent of the profits would accrue to manufacturing/corporate and *negative* 150 percent to distribution (as proposed by the taxpayer's evidence), they would not pass this test of reasonableness—based upon the data available in evidence regarding SNF profitability in Australia.

<sup>120</sup> Distributors that operate in the chemical wholesaling industry generally had relatively modest profit margins. As seen in **Table 9**, chemical wholesaling operating margins in Australia averaged approximately 4.6 percent. SNF on a consolidated basis earned an average profit margin of approximately 7.5 percent. **Table 2A**. By contrast, Microsoft Corporation earned an operating margin of 46.4 percent and Pfizer Inc. earned an operating margin 31.2 percent over the years 1997-2003. Standard and Poor's. (31 October 2008). Compustat (North America) Database.

Related to this concept is the lack of risks incurred by SNF AUSTRALIA. All else being equal, less risk for an operation leads to less variability in its returns.<sup>121</sup>

- Simple Supply Chain/Fact Pattern: More complicated relationships that involve multiple transactions, inconsistent fact patterns, round trip transactions, etc. are generally more difficult to benchmark than simple supply chain/fact patterns. A sale of product from a manufacturer to a distributor that resells the product represents one of the simpler fact patterns in transfer pricing.

While the overall facts involving these transactions would suggest a relatively routine analysis—with relatively precise/accurate benchmarks—other factors worked against this conclusion (*i.e.*, requiring a wider range of results for the same level of confidence, all else being equal):

- Transactional Approach Data: The transactional evidence that I reviewed did not allow for an accurate opinion of the prices or gross margins that would be expected at arm's length. As such, a profitability approach was applied.
- Closeness of Benchmark Companies: All else being equal, analyses that benchmark the tested party's profits to companies within similar geographies and within the same industry are more likely to reflect what would happen in the hypothetical arm's length transactions at issue. While the practical implications typically are not so significant—distributors for different industries and across different countries tend to earn broadly similar profit margins, for example—an economist would have more confidence in the accuracy of a TNMM approach using more “exact” than “inexact” comparable companies. The TNMM comparables in this case would likely be classified as less exact than the average set of comparables used in a transfer pricing report.<sup>122</sup>
- Test of Reasonableness Confirmation: Transfer pricing economists often apply a secondary approach and/or a test of reasonableness, data permitting. While I was able to perform the latter here with profit splits, it

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<sup>121</sup> See, for example: Becker, Brian. (9 October 2008). “Project and Actual Profits’ Impact on Licensees.” Tax Management Transfer Pricing Report. Vol. 17, No. 11, pp. 461-466.

<sup>122</sup> Somewhat counteracting this issue is the inclusion of multiple sets of (arm's length) profit data in the analysis—all consistently suggesting distributors typically earn modest, positive operating profits.

was a less direct test than typically available primarily due to the lack of (system profit) data for the Australian operations of SNF.

The above discussion suggests that the resulting opinions/prices are probably overall at an average level of precision/accuracy in comparison to the set of transfer pricing projects on which I have been engaged. While this provides me with a level of certainty that my opined prices are *consistent* with arm's length expectations, I cannot say that the arm's length prices would have been *exactly at* the single point estimate. The single point estimate is necessary for various calculations—and was part of my assignment—but economists (myself included) typically view this work as finding a *range* of prices that statistically/probabilistically would result at arm's length. Some of the statistical ranges that economists would consider include:

- **Interquartile Range:** Perhaps the most common statistical range applied in the transfer pricing industry, transfer pricing economists set a range of prices within the middle 50 percent of the results from comparables.<sup>123</sup>
- **Full Range:** Although less commonly applied, the full range (that is, “minimum” to “maximum”) of comparable results is also considered by transfer pricing economists.
- **Statistical Confidence Interval:** While *transfer pricing* economists tend to focus on the above two ranges, statisticians and economists in general tend to focus more on other statistical calculations. In particular, using the range of comparable data and the dispersion across such data, statistical tests allow one to set ranges over which an economist would be 90, 95, or 99 percent confident of the actual result falling within.<sup>124</sup>
- **Regression Predictions:** None of the three ranges above explicitly or implicitly analyze *where* the specific observation (*i.e.*, SNF AUSTRALIA profitability) should fall within such a range; however, statistics provides such a tool. Regressions and other statistical techniques can predict where a specific observation would fall within (or potentially outside of) a range

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<sup>123</sup> Becker, Brian. (19 June 1996). “Three Technical Aspects of Transfer Pricing Practice: Distinguishing Methods, Using Statistical Ranges, and Developing Data Sets.” Tax Management Transfer Pricing Report. Volume 5, Number 1, pp. 97-103; and Mosses, Molly. (13 September 1996). “Two Practitioners Say Some Issue Notes On Comparability Conflict with US Practice.” Tax Management Transfer Pricing Report. Volume 15, pp. 355-358.

<sup>124</sup> DeFusco, Richard, et. al. (July 2001). Quantitative Methods for Investment Analysis. Association for Investment Management and Research: Baltimore, pp. 291-298; and Anderson, David, et. al. (1993.) Statistics for Business and Economics. West Publishing Company: New York, Chapter 8.

based on relevant characteristics.<sup>125</sup> In this case, a simple regression based on the sales growth rate characteristic—and the broad set of statistical companies' results—predicts that SNF AUSTRALIA would earn an operating profit margin of 7.6 percent.

I compare: (a) my single point estimate of 1.7 percent; (b) the taxpayer's proposed *negative* 11.5 percent; and (c) the above referenced statistical results, for SNF AUSTRALIA profitability, in **Table 15**, and below.

**Statistical Ranges for SNF AUSTRALIA's Operating Margins: 1997-2003**

<b>Statistical Range of Operating Margins for SNF AUSTRALIA Based on:</b>	<b>Low End of Range</b>	<b>High End of Range</b>
<b>Interquartile Range</b>		
OECD Benchmark Companies	1.2%	2.7%
Australian Benchmark Companies	1.3%	2.3%
<b>Total Range: Minimum to Maximum</b>		
OECD Benchmark Companies	0.7%	4.4%
Australian Benchmark Companies	1.1%	2.6%
<b>95 Percent Confidence Interval</b>		
OECD Benchmark Companies	0.9%	3.2%
Australian Benchmark Companies	0.8%	2.8%
<b>Regression Predicted Operating Margin for SNF AUSTRALIA</b>		
Based on Growth (See <b>Table 10</b> )	7.6%	
<b>Proposed Operating Margins for SNF AUSTRALIA</b>		
<b>Proposed by Taxpayer</b>	<b>-11.5%</b>	
<b>Proposed by BECKER REPORT</b>	<b>1.7%</b>	

<sup>125</sup> Thiel, Stuart Eugene. (8 December 2004). "Defining—and Achieving—Reliability." Tax Management Transfer Pricing Report. Volume 13, pp. 845-850; and Triola, Mario and LeRoy Franklin. (1994). Business Statistics. Addison-Wesley: USA, Chapter 12.



**Statement of Brian C. Becker**

**TABLES**

**SNF Financials and Background: Tables 1A-3**

**Table 1A:**

**SNF AUSTRALIA's Income Statement Per Financial Statements: 1997-2003**

<b>Period Ending 31 December (000)</b>	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003 /1/</b>	<b>Total</b>	<b>Growth Rate /2/</b>	<b>Formula</b>
Net Sales /2/	\$7,342	\$9,737	\$10,762	\$14,033	\$16,056	\$16,905	\$18,805	\$93,640	<b>19.1%</b>	a
Selling/Operating Expenses /2/	\$2,874	\$2,691	\$4,151	\$2,681	\$4,012	\$4,762	\$5,581	\$26,753		b
Sales Net of Selling Expense	\$4,469	\$7,045	\$6,610	\$11,351	\$12,044	\$12,143	\$13,223	<b>\$66,887</b>		c = a-b
Proposed Transfer Prices /3/	\$6,742	\$7,027	\$8,821	\$9,763	\$13,338	\$12,850	\$14,014	\$72,553		d
Third Party Cost of Sales	-\$255	\$449	\$19	\$1,955	\$104	\$1,332	\$1,452	\$5,055		e
Total Proposed Cost of Sales	\$6,487	\$7,475	\$8,839	\$11,717	\$13,442	\$14,182	\$15,466	<b>\$77,609</b>		f = d+e
Operating Income	(\$2,018)	(\$430)	(\$2,229)	(\$366)	(\$1,397)	(\$2,038)	(\$2,243)	(\$10,722)		g = c-f
<b>Operating Margin</b>	-27.5%	-4.4%	-20.7%	-2.6%	-8.7%	-12.1%	-11.9%	<b>-11.5%</b>		h = g/a

Notes:

/1/: The total growth rate represents the compounded annual growth rate from 1996-2003.

/2/: For 1997-2003, I do not include: (a) other income in net sales; or (b) interest expenses in selling/operating expenses. Additionally, I did not make adjustments for SNF AUSTRALIA's manufacturing sales and expenses in 2003, as I was provided insufficient information to make this adjustment.

/3/: As the proposed transfer prices for 2003 were not in the taxpayer's evidence, I estimated these prices using the ratio of proposed transfer prices to total proposed cost of sales in 2002 multiplied by the 2003 total proposed cost of sales.

Sources:

- (1) Pich, Rene. (22 July 2008). "Affidavit of Rene Pich," Exhibit 6: SNF (AUSTRALIA) PTY LIMITED. (26 May 1998). "Financial Statements and Reports for the Year Ended 31 December 1997," p. 8.
- (2) Pich, Rene. (22 July 2008). "Affidavit of Rene Pich," Exhibit 7: SNF (AUSTRALIA) PTY LIMITED. (31 December 1998). "Income," Schedule 3.
- (3) Pich, Rene. (22 July 2008). "Affidavit of Rene Pich," Exhibit 8: SNF (AUSTRALIA) PTY LIMITED. (Undated). "Financial Statements and Reports for the Year Ended 31st December 1999."
- (4) Pich, Rene. (22 July 2008). "Affidavit of Rene Pich," Exhibit 9: SNF (AUSTRALIA) PTY LIMITED. (24 April 2001). "Special Purpose Financial Report for the Year Ended 31st December 2000," pp. 16-18.
- (5) Pich, Rene. (22 July 2008). "Affidavit of Rene Pich," Exhibit 10: SNF (AUSTRALIA) PTY LIMITED. (3 May 2002). "Special Purpose Financial Report for the Year Ended 31 December 2001," pp. 5 & 21-23.
- (6) Pich, Rene. (22 July 2008). "Affidavit of Rene Pich," Exhibit 11: SNF (AUSTRALIA) PTY LIMITED. (27 October 2003). "Special Purpose Financial Report for the Year Ended 31 December 2002," pp. 5 & 23-25.
- (7) Pich, Rene. (22 July 2008). "Affidavit of Rene Pich," Exhibit 12: SNF (AUSTRALIA) PTY LIMITED. (19 April 2004). "Special Purpose Financial Report for the Year Ended 31 December 2003," p. 5.

**Table 1B:****SNF AUSTRALIA's Balance Sheet Per Financial Statements: 1997-2003**

<b>Period Ending 31 December (000)</b>	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>Formula</b>
Current Assets	\$7,647	\$7,552	\$7,844	\$8,212	\$9,319	\$9,810	\$9,695	a
Non-Current Assets	\$802	\$3,285	\$3,739	\$7,867	\$8,753	\$12,868	\$14,849	b
Total Assets	\$8,449	\$10,838	\$11,583	\$16,078	\$18,072	\$22,679	\$24,544	c = a+b
Current Liabilities	\$2,103	\$5,067	\$7,124	\$9,165	\$1,157	\$4,633	\$7,609	d
Non-Current Liabilities	\$336	\$209	\$97	\$0	\$3,994	\$7,243	\$0	e
Total Liabilities	\$2,439	\$5,276	\$7,221	\$9,165	\$5,151	\$11,876	\$7,609	f = d+e
Net Assets	\$6,011	\$5,562	\$4,362	\$6,914	\$12,921	\$10,803	\$16,935	g = c-f
Share Capital	\$8,381	\$8,381	\$9,393	\$12,393	\$19,863	\$19,863	\$28,033	h
(Accumulated Losses)	(\$2,370)	(\$2,819)	(\$5,030)	(\$5,479)	(\$6,942)	(\$9,060)	(\$11,097)	i
Total Shareholders' Equity	\$6,011	\$5,562	\$4,362	\$6,914	\$12,921	\$10,803	\$16,935	j = h+i

## Sources:

- (1) Pich, Rene. (22 July 2008). "Affidavit of Rene Pich," Exhibit 6: SNF (AUSTRALIA) PTY LIMITED. (26 May 1998). "Financial Statements and Reports for the Year Ended 31 December 1997," p. 2.
- (2) Pich, Rene. (22 July 2008). "Affidavit of Rene Pich," Exhibit 7: SNF (AUSTRALIA) PTY LIMITED. (31 December 1998). "Income," Schedule 3.
- (3) Pich, Rene. (22 July 2008). "Affidavit of Rene Pich," Exhibit 8: SNF (AUSTRALIA) PTY LIMITED. (Undated). "Financial Statements and Reports for the Year Ended 31st December 1999."
- (4) Pich, Rene. (22 July 2008). "Affidavit of Rene Pich," Exhibit 9: SNF (AUSTRALIA) PTY LIMITED. (24 April 2001). "Special Purpose Financial Report for the Year Ended 31st December 2000," p. 3.
- (5) Pich, Rene. (22 July 2008). "Affidavit of Rene Pich," Exhibit 10: SNF (AUSTRALIA) PTY LIMITED. (3 May 2002). "Special Purpose Financial Report for the Year Ended 31 December 2001," p. 6.
- (6) Pich, Rene. (22 July 2008). "Affidavit of Rene Pich," Exhibit 11: SNF (AUSTRALIA) PTY LIMITED. (27 October 2003). "Special Purpose Financial Report for the Year Ended 31 December 2002," p. 6.
- (7) Pich, Rene. (22 July 2008). "Affidavit of Rene Pich," Exhibit 12: SNF (AUSTRALIA) PTY LIMITED (19 April 2004). "Special Purpose Financial Report for the Year Ended 31 December 2003," p. 6.

**Table 1C:**

**Transfer Prices Proposed by Taxpayer Normalized to \$100 Sale Price**

<b>SNF AUSTRALIA (1997-2003)</b>	<b>Total per SNF AUSTRALIA Income Statement (Million)</b>	<b>Normalized to \$100 Sale Price</b>	<b>Formula</b>	<b>Source</b>
Sales	\$93.64	\$100.00	a	Table 1A
Selling/Operating Expenses	\$26.75	\$28.57	b	Table 1A
<b>Net Sale Price (After Selling Expense)</b>	\$66.89	<b>\$71.43</b>	c = a-b	Calculation
<b>Proposed Cost of Sales</b>	\$77.61	<b>\$82.88</b>	d	Table 1A
<b>Proposed Operating Profit (Loss)</b>	-\$10.72	<b>-\$11.45</b>	e = c-d	Calculation

**Table 2A:**

**SNF Worldwide Consolidated Income Statement: 1997-2003**

<b>Period Ending 31 December (Euros 000) /1/</b>	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>Total</b>	<b>Growth Rate /2/</b>	<b>Formula</b>
Operating Revenue	391,928	423,718	462,428	578,629	634,494	609,382	559,691	3,660,270	<b>9.2%</b>	a
Stocks Purchases and Changes in Stock	215,698	231,099	228,564	302,948	317,588	285,457	270,237	1,851,590		b
Gross Profit	176,230	192,620	233,864	275,681	316,906	323,925	289,454	1,808,680		c = a-b
Operating Expenses /3/	140,904	156,843	188,410	236,047	274,158	271,705	265,300	1,533,367		d
Operating Profit	35,326	35,777	45,454	39,634	42,748	52,220	24,154	275,313		e = c-d
<b>Operating Margin</b>	9.0%	8.4%	9.8%	6.8%	6.7%	8.6%	4.3%	<b>7.5%</b>		f = e/a

Notes:

/1/: For years prior to 2000, financial data were converted from francs to Euros using the exchange rate of .152449. This is the same exchange rate used by SNF to convert its 2000 financial data.

/2/: The total growth rate represents the compounded annual growth rate from 1996-2003.

/3/: Operating expenses include other expenses, taxes, personnel expenses, depreciation and provision allowances.

Sources:

- (1) SNF Joint Stock Company. (8 June 1998). "Auditor's Report: Consolidated Statements Financial Year Ended 31 December 1997," p. 3.
- (2) SNF Joint Stock Company. (20 May 1999). "Auditor's Report: Consolidated Statements Financial Year Ended 31 December 1998," p. 3.
- (3) SNF Joint Stock Company. (15 May 2000). "Auditors Reports: Consolidated Accounts Financial Year Ended 31 December 1999," p. 3.
- (4) SNF Joint Stock Company. (15 May 2001). "Auditor's Report: Consolidated Statements Financial Year Ended 31 December 2000," p. 3.
- (5) SNF Public Limited Company. (14 May 2002). "Auditor's Report: Consolidated Statements Financial Year Ended 31 December 2001," pp. 3 & 7.
- (6) SNF Public Limited Company. (6 June 2003). "Auditor's Report: Consolidated Statements Financial Year Ended 31 December 2002," p. 3.
- (7) SPCM SA Public Company. (4 June 2004). "Auditor's General Report: Consolidated Accounts Financial Year Ended 31 December 2003," p. 3.

**Table 2B:****SNF Worldwide Consolidated Balance Sheet: 1997-2003**

<b>Period Ending 31 December (Euros 000)</b>	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>Formula</b>
Current Assets	135,991	152,998	182,140	209,889	244,890	261,906	261,901	a
Fixed Assets	138,786	172,251	196,115	287,439	329,153	317,889	307,011	b
Accruals	2,997	2,887	3,944	5,701	5,332	8,649	9,250	c
<b>Total Assets</b>	<b>277,774</b>	<b>328,135</b>	<b>382,198</b>	<b>503,029</b>	<b>579,375</b>	<b>588,444</b>	<b>578,162</b>	d = a+b+c
Total Liabilities	174,285	212,472	228,252	325,134	371,856	388,151	406,451	e
Equity Capital	101,798	114,567	152,395	176,101	205,911	198,683	170,105	f
Accruals	1,691	1,097	1,552	1,794	1,608	1,610	1,606	g
<b>Total Liabilities and Stockholder's Equity</b>	<b>277,774</b>	<b>328,135</b>	<b>382,198</b>	<b>503,029</b>	<b>579,375</b>	<b>588,444</b>	<b>578,162</b>	h = e+f+g

**Note:**

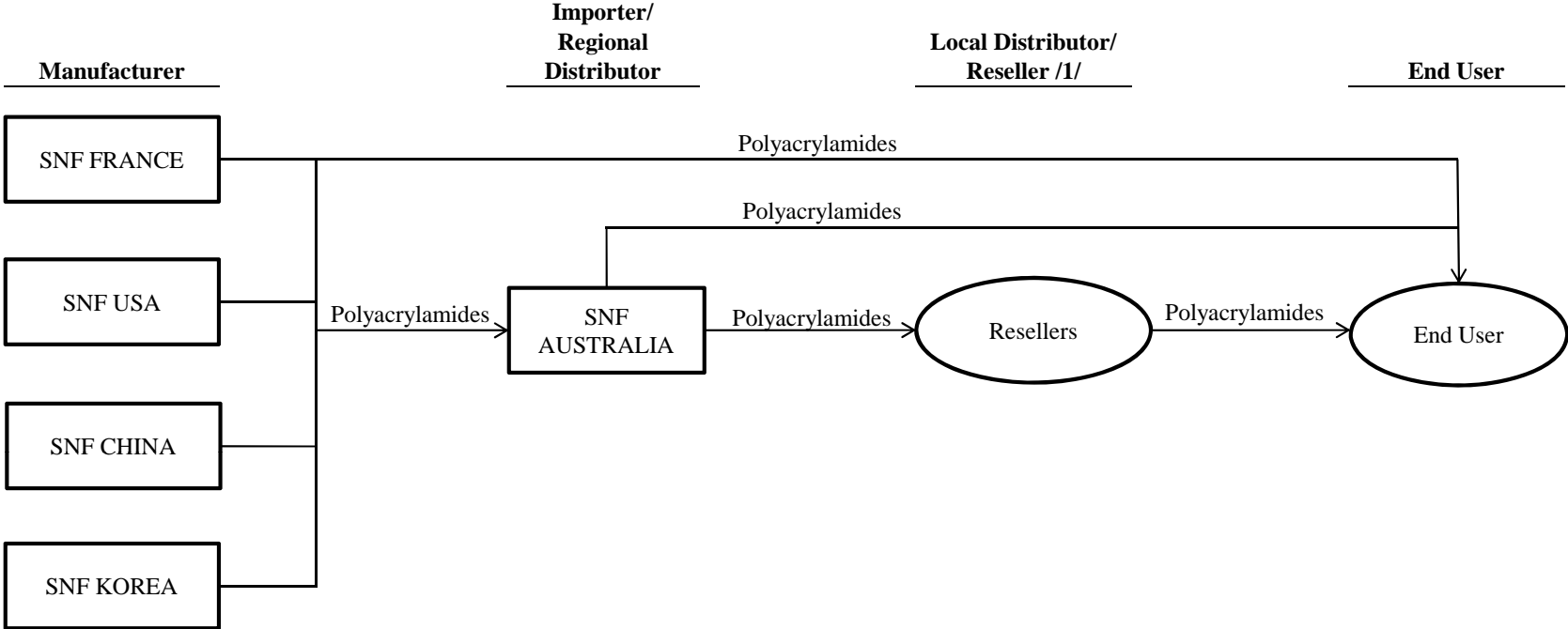
/1/: For years prior to 2000, financial data were converted from francs to Euros using the exchange rate of .152449. This is the same exchange rate used by SNF to convert its 2000 financial data.

**Sources:**

- (1) SNF Joint Stock Company. (8 June 1998). "Auditor's Report: Consolidated Statements Financial Year Ended 31 December 1997," pp. 1-2.
- (2) SNF Joint Stock Company. (20 May 1999). "Auditor's Report: Consolidated Statements Financial Year Ended 31 December 1998," pp. 1-2.
- (3) SNF Joint Stock Company. (15 May 2000). "Auditors Reports: Consolidated Accounts Financial Year Ended 31 December 1999," pp. 1-2.
- (4) SNF Joint Stock Company. (15 May 2001). "Auditor's Report: Consolidated Statements Financial Year Ended 31 December 2000," pp. 1-2.
- (5) SNF Public Limited Company. (14 May 2002). "Auditor's Report: Consolidated Statements Financial Year Ended 31 December 2001," pp. 1, 2 & 7.
- (6) SNF Public Limited Company. (6 June 2003). "Auditor's Report: Consolidated Statements Financial Year Ended 31 December 2002," pp. 1-2.
- (7) SPCM SA Public Company. (4 June 2004). "Auditor's General Report: Consolidated Accounts Financial Year Ended 31 December 2003," pp. 1-2.

**Table 3:**

**SNF Supply Chain in Australia (Levels of Market): 1997-2003**



Note:  
/1/: SNF products are marked up at each level of the supply chain shown above. Also see **Table 8A**.

Sources:  
(1) Pich, Rene. (22 July 2008). "Affidavit of Rene Pich," Exhibit 13: SNF Australia Pty Ltd. "Strategic Plan: SNF (Australia) 2002-2005," pp. 5 & 10.  
(2) Schroeter, Russell, H. (11 July 2008). "Affidavit of Russell Henry Schroeter," p. 23.



**Transfer Pricing Step 1--Defining the Hypothetical Arm's Length Transactions to Value: Tables 4-5**

**Table 4:****Characteristics of the Actual Transaction Between SNF Related Parties (Seller) and SNF AUSTRALIA (Buyer)**

<b>Characteristics</b>	<b>SNF Manufacturers</b>	<b>SNF AUSTRALIA</b>	<b>Source</b>
<b>Transactions</b>			
Transaction at Issue	Sells Polyacrylamides	Purchases Polyacrylamides	(1)
Relationship to Buyer/Seller	Related	Related	(1)
Price Determined By	Proposed	Proposed	(1)
Other Polyacrylamide Transactions Not At Issue	Yes, Not Fully Quantified	Yes, Purchases of \$5 million	Table 1A
Ability to Return Unsold Product to Manufacturer	--	Yes	(2)
<b>Major Characteristics/Functions of Parties</b>			
Operations	Manufacturing & Distribution	Distribution	(1) & (3)
Part of Multinational?	Yes	Yes	(1)
Ultimate Parent	SNF FRANCE	SNF FRANCE	(1)
Description	Manufacturing Subsidiaries of SNF FRANCE	Regional Distribution Subsidiary of SNF FRANCE in Australia	(1)
Related to	Multiple Companies	Multiple Companies	(1)
Other Transactions with Related Parties?	Yes	Yes	(1) & (3)
Year Operation Established	1978 (Varies by Entity)	1990	(1)
Incurs Primary Risks in Supply Chain	Yes	No	(2)
<b>Economic Circumstances</b>			
Geographical Markets Allowed to Distribute In	--	Australia Region	(3)
Market Position	Manufacturer	Regional Distributor /1/	(1)
Resells to	--	Distributors and End Users	(1)
Commercial Costs to Distribute Products	--	28.6% of Resale Price	Table 1A
<b>Financials Results (000)</b>			
Financial Results for Company: (1997-2003 Average)			
Sales	Information Not Provided	\$13,377	Table 1A
Annualized Sales Growth Rate (1996-2003)	Information Not Provided	19.1%	Table 1A
Years with Higher Growth Than Parent	Information Not Provided	All	Tables 1A & 2A
Financial Results of Ultimate Parent (1997-2003 Average)			
Sales	€522,896	€522,896	Table 2A
Operating Margin	7.5%	7.5%	Table 2A
Years Recording Losses	None	None	Table 2A
Annualized Sales Growth Rate	9.2%	9.2%	Table 2A
Total System Profits on Products at Issue	Information Not Provided	Information Not Provided	

Note:

/1/: Sells to other distributors as well as to end users. See **Table 3**.

Sources:

(1) Pich, Rene. (22 July 2008). "Affidavit of Pich," pp. 1-13.

(2) Schroeter, Russell, H. (11 July 2008). "Affidavit of Russell Henry Schroeter," Exhibit 18: Fax Transmission from Dennis Crowley to R. Pich. (19 June 2002). "May Monthly Report," p. 1.

(3) Schroeter, Russell, H. (11 July 2008). "Affidavit of Russell Henry Schroeter," pp. 11 &amp; 16.

**Table 5:**

**Characteristics of the Hypothetical Transaction Between Arm's Length Seller and Buyer**

<b>Characteristics</b>	<b>Hypothetical Manufacturer</b>	<b>Hypothetical Distributer</b>
<b>Transactions</b>		
Transaction at Issue	Sells Polyacrylamides	Purchases Polyacrylamides
<i>Relationship to Buyer/Seller</i>	<i>Unrelated</i>	<i>Unrelated</i>
<i>Price Determined By</i>	<i>Market Forces</i>	<i>Market Forces</i>
Other Polyacrylamide Transactions Not At Issue	Yes, Not Fully Quantified	Yes, Purchases of \$5 million
Ability to Return Unsold Product to Manufacturer	--	Yes
<b>Major Characteristics/Functions of Parties</b>		
Operations	Manufacturing & Distribution	Distribution
Part of Multinational?	Yes	Yes
<i>Ultimate Parent</i>	<i>Multinational "A"</i>	<i>Multinational "B"</i>
<i>Description</i>	<i>Manufacturing Subsidiaries of "A"</i>	<i>Regional Distribution Subsidiary of "B" in Australia</i>
Related to	Multiple Companies	Multiple Companies
Other Transactions with Related Parties?	Yes	Yes
Year Operation Established	1978 (Varies by Entity)	1990
Incurs Primary Risks in Supply Chain	Yes	No
<b>Economic Circumstances</b>		
Geographical Markets Allowed to Distribute In	--	Australia Region
Market Position	Manufacturer	Regional Distributor /1/
Resells to	--	Distributors and End Users
Commercial Costs to Distribute Products	--	28.6% of Resale Price
<b>Financials Results (000)</b>		
Financial Results for Company: (1997-2003 Average)		
Sales	Information Not Provided	\$13,377
Annualized Sales Growth Rate (1996-2003)	Information Not Provided	19.1%
Years with Higher Growth Than Parent	Information Not Provided	All
Financial Results of Ultimate Parent (1997-2003 Average)		
Sales	€522,896	€522,896
Operating Margin	7.5%	7.5%
Years Recording Losses	None	None
Annualized Sales Growth Rate	9.2%	9.2%
Total Supply Chain Profit on Products at Issue	Information Not Provided	Information Not Provided

Notes:

/1/: Sells to other distributors as well as to end users.

/2/: Bold and italicized rows reflect a change from **Table 4**.

**Summary of Taxpayer's Evidence: Table 6**

**Table 6:**

**Summary of Taxpayer's CUP Analyses**

<b>Characteristic of Approach Data</b>	<b>Sales to Third Party Customers</b>
Arm's Length Transaction or Proposed Transfer Price	Arm's Length Transaction
Designed for Australian Market Resales	Some
Coverage of Data over 84 Month Audit Period	84 Months
Analysis Compared Prices	Yes
Taxpayer Evidence Includes All Invoices Used in CUP Analysis	No
All Sales from SNF Manufacturers Included in CUP Analysis	No
Narrow or Wide Range of Prices Provided for a Particular CUP	<b>To Be Determined in Tables 7-11</b>
CUP Analysis Includes Discounts Paid	<b>To Be Determined in Tables 7-11</b>
CUP Analysis Adjusts for Actual Transportation Costs	<b>To Be Determined in Tables 7-11</b>
Purchaser at Same Level of Market as SNF AUSTRALIA	<b>To Be Determined in Tables 7-11</b>
Conclusion: Potential Use as CUPs	<b>To Be Determined in Tables 7-11</b>

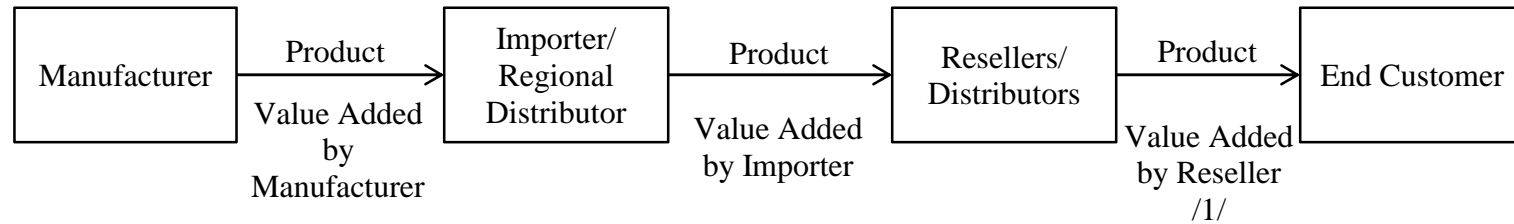
Sources:

- (1) Karoudjian, David. (22 July 2008). "Affidavit of David Karoudjian," pp. 2-3 & 10-15.
- (2) Karoudjian, David. (22 July 2008). "Affidavit of David Karoudjian," Exhibit 6.
- (3) Karoudjian, David. (22 July 2008). "Affidavit of David Karoudjian," Exhibit 9.
- (4) Schroeter, Russell H. (14 August 2008). "Affidavit of Russell Henry Schroeter," pp. 2, 5-7.
- (5) Schroeter, Russell H. (14 November 2008). "Affidavit of Russell Henry Schroeter," p. 4.
- (6) Schroeter, Russell H. (14 November 2008). "Affidavit of Russell Henry Schroeter," Electronic Exhibits.

**Economic Consideration of the Taxpayer's Analysis: Tables 7A-11**

**Table 7A:**

**Levels of the Market in the Polyacrylamide Supply Chain**



Note:

/1/: The value added services provided by the importer/regional distributor and resellers/distributors generally include access to product range, reliability, customer service, storage and handling, etc.

Sources:

- (1) Pich, Rene. (22 July 2008). "Affidavit of Rene Pich," p. 6.
- (2) Pich, Rene. (22 July 2008). "Affidavit of Rene Pich," Exhibit 13: SNF Australia Pty Ltd. "Strategic Plan: SNF (Australia) 2002-2005," p. 5.
- (3) Johnston, et al. (October 2000). "Productivity in Australia's Wholesale and Retail Trade." Productivity Commission. Staff Research Paper, pp. 99-102.

**Table 7B:**

**Different Levels of the Market in the SNF Supply Chain**

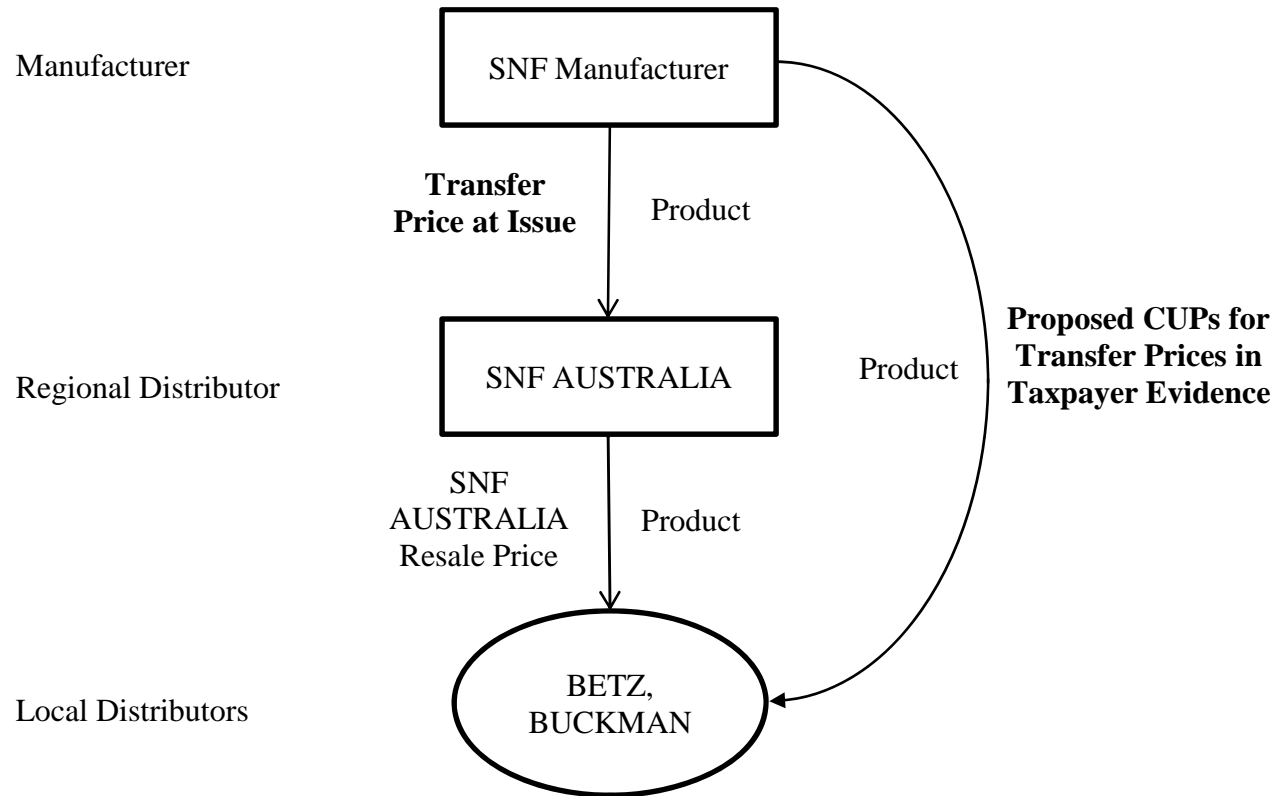




Table 8A:

Example of the Same Product Being Sold to SNF AUSTRALIA and BETZ AUSTRALIA from SNF FRANCE

**SNF SAS**  
SNF s.a.s. - ZAC de Milloux  
42163 ANDREZIMEX Cedex  
FRANCE

**SNF FLOERGER**

**INVOICE**

INVOICE NR: 170448 INVOICE DATE: 15/03/1999  
Tel: +33 (0)4 77 36 86 00  
Fax: +33 (0)4 77 36 86 96  
e-mail: info@snf.fr

DELIVERY ADDRESS: SNF AUSTRALIA N.S.WALES  
C/-UNITED TRANSPORT SERVICES  
CNR GREAT WESTERN HIGHWAY &  
DOONSIDE ROAD ARNDELL PARK  
NEW SOUTH WALES 2148

CUSTOMER NR: SNF AUST 058 DEPARTURE DATE: 15/03/1999  
FROM PLANT:

FORWARDING AGENT: PETER HOODER & ASSOCIATES  
UNIT 4, LEVEL 3,14 QUEENS ROAD  
MELBOURNE 3004 - VICTORIA

CARRIER: CANMAR  
ICC2000 CIF SYDNEY  
CONTAINER NR CMBU 227 201/8

PAYMENT: BANK TRANSFER AT RECEIPT  
DUE DATE: 20/04/1999  
PO NR: PO 99/02/01

SNF VAT CODE : FR 63430006643

TE	DESCRIPTION	QUANTITY	UNIT PRICE	AMOUNT
1	AN 934 TBF2 FLOERGER AN 934 TBF2 (BETZ) 600 BAGS (801) 25 KG	15000	2.700 AUD	40500.00

COMMODITY 39069090

M. MOULARD - A. BOUQUET - CELLARD  
D. FOUREL - MARTIN  
Notaires Associés - B.P. 100  
10, place de l'Église de Ville  
42005 SAINT-ETIENNE CEDEX 1  
Tel. 04 77 49 53 49

Settlement discount 0.00

NAME OF VESSEL : P40 SYDNEY / 51886/533  
ETD : 17/03/99 - ETA : 12/04/99  
FOB : 1296,37 AUD - FREIGHT : 2046,54 AUD - INSURANCE : 26,73 AUD

GOODS OF FRENCH ORIGIN

	N.T. AMOUNT	VAT AMOUNT	T.T.C. AMOUNT
Net weight : 15000.00 KG			
Gross weight : 15600.00 KG			
20 BOX PALLETS	AUD		AUD
	40500.00	0.00	40500.00

Penalty for late payment calculated each day = legal interest rate + 1.5 plus 10 points, with a minimum of 50 euros. VAT RATE = 20.60 %

Bank : CREDIT LYONNAIS ST ETIENNE CAB  
FR65 3000 2037 2000 0006 1997 E63  
SWIFT : CRLYFRPP

INVOICE 170448 CUSTOMER SNF AUST UTI

**SNF SAS**  
SNF s.a.s. - ZAC de Milloux  
42163 ANDREZIMEX Cedex  
FRANCE

**SNF FLOERGER**

**INVOICE**

INVOICE NR: 177132 INVOICE DATE: 28/06/1999  
Tel: +33 (0)4 77 36 86 00  
Fax: +33 (0)4 77 36 86 96  
e-mail: info@snf.fr

DELIVERY ADDRESS: BETZ AUSTRALIA AUSTRALIA PTY LTD  
ACN 001 221 941  
69-77 WILLIAMSON ROAD  
INGLEBURN NSW 2565  
AUSTRALIA

CUSTOMER NR: GE AUSTR 000 DEPARTURE DATE: 28/06/1999  
FROM PLANT:

FORWARDING AGENT: R.L. NICHOLSON PTY. LTD.  
74 FOVEAUX ST.  
SURREY HILLS

CARRIER: CANMAR  
ICC2000 CIF INGLEBURN DUTY UNPAID  
CONTAINER NR CRXU 223 514/7

PAYMENT: BANK TRANSFER AT 90 DAYS DATE OF B/L  
DUE DATE: 07/10/1999  
EQ NR: 1495

SNF VAT CODE : FR 63430006643

TE	DESCRIPTION	QUANTITY	UNIT PRICE	AMOUNT
1	FLOERGER AN 934 TBF2 (BETZ) BATCH NR 220699R13 600 BAGS (801) 25 KG	15000	2.810 AUD	42150.00

COMMODITY 39069090

M. MOULARD - A. BOUQUET - CELLARD  
D. FOUREL - MARTIN  
Notaires Associés - B.P. 100  
10, place de l'Église de Ville  
42005 SAINT-ETIENNE CEDEX 1  
Tel. 04 77 49 53 49

Settlement discount Carriage prepaid 0.00

VESSEL: PONEJ JAKARTA

ETD : 08/07/1999 ETA : 08/08/1999

GOODS OF FRENCH ORIGIN

	N.T. AMOUNT	VAT AMOUNT	T.T.C. AMOUNT
Net weight : 15000.00 KG			
Gross weight : 15600.00 KG			
20 PALLETS	AUD		AUD
	45583.00	0.00	45583.00

Penalty for late payment calculated each day = legal interest rate + 1.5 plus 10 points, with a minimum of 50 euros. VAT RATE = 20.60 %

Bank : CREDIT LYONNAIS ST ETIENNE CAB  
FR65 3000 2037 2000 0006 1997 E63  
SWIFT : CRLYFRPP

INVOICE 177132 CUSTOMER GE AUSTR UTI

Customer

Prices: \$2.70 vs. \$2.81 /1/

BETZ designated on product description. /2/

Quantity = 15,000

Freight adjustment would be \$0.23 per kg.

Notes:

- /1/: Freight and payment terms differ between the two invoices. The longer payment terms for BETZ would increase its price. BETZ's price does not include freight charges.
- /2/: The BETZ designation suggests that the products sold from SNF FRANCE to SNF AUSTRALIA will then be sold by SNF AUSTRALIA to BETZ.

Sources:

- (1) Karoudjian, David. (22 July 2008). "Affidavit of David Karoudjian," p. 6.
- (2) Karoudjian, David. (22 July 2008). "Affidavit of David Karoudjian," Exhibit 6.

Table 8B:

Example of Products Directly Shipped to Customers in Australia from SNF FRANCE, But Billed to SNF AUSTRALIA

**SNF** SAS  
SNF s.a.s. - ZAC de Milleux  
42163 Andrézieux Cedex  
FRANCE

**SNF FLOERGER**

**INVOICE**

INVOICE NR: 201885  
INVOICE DATE: 28/06/2000  
Tel: +33 (0)4 77 36 86 00  
Fax: +33 (0)4 77 36 86 96  
e-mail: info@snf.fr

DELIVERY ADDRESS: **MAYNE NICKLESS AUSTRALIA**  
CITE DES BOIS - 529-4 - RIVERVIEW ROAD  
GILLMAN ADELAIDE 5015  
SOUTH AUSTRALIA

CUSTOMER NR: SNF AUST 079 DEPARTURE DATE: 28/06/2000  
FROM PLANT:

FORWARDING AGENT: PETER HODDER & ASSOCIATES  
UNIT 4, LEVEL 3, 14 QUEENS ROAD  
MELBOURNE 3004, VIC, AUSTRALIA

**SNF AUSTRALIA PTY LTD**  
UNIT 4, 160 BALCATTA ROAD  
BALCATTA, PERTH  
WEST AUSTRALIA 6021  
AUSTRALIA

CARRIER: CANMAR  
ICC2000  
CIF ADELAIDE  
CONTAINER NR TRLU 339 495/0

PAYMENT: BANK TRANSFER  
AT RECEIPT  
DUE DATE: 31/08/2000

P.O. NR: 00/05/13

SNF VAT CODE: FR 63430006643

QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
15000	JK-261 FLOERGER AN 934 MPM BATCH NR M28U1 600 BAGS (S01) 25 KG	2.620 AUD	39300.00
	COMMODITY 39069090		

M. MOULARD - A. BOURET - A. CELLARD  
D. FOURNEL - M. MARTIN  
Notaires Associés - S.P. 109  
13, place de l'Hôtel de Ville  
42003 SAINT-ETIENNE CEDEX 1  
Tél: 04 77 49 53 45

Settlement discount: 0.00

VESSEL: SCOTIA/67137/671 ETD: 12/07/2000 ETA: 12/08/2000  
FOB: 1 185,21 AUD FREIGHT: 2 159,93 AUD INSURANCE: 25 ,94 AUD

GOODS OF FRENCH ORIGIN

	NET WEIGHT	GROSS WEIGHT	H.T. AMOUNT	VAT AMOUNT	T.T.C. AMOUNT
	15000.00 KG	15600.00 KG	AUD	AUD	AUD
20 PALLETS			39300.00	0.00	39300.00

\*Penalty for late payment calculated each day = legal interest rate x 1.5 plus 10 points, with a minimum of 50 euros. VAT RATE = 19.60 %  
Please read overleaf the general terms of sale including the reference to clauses of the applicable legislation and the clause reserving ownership of the products until such time as they are paid for in full.

Bank: CREDIT LYONNAIS ST ETIENNE CAE  
FR65 3000 2037 2000 0006 1997 E63  
SWIFT: CRLYFRPP

INVOICE 201885  
CUSTOMER SNF AUST  
UAB

Blépe social: SNF s.a.s au capital de 8.185.200 € - 20, rue de l'Innovation - Le Technoparc - 42000 SAINT-ETIENNE - FRANCE  
430 006 643 R.C.S. Saint-Etienne - SIRET 430 006 643 00026 - Code NAF 241 L - N° TVA CEE FR 63430006643

100% AU BANDO LES COULEURS DES DÉBALLEES DE BÊTE

Products shipped to MAYNE NICKLESS.

Products bought by SNF AUSTRALIA.

Anionic Powder

Note:

/1/: I was unable to confirm that this transaction is part of the sales data analyzed in the Affidavit of David Karoudjian . However, the Affidavit of David Karoudjian does state that these invoices represent purchases made by third parties.

Sources:

- (1) Karoudjian, David. (22 July 2008). "Affidavit of David Karoudjian," p. 12.
- (2) Karoudjian, David. (22 July 2008). "Affidavit of David Karoudjian," Exhibit 7.

Table 8C:

Example of Wide Range of Prices Paid for Cationic Emulsion in 1999

**CHEMTALL INCORPORATED**  
 TEL: (912) 884-3366 • FAX: (912) 884-5031

CUSTOMER NO.	DATE	NUMBER
100002	03/16/99	121912
	DATE SHIPPED	ASSOCIATED NUMBER
	03/16/99	74339

EM 140 is also classified by the taxpayer as a CUP for cationic emulsion. /1/

SOLD TO: BETZDEARBORN INC., ATTN: ACCOUNTS PAYABLE, 4636 SOMERTON ROAD, TREVOLVE, PA 19053-6783

SHIPPED TO: BETZDEARBORN INC., MACDN PLANT, ROUTE 3, 7523 NE INDUSTRIAL BLVD, MACDN, GA 31206

CUSTOMER ORDER NUMBER	FO.B.	FREIGHT CHARGES	SHIPPED VIA	SALES AGENT	TERMS
B4500102417	RICEBORO GA	COLLECT	INWAY	100	NET 30 DAYS
UNITS	PACKAGE	DESCRIPTION	TOTAL QUANTITY	UNIT PRICE	AMOUNT
16	470HDRUM	R21035 FLOERGER BZA 0 LOT NUMBER E235Q0	7520	.5900	4361.60
16	490HDRUM	R21045 FLOERGER BZA 10 LOT NUMBER D755N0	7840	.5850	4586.40
0	480HDRUM	R10457 FLOERGER EM 140 LOT NUMBER R391R0	3840	.6180	2373.12
10	460HDRUM	R21099 FLOERGER EM 840 LOT NUMBER B318Q0	4600	1.0420	4793.20
6	475HDRUM	R18111 FLOERGER EM 640 GR LOT NUMBER F366R0	2850	1.0750	3063.75
120	42MPAIL	R18030 FLOERGER EM 1030 HA LOT NUMBER P372R0	5040	.6440	3245.76
14	450HDRUM	R21104 FLOERGER EM 1030 HA LOT NUMBER P372R0	6300	.5940	3679.20
3	480HDRUM	R18171 FLOERGER EM 533 PWG LOT NUMBER H352Q0	1440	.4430	637.92
<b>TOTAL</b>					

PLEASE REMIT TO: CHEMTALL INCORPORATED, P.O. BOX 930350, ATLANTA, GEORGIA 31193

PLEASE PAY THIS AMOUNT

SUBJECT TO TERMS AND CONDITIONS ON REVERSE SIDE

**CHEMTALL INCORPORATED**  
 TEL: (912) 884-3366 • FAX: (912) 884-5031

CUSTOMER NO.	DATE	NUMBER
100007	07/01/99	127377
	DATE SHIPPED	ASSOCIATED NUMBER
	07/01/99	80073

SOLD TO: BETZDEARBORN INC., ATTN: ACCOUNTS PAYABLE, 4636 SOMERTON ROAD, TREVOLVE, PA 19053-6783

SHIPPED TO: WEYERHAEUSER CO. INC., 3401 INDUSTRIAL WAY, LONGVIEW, WA 98632

CUSTOMER ORDER NUMBER	FO.B.	FREIGHT CHARGES	SHIPPED VIA	SALES AGENT	TERMS
B4500113233	RICEBORO GA	BILL	STOLT	100	NET 30 DAYS
UNITS	PACKAGE	DESCRIPTION	TOTAL QUANTITY	UNIT PRICE	AMOUNT
24800	1HEULK	POLYFLOC CE1168 EM-145LH LOT NUMBER 2151T0	24800	.5309	13166.32
CTL 070107					
MERCHANT TOTAL					13166.32
WE APPRECIATE YOUR BUSINESS, THANK YOU					
<b>TOTAL</b>					USD 13166.32

PLEASE REMIT TO: CHEMTALL INCORPORATED, P.O. BOX 930350, ATLANTA, GEORGIA 31193

PLEASE PAY THIS AMOUNT

SUBJECT TO TERMS AND CONDITIONS ON REVERSE SIDE

Both products were classified by the taxpayer as CUPs for cationic emulsions.

Wide Range in Prices /2/ /3/

Notes:

- /1/: The Affidavit of Russell Schroeter makes an adjustment for packaging for EM 140 but not for EM 640. Both appear to have the same packaging costs included in their prices.
- /2/: SNF AUSTRALIA's proposed related party price is higher than the EM 145 price.
- /3/: The Affidavit of Russell Schroeter assumes all SNF USA invoicing is FOB. As seen above, these invoices are designated as "Collect" and "Bill".

Source:

(1) Schroeter, Russell H. (11 July 2008). "Affidavit of Russell Henry Schroeter," Electronic Exhibits.

Table 8D:

Example of Wide Range of Prices Paid by Independent Parties to SNF USA

**CHEMTALL INCORPORATED**  
 TEL: (912) 884-3366 • FAX: (912) 884-5031

**Invoice for BUCKMAN**

BUCKMAN LABORATORIES, INC.  
 1254 N. McLEAN BLVD.  
 MEMPHIS, TN 38108

DATE	NUMBER
04/10/97	92443
DATE SHIPPED	ASSOCIATED NUMBER
04/10/97	43550

These CUPs appear to include packaging costs and do not have FOB shipping terms. /1/

CUSTOMER ORDER NUMBER	F.O.B.	FREIGHT CHARGES	SHIPPED VIA	SALES AGENT	TERMS
1840414 REL # 3	RICEBORO, GA	COLLECT	KLLM	605	NET 30 DAYS

UNITS	PACKAGE	DESCRIPTION	TOTAL QUANTITY	UNIT PRICE	AMOUNT
350	SOHBG	BU-8059 AN 934 PMS FLOERGER AN 934 PMS LOT NUMBER UR-1160	13000	1.2600	22680.00
MERC TOTAL					22680.00

PLEASE REMIT TO: CHEMTALL INCORPORATED  
 P.O. BOX 930350  
 ATLANTA, GEORGIA 31193

TOTAL USD 22680.00

**CHEMTALL INCORPORATED**  
 TEL: (912) 884-3366 • FAX: (912) 884-5031

**Invoice for BETZ**

BETZ LABORATORIES, INC.  
 2636 SHERRINGTON ROAD  
 TRESDALE, PA 17033

DATE	NUMBER
03/25/97	91870
DATE SHIPPED	ASSOCIATED NUMBER
03/25/97	43730

Wide Range in Prices

Both products are AN 934 or classified by the taxpayer as anionic powder. /2/

CUSTOMER ORDER NUMBER	F.O.B.	FREIGHT CHARGES	SHIPPED VIA	SALES AGENT	TERMS
450028191	RICEBORO GA	COLLECT	CFWY	100	NET 30 DAYS

UNITS	PACKAGE	DESCRIPTION	TOTAL QUANTITY	UNIT PRICE	AMOUNT
42	1600BIGBAG	POLYMER 1120/R21145 FLOERGER AN 934 LOT NUMBER UR-2118	42000	.8700	36540.00
MERC TOTAL					36540.00

PLEASE REMIT TO: CHEMTALL INCORPORATED  
 P.O. BOX 930350  
 ATLANTA, GEORGIA 31193

TOTAL USD 36540.00

Notes:

/1/: The taxpayer does not provide information on the various freight charge terms including "Collect". The Affidavit of Russell Schroeter makes an upward adjustment to both CUPs for packaging costs.


/2/: SNF AUSTRALIA's proposed related party price is higher than the BETZ price.

Source:

(1) Schroeter, Russell H. (11 July 2008). "Affidavit of Russell Henry Schroeter," Electronic Exhibits.


Table 8E:

Example of Discounts Provided to Some Independent Parties



SNF SAS  
SNF s.r.l.s. - ZAC de Milieux  
42163 Andrézieux Cedex  
FRANCE

**INVOICE**



Tel: +33 (0)4 77 36 86 00  
Fax: +33 (0)4 77 36 86 96  
e-mail: info@snf.fr

DELIVERY ADDRESS: FORINDO PRIVATE LTD SINGAPORE  
\*\*\*\*\*  
COLLECTION SAINT ETIENNE PLANT

INVOICE NR: 244297

INVOICE DATE: 06/12/2001

CUSTOMER NR: NOBEL IN 002

DEPARTURE DATE: 06/12/2001

FROM PLANT:

FORWARDING AGENT: PT ERA KIMIA INDONESIA  
PT ERA KIMIA INTI ABADI  
JI REMBANG INDUSTRI III/32  
PIER PASURUAN  
JAWA TIMUR  
INDONESIA

CARRIER: BY YOUR CARRIER  
IC22000 EXN ST-ETIENNE PLANT  
CONTAINER NR TEXU 229 406/D

PAYMENT: BANK TRANSFER  
AT 30 DAYS END OF MONTH  
DUE DATE : 31/01/2002

P.O. NR: 000172/EP

SNF VAT CODE : FR 63430006643

LINE	DESCRIPTION	QUANTITY	UNIT PRICE	AMOUNT
1	EKA PL 1510 FLOERGER FO 4190 PGI BATCH NR E1539 8 BIG BAGS (B02) 750 KG	6000	14.900 FRF EXW PRICE	89400.00
2	EKA PL 1510 FLOERGER FO 4190 PGI BATCH NR M3072 4 BIG BAGS (B02) 750 KG	3000	14.900 FRF EXW PRICE	44700.00
3	EKA PL 1510 FLOERGER FO 4190 PGI BATCH NR M3072 8 BIG BAGS (B02) 750 KG	6000	14.900 FRF EXW PRICE	89400.00
	Settlement discount			0.00

VESEL: PONL KOWLOON ETD : 08/12/2001 ETA : 25/12/2001

**THE ABOVE PRODUCT PRICES WILL HAVE A 15% DISCOUNT AT THE END OF EACH MONTH**

GOODS OF FRENCH ORIGIN		R.T. AMOUNT	VAT AMOUNT	T.T.C. AMOUNT
Net weight :	15000.00 KG			
Gross weight :	15600.00 KG			
20 BIG BAGS		FRF 223500.00	0.00 Sales tax	FRF 223500.00

Penalty for late payment calculated each day = legal interest rate x 1.5 plus 10 points, with a minimum of 50 euros. VAT RATE = 19.60 %

Please read overleaf the general terms of sale including the reference to clauses of the applicable legislation and the clause reserving ownership of the products until each time as they are paid for in full.

Bank : CREDIT LYONNAIS ST ETIENNE CAE  
FR65 3000 2037 2000 0006 1997 E63  
SWIFT : CRLYFRPP

INVOICE 244297  
CUSTOMER NOBEL IN  
UTB

Siège social : SNF s.r.l.s au capital de 6.185.000 € - 20, rue de l'Innovation - La Technopole - 42000 SAINT-ETIENNE - FRANCE  
430 006 843 R.C.S. Saint-Etienne - SIRET 430 006 843 00038 - Code NAF 2611 - N° TVA DEE FR 63430006643

PUR AU VIREO LES CONDITIONS GÉNÉRALES DE VENTE  
PLEASE READ-OVERLEAF THE GENERAL TERMS OF SALE

15% Discount  
Not Included in  
the Price. /1/

Note:


/1/: I was unable to confirm that this transaction is part of the sales data analyzed in the Affidavit of David Karoudjian . However, the Affidavit of David Karoudjian does state that these invoices represent purchases made by third parties.

Sources:

- (1) Karoudjian, David. (22 July 2008). "Affidavit of David Karoudjian," p. 12.
- (2) Karoudjian, David. (22 July 2008). "Affidavit of David Karoudjian," Exhibit 6.


Table 8F:

Example of High Transportation Costs Paid by Some Independent Parties



SNF SAS  
SNF s.a.s. - ZAC de Millieux  
42163 Andrézieux Cedex  
FRANCE

**INVOICE**



Tel : +33 (0)4 77 36 86 00  
Fax : +33 (0)4 77 36 86 95  
e-mail: info@snf.fr

**DELIVERY ADDRESS:** PT ERA KIMIA INTI INDONESIA  
PT ERA KIMIA INTI ABADI  
GEDUNG GRAHA KENCANA LT 3H  
JL.RAYA PEJUANGAN NO 88  
JAKARTA 11530  
INDONESIA

**INVOICE NR:** 253893      **INVOICE DATE:** 04/04/2002

**CUSTOMER NR:** NOBEL IN 003      **DEPARTURE DATE:** 04/04/2002

**FROM PLANT:**

**FORWARDING AGENT:** PT ERA KIMIA INDONESIA  
PT ERA KIMIA INTI ABADI  
JI REMBANG INDUSTRI III/32  
PIER PASURUAN  
JAWA TIMUR  
INDONESIA

**CARRIER:** SCAC  
**ICC2000:** CPT JAKARTA AIRPORT

**PAYMENT:** BANK TRANSFER  
AT 90 DAYS END OF MONTH  
DUE DATE : 31/07/2002

**P.G. NR:** 000257/EP

**SNF VAT CODE :** FR 63430006643

NE	DESCRIPTION	QUANTITY	UNIT PRICE	AMOUNT
	EKA PL 1610	2000	2,640 EUR	5280.00
	FLOERGER FO 4190 PGO			
	BATCH NR 21560			
	4 BIG BAGS (B01) 500 KG			
			COMMODITY 39069090	

Settlement discount: 0.00  
Carriage prepaid: 2549.00

GOODS OF FRENCH ORIGIN		H. T. AMOUNT	VAT AMOUNT	T. T. C. AMOUNT
Net weight :	2000.00 KG	EUR 7829.00	0.00 Sales tax	EUR 7829.00
Gross weight :	2080.00 KG			
4 BIG BAGS				

Penalty for late payment calculated each day = legal interest rate x 1.5 plus 10 points, with a minimum of 50 euros.      VAT RATE = 19.60 %

Bank : CREDIT LYONNAIS ST ETIENNE CAE  
FR65 3000 2037 2000 0006 1997 E63  
SWIFT : CRLYFRPP

Blaise Pascal - SNF s.a.s au capital de 8.165.200 € - 20, rue de l'Innovation - Le Technoparc - 42000 SAINT-ETIENNE - FRANCE  
430 006 643 R.C.S. Saint-Etienne - SIRET 430 006 643 00026 - Code NAF 246 L - N° TVA CEE FR 63430006643

INVOICE: 253893      CUSTOMER: NOBEL IN  
DUPLICATE      UTB

Price excluding freight.

Quantity = 2,000

Transportation cost of 1.27 Euros/kg paid by NOBEL as part of invoice. /1/

This CUP appears to have transportation costs included.

Note:

/1/: I was unable to confirm that this transaction is part of the sales data analyzed in the Affidavit of David Karoudjian . However, he does state that these invoices represent purchases made by third parties.

Sources:

- (1) Karoudjian, David. (22 July 2008). "Affidavit of David Karoudjian," p. 12.
- (2) Karoudjian, David. (22 July 2008). "Affidavit of David Karoudjian," Exhibit 6.

Table 8G:

Example of Unrelated Party Not Included in Either Taxpayer CUP Analyses

**CHEMTALL INCORPORATED**  
TEL: (912) 884-3366 • FAX: (912) 884-5031

DATE	NUMBER
03/01/99	121400
DATE SHIPPED	ASSOCIATED NUMBER
03/01/99	73478

CUSTOMER NO. 424017

S  
D  
T  
O

HYCHEM, INC.  
SUITE 213  
10014 N. DALE HARRY HWY.  
TAMPA, FL 33618

S  
H  
I  
P  
T  
O

FSC PAPER  
13101 S. PULASKI ROAD  
POB 109763/109763 RELR B  
ALSIP, IL 60658

Products bought by HYCHEM /1/

Products shipped to FSC PAPER

CUSTOMER ORDER NUMBER	P.O.B.	FREIGHT CHARGES	SHIPPED VIA	SALES AGENT	TERMS
9812369	RICEBORO, GA	DP	RFX	120	NET 30 DAYS
UNITS	PACKAGE	DESCRIPTION	TOTAL QUANTITY	UNIT PRICE	AMOUNT
11	1800WBLKBAG	HYPERFLOC CP 951 NH FLOERGER FO 4350 LOT NUMBER UF 2322	19800	1.1000	21780.00
11	1800WBLKBAG	HYPERFLOC AP 353 PH FLOERGER AN 945 VHH LOT NUMBER UF 718	19800	1.0000	19800.00
MERCH TOTAL					41580.00
WE APPRECIATE YOUR BUSINESS, THANK YOU					

PLEASE REMIT TO: CHEMTALL INCORPORATED  
P.O. BOX 930350  
ATLANTA, GEORGIA 31193

TOTAL USD 41580.00

SUBJECT TO TERMS AND CONDITIONS ON REVERSE SIDE

PLEASE PAY THIS AMOUNT

Cationic Powder

Anionic Powder

Note

/1/: Products sold to HYCHEM were not used in the taxpayer's CUP analyses.

Source:

(1) Schroeter, Russell H. (11 July 2008). "Affidavit of Russell Henry Schroeter," Electronic Exhibits.



**Table 9:****Summary of ABS Study of Australian Profitability: 1998-2003**

<b>Industry /1/</b>	<b>Weighted Average (1998-2003)</b>	<b>Source</b>
Number of Wholesaling Industries With:		
Positive Operating Margins	40	(1)-(4)
Negative Operating Margins	1	(1)-(4)
Minimum Operating Margin Across all 41 Wholesaling Industries	-0.2%	(1)-(4)
All Wholesaling Industries Operating Margin	3.3%	(1)-(4)
Chemical Wholesaling Industry Operating Margin	4.6%	(1)-(4)
<b>SNF AUSTRALIA Proposed Operating Margin /2/</b>	<b>-11.5%</b>	Table 1A

## Notes:

/1/: Statistics are based on the complete data set available: 1998-1999, 1999-2000, 2000-2001 and 2002-2003. The Australian Bureau of Statistics ("ABS") changed its industry structure for the 2002-2003 period. Under the new industry structure, the wholesaling industries' profit margins in 2000-2001 would only have been 0.1 percentage points lower.

/2/: The operating margin for SNF AUSTRALIA includes the year 1997. Its proposed operating margins for 1998-2003 were also below negative 10 percent.

## Sources:

- (1) Australian Bureau of Statistics. (18 October 2000). "Wholesale Industry: 1998-1999," pp. 4 & 6-7.
- (2) Australian Bureau of Statistics. (20 December 2001). "Australian Industry: 1999-2000," pp. 19-20.
- (3) Australian Bureau of Statistics. (27 August 2003). "Australian Industry: 2000-2001," pp. 27-28.
- (4) Australian Bureau of Statistics. (7 February 2005). "Australian Industry: 2001-02 and 2002-03," pp. 6, 54-55.



**Table 10:****Financial Statistics for Broad Group of OECD Country Distributors**

<b>Company</b>	<b>Operating Margin (1997-2003)</b>	<b>Annual Sales Growth (1996-2003)</b>
ASHLAND INC	2.4%	-6.6%
TAIHOKOHZAI CO LTD	0.9%	-5.6%
SANKYOKASEI CORP	1.2%	-4.5%
TAIYO KOGYO CO LTD	0.6%	-3.5%
MITANI SANGYO CO LTD	0.6%	-3.1%
SODA NIKKA CO LTD	0.7%	-3.0%
SHOKO CO LTD	1.1%	-1.4%
RIKENGREEN CO LTD	2.7%	-1.2%
RIFA INDUSTRIAL CO	1.3%	-1.0%
NAGASE & CO LTD	1.4%	-1.0%
SAKAI TRADING CO LTD	1.6%	-0.4%
TOHOKU CHEMICAL CO LTD	2.3%	0.9%
INABATA & CO LTD	1.1%	2.2%
PARKER CORP	4.3%	2.7%
SAM YUNG TRADING CO LTD	4.3%	2.9%
ACETO CORP	4.5%	5.8%
HUNUS INC	4.4%	7.7%
<b>Correlation Between Profit and Growth</b>		<b>0.75</b>
Number of Companies with Negative Operating Margin	0	
Number of Companies with Growth Over 10 Percent		0
SNF AUSTRALIA's Proposed Operating Margin & Actual Growth	<b>-11.5%</b>	<b>19.1%</b>
<b>Predicted SNF AUSTRALIA Operating Margin Based on Growth /1/</b>	<b>7.6%</b>	

Note:

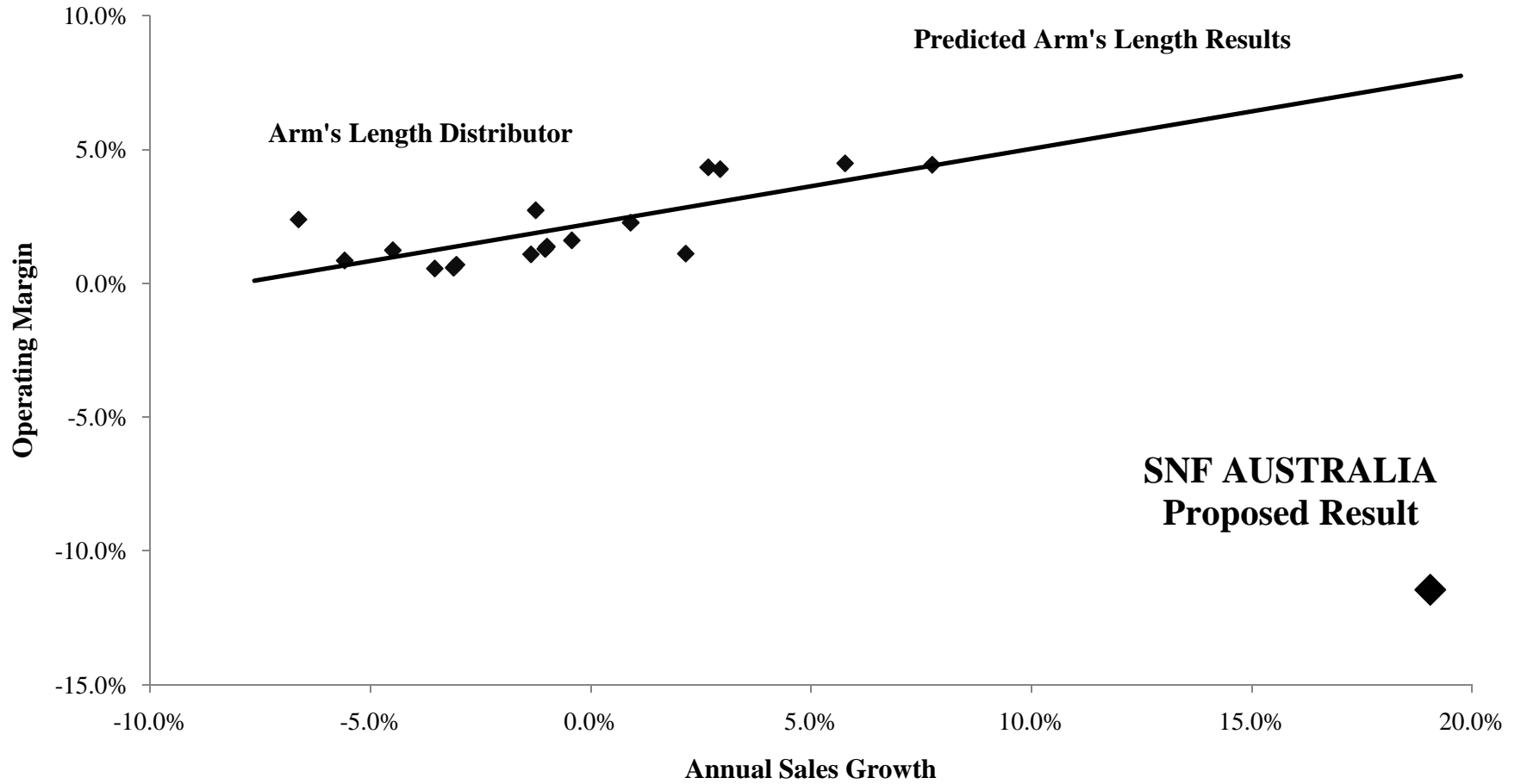
/1/: This calculation can be seen graphically in **Table 11** where statistical methods draw a line that match the relationship between growth and sales.

Source:

(1) Standard and Poor's. (31 October 2008). Compustat (Global) Database.

**Table 11:**

**SNF AUSTRALIA Proposed Results Compared to Analogous OECD Country Distributors: 1997-2003**

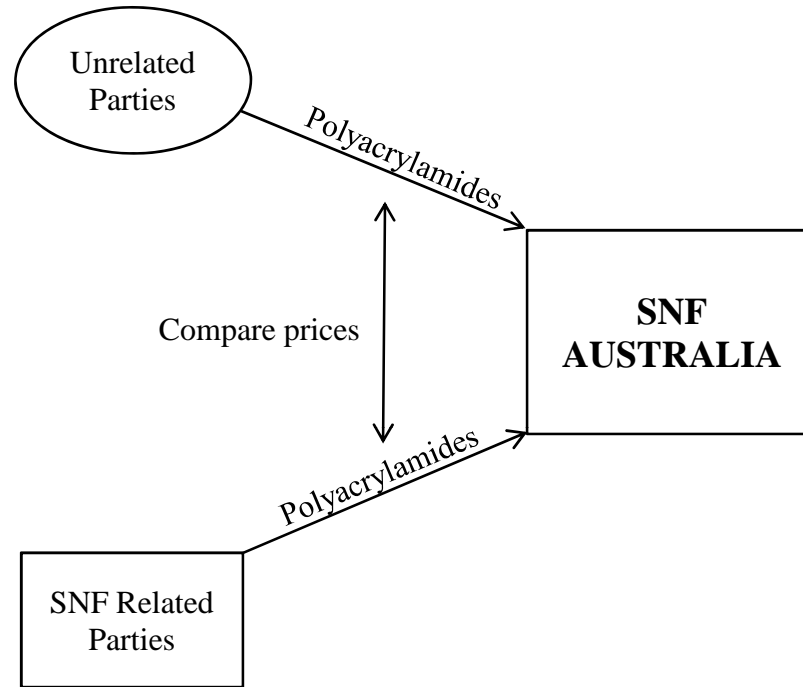


Source:  
(1) **Table 10.**

**Transfer Pricing Step 2--Affirmative Valuation: Tables 12A-16B**

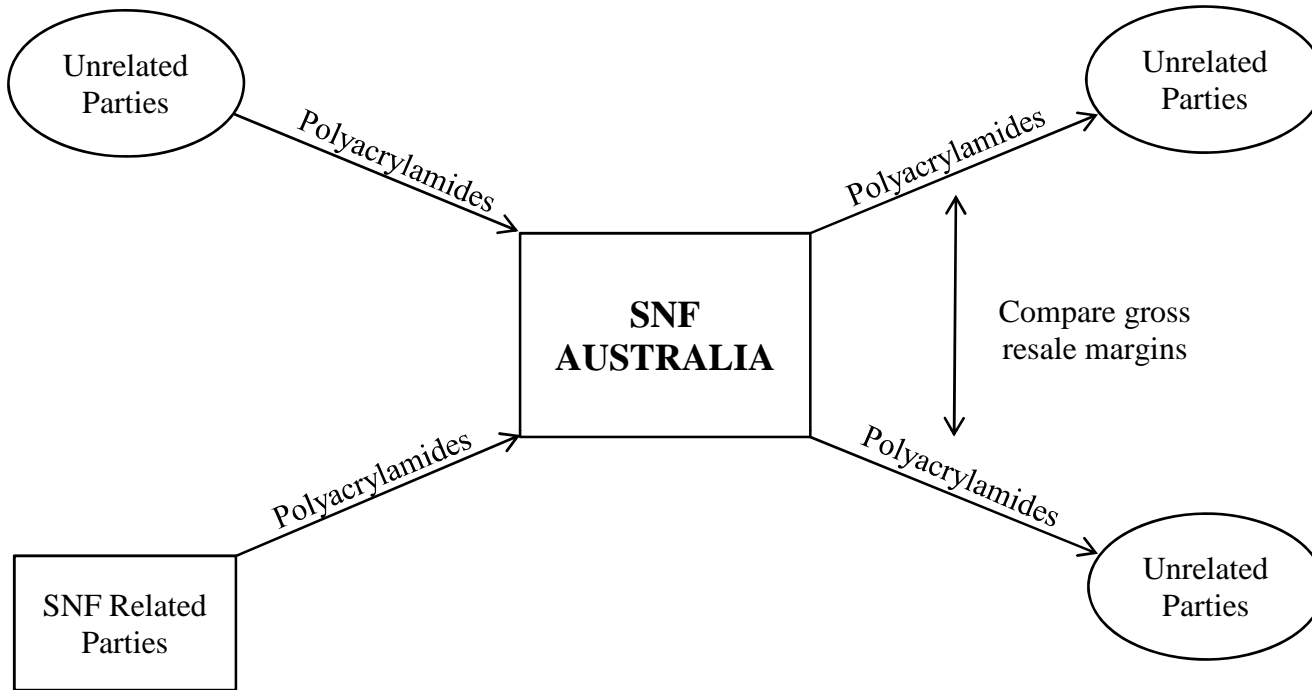
**Table 12A:**

**Potential CUPs Using Independent Purchases by SNF AUSTRALIA**



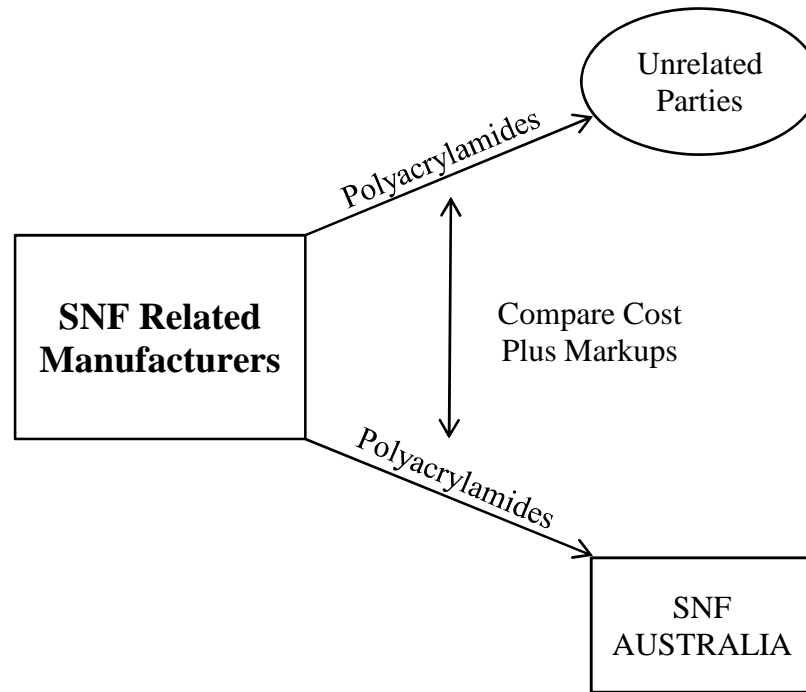
**Table 12B:**

**Potential Resale Price Approach**



**Table 12C:**

**Potential Cost Plus Approach**



**Table 13A:**

**Operating Profit Margins for BECKER REPORT Benchmark Companies in OECD Countries: 1997-2003**

<b>Company</b>	<b>Country</b>	<b>SIC</b>	<b>Operating Margin</b>
ASHLAND INC /1/	United States	5160	2.4%
HUNUS INC	Korea	5160	4.4%
NAGASE & CO LTD	Japan	5160	1.4%
RIKENGREEN CO LTD	Japan	5160	2.7%
SAKAI TRADING CO LTD	Japan	5160	1.6%
SANKYOKASEI CORP	Japan	5160	1.2%
SODA NIKKA CO LTD	Japan	5160	0.7%
Bottom of Interquartile Range			1.2%
<b>Median</b>			<b>1.6%</b>
Top of Interquartile Range			2.7%

Note:

/1/: ASHLAND INC's distribution and chemical operations reported an operating margin of 1.9 percent over the period at issue. Using this figure would not impact my median calculation.

Sources:

- (1) Standard and Poor's. (31 October 2008). Compustat (Global) Database.
- (2) Ashland Inc. (Undated). Form 10-K for the Fiscal Years Ended September 30, 1999, 2002-2003.
- (3) **Tables D1-D2.**

**Table 13B:**

**Operating Profit Margins for BECKER REPORT Benchmark Companies in  
Australia: 1997-2003**

<b>Company</b>	<b>Country</b>	<b>SIC</b>	<b>Operating Margin</b>
ALESCO CORPORATION LTD	Australia	5000	2.6%
AUSTRALIAN PHARM INDS LTD	Australia	5122	1.6%
COVENTRY GROUP LTD	Australia	5013	2.0%
CPI GROUP LTD	Australia	5110	1.1%
Bottom of Interquartile Range			1.3%
<b>Median</b>			<b>1.8%</b>
Top of Interquartile Range			2.3%

Sources:

(1) Standard and Poor's. (31 October 2008). Compustat (Global) Database.

(2) **Tables E1-E2.**



**Table 14A:****BECKER REPORT Arm's Length Return for SNF AUSTRALIA Distribution Operations: 1997-2003**

<b>(\$ 000)</b>	<b>1997-2003</b>	<b>Formula</b>	<b>Source</b>
SNF AUSTRALIA Sales	\$93,640	a	Table 1A
Arm's Length Operating Margin /1/	1.7%	b	Tables 13A & 13B
SNF AUSTRALIA's Arm's Length Return	\$1,578	$c = a*b$	Calculation
SNF AUSTRALIA's Reported Profit	(\$10,722)	d	Table 1A
<b>Arm's Length Adjustment</b>	<b>\$12,300</b>	$e = c-d$	Calculation
Taxpayer Proposed Cost of Sales	\$77,609	f	Table 1A
<b>Adjusted Cost of Sales (Transfer Price)</b>	<b>\$65,308</b>	$g = f-e$	Calculation

Note:

/1/: This single point represents the midpoint of the OECD and Australian benchmark companies.

**Table 14B:****Annual Adjustments for SNF AUSTRALIA: 1997-2003**

<b>(\$ 000)</b>	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>Total</b>	<b>Formula</b>	<b>Source</b>
Sales	\$7,342	\$9,737	\$10,762	\$14,033	\$16,056	\$16,905	\$18,805	\$93,639.8	a	Table 1A
SNF AUSTRALIA's Reported Profit	(\$2,018)	(\$430)	(\$2,229)	(\$366)	(\$1,397)	(\$2,038)	(\$2,243)	(\$10,722)	b	Table 1A
Arm's Length Operating Margin	1.7%	1.7%	1.7%	1.7%	1.7%	1.7%	1.7%	1.7%	c	Table 14A
SNF AUSTRALIA's Arm's Length Return	\$124	\$164	\$181	\$237	\$271	\$285	\$317	\$1,578	d = a*c	Calculation
<b>Annual Adjustments</b>	<b>\$2,142</b>	<b>\$594</b>	<b>\$2,411</b>	<b>\$603</b>	<b>\$1,668</b>	<b>\$2,323</b>	<b>\$2,560</b>	<b>\$12,300</b>	e = d-b	Calculation

**Table 14C:**

**BECKER REPORT Calculation of Arm's Length Transfer Prices Normalized to \$100 Sale Price**

<b>SNF AUSTRALIA (1997-2003)</b>	<b>Taxpayer Proposed Normalized to \$100 Sale Price</b>	<b>BECKER REPORT Normalized to \$100 Sale Price</b>	<b>Formula</b>	<b>Source</b>
Sales	\$100.00	\$100.00	a	Table 1C
Selling/Operating Expenses	\$28.57	\$28.57	b	Table 1C
<b>Net Sale Price (After Selling Expense)</b>	\$71.43	\$71.43	c = a-b	Calculation
<b>Arm's Length Cost of Sale (Transfer Prices)</b>	<b>\$82.88</b>	<b>\$69.74</b>	d	Tables 1C & 14A
<b>Arm's Length Operating Profit (Loss)</b>	<b>-\$11.45</b>	<b>\$1.69</b>	e = c-d	Calculation

**Table 15:**

**Statistical Ranges for SNF AUSTRALIA's Operating Margins: 1997-2003**

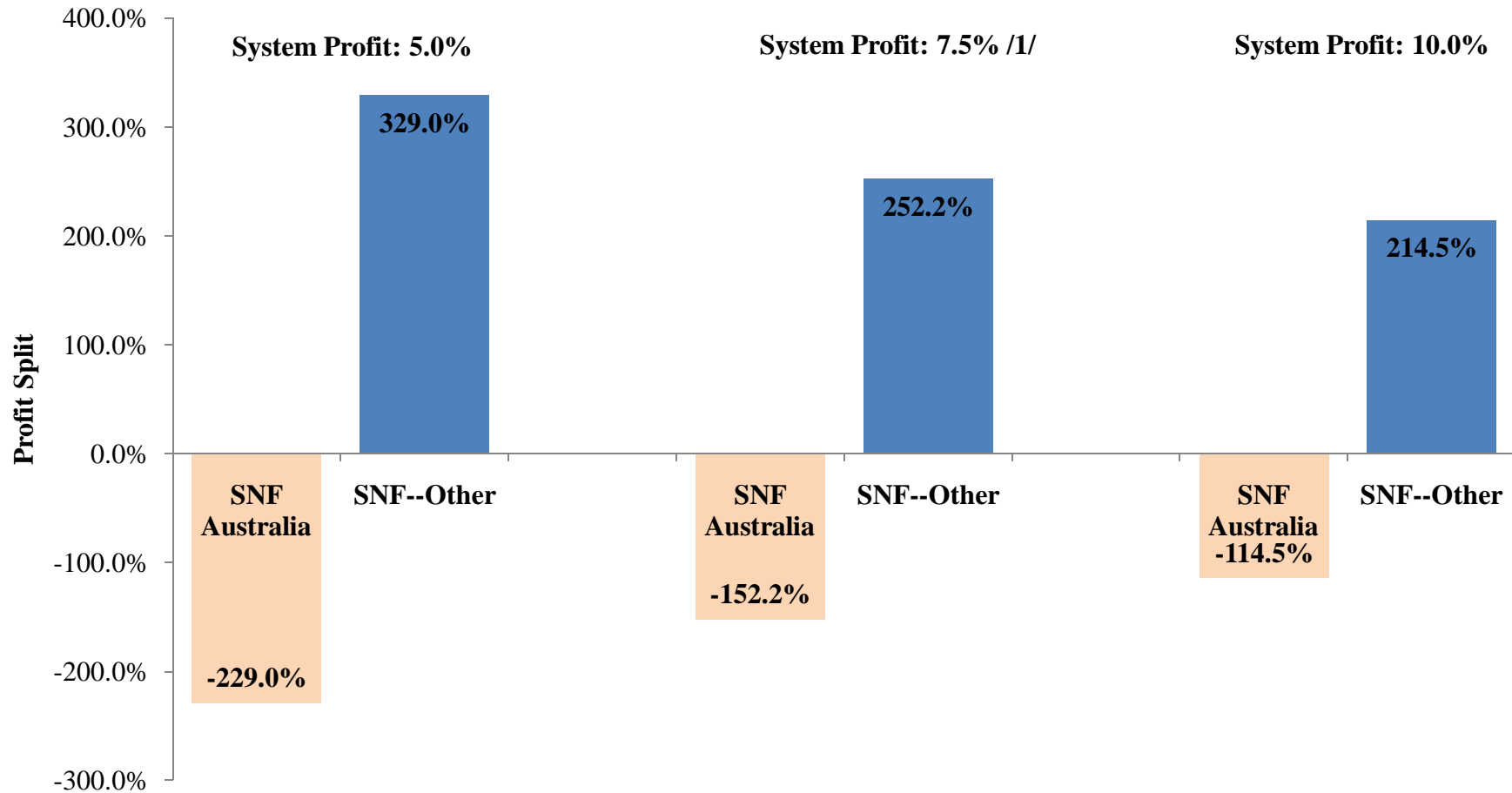
<b>Statistical Range of Operating Margins for SNF AUSTRALIA Based on:</b>	<b>Low End of Range</b>	<b>High End of Range</b>
<b>Interquartile Range</b>		
OECD Benchmark Companies	1.2%	2.7%
Australian Benchmark Companies	1.3%	2.3%
<b>Total Range: Minimum to Maximum</b>		
OECD Benchmark Companies	0.7%	4.4%
Australian Benchmark Companies	1.1%	2.6%
<b>95 Percent Confidence Interval /1/</b>		
OECD Benchmark Companies	0.9%	3.2%
Australian Benchmark Companies	0.8%	2.8%
<b>Regression Predicted Operating Margin for SNF AUSTRALIA</b>		
Based on Growth (See <b>Table 10</b> )		7.6%
<b>Proposed Operating Margins for SNF AUSTRALIA</b>		
<b>Proposed by Taxpayer</b>	<b>-11.5%</b>	
<b>Proposed by BECKER REPORT</b>	<b>1.7%</b>	

Note:

/1/: The confidence intervals are based on a t-distribution with degrees of freedom equal to the number of companies in the sample minus one.

**Table 16A:**

**Profit Splits Based on SNF AUSTRALIA Proposed Transfer Prices**



Note:

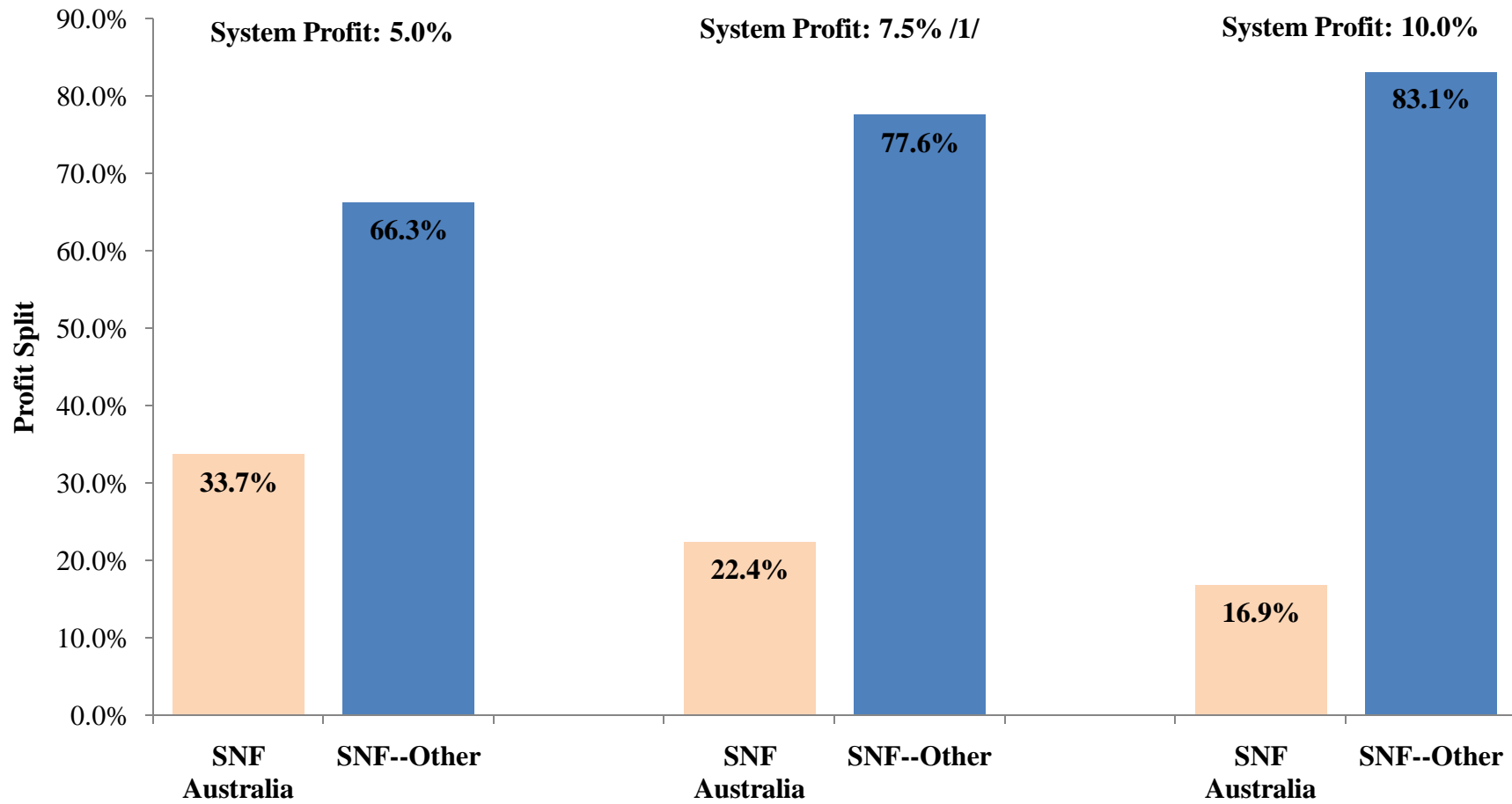
/1/: The 7.5 percent system profit is based on the SNF consolidated income statement for the period at issue.

Sources:

(1) Tables 1A & 2A.

**Table 16B:**

**Profit Splits Based on BECKER REPORT Transfer Prices**



Note:

/1/: The 7.5 percent system profit is based on the SNF consolidated income statement for the period at issue.

Sources:

(1) **Tables 2A & 14A.**

**Statement of Brian C. Becker**

**APPENDICES**

**Statement of Brian C. Becker**

**APPENDIX A**





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### **EDUCATION**

The Wharton School of the University of Pennsylvania, Philadelphia, PA

- Ph.D., Applied Economics (1993)
- M.A., Applied Economics (1991)

The Johns Hopkins University, Baltimore, MD

- B.A., Applied Mathematics and Economics (1988)

### **PRESENT POSITION**

PRECISION ECONOMICS, LLC, Washington, DC, 2001 - present  
President and CEO

- Prepared more than 250 transfer pricing reports for taxpayers, the IRS, the Australian Taxation Office, and other tax authorities on a variety of issues, including tangible property, cost sharing, intangible property, intercompany loans, guarantee fees, and service fees.
- Served as a lead transfer pricing economic expert for the IRS in the largest transfer pricing dispute and settlement on record, GlaxoSmithKline Holdings (Americas) v. Commissioner of Internal Revenue, in which Glaxo paid \$3.4 billion.
- Served as an economic expert witness in the first major transfer pricing litigation in Australia--providing direct and cross examination testimony in support of a written expert report in Roche Products Pty. Ltd. vs. Federal Commissioner of Taxation.
- Provided testimony and economic reports involving catfish, various steel products, and pineapples in hearings before the U.S. International Trade Commission.
- Determined lost sales and profits to a retailer damaged by the 9/11 disaster, in an expert report and in oral testimony before an arbitration panel.
- Provided written and oral expert valuation testimony in U.S. Tax Court involving minority interests in a privately held publishing business.
- Submitted an economic expert report and provided testimony in an intellectual property and business valuation dispute before Delaware Chancery Court.
- Submitted economic expert witness affidavits in investor class action litigation involving the specialists of the New York Stock Exchange.

### **EXPERT TESTIMONY, SUBMISSIONS AND HEARINGS**

"Damages Rebuttal Expert Report," United States District Court, Southern District of Florida, Case No. 07-80826, June 16, 2008, Deposition Testimony, Washington, DC, June 27, 2008.

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“Punitive Damages Report,” in KATHLEEN McCORMACK et al. v. WYETH et al., Superior Court of the District of Columbia, Civil Case No. 02-CA-6082, Deposition Testimony, May 20, 2004.



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“Third Affidavit of Brian C. Becker, Ph.D.,” in CALIFORNIA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM, On Behalf of Itself and All Others Similarly Situated vs. THE NEW YORK STOCK EXCHANGE, INC., et. al., United States District Court, Southern District of New York, Civil Action No. 03-CV-9968-UA, April 6, 2004.

“Second Affidavit of Brian C. Becker, Ph.D.,” in CALIFORNIA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM, On Behalf of Itself and All Others Similarly Situated vs. THE NEW YORK STOCK EXCHANGE, INC., et. al., United States District Court, Southern District of New York, Civil Action No. 03-CV-9968-UA, January 16, 2004.

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- 1) “Projected and Actual Profits’ Impact on Licensees,” *Tax Management Transfer Pricing Report*, Vol. 17, No. 11, October 9, 2008, pp. 461-466.
- 2) “The Economics of Cost Sharing Buy-Ins: Questions and Answers,” *Tax Management Transfer Pricing Report*, Vol. 16, No. 24, April 24, 2008, pp. 950-953.
- 3) “Benchmarking Manufacturing or Distribution Entities Against the Profits of Consolidated Companies,” *Tax Management Transfer Pricing Report*, Vol. 13, No. 5, July 7, 2004, pp. 236-237.



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- 4) "An Examination of Goodwill Valuation Methodologies," *Corporate Governance Advisor*, Vol. 10, No. 4, July/August 2002, pp. 35-40 (with M. Riedy and K. Sperduto).
- 5) "Comparable Profits Method: Accounting for Margin and Volume Effects of Intangibles," *Tax Management Transfer Pricing Report*, Vol. 10, No. 19, February 6, 2002, pp. 831-833.
- 6) "Cost Sharing Buy-Ins" Chapter in *Transfer Pricing Handbook*, 3rd Edition, and *Transfer Pricing International*, edited by Robert Feinschreiber, John Wiley & Sons, 2002, pp. A-3 - A-16.
- 7) "Cost Sharing Buy-Ins," *Corporate Business Taxation Monthly*, Vol. 3, No. 3, December 2001, pp. 26-35.
- 8) "Further Thoughts on Cost Sharing Buy-Ins: A Review of the Market Capitalization and Declining Royalty Methods," *Tax Management Transfer Pricing Report*, Vol. 10, No. 6, July 11, 2001, pp. 195-197.
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- 12) "Transfer Pricing and Foreign Exchange Risk," *Tax Management Transfer Pricing Report*, Vol. 8, No. 6, July 14, 1999, pp. 251-256 (with M. Bajaj and J. Neuberger).
- 13) "The Control Premium: An Initial Look Into a Strict Monetary Value Approach," *Business Valuation Digest*, Vol. 5, No. 1, July 1999, pp. 12-15.
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- 17) "The Effects of Inflation on Cross-Country Profit Comparisons," *Tax Management Transfer Pricing Report*, Vol. 7, No. 3, June 3, 1998, pp. 77-82 (with B. Brooks).
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- 19) "Minority Interests in Market Valuation: An Adjustment Procedure," *Business Valuation Review*, Volume 16, Number 1, March 1997, pp. 27-31.





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- 20) "Capital Adjustments: A Short Overview," *Tax Management Transfer Pricing Report*, Vol. 5, No. 19, January 29, 1997, pp. 613-619.
- 21) "Multiple Approaches to Valuation: The Use of Sensitivity Analysis," *Business Valuation Review*, Volume 15, Number 4, December 1996, pp. 157-160.
- 22) "The Robin Hood Bias: A Study of Biased Damage Awards," *The Journal of Forensic Economics*, Volume 9, No. 3, Fall 1996, pp. 249-259.
- 23) "Three Technical Aspects of Transfer Pricing Practice: Distinguishing Methods, Using Statistical Ranges, and Developing Data Sets," *Tax Management Transfer Pricing Report*, Vol. 5, No. 4, June 19, 1996, pp. 97-103.
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- 25) "Philadelphia's Luxury Hotels: Boom or Bust?," *The Cornell Hotel and Restaurant Administration Quarterly*, Volume 33, #2, pp. 33-42, 1992.

## **PROFESSIONAL SEMINARS**

- "Economic Aspects of Transfer Pricing Principles," Speaker, CITE Conference on U.S. Transfer Pricing Planning and Controversies, Chicago, Illinois, November 2-3, 2009 (forthcoming).
- "Economic Aspects of Transfer Pricing Principles," Speaker, CITE Conference on U.S. Transfer Pricing Planning and Controversies, Houston, Texas, June 8-9, 2009 (forthcoming).
- "Fundamentals of Transfer Pricing," Conference Chair, IIR Seminar, London, UK, October 29, 2008.
- "Fundamentals of Transfer Pricing," Speaker on Transfer Pricing Methods, IIR Seminar, London, UK, June 11, 2008.
- "Transfer Pricing," Guest Lecturer at The George Washington University Law School, March 26, 2008.
- "Economics of Private Student Loans," Speaker on the 2008 National Council of Higher Education Loan Programs Leadership Conference: As the Dust Settles, Sarasota, FL, January 9, 2008.
- "Economists in Transfer Pricing: Intangibles, Audits, and APAs," Council for International Tax Education, Inc.: U.S. Transfer Pricing Planning and Controversies, Houston, TX, October 15, 2007.
- "New IRS Rules for Transfer Pricing of Services," Strafford Publications Teleconference Speaker on Methods and Services Sharing Agreements, July 10, 2007.
- "New IRS Rules for Transfer Pricing of Services," Strafford Publications Teleconference Speaker on Methods and Services Sharing Agreements, May 8, 2007.
- "Economists in Transfer Pricing: Intangibles, Audits, and APAs," Council for International Tax Education, Inc.: U.S. Transfer Pricing Planning and Controversies, Washington, DC, April 23, 2007.



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“Profitability and R&D for PhRMA,” Pharmaceutical Research and Manufacturers of America Conference, Charlottesville, VA, January 26, 2007.

“Economics of Mass Tort: Lead Paint,” Gerson Lehrman Group Seminar, New York, NY, November 16, 2005.

“Understanding the Issues Involved in the Valuation of Intangibles,” Transfer Pricing: Best Practices for Managing the Corporate Transfer Pricing Function, Infonex Seminar, San Francisco, CA, October 27, 2005.

“Maximizing Revenue, Minimizing Taxpayer Burden,” Emcee and Speaker for Discussion of “Revenue Matters,” National Press Club, Washington, DC, June 7, 2005.

“Intangible Valuation in Transfer Pricing,” Transfer Pricing Roundtable: Best in Class Practices for Companies, Infonex Seminar, New York, NY, May 25, 2005.

“Transfer Pricing Workshop,” Workshop Chair and Speaker, IIR Ltd., London, UK, April 25, 2005.

“The Steel Industry: An Automotive Supplier Perspective,” National Press Club, Washington, DC, February 16, 2005 (with Kevin Hassett.)

“Probability and Statistics,” Digital Sandbox Risk Analysis Seminar Series, Reston, Virginia, October 14, 2004.

“The Economics of Transfer Pricing: Independent Arm’s Length Analysis,” Council for International Tax Education: U.S. Transfer Pricing Planning & Controversies, New York, NY, August 16, 2004.

“Transfer Pricing Workshop,” Workshop Chair and Speaker, IIR Ltd., London, UK, April 21, 2004.

“Economists in Transfer Pricing: Independence, Methodologies, and Case Study,” Council for International Tax Education: U.S. Transfer Pricing 101, New York, NY, February 23, 2004.

“Profitability Analysis of NYSE Trading Specialists,” American Enterprise Institute Seminar Series, Washington, DC, October 8, 2003.

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- “Valuation of Intangible Property and Cost Sharing Arrangements,” Economist Group of the Internal Revenue Service, San Francisco, CA, June 25, 2002.
- “Valuation of Intangible Property and Cost Sharing Arrangements,” Southeast Region of Internal Revenue Service, Atlanta, GA, May 10, 2002.
- “Economists in Transfer Pricing: CPM and Cost Sharing,” Council for International Tax Education: U.S. Transfer Pricing Planning & Compliance, Washington, DC, May 6-7, 2002.
- “Pricing Cost Sharing Buy-Ins and Other Intercompany Transfers,” Council for International Tax Education: U.S. Transfer Pricing Planning & Compliance, New York, NY, November 15-16, 2001.
- “Pricing Cost Sharing Buy-Ins and Other Intercompany Transfers,” ATLAS Intermediate U.S. International Tax Update, Cleveland, Ohio, November 5, 2001.
- “Cost Sharing Buy-Ins: Market Capitalization, Declining Royalty, and Other Methods,” Internal Revenue Service Annual Economist Convention, Washington, DC, July 25, 2001.
- “The Relative Values of Early and Late Stage Research & Development,” presentation to Shaw Pittman, McLean, Virginia, March 28, 2001.
- “Valuation Concepts in Family Limited Partnerships,” two hour presentation to Internal Revenue Service Northeast Engineers, Fort Monmouth, New Jersey, August 30, 2000.
- “The Discounted Cash Flow Method and Other Valuation Concepts,” two hour presentation to IRS Kansas and Missouri District Estate & Gift Tax attorneys and managers, Kansas City, Kansas, October 4, 1999.
- “The Discounted Cash Flow Method and Other Valuation Concepts,” presentation to IRS New York District Estate & Gift Tax attorneys and managers, New York, NY, August 16, 1999.
- “Business Valuation,” national closed circuit televised broadcast for Internal Revenue Service Estate Tax Agents, September 23, 1997 (with J. Murphy).
- “Valuation and Finance Principles Applied to Transfer Pricing,” a presentation to IRS and Treasury Department economists, Washington, DC, September 11, 1997 (with T. Reichert).
- “The Peculiar Market for Commercial Property: An Economically Irrational Situation,” Southwestern Economics Association Annual Meeting, Houston, Texas, March 23, 1996.
- “The Robin Hood Bias: A Study of Biased Damage Awards,” Southwestern Economics Association Annual Meeting, Houston, Texas, March 22, 1996.
- “Quantifying Comparability for Applications in International Trade and Intercompany Transfer Pricing: The Weighted Distance Method of Analyzing Comparability,” Southwestern Economics Association Annual Meeting, Houston, Texas, March 21, 1996.
- “Some Economic Issues in Transfer Pricing,” World Trade Institute: Tax Aspects of Intercompany Transfer Pricing, New York, NY, November 9-10, 1995.

## **MEDIA AND POPULAR PRESS**

- Bloomberg Television Interview, New York Stock Exchange Trading Specialists, October 8, 2003.





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## **BRIAN C. BECKER, Ph.D.**

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“Valuation Evaluation: How to Determine the Size of Interest in an LLC,” CFO.com, [Ask the Experts](#), August 31, 2001.

### **CONSULTING EXPERIENCE**

CRITERION FINANCE, L.L.C., Washington, DC, 2001 - 2001  
Partner and Senior Vice President

- Authored expert reports and articles on various transfer pricing topics, including cost sharing buy-ins.
- Wrote an expert report and provided deposition testimony estimating damages to a music database corporation from the anti-competitive acts of a competitor.

LECG, LLC, Washington, DC, 1999 - 2001  
Senior Managing Economist

- Served as an economic expert in a pharmaceutical patent dispute regarding the relative values of early and late stage compounds.
- Submitted expert report on the process used to determine financial viability for state certified transportation services.

ECONOMIC CONSULTING SERVICES INC., Washington, DC, 1995 - 1999  
Senior Economist (promoted from Economist)

- Analyzed transfer prices for corporations in a number of industries, including oil products, pharmaceuticals, consumer products, and software.
- Testified as an economic expert in international trade matters before the Canadian International Trade Tribunal and the U.S. International Trade Commission.

ARTHUR ANDERSEN, L.L.P., Washington, DC, 1994 - 1995  
Manager, Economics Group

- Directed more than 20 transfer pricing studies.
- Submitted an expert witness report on executive compensation in Tax Court.

DELOITTE & TOUCHE NATIONAL TAX OFFICE, Washington, DC, 1992 - 1994  
Senior Consultant, Economics Group

- Performed numerous tax economic analyses, primarily transfer pricing.
- Participated in seminars regarding transfer pricing and international taxation.



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THE JOHNS HOPKINS UNIVERSITY, Washington, DC, 1997 - 2002  
Visiting Professor of Finance

- MBA level Corporate Finance and Derivative Security courses.

MARYMOUNT UNIVERSITY, School of Business, Arlington, VA, 1993 - 1995  
Visiting Professor of Statistics

- MBA and undergraduate level Statistics courses.

THE GEORGE WASHINGTON UNIVERSITY, School of Business and Policy Management,  
Washington, DC, 1992-1993  
Visiting Professor of Management Science

- MBA level Productions and Operations Management course.

UNIVERSITY OF PENNSYLVANIA, The Wharton School, Decision Sciences Department,  
Philadelphia, PA, 1988 - 1990  
Instructor

- Undergraduate level Computer Applications courses.

March 2009

**Statement of Brian C. Becker**

**APPENDIX B**

## Statement of Brian C. Becker

### Appendix B: List of Documents Relied Upon

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**Statement of Brian C. Becker**

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**Statement of Brian C. Becker**

**APPENDIX C**

## Statement of Brian C. Becker

### Appendix C: Companies Used in Statistical Analyses

#### I. Step One – Determine a List of Possible Chemical Wholesale Distributors in High-Income OECD Countries

##### a. *Background for Use of SIC Codes*

The Standard Industrial Classification (“SIC”) system is relied upon to establish industry-wide benchmarks. This system is structured on an industry basis and is used to promote the comparability of data describing various industries in the economy. Major industry groups are categorized under two-digit SIC codes. Extensions of these codes to three or four digits indicate a narrower industry definition.<sup>1</sup>

To identify the SIC codes to use in the search, I accessed the descriptions provided at [www.census.gov](http://www.census.gov). I utilized four-digit SIC codes to produce companies with specific industry definitions that best match the operations of SNF AUSTRALIA during the tax years at issue.

##### b. *SIC Codes for SNF AUSTRALIA*

To determine a list of possible chemical wholesale distributors, three SIC codes were used:

- 5160: Chemicals and Allied Products;
- 5162: Plastics Materials and Basic Forms and Shapes; and
- 5169: Chemicals and Allied Products, Not Elsewhere Classified.

Upon identifying the SIC codes that best matched SNF AUSTRALIA, I searched the Compustat (Global)<sup>2</sup> database with the requirement that the firms were incorporated in a high-

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<sup>1</sup> A new system of industry classification was implemented in 1997 called North American Industry Classification System (“NAICS”) codes. However, practitioners still commonly use SIC codes to establish industry benchmarks.

<sup>2</sup> Produced by Standard and Poor’s, Compustat (Global) provides financial, business description, earnings, stock and other company specific data for publicly-held companies around the globe. Compustat reports all companies’ financial information on a consistent template for comparison purposes. In doing so, Compustat makes various adjustments to company data. I have accepted the data as provided by Compustat.

income OECD country.<sup>3</sup> Searching the Compustat (Global) database of over 35,000 companies<sup>4</sup> generated an output of 29 companies<sup>5</sup> categorized in the SIC codes listed above and incorporated in a high-income OCED member country.

## II. Step Two – Further Review of Financial Data

Once the 29 companies with similar activities as SNF AUSTRALIA's operations were selected, I compiled financial data for each company covering the fiscal years 1996-2003. Using these data, I further narrowed my search by rejecting potential benchmarks if:

- Financial data were not available for the years 1996-2003.
- The company performed a significant amount (greater than five percent sales) of research and development activities.

First, I selected only companies that had financial data available for the fiscal years 1996-2003. Using multiple years of financial data as compared to only one or two years of data provides a more accurate measure of profitability over the time period at issue. Furthermore, ensuring that a company had been in operation for multiple years limits the effect of sub-normal operating margins of start-ups. Following this step of the search process, only 17 companies remained.

Second, to confirm that the potential benchmark distributors did not perform significant research and development (R&D) activities, I computed the ratio of R&D to sales for each of the remaining 17 potential benchmarks. Utilizing data from the Compustat (Global) database, any company with a R&D to sales ratio of more than five percent was eliminated. This constraint had no impact on the number of potential chemical wholesale distributors. See **Table C1**.

Companies selected as chemical wholesale distributors are:

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<sup>3</sup> The World Bank classifies the following 27 countries as high-income OECD member countries: Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Korea, Luxemburg, Netherlands, New Zealand, Norway, Portugal, Slovak Republic, Spain, Sweden, Switzerland, United Kingdom, and United States. The World Bank. "Data & Statistics." *WorldBank*. Retrieved 7 January 2009 from <http://web.worldbank.org/WBSITE/EXTERNAL/DATASTATISTICS/0,,contentMDK:20421402~pagePK:64133150~piPK:64133175~theSitePK:239419,00.html>.

<sup>4</sup> Both the Research and Current Compustat (Global) databases as of 31 October 2008 were utilized.

<sup>5</sup> My search originally produced 30 companies, but I eliminated AMPAL AMERICAN ISRAEL because most of the company's operations are in Israel, which is not a high income OECD country.

1. ACETO CORP;
2. ASHLAND INC;
3. HUNUS INC;
4. INABATA & CO LTD;
5. MITANI SANGYO CO LTD;
6. NAGASE & CO LTD;
7. PARKER CORP;
8. RIFA INDUSTRIAL CO;
9. RIKENGREEN CO LTD;
10. SAKAI TRADING CO LTD;
11. SAM YUNG TRADING CO LTD;
12. SANKYOKASEI CORP;
13. SHOKO CO LTD;
14. SODA NIKKA CO LTD;
15. TAIHOKOHZAI CO LTD;
16. TAIYO KOGYO CO LTD; and
17. TOHOKU CHEMICAL CO LTD.

### **III. Step Three – Statistical Presentation of Profitability and Growth**

For each chemical wholesale distributor, I computed the operating margin (1997-2003) and annual sales growth rate (1996-2003). All of the companies earn positive operating margins, and none grew more than 10 percent annually. I found a high correlation between the growth in

sales and operating profits. See **Table 10**. This relationship shown in **Table 11** would predict<sup>6</sup> (based upon SNF AUSTRALIA's growth rate of approximately 19.1 percent) that SNF AUSTRALIA's operating margins would have been approximately 7.6 percent over the period at issue.<sup>7</sup> See **Tables 10-11** and below.

**Financial Results of Worldwide Independent Distributors and Proposed for SNF AUSTRALIA: 1997-2003**

<b>Independent Chemical Wholesaling Distributors</b>	<b>1997-2003</b>
Number of Companies with Negative Operating Margins	0
Number of Companies with Growth Over 10 Percent	0
Regression Predicted Operating Margin for SNF AUSTRALIA	7.6%
Proposed Operating Margin for SNF AUSTRALIA	-11.5%

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<sup>6</sup> Research also confirms this relationship between sales growth and profits, finding that there exists "a positive and significant influence of growth on profit rates, whether growth is measured in terms of sales, employment or value added." Coad, Alex. (2007). "Testing the principle of 'growth of the fitter': the relationship between profits and firm growth." *Structural Change and economic Dynamics*, p. 384.

<sup>7</sup> This prediction is based upon a statistical regression. Triola, Mario and LeRoy Franklin. (1994). *Business Statistics*. Addison-Wesley: USA, Chapter 12.

**Table C1:****Passage or Rejection of All OECD Distributors Based on Step II (without Keywords and Positive Operating Profit Criterion): 1996-2003**

No.	Company Name /1/	GVKEY	Country	SIC	Pass/Reject	Reason for Rejection
1	ACETO CORP	1094	USA	5160	Pass	Pass
2	ALLIED COLLOIDS GROUP PLC	100733	GBR	5160	Reject	Company did not have financial data for latest eight years.
3	ARPADIS GROUP SA	287457	BEL	5160	Reject	Company did not have financial data for latest eight years.
4	ASHLAND INC	1794	USA	5160	Pass	Pass
5	ELLIS & EVERARD PLC	100841	GBR	5160	Reject	Company did not have financial data for latest eight years.
6	HOEK LOOS NV	102090	NLD	5160	Reject	Company did not have financial data for latest eight years.
7	HOLLAND CHEMICAL INTL NV	216260	NLD	5160	Reject	Company did not have financial data for latest eight years.
8	HUNUS INC	286842	KOR	5160	Pass	Pass
9	INABATA & CO LTD	203265	JPN	5160	Pass	Pass
10	LOOSER HOLDING AG	279151	CHE	5160	Reject	Company did not have financial data for latest eight years.
11	MITANI SANGYO CO LTD	205582	JPN	5160	Pass	Pass
12	NAGASE & CO LTD	102791	JPN	5160	Pass	Pass
13	NUFCOR URANIUM LTD	278443	GBR	5160	Reject	Company did not have financial data for latest eight years.
14	PARKER CORP	202441	JPN	5160	Pass	Pass
15	PLA MATELS CORP	248906	JPN	5160	Reject	Company did not have financial data for latest eight years.
16	RIFA INDUSTRIAL CO	211860	KOR	5160	Pass	Pass
17	RIKENGREEN CO LTD	202453	JPN	5160	Pass	Pass
18	SAFIC ALCAN & CIE	102961	FRA	5160	Reject	Company did not have financial data for latest eight years.
19	SAKAI TRADING CO LTD	206008	JPN	5160	Pass	Pass
20	SAM YUNG TRADING CO LTD	208933	KOR	5160	Pass	Pass
21	SANKYOKASEI CORP	205509	JPN	5160	Pass	Pass
22	SHOKO CO LTD	208021	JPN	5160	Pass	Pass
23	SODA NIKKA CO LTD	208146	JPN	5160	Pass	Pass
24	STRUTHERS INDUSTRIES INC	10112	USA	5160	Reject	Company did not have financial data for latest eight years.
25	TAIHOKOHZAI CO LTD	204250	JPN	5160	Pass	Pass
26	TAIYO KOGYO CO LTD	206405	JPN	5160	Pass	Pass
27	TOHOKU CHEMICAL CO LTD	206338	JPN	5160	Pass	Pass
28	UNIVAR CORP	11003	USA	5160	Reject	Company did not have financial data for latest eight years.
29	UNIVAR NV	252179	NLD	5160	Reject	Company did not have financial data for latest eight years.

Note:

/1/: My search originally produced 30 companies, but I eliminated AMPAL AMERICAN ISRAEL because most of the company's operations are in Israel, which is not a high income OECD country.

Source:

(1) Standard and Poor's. (31 October 2008). Compustat (Global) Database.

**Statement of Brian C. Becker**

**APPENDIX D**

## Statement of Brian C. Becker

### Appendix D: Worldwide Search for Benchmark Companies for TNMM Analysis

#### I. Step One – Determine a List of Possible Benchmark Companies in High Income OECD Countries

##### a. *Background for Use of SIC Codes*

The Standard Industrial Classification (“SIC”) system is relied upon to establish industry-wide benchmarks. This system is structured on an industry basis and is used to promote the comparability of data describing various industries in the economy. Major industry groups are categorized under two-digit SIC codes. Extensions of these codes to three or four digits indicate a narrower industry definition.<sup>1</sup>

To identify the SIC codes to use in the search for worldwide TNMM benchmarks, I accessed the descriptions provided at [www.census.gov](http://www.census.gov). I utilized four-digit SIC codes to locate benchmarks with specific industry definitions that best match the operations of SNF AUSTRALIA during the tax years at issue.

##### b. *SIC Codes for SNF AUSTRALIA*

To determine a list of possible benchmark companies with similar operations as SNF AUSTRALIA, three SIC codes were used:

- 5160: Chemicals and Allied Products;
- 5162: Plastics Materials and Basic Forms and Shapes; and
- 5169: Chemicals and Allied Products, Not Elsewhere Classified.<sup>2</sup>

Upon identifying the SIC codes that best matched SNF AUSTRALIA, I searched the Compustat (Global)<sup>3</sup> database with the requirement that the firms were incorporated in a high-

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<sup>1</sup> A new system of industry classification was implemented in 1997 called North American Industry Classification System (“NAICS”) codes. However, practitioners still commonly use SIC codes to establish industry benchmarks.

<sup>2</sup> There existed may more worldwide than Australian companies, allowing a more refined/narrow set of SIC code classification in this Appendix (worldwide companies).

<sup>3</sup> Produced by Standard and Poor’s, Compustat (Global) provides financial, business description, earnings, stock and other company specific data for publicly-held companies around the globe.



income OECD country.<sup>4</sup> In addition, I searched for companies with the words “acrylamide,” “coagula,” “floccula” and “polymer” in their business description provided by Compustat. Searching the Compustat (Global) database of over 35,000 companies<sup>5</sup> generated an output of 260 companies<sup>6</sup> categorized in the SIC codes listed above (or having one or more of the keywords) and incorporated in a high-income OECD member country.

## II. Step Two – Detailed Review of Financial Data

Once the 260 companies with similar activities as SNF AUSTRALIA’s activities were selected, I compiled financial data for each company covering the fiscal years 1997-2003. Using these data, I further narrowed my search by rejecting potential benchmarks if:

- Financial data were not available for the years 1997-2003.
- The company performed a significant amount (greater than five percent sales) of research and development activities.
- The company did not have a positive operating margin for the combined years 1997-2003.

First, I selected only companies that had financial data available for the fiscal years 1997-2003. Using multiple years of financial data as compared to only one or two years of data provides a more accurate measure of profitability over the time period at issue. Furthermore, ensuring that a company had been in operation for multiple years limits the effect of sub-normal operating margins of start-ups. Following this step of the search process, only 159 companies remained.

Second, to confirm that the potential benchmark companies did not perform significant research and development (R&D) activities, I computed the ratio of R&D to sales for each of the remaining 159 potential benchmarks. Any company with a R&D to sales ratio of more than five

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<sup>4</sup> The World Bank classifies the following 27 countries as high-income OECD member countries: Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Korea, Luxemburg, Netherlands, New Zealand, Norway, Portugal, Slovak Republic, Spain, Sweden, Switzerland, United Kingdom, and United States. The World Bank. “Data & Statistics.” *WorldBank*. Retrieved 7 January 2009 from <http://web.worldbank.org/WBSITE/EXTERNAL/DATASTATISTICS/0,,contentMDK:20421402~pagePK:64133150~piPK:64133175~theSitePK:239419,00.html>.

<sup>5</sup> Both the Research and Current Compustat (Global) databases as of 31 October 2008 were utilized.

<sup>6</sup> My search originally produced 261 companies, but I eliminated AMPAL AMERICAN ISRAEL because most of the company’s operations are in Israel, which is not a high income OECD country.

percent was eliminated. This constraint resulted in the elimination of 27 potential benchmark companies.

Lastly, I narrowed the search to include only companies that had a positive combined operating margin for the years 1997-2003. Persistent negative operating margins may be indicative of a company that is experiencing abnormal financial or operational difficulties. Following this step, only 126 companies remained. See **Table D1**.

### **III. Step Three – Detailed Review of Business Activities**

From the remaining 126 potential benchmark companies, I further refined the search by ensuring that the company had similar business operations as SNF AUSTRALIA. Potential benchmark companies were eliminated based upon reviews of their business descriptions provided by Compustat (Global), financial websites,<sup>7</sup> companies' own websites, and companies' annual reports. After rejecting most of these companies due to different functions, different products, and other reasons, 7 companies were confirmed to have business operations similar to SNF AUSTRALIA's chemical wholesale distribution. See **Table D2** and below.

1. ASHLAND INC;
2. HUNUS INC;
3. NAGASE & CO LTD;
4. RIKENGREEN CO LTD;
5. SAKAI TRADING CO LTD;
6. SANKYOKASEI CORP; and
7. SODA NIKKA CO LTD.

### **IV. Step Four – Determination of Arm's-Length Profit Level Indicators**

For each benchmark company, I computed the operating margin over 1997-2003. See **Table 13A**.

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<sup>7</sup> These websites included <http://finance.google.com/finance>, <http://investing.businessweek.com>, and <http://wrightreports.ecnext.com>.

**Profit Level Indicators for SNF AUSTRALIA's Worldwide Benchmarks: 1997-2003**

<b>Worldwide Benchmarks</b>	<b>Operating Margin (1997-2003)</b>
Bottom of Interquartile Range	1.2 percent
Median	1.6 percent
Top of Interquartile Range	2.7 percent

**V. Business Descriptions of Benchmark Companies****1. ASHLAND INC**

Web Address: <http://www.ashland.com>

SIC Code: 5160

Country: USA

**Business Description:**

“Ashland Inc. (Ashland) is a diversified, global chemical company, engaged in the manufacture of chemicals, distribution of chemicals and plastics, and provision of automotive lubricants, car-care products and quick-lube services. It operates in four segments: Ashland Performance Materials, Ashland Distribution, Valvoline and Ashland Water Technologies. Ashland Performance Materials is a manufacturer and supplier of specialty chemicals and customized services to the building and construction, transportation, metal casting, marine, and packaging and converting markets. Ashland Distribution distributes chemicals, plastics and composite raw materials. Valvoline is a marketer of packaged automotive lubricants, chemicals, appearance products, antifreeze and filters. Ashland Water Technologies supplies chemical and non-chemical water treatment solutions for industrial, municipal and commercial facilities.”<sup>8</sup>

**2. HUNUS INC**

Web Address: <http://www.lojit.com>

SIC Code: 5160

Country: Korea

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<sup>8</sup> ASHLAND's distribution and specialty chemical divisions constituted approximately 50 percent of its total consolidated sales over the period at issue. Examining only ASHLAND's distribution and specialty chemical operations, I found this division's operating margins to be slightly less than the overall company at 1.9 percent. “Ashland Inc. – Snapshot.” *Google Finance*. Retrieved 14 January 2009 from <http://www.google.com/finance?q=ashland>; Ashland Inc. (7 December 1999). Form 10-K for the Fiscal Year Ended September 30, 1999, p. 26; Ashland Inc. (3 December 2002). Form 10-K for the Fiscal Year Ended September 30, 2002, p. 32; and Ashland Inc. (1 December 2003). Form 10-K for the Fiscal Year Ended September 30, 2003, p. M-1.

Business Description:

“HUNUS, Inc. primarily distributes basic chemical products in South Korea. It supplies various chemical products, including monomers, solvents, acrylate, methacrylate, additives, hardners, initiator/catalysts, amines, urethane, and pigments/fillers. The company also distributes engineering plastics and super enpla products, and silicone products, as well as building materials, such as asphalt shingles, sidings, exterior items, hardwood flooring, laminated flooring, and wallboard. In addition, HUNUS distributes a line of inkjet and laserjet printers, color and digital printers, and related accessories and consumables. Further, it provides printer maintenance and training services, and pay per use services. The company, formerly known as LOJIT Corporation, was founded in 1975 and is headquartered in Seongnam-si, South Korea.”<sup>9</sup>

**3. NAGASE & CO LTD**

Web Address: <http://www.nagase.co.jp>

SIC Code: 5160

Country: Japan

Business Description:

NAGASE & CO LTD “...was established as a dyestuffs wholesaler in Kyoto in 1832. In 1900, it started importing synthetic dyestuffs from Chemical Industry of Basel. In the ensuing years, it has opened up new markets worldwide together with its customers and accumulated considerable know-how in its role as ‘a technology and intelligence oriented trading company.’ At the same time, it has enhanced its capabilities in new product R&D, manufacturing and processing.”<sup>10</sup>

**4. RIKENGREEN CO LTD**

Web Address: <http://www.rikengreen.co.jp>

SIC Code: 5160

Country: Japan

Business Description:

“RIKENGREEN CO LTD. The Group’s principal activity is the wholesale distribution of agrochemical products. The products of the Group include herbicides, fungicides, insecticides and fertilizers. These products are sold to golf courses, parks, grounds, motorway facilities and condominiums. The Group also sells food additives and preparations and offers land and real

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<sup>9</sup> “Lojit Corp. – Snapshot.” *BusinessWeek*. Retrieved 14 January 2009 from [http://investing.businessweek.com/research/stocks/snapshot/snapshot\\_article.asp?symbol=014190](http://investing.businessweek.com/research/stocks/snapshot/snapshot_article.asp?symbol=014190).

<sup>10</sup> In 2003, approximately 75 percent of its sales came from the chemical and plastics divisions. Nagase & Co, Ltd. (2004). Annual Report for Fiscal Year Ended 31 March 2004, pp. 0-1.

estate intermediary services. The operations are carried out through the following divisions: Greenery-related chemicals; Industrial chemicals, Greenery works and Other”<sup>11</sup>

#### **5. SAKAI TRADING CO LTD**

Web Address: <http://www.sakaitrading.co.jp>

SIC Code: 5160

Country: Japan

#### Business Description:

“SAKAI TRADING CO., LTD. is a Japan-based company mainly engaged in the chemical product-related business. The Company has two business segments. The Chemical Product-related segment provides chemical products such as pigments, vinyl stabilizers and catalysts, vinyl chloride resins, functional resins; synthetic resins such as reflection sheets and sanitary materials, as well as electronic materials, including optical electronic equipment materials and electronic equipment parts. The Others segment provides nonmetal minerals, industrial machinery and food additives. The Company has six subsidiaries.”<sup>12</sup>

#### **6. SANKYOKASEI CORP**

Web Address: <http://www.sankyokasei-corp.co.jp>

SIC Code: 5160

Country: Japan

#### Business Description:

“Sankyokasei Corporation. The Group's principal activity is to market chemical products on wholesale basis. The chemical product includes industrial chemicals, synthetic resins, construction materials and other industrial materials. The operations are carried through the following divisions: Civil engineering & building material related; Information & transport machine related; Daily use products; Industrial chemicals and Real estate.”<sup>13</sup>

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<sup>11</sup> “Rikengreen Co., Ltd – Company Profile Snapshot.” *WrightReports*. Retrieved 15 January 2009 from [http://wrightreports.ecnext.com/coms2/reportdesc\\_COMPANY\\_C392J4340](http://wrightreports.ecnext.com/coms2/reportdesc_COMPANY_C392J4340).

<sup>12</sup> “Sakai Trading Co., Ltd – Snapshot.” *Google Finance*. Retrieved 15 January 2009 from <http://finance.google.com/finance?q=OSA:9967>.

<sup>13</sup> “Sankyokasei Corporation – Company Profile Snapshot.” *WrightReports*. Retrieved 15 January 2009 from [http://wrightreports.ecnext.com/coms2/reportdesc\\_COMPANY\\_C39242690](http://wrightreports.ecnext.com/coms2/reportdesc_COMPANY_C39242690).

**7. SODA NIKKA CO LTD**

Web Address: <http://www.sodanikka.co.jp>

SIC Code: 5160

Country: Japan

Business Description:

“Ever since the foundation in 1947, Soda Nikka Co., Ltd. has been supporting the development of the domestic industrial world as a specialized trading company dealing in soda products, as well as inorganic/organic chemicals, petrochemical products, and synthetic resin products... While our network that covers throughout Japan has earned the trust of our suppliers and buyers, we have established chemical centers at four locations in Japan to ensure stable supply of sodium hydroxide and other leading products.”<sup>14</sup>

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<sup>14</sup> “Soda Nikka Co., Ltd – Our Profile.” *Soda Nikka Co., Ltd Website*. Retrieved 15 January 2009 from [http://www.sodanikka.co.jp/html/company\\_eng.htm](http://www.sodanikka.co.jp/html/company_eng.htm).

**Table D1:**

**BECKER REPORT's Benchmark Distributors Based on Step II: 1997-2003**

No.	Company Name /1/	GVKEY	Country	SIC	Pass/Reject	Reason for Rejection
1	A&T CORP	257738	JPN	3826	Reject	Company did not have financial data for latest seven years.
2	ACETEX CORP	62281	CAN	2860	Pass	Pass
3	ACETO CORP	1094	USA	5160	Pass	Pass
4	ADVANCED LIGHTING TECH INC	61690	USA	3640	Reject	Company had significant R&D activities.
5	ADVANCED MEDICAL SOL GRP PLC	211983	GBR	3842	Reject	Company had significant R&D activities.
6	ADVANSOURCE BIOMATERIALS CP	63029	USA	3842	Reject	Company had significant R&D activities.
7	AEKYUNG PETROCHEMICAL CO LTD	241357	KOR	2860	Reject	Company did not have financial data for latest seven years.
8	ALBEMARLE CORP	29751	USA	2890	Pass	Pass
9	ALCOA INC	1356	USA	3350	Pass	Pass
10	ALCONIX CORP	276867	JPN	3330	Reject	Company did not have financial data for latest seven years.
11	ALLIED COLLOIDS GROUP PLC	100733	GBR	5160	Reject	Company did not have financial data for latest seven years.
12	AMCOL INTERNATIONAL CORP	14182	USA	1400	Pass	Pass
13	AORTECH INTERNATIONAL PLC	231537	GBR	3842	Reject	Company had significant R&D activities.
14	APPLIED BIOSYSTEMS INC	8488	USA	2835	Reject	Company had significant R&D activities.
15	ARAKAWA CHEMICAL INDUSTRIES	232676	JPN	2821	Pass	Pass
16	ARKEMA	277043	FRA	2800	Reject	Company did not have financial data for latest seven years.
17	ARPADIS GROUP SA	287457	BEL	5160	Reject	Company did not have financial data for latest seven years.
18	ASAHI KASEI CORP	100258	JPN	2800	Pass	Pass
19	ASHLAND INC	1794	USA	5160	Pass	Pass
20	ASIA PACIFIC SPECIALTY CHEMS	212629	AUS	2860	Reject	Company did not have financial data for latest seven years.
21	ASTEC INDUSTRIES INC	12262	USA	3531	Pass	Pass
22	AT PLASTICS INC	29711	CAN	2821	Reject	Company did not have financial data for latest seven years.
23	AUTOBACS SEVEN CO LTD	200348	JPN	5013	Pass	Pass
24	BARLO GROUP PLC	102197	IRL	3081	Reject	Company did not have financial data for latest seven years.
25	BAYER AG	100080	DEU	2800	Reject	Company had significant R&D activities.
26	BEMIS CO INC	2154	USA	2670	Pass	Pass
27	BIO-GATE AG	276540	DEU	2890	Reject	Company did not have financial data for latest seven years.
28	BIOMATRIX INC	24386	USA	2836	Reject	Company did not have financial data for latest seven years.
29	BIOTEST AG	200759	DEU	2836	Pass	Pass
30	BIOVITRUM AB	279143	SWE	2836	Reject	Company did not have financial data for latest seven years.
31	BRIT SMLR TEC VCT2	277985	GBR	6726	Reject	Company did not have financial data for latest seven years.
32	BRITISH VITA GROUP PLC	100399	GBR	2821	Pass	Pass
33	BYOTROL PLC	273366	GBR	2842	Reject	Company did not have financial data for latest seven years.
34	CABOT MICROELECTRONICS CORP	133726	USA	2890	Reject	Company did not have financial data for latest seven years.
35	CAFFARO	102190	ITA	2800	Reject	Company did not have financial data for latest seven years.
36	CELANESE AG	125434	DEU	2860	Reject	Company did not have financial data for latest seven years.

**Table D1:**

**BECKER REPORT's Benchmark Distributors Based on Step II: 1997-2003**

No.	Company Name /1/	GVKEY	Country	SIC	Pass/Reject	Reason for Rejection
37	CEPSA-CIA ESPANOLA DE PETROL	100954	ESP	2911	Pass	Pass
38	CHEMEQ LTD	248833	AUS	2836	Reject	Company did not have financial data for latest seven years.
39	CHEMFIRST INC	4719	USA	2860	Reject	Company did not have financial data for latest seven years.
40	CHEMTURA CORPORATION	3607	USA	2820	Pass	Pass
41	CIBA HOLDING AG	213449	CHE	2800	Pass	Pass
42	CLARCOR INC	3093	USA	3564	Pass	Pass
43	CLONDALKIN GROUP PLC	100798	IRL	2650	Reject	Company did not have financial data for latest seven years.
44	CONCENTRIC PLC	100947	GBR	3560	Reject	Company did not have financial data for latest seven years.
45	CONMED CORP	13623	USA	3845	Pass	Pass
46	COZART PLC	270823	GBR	2835	Reject	Company did not have financial data for latest seven years.
47	CRESPI (GIOVANNI) SPA	216664	ITA	2820	Pass	Pass
48	CRODA INTERNATIONAL PLC	100223	GBR	2860	Pass	Pass
49	CRYOLIFE INC	27823	USA	3842	Reject	Company had significant R&D activities.
50	CYTEC INDUSTRIES INC	29511	USA	2890	Pass	Pass
51	DAELIM INDUSTRIAL CO LTD	104587	KOR	1540	Pass	Pass
52	DAI-ICHI KOGYO SEIYAKU CO	102831	JPN	2842	Reject	Company had significant R&D activities.
53	DAICEL CHEMICAL IND	100382	JPN	2820	Pass	Pass
54	DAIICHI KASEI CO LTD	255179	JPN	2200	Reject	Company did not have financial data for latest seven years.
55	DAIICHI KIGENSO KAGAKU-KOGYO	271252	JPN	2810	Reject	Company did not have financial data for latest seven years.
56	DAINICHISEIKA COL & CHEM MFG	102877	JPN	2860	Pass	Pass
57	DANIONICS AS	244442	DNK	3690	Reject	Company did not have financial data for latest seven years.
58	DENKI KAGAKU KOGYO KK	100385	JPN	2800	Pass	Pass
59	DEXTER CORP	3911	USA	2834	Reject	Company did not have financial data for latest seven years.
60	DOMINION TEXTILES INC	4031	CAN	2200	Reject	Company did not have financial data for latest seven years.
61	DOW CHEMICAL	4060	USA	2821	Pass	Pass
62	DRIVER-HARRIS CO	4083	USA	3357	Reject	Company did not have financial data for latest seven years.
63	DU PONT (E I) DE NEMOURS	4087	USA	2820	Reject	Company had significant R&D activities.
64	DUPONT CANADA	4086	CAN	2820	Reject	Company did not have financial data for latest seven years.
65	EASTMAN CHEMICAL CO	29392	USA	2821	Pass	Pass
66	ELLEX MEDICAL LASER LTD	252260	AUS	3845	Pass	Pass
67	ELLIS & EVERARD PLC	100841	GBR	5160	Reject	Company did not have financial data for latest seven years.
68	EMS-CHEMIE HOLDING AG	102283	CHE	2820	Pass	Pass
69	EVC INTERNATIONAL NV	205442	NLD	2821	Reject	Company experienced operating losses.
70	EXXONMOBIL CHEMICAL SA	103237	FRA	2860	Reject	Company did not have financial data for latest seven years.
71	FARDIS SA	233142	BEL	2673	Reject	Company did not have financial data for latest seven years.
72	FENNER PLC	100262	GBR	3560	Pass	Pass



**Table D1:****BECKER REPORT's Benchmark Distributors Based on Step II: 1997-2003**

No.	Company Name /1/	GVKEY	Country	SIC	Pass/Reject	Reason for Rejection
73	FERRO CORP	4622	USA	2851	Pass	Pass
74	FIBERWEB PLC	281538	GBR	2200	Reject	Company did not have financial data for latest seven years.
75	FURON CO	4819	USA	3050	Reject	Company did not have financial data for latest seven years.
76	GALE PACIFIC LTD	252585	AUS	2200	Reject	Company did not have financial data for latest seven years.
77	GENEART AG	277827	DEU	7373	Reject	Company did not have financial data for latest seven years.
78	GENTEK INC	62865	USA	2810	Pass	Pass
79	GLIATECH INC	61433	USA	2834	Reject	Company did not have financial data for latest seven years.
80	GREAT LAKES CHEMICAL CORP	5306	USA	2890	Pass	Pass
81	GREEN CROSS CORP	100398	JPN	2836	Reject	Company did not have financial data for latest seven years.
82	HANNA (M A) CO	5464	USA	3080	Reject	Company did not have financial data for latest seven years.
83	HANSA GROUP AG	231365	DEU	2800	Reject	Company did not have financial data for latest seven years.
84	HANSOL CHEMICAL CO LTD	209771	KOR	2800	Reject	Company did not have financial data for latest seven years.
85	HARIMA CHEMICALS INC	203000	JPN	2800	Pass	Pass
86	HAYISE LEMMERZ INTL INC	26019	USA	3714	Pass	Pass
87	HEISEI POLYMER CO LTD	203031	JPN	3081	Reject	Company experienced operating losses.
88	HERCULES INC	5589	USA	2890	Pass	Pass
89	HEXAGON AB	103065	SWE	3812	Pass	Pass
90	HITACHI CHEMICAL CO LTD	102177	JPN	3670	Pass	Pass
91	HODOGAYA CHEMICAL CO LTD	203112	JPN	2890	Pass	Pass
92	HOEK LOOS NV	102090	NLD	5160	Reject	Company did not have financial data for latest seven years.
93	HOGANAS AB	221269	SWE	3390	Pass	Pass
94	HOLLAND CHEMICAL INTL NV	216260	NLD	5160	Reject	Company did not have financial data for latest seven years.
95	HOLLIDAY CHEMICAL HOLDINGS	203135	GBR	2800	Reject	Company did not have financial data for latest seven years.
96	HONSHU CHEM IND CO LTD	203154	JPN	2820	Pass	Pass
97	HUMAN SERUM PRODTN & MEDICIN	206571	HUN	2836	Reject	Company did not have financial data for latest seven years.
98	HUNTSMAN POLYMERS CORP	14628	USA	2821	Reject	Company did not have financial data for latest seven years.
99	HUNUS INC	286842	KOR	5160	Pass	Pass
100	IBEX TECHNOLOGIES INC	20333	CAN	2836	Reject	Company had significant R&D activities.
101	ICI-IMPERIAL CHEM INDS PLC	5894	GBR	2800	Pass	Pass
102	ILLINOIS TOOL WORKS	5878	USA	3540	Pass	Pass
103	IMPREGLO AG	278422	DEU	2851	Reject	Company did not have financial data for latest seven years.
104	INABATA & CO LTD	203265	JPN	5160	Pass	Pass
105	INDITHERM LTD	249863	GBR	3433	Reject	Company did not have financial data for latest seven years.
106	INION OY	271497	GBR	3841	Reject	Company did not have financial data for latest seven years.
107	INTERBULK GROUP PLC	272553	GBR	4731	Reject	Company did not have financial data for latest seven years.
108	INTERNATIONAL REAGENTS CORP	215621	JPN	2835	Reject	Company did not have financial data for latest seven years.

**Table D1:**

**BECKER REPORT's Benchmark Distributors Based on Step II: 1997-2003**

No.	Company Name /1/	GVKEY	Country	SIC	Pass/Reject	Reason for Rejection
109	INTERTAPE POLYMER GROUP INC	24943	CAN	2670	Pass	Pass
110	INTL SPECIALTY PRODUCTS INC	24205	USA	2860	Reject	Company did not have financial data for latest seven years.
111	ISOTRON PLC	203393	GBR	8071	Pass	Pass
112	ISU CHEMICAL CO LTD	208875	KOR	2860	Pass	Pass
113	JACOBS ENGINEERING GROUP INC	6216	USA	1600	Pass	Pass
114	JSR CORP	101040	JPN	2820	Pass	Pass
115	KANEKA CORP	100306	JPN	2821	Pass	Pass
116	KAWAGUCHI CHEM IND CO LTD	202866	JPN	2810	Pass	Pass
117	KENSEY NASH CORP	61703	USA	3842	Reject	Company had significant R&D activities.
118	KOLON CHEMICAL CO LTD	209682	KOR	2800	Reject	Company did not have financial data for latest seven years.
119	KOLON INDUSTRIES INC	203455	KOR	2800	Pass	Pass
120	KOREA KUMHO PETROCHEMICAL	203477	KOR	2820	Reject	Company did not have financial data for latest seven years.
121	KPX CHEMICAL	208894	KOR	2860	Reject	Company did not have financial data for latest seven years.
122	LANXESS AG	271763	DEU	2820	Reject	Company did not have financial data for latest seven years.
123	LAWTER INTERNATIONAL INC	6618	USA	2821	Reject	Company did not have financial data for latest seven years.
124	LE CARBONE-LORRAINE	103305	FRA	3620	Pass	Pass
125	LECLANCHE SA	226737	CHE	3690	Reject	Company experienced operating losses.
126	LG CHEMICAL LTD	245036	KOR	2860	Reject	Company did not have financial data for latest seven years.
127	LIFE THERAPEUTICS LTD	241900	AUS	2836	Reject	Company did not have financial data for latest seven years.
128	LITHO SUPPLIES PLC	200386	GBR	5084	Pass	Pass
129	LITTELFUSE INC	25747	USA	3613	Pass	Pass
130	LOMBARD MEDICAL PLC	241209	GBR	3842	Reject	Company did not have financial data for latest seven years.
131	LOMBARD MEDICAL TECH PLC	274775	GBR	3845	Reject	Company did not have financial data for latest seven years.
132	LOOSER HOLDING AG	279151	CHE	5160	Reject	Company did not have financial data for latest seven years.
133	LOW & BONAR PLC	100929	GBR	3990	Pass	Pass
134	M.A.T CO LTD	272952	KOR	3559	Reject	Company did not have financial data for latest seven years.
135	MATERIAL SCIENCES CORP	7107	USA	3470	Pass	Pass
136	MATSUMOTO YUSHI SEIYAKU CO	201994	JPN	2840	Reject	Company had significant R&D activities.
137	MAYNE PHARMA LTD	274486	AUS	2834	Reject	Company did not have financial data for latest seven years.
138	MCKECHNIE PLC	100510	GBR	3080	Reject	Company did not have financial data for latest seven years.
139	MCWHORTER TECHNOLOGIES INC	30025	USA	2821	Reject	Company did not have financial data for latest seven years.
140	MEASUREMENT SPECIALTIES INC	12236	USA	3829	Pass	Pass
141	MEGGITT PLC	101207	GBR	3812	Reject	Company had significant R&D activities.
142	MELDEX GROUP PLC	65783	GBR	2834	Reject	Company had significant R&D activities.
143	MERRION PHARMACEUTICALS LTD	178697	IRL	2834	Reject	Company did not have financial data for latest seven years.
144	MICROEMISSIVE DISPLAYS PLC	271385	GBR	3670	Reject	Company did not have financial data for latest seven years.

**Table D1:**

**BECKER REPORT's Benchmark Distributors Based on Step II: 1997-2003**

No.	Company Name /1/	GVKEY	Country	SIC	Pass/Reject	Reason for Rejection
145	MINERALS CORP LTD	252269	AUS	1400	Reject	Company experienced operating losses.
146	MINERALS TECHNOLOGIES INC	25870	USA	2810	Pass	Pass
147	MITANI SANGYO CO LTD	205582	JPN	5160	Pass	Pass
148	mitsubishi chemical hldgs co	19045	JPN	2860	Pass	Pass
149	MITSUBISHI RAYON CO LTD	100163	JPN	2821	Pass	Pass
150	MITSUI CHEMICALS INC	101127	JPN	2821	Pass	Pass
151	MIWON COMMERCIAL	209705	KOR	2800	Pass	Pass
152	MONTEFIBRE	102510	ITA	2820	Pass	Pass
153	MYERS INDUSTRIES INC	7636	USA	3089	Pass	Pass
154	NAGASE & CO LTD	102791	JPN	5160	Pass	Pass
155	NEC TOKIN CORP	102235	JPN	3674	Pass	Pass
156	NEOSE TECHNOLOGIES INC	62170	USA	2833	Reject	Company had significant R&D activities.
157	NEW JAPAN CHEMICAL CO LTD	226033	JPN	2911	Reject	Company experienced operating losses.
158	NICHIAS CORP	102773	JPN	3050	Pass	Pass
159	NIPPON CHEMI-CON CORP	102248	JPN	3670	Pass	Pass
160	NIPPON SHOKUBAI CO LTD	101986	JPN	2810	Reject	Company had significant R&D activities.
161	NITTO DENKO CORP	100683	JPN	3679	Pass	Pass
162	NOLATO AB	213047	SWE	3080	Pass	Pass
163	NORDITUBE TECHNOL AB	224189	SWE	2200	Reject	Company did not have financial data for latest seven years.
164	NOVA CHEMICALS CORP	8009	CAN	2860	Pass	Pass
165	NUFCOR URANIUM LTD	278443	GBR	5160	Reject	Company did not have financial data for latest seven years.
166	NUVELO INC	65243	USA	8731	Reject	Company had significant R&D activities.
167	OB Ducat AB	271780	SWE	3559	Reject	Company did not have financial data for latest seven years.
168	OBJ LTD	247299	AUS	7373	Reject	Company did not have financial data for latest seven years.
169	OCTOPLUS N.V.	279317	NLD	4400	Reject	Company did not have financial data for latest seven years.
170	OKONG	286847	KOR	2891	Pass	Pass
171	OMNOVA SOLUTIONS INC	124254	USA	2821	Reject	Company did not have financial data for latest seven years.
172	OPTICAL COATING LAB INC	8163	USA	3827	Reject	Company did not have financial data for latest seven years.
173	OPTICOM ASA	216620	NOR	8731	Reject	Company experienced operating losses.
174	OPTOMAGIC CO LTD	242929	KOR	3357	Pass	Pass
175	OSAKA ORGANIC CHEM IND LTD	205458	JPN	2860	Pass	Pass
176	PAION AG	272717	DEU	2836	Reject	Company did not have financial data for latest seven years.
177	PALOMAR MED TECHNOLOGIES INC	26038	USA	3845	Reject	Company had significant R&D activities.
178	PARK ELECTROCHEMICAL CORP	8348	USA	3672	Pass	Pass
179	PARKER CORP	202441	JPN	5160	Pass	Pass
180	PLA MATELS CORP	248906	JPN	5160	Reject	Company did not have financial data for latest seven years.

**Table D1:****BECKER REPORT's Benchmark Distributors Based on Step II: 1997-2003**

No.	Company Name /1/	GVKEY	Country	SIC	Pass/Reject	Reason for Rejection
181	PLANTIC TECHNOLOGIES LTD	285117	AUS	3080	Reject	Company did not have financial data for latest seven years.
182	PLASTIC OMNIUM SA	103264	FRA	2820	Pass	Pass
183	POLYMER GROUP INC	62836	USA	2200	Pass	Pass
184	POLYMER LOGISTICS NV	284987	GBR	3089	Reject	Company did not have financial data for latest seven years.
185	POLYNT SPA	279512	ITA	2821	Reject	Company did not have financial data for latest seven years.
186	POLYONE CORP	28194	USA	2821	Pass	Pass
187	PONGS & ZAHN AG	248172	DEU	2821	Reject	Company did not have financial data for latest seven years.
188	PROVENTEC	256953	GBR	3580	Reject	Company did not have financial data for latest seven years.
189	PURSUIT DYNAMICS PLC	250020	GBR	3510	Reject	Company did not have financial data for latest seven years.
190	QIAGEN NV	63186	NLD	3826	Reject	Company had significant R&D activities.
191	QUADRANT AG	102525	CHE	2821	Pass	Pass
192	RHODIA	112040	FRA	2800	Pass	Pass
193	RIFA INDUSTRIAL CO	211860	KOR	5160	Pass	Pass
194	RIKENGREEN CO LTD	202453	JPN	5160	Pass	Pass
195	ROGERS CORP	9216	USA	3080	Reject	Company had significant R&D activities.
196	ROHM AND HAAS CO	9217	USA	2821	Pass	Pass
197	RPM INTERNATIONAL INC	8902	USA	2890	Pass	Pass
198	SAFESKIN CORP	29234	USA	3060	Reject	Company did not have financial data for latest seven years.
199	SAFIC ALCAN & CIE	102961	FRA	5160	Reject	Company did not have financial data for latest seven years.
200	SAKAI TRADING CO LTD	206008	JPN	5160	Pass	Pass
201	SAM YUNG TRADING CO LTD	208933	KOR	5160	Pass	Pass
202	SAMSUNG SDI CO LTD	104582	KOR	3670	Pass	Pass
203	SANKYOKASEI CORP	205509	JPN	5160	Pass	Pass
204	SANYO CHEMICAL INDS LTD	102020	JPN	2820	Reject	Company had significant R&D activities.
205	SARNA KUNST HOLDINGS AG	208819	CHE	3290	Pass	Pass
206	SCHOTT DESAG AG	210341	DEU	3211	Reject	Company did not have financial data for latest seven years.
207	SEAH STEEL CORP	207003	KOR	3317	Reject	Company did not have financial data for latest seven years.
208	SEKISUI PLASTICS CO LTD	208292	JPN	3081	Pass	Pass
209	SEMITOOOL INC	31483	USA	3559	Reject	Company had significant R&D activities.
210	SHIN-ETSU POLYMER CO LTD	202982	JPN	2820	Pass	Pass
211	SHOKO CO LTD	208021	JPN	5160	Pass	Pass
212	SHOWA DENKO KK	100696	JPN	2800	Pass	Pass
213	SHOWA HIGHPOLYMER CO LTD	208029	JPN	2800	Reject	Company had significant R&D activities.
214	SIMONA KUNSTSTOFFWERKE AG	220326	DEU	2821	Pass	Pass
215	SK ENERGY CO LTD	285205	KOR	5172	Reject	Company did not have financial data for latest seven years.
216	SK HOLDINGS CO LTD	209610	KOR	2911	Pass	Pass

**Table D1:**

**BECKER REPORT's Benchmark Distributors Based on Step II: 1997-2003**

No.	Company Name /1/	GVKEY	Country	SIC	Pass/Reject	Reason for Rejection
217	SKC CO LTD	214053	KOR	3081	Reject	Company did not have financial data for latest seven years.
218	SKELLERUP HOLDINGS LTD	256135	NZL	3060	Reject	Company did not have financial data for latest seven years.
219	SLOVNAFT AS	206431	SVK	2911	Pass	Pass
220	SODA NIKKA CO LTD	208146	JPN	5160	Pass	Pass
221	SOKEN CHEMICAL & ENGR CO LTD	247145	JPN	2821	Reject	Company did not have financial data for latest seven years.
222	SONGWON INDUSTRIAL CO LTD	208952	KOR	2821	Pass	Pass
223	SPARTECH CORP	9921	USA	3080	Pass	Pass
224	STANDARD PRODUCTS CO	10004	USA	3714	Reject	Company did not have financial data for latest seven years.
225	STELLA CHEMIFA CORP	231124	JPN	2810	Pass	Pass
226	STEPAN CO	10056	USA	2840	Pass	Pass
227	STRUTHERS INDUSTRIES INC	10112	USA	5160	Reject	Company did not have financial data for latest seven years.
228	SUMITOMO CHEMICAL CO LTD	100689	JPN	2800	Reject	Company had significant R&D activities.
229	SUMITOMO SEIKA CHEMICALS CO	220126	JPN	2860	Pass	Pass
230	SUNOCO INC	10156	USA	2911	Pass	Pass
231	SURMODICS INC	66588	USA	2836	Reject	Company had significant R&D activities.
232	SWP GROUP PLC	204768	GBR	3089	Pass	Pass
233	TAIHOKOHZAI CO LTD	204250	JPN	5160	Pass	Pass
234	TAIYO KOGYO CO LTD	206405	JPN	5160	Pass	Pass
235	TELEZON LTD	272269	AUS	3663	Reject	Company did not have financial data for latest seven years.
236	THERMO BIOANALYSIS CORP	63594	USA	3826	Reject	Company did not have financial data for latest seven years.
237	TIGERS POLYMER CORP	205428	JPN	3050	Pass	Pass
238	TISZA CHEMICAL GROUP PLC	213138	HUN	2800	Pass	Pass
239	TOAGOSEI CO LTD	102300	JPN	2800	Pass	Pass
240	TOHOKU CHEMICAL CO LTD	206338	JPN	5160	Pass	Pass
241	TORII PHARMACEUTICAL CO LTD	206160	JPN	2834	Pass	Pass
242	TOSOH CORP	101652	JPN	2860	Pass	Pass
243	TOYO INK MANUFACTURING CO	101953	JPN	2890	Pass	Pass
244	TOYOBO CO LTD	101772	JPN	2221	Pass	Pass
245	TRELLEBORG AB	101048	SWE	3060	Pass	Pass
246	UNION CARBIDE CORP	10857	USA	2860	Pass	Pass
247	UNIPETROL AS	208737	CZE	2911	Pass	Pass
248	UNITIKA LTD	100664	JPN	2200	Pass	Pass
249	UNIVAR CORP	11003	USA	5160	Reject	Company did not have financial data for latest seven years.
250	UNIVAR NV	252179	NLD	5160	Reject	Company did not have financial data for latest seven years.
251	UNIVERSAL BIOSENSORS INC	281813	AUS	2835	Reject	Company did not have financial data for latest seven years.
252	VICTREX PLC	212128	GBR	2821	Pass	Pass

**Table D1:**

**BECKER REPORT's Benchmark Distributors Based on Step II: 1997-2003**

No.	Company Name /1/	GVKEY	Country	SIC	Pass/Reject	Reason for Rejection
253	WACKER CHEMIE AG	276585	DEU	2821	Reject	Company did not have financial data for latest seven years.
254	WATERS CORP	61574	USA	3826	Reject	Company had significant R&D activities.
255	WILSHIRE TECHNOLOGIES INC	25959	USA	2842	Reject	Company did not have financial data for latest seven years.
256	XCEED CAPITAL LTD	212417	AUS	2836	Reject	Company did not have financial data for latest seven years.
257	YULE CATTO & CO PLC	101302	GBR	2800	Pass	Pass
258	ZENON ENVIRONMENTAL INC	26024	CAN	3580	Reject	Company had significant R&D activities.
259	ZEON CORP	101154	JPN	2820	Pass	Pass
260	ZOTEFOAMS PLC	206290	GBR	3086	Pass	Pass

Note:

/1/: My search originally produced 261 companies, but I eliminated AMPAL AMERICAN ISRAEL because most of the company's operations are in Israel, which is not a high income OECD country.

Source:

(1) Standard and Poor's. (31 October 2008). Compustat (Global) Database.

Table D2:

BECKER Report's Benchmark Distributors Based on Search Step III: 1997-2003

No.	Company Name	GVKEY	Country	SIC	Business Description	Accept/Reject	Reason for Rejection
1	ACETEX CORP	62281	CAN	2860	Acetex Corp. produces and markets a wide range of chemicals based on its primary product-acetic acid. The company is one of Europe's largest producers of acetic acid and vinyl acetate monomer (VAM), which represented 70% of company sales in 2003. The company operates in two business segments: Acetyls and Specialty Polymers and Films. The Acetyls Business derives its revenues from the merchant market sales in Europe of its two principal products, acetic acid and VAM, and from sales of acetic derivatives, including polyvinyl alcohol. The Specialty Polymers and Films Business develops and manufactures specialty plastic resins and film products for a number of niche end-markets primarily in North America. In 2003, acetyls accounted for 80% of sales; and specialty polymers and films, 21%.	Reject	Company engaged in significant manufacturing activities: acetic acid.
2	ACETO CORP	1094	USA	5160	Aceto Corporation, together with its subsidiaries, engages in sourcing, quality assurance, regulatory support, marketing, and distributing chemically derived pharmaceuticals, biopharmaceuticals, specialty chemicals, and crop protection products. It operates in three segments: Health Sciences, Chemicals and Colorants, and Crop Protection. The Health Sciences segment offers active ingredients for generic pharmaceuticals, vitamins, and nutritional supplements, as well as products used in preparing pharmaceuticals primarily by drug companies and biopharmaceuticals. The Chemicals and Colorants segment offers specialty chemicals used in plastics, resins, adhesives, coatings, food, flavor additives, fragrances, cosmetics, metal finishing, electronics, and air-conditioning systems.	Reject	Company engaged in provision of non-comparable services: sourcing, quality assurance, regulatory support, and marketing for pharmaceuticals and special chemicals.
3	ALBEMARLE CORP	29751	USA	2890	Albemarle Corporation develops, manufactures, and markets engineered specialty chemicals. It operates in three segments: Polymer Additives, Catalysts, and Fine Chemicals. Polymer Additives segment offers brominated, mineral, and phosphorus flame retardants that are used in plastic enclosures for consumer electronics, printed circuit boards, wire and cable, electrical connectors, foam insulation, foam seating in furniture, automobiles, and textiles. This segment also produces plastic and other additives, such as curatives, antioxidants, and stabilizers. Catalysts segment provides refinery catalysts, including hydroprocessing catalysts, fluidized catalytic cracking catalysts, and additives; and polyolefin catalysts comprising aluminum and magnesium-alkyls, which are used as co-catalysts, as well as metallocene/single-site catalysts that aid in the development and production of new polymers.	Reject	Company engaged in significant manufacturing activities: specialty chemicals.
4	ALCOA INC	1356	USA	3350	Alcoa, Inc. engages in the production and management of primary aluminum, fabricated aluminum, and alumina worldwide. The company involves in the technology, mining, refining, smelting, fabricating, and recycling of aluminum. Its products include precision castings, industrial fasteners, consumer products, food service and flexible packaging products, plastic closures, and electrical distribution systems for cars and trucks. The company offers flat-rolled products, such as sheet and plate, foil products, and can reclamations; extruded and end products, including extrusion, tube, and architectural products; engineered solutions that comprise aerospace products, automotive components, Alcoa electrical and electronic solutions, castings, auto engineering products, and fasteners; and packaging and consumer products, which include flexible packaging, foodservice packaging, closures, and polymerization and extrusions.	Reject	Company engaged in distribution of non-comparable products: aluminum products.

**Table D2:**

**BECKER Report's Benchmark Distributors Based on Search Step III: 1997-2003**

No.	Company Name	GVKEY	Country	SIC	Business Description	Accept/Reject	Reason for Rejection
5	AMCOL INTERNATIONAL CORP	14182	USA	1400	Amcol International Corporation, through its subsidiaries, operates as a specialty minerals company in the Americas, Europe, and the Asia Pacific. Its Minerals Segment offers custom-blended bentonite and allied non-bentonite products; formulated additives; and sodium bentonite-based scoopable, traditional, and alternative cat litters, as well as specialty pet products to grocery and drug stores, mass merchandisers, wholesale clubs, and pet specialty stores. It also provides agglomerated bentonite to the detergent industry; adsorbent polymers and purified grades of bentonite ingredients for personal skin care products; nanoclays; sodium bentonite and leonardite used in oil and gas well drilling; and bentonite and bentonite blends for the construction industry.	Reject	Company engaged in provision of non-comparable services: mining.
6	ARAKAWA CHEMICAL INDUSTRIES	232676	JPN	2821	Arakawa Chemical Industries, Ltd. offers paper chemicals and specialty chemicals. It manufactures paper chemicals, such as sizing agent and paper-strengthening agent; and specialty chemicals, including an array of resins used to manufacture printing inks, paints, adhesives, and polymerization emulsifiers for synthetic rubber, as well as provides various functional resins, such as ester gum for foods; and gluing and adhesive resins used in synthetic rubber products, building materials, and textiles. The company offers its products primarily to paper manufacturers, tires and bumper manufacturers, and other industries. Arakawa Chemical Industries was founded in 1876 and is headquartered in Osaka, Japan.	Reject	Company engaged in significant manufacturing activities: specialty chemicals.
7	ASAHI KASEI CORP	100258	JPN	2800	Asahi Kasei Corporation, through its subsidiaries, provides solutions based in chemistry and materials science. It operates in seven segments: Chemicals, Homes, Pharma, Fibers, Electronics Materials and Devices, Construction Materials, and Life and Living. The Chemicals segment offers monomers and basic chemicals, such as Ammonia, nitric acid, caustic soda, high-compound fertilizers, acrylonitrile, styrene, adipic acid, and methyl methacrylate; a range of polymers and elastomers; and specialty products and systems, such as coating materials, explosives, photosensitive resins, photosensitive plates, printing plate making systems, and electrolysis systems. The Homes segment operates houses, apartments, and condominiums; and offers remodeling services and financial services, as well as engages in residential land development activities. The Pharma segment offers medical devices and systems; functional food ingredients; contact lenses; pharmaceuticals; and virus removal filters.	Reject	Company engaged in distribution of non-comparable products: housing and construction materials.
8	ASHLAND INC	1794	USA	5160	Ashland, Inc. provides various products and services in the United States and internationally. It operates in four segments: Ashland Distribution, Ashland Performance Materials, Valvoline, and Ashland Water Technologies. The Ashland Distribution segment distributes chemicals, plastics, and composite raw materials in North America, as well as plastics in Europe. It also provides environmental services, including hazardous and non-hazardous waste collection, recovery, recycling, and disposal services. The Ashland Performance Materials segment engages in the manufacture and supply of specialty chemicals and services to the building and construction, packaging and converting, transportation, marine, and metal casting industries. It also offers metal casting consumables and design services; unsaturated polyester and vinyl ester resins, and gelcoats; and adhesives and specialty resins.	Accept	Accept
9	ASTEC INDUSTRIES INC	12262	USA	3531	Astec Industries, Inc. provides equipment and components used primarily in road building, utility, and related construction activities in the United States and internationally. It operates in four segments: Asphalt Group, Aggregate and Mining Group, Mobile Asphalt Paving Group, and Underground Group. The Asphalt Group segment designs, manufactures, and markets hot-mix asphalt plants and related components; thermal fluid heaters, process heaters, waste heat recovery equipment, liquid storage systems and polymer, and rubber blending systems; and heating equipment and storage tanks for the asphalt paving industry, and rubber and polymer blending systems. The Aggregate and Mining Group segment manufactures and sells equipment for the aggregate metallic mining, and recycling industries.	Reject	Company engaged in distribution of non-comparable products: equipment used in construction activities.



**Table D2:**

**BECKER Report's Benchmark Distributors Based on Search Step III: 1997-2003**

No.	Company Name	GVKEY	Country	SIC	Business Description	Accept/Reject	Reason for Rejection
10	AUTOBACS SEVEN CO LTD	200348	JPN	5013	AUTOBACS SEVEN CO., LTD. engages in the retail, wholesale, and installation of automotive-related goods in Japan and internationally. The company offers tires and wheels; car electronic products, such as car navigation systems and audio and visual products; engine oil and batteries; and car exteriors, including wiper blades, tire chains, car washing products, waxes, coating agents, repair goods, and tools. The company also provides car interior items comprising air fresheners, deodorizers, dust boxes, and other small interior goods, radar detectors, and child seats; and motor sports goods, consisting of aero parts, mufflers, headlight bulbs, and theft prevention products. In addition, it offers various services, which include installing car electronic products; changing tires, oil, and batteries; statutory safety inspection and maintenance services; sheet metal works; applying window films; body and painting works; and polymer processing works.	Reject	Company engaged in distribution of non-comparable products: automotive accessories.
11	BEMIS CO INC	2154	USA	2670	Bemis Company, Inc. manufactures and sells flexible packaging products and pressure sensitive materials primarily in the United States, Canada, South America, and Europe. The company operates in two segments, Flexible Packaging and Pressure Sensitive Materials. The Flexible Packaging segment manufactures multilayer flexible polymer film structures and laminates for food, medical, and personal care products, and non-food applications utilizing vacuum or modified atmosphere packaging. It also offers blown and cast stretch film products; carton sealing tapes and application equipment; custom thermoformed plastic packaging; multiwall and single-ply paper bags; printed paper roll stock; and bag closing materials. The Pressure Sensitive Materials segment manufactures pressure sensitive adhesive coated paper and film substrates for label, graphic, and technical markets.	Reject	Company engaged in significant manufacturing activities: packaging products.
12	BIOTEST AG	200759	DEU	2836	Biotest AG, together with its subsidiaries, engages in the development, manufacture, and sale of medicinal products for the treatment of blood and immune diseases, as well as reagents and systems for diagnostic purposes in transfusion and transplantation medicine. It operates in three segments: Pharmaceuticals, Diagnostics, and Biotherapeutics. The Pharmaceuticals segment involves in the research, development, production, and distribution of drugs derived from human blood plasma, including immuno-globulins, coagulation factors, and albumins. These products are used in diseases of the immune and haemopoietic systems. The Diagnostics segment develops, produces, and markets reagents, and devices and systems used in hygiene monitoring for air, surface, and manufacturing processes, as well as procedures to test end products for potential microorganism contamination. This segment also develops products for use in automated and manual blood group analysis.	Reject	Company engaged in significant manufacturing activities: medicinal products.
13	BRITISH VITA GROUP PLC	100399	GBR	2821	Vita manufactures cellular polymers (foams), and has developed an extensive product range that includes block polyether, molded foam, polyester in rolls, and a range of reticulated or impregnated foams. Thermoplastic compounding enhances performance. Vita's compounding companies link chemical suppliers and manufacturers of products made from plastics and rubber. Vita blends additives with base polymers to enhance their properties and performance, such as adding color, UV stabilizers, flame retardancy and impact modification. Vita has over 90 thermoplastic sheet manufacturing lines operating in the U.K. and continental Europe.	Reject	Company engaged in significant manufacturing activities: polyether.

**Table D2:**

**BECKER Report's Benchmark Distributors Based on Search Step III: 1997-2003**

No.	Company Name	GVKEY	Country	SIC	Business Description	Accept/Reject	Reason for Rejection
14	CEPSA-CIA ESPANOLA DE PETROL	100954	ESP	2911	Compania Espanola de Petroleos, S.A. (CEPSA) operates in the oil and gas industry in Spain and internationally. It engages in the exploration and extraction of crude oil; the production, refining, distribution, and marketing of petrochemical and energy products, asphalt, lubricants, and polymers; and the distribution of gas and generation of electricity. The company offers various petrochemical products, including motor fuels, asphalt, lubricants, bunker fuel, propane, and marine and aviation fuels. It produces and sells linear paraffin and linear alkylbenzene, a compound used in the manufacture of biodegradable detergents and various commercial and industrial secondary products; and purified terephthalic acid, dimethyl terephthalate, and purified isophthalic acid that are used in the production of various polyester for textile fibers and polyethylene terephthalate bottles and containers.	Reject	Company engaged in provision of non-comparable services: exploration and extraction of crude oil.
15	CHEMTURA CORPORATION	3607	USA	2820	Chemtura Corporation manufactures and sells specialty chemicals and polymer products worldwide. Its Polymer Additives segment offers antioxidants, brominated performance products, flame retardant polymer additives, fumigants, polymer additives and initiators, PVC additives, and surfactants to the plastics, agricultural, fine chemical, and oilfield industries. These products are sold directly to monomer producers, polymer manufacturers, compounders, and fabricators, as well as through industry distributors. The company's Performance Specialties segment offers petroleum additives, castable urethane prepolymers, and polyurethane dispersions that are sold directly to manufacturers and through distribution channels.	Reject	Company engaged in significant manufacturing activities: specialty chemicals.
16	CIBA HOLDING AG	213449	CHE	2800	Ciba Holding, Inc. manufactures specialty chemicals that provide color, performance, and care for plastics, coatings, paper, and other products. It operates in three segments: Plastic Additives, Coating Effects, and Water and Paper Treatment. The Plastic Additives segment offers products and services to the plastic, lubricant, and home and personal care industries. It offers additives, which are ingredients added in small quantities to polymers and other substrates that prevent degradation, wear, and corrosion and help improve appearance, durability, and performance of finished plastic goods, high-performance motor oils, industrial lubricants, and home and personal care products. This segment's service business provides customers with product application solutions. The Coating Effects segment manufactures organic pigments and functional dyes, as well as the supplies photoinitiators and light stabilizers to the coatings, graphic arts, and electronic industries.	Reject	Company engaged in significant manufacturing activities: specialty chemicals.
17	CLARCOR INC	3093	USA	3564	CLARCOR, Inc. provides filtration products and services to customers worldwide. The company's Engine/Mobile Filtration segment manufactures oil, air, fuel, coolant, transmission, and hydraulic fluid filters used on engines, as well as in various mobile equipment applications. Its Industrial/Environmental Filtration segment offers process filtration products, and air filtration products and systems used to maintain interior air quality and to control exterior pollution. The process filtration products comprise specialty industrial process liquid filters; filters for pharmaceutical processes and beverages; filtration systems for aircraft refueling, anti-pollution, sewage treatment, and water recycling; bilge separators; sand control filters for oil and gas drilling; and woven wire and metallic products for filtration of plastics and polymer fibers.	Reject	Company engaged in distribution of non-comparable products: filters.

**Table D2:**

**BECKER Report's Benchmark Distributors Based on Search Step III: 1997-2003**

No.	Company Name	GVKEY	Country	SIC	Business Description	Accept/Reject	Reason for Rejection
18	CONMED CORP	13623	USA	3845	CONMED Corporation, a medical technology company, provides surgical devices and equipment for minimally invasive procedures and monitoring. The company's products serve the clinical areas of arthroscopy, powered surgical instruments, electrosurgery, cardiac monitoring disposables, and endosurgery and endoscopic technologies. It offers arthroscopy products, including powered resection instruments, arthroscopes, reconstructive systems, tissue repair sets, metal and bioabsorbable implants and related disposable products, and fluid management systems, as well as offers video and imaging products, and integrated operating room systems and equipment; powered surgical instruments used to perform orthopedic, arthroscopic, and other surgical procedures; and electrosurgical products comprising electrosurgical pencils and active electrodes, ground pads, generators, and the coagulation systems and related disposable products.	Reject	Company engaged in distribution of non-comparable products: surgical devices and equipment.
19	CRESPI (GIOVANNI) SPA	216664	ITA	2820	Giovanni Crespi SpA, an industrial holding company, engages in the production of primarily synthetic materials and polyurethane foam materials for footwear, fashion accessories, upholstery, and bookbinding. The company provides micro fibers for training and sports shoes, as well as lining and sock lining; polyvinyl chloride and coagulated products that are used in various fashion accessories, such as leather goods, small leather goods, luggage, belts, and labels. It also offers high frequency welding and serigraphy, as well as table cloths for the bookbinding industry. The company has operations in Africa, Asia, Europe, North America, and South America. Giovanni Crespi was established in 1936 and is based in Legnano, Italy.	Reject	Company engaged in significant manufacturing activities: synthetic materials.
20	CRODA INTERNATIONAL PLC	100223	GBR	2860	Croda International Plc provides various specialty chemicals for the health care, personal care, home care, and industrial specialties markets worldwide. The company offers a range of pharmaceutical products and nutritional ingredients, including actives, carriers for drug delivery, essential fatty acids, protein derivatives, and biopolymers. These products include lipids and surfactants, medical grade lanolin, and a range of marine and plant oils, proteins, and peptides; and a range of naturally derived specialty chemicals in the areas of dosage forms and nutritional additives to enhance the delivery and efficacy of actives in various animal health products. It also provides various personal care specialty ingredients principally for antiperspirants and deodorants, baby care, bath and shower, body care, color cosmetics, hair care, skin care, and sun care applications.	Reject	Company engaged in distribution of non-comparable products: pharmaceutical and healthcare products.
21	CYTEC INDUSTRIES INC	29511	USA	2890	Cytec Industries, Inc., a specialty chemicals and materials company, engages in the development, manufacture, and sale of chemical products. It operates in four segments: Cytec Performance Chemicals, Cytec Surface Specialties, Cytec Engineered Materials, and Building Block Chemicals. The Cytec Performance Chemicals segment offers mining chemicals, phosphines, polymer additives, specialty additives, specialty urethanes, and pressure sensitive adhesives. The Cytec Surface Specialties segment's product line includes radiation-cured resins, powder coating resins, and liquid coating resins, including water-borne resins, amino resins, and solvent based resins. The Cytec Engineered Materials segment offers advanced composites, carbon fiber, and structural film adhesives. The Building Block Chemicals segment provides acrylonitrile, hydrocyanic acid, sulfuric acid, and melamine.	Reject	Company engaged in significant manufacturing activities: specialty chemicals.

**Table D2:**

**BECKER Report's Benchmark Distributors Based on Search Step III: 1997-2003**

No.	Company Name	GVKEY	Country	SIC	Business Description	Accept/Reject	Reason for Rejection
22	DAELIM INDUSTRIAL CO LTD	104587	KOR	1540	Daelim Industrial Co., Ltd. engages in construction and engineering, petrochemicals, trade, manufacture, information and telecommunications, leisure, and logistic operations. In construction and engineering, it provides various plant projects services, such as feasibility studies, engineering, procurement, construction, commissioning, maintenance, and project financing. In petrochemicals, the company produces monomer products, such as Ethylene; Propylene; Mixed-C4; Benzene; Toluene; Xylene; 1,3- Butadien; Styren Monomer; MTBE; Butene-1; ISO-Butylene; ISO-Butane; Polybutene; and other polymer products, including HDPE, LDPE, L-LDPE, PP, and COMPOUND. Daelim trades polypropylene products and raw materials in Korea and overseas. The company manufactures motorcycles and construction materials, including mixed concrete, artificial marble, and ceramic products. It also manufactures personal computers.	Reject	Company engaged in provision of non-comparable services: construction and engineering products and services.
23	DAICEL CHEMICAL IND	100382	JPN	2820	Daicel Chemical Industries, Ltd. manufactures chemical products in Japan and other parts of Asia. It offers cellulose acetate used in applications, including liquid crystal display (LCDs), photographic films, cigarette filters, and acetate fibers; triacetyl cellulose used in film for LCDs, as well as in the production of acetic acid, cellulose acetate, and acetate tow; water-soluble polymers (WSP); carboxymethyl cellulose (CMC) for use in the civil engineering, oil drilling, and fish feed; and hydroxyethyl cellulose (HEC) for use in paint products, polymerization, and cosmetics. The company also provides organic chemical products, primarily acetic acid and its derivatives; organic-designed products, primarily peracetic acid derivatives; chiral pharmaceutical ingredients, such as chiral chemicals and pharmaceutical intermediates; and chiral columns used for the separation of optical isomers.	Reject	Company engaged in significant manufacturing activities: cellulose acetate.
24	DAINICHISEIKA COL & CHEM MFG	102877	JPN	2860	Dainichiseika Color & Chemicals Mfg. Co., Ltd., together with its subsidiaries, engages in the manufacture and sale of pigments, colorants, printing inks, and other chemicals in Japan. Its pigments include organic, inorganic, and prepared pigments, which are used in printing inks, paints, toys, and textiles; in information technology applications, such as color for ink jet printers, and pigments for liquid crystal display filters; and in fine chemicals. The company's colorants consist of plastic colorants, fiber colorants, and textile colorants; and printing inks include offset inks, and gravure inks. It also provides a range of polymers, including polyurethane for leather coatings, insulation varnishes, molding resins, polyurethane adhesives, surface coating agents, textile treatment and coating materials, and polyurethane coating systems.	Reject	Company engaged in significant manufacturing activities: colorants.
25	DENKI KAGAKU KOGYO KK	100385	JPN	2800	Denki Kagaku Kogyo Kabushiki Kaisha engages in the manufacture and sale of specialty chemical, fertilizer, and cement products in Japan. It operates in four divisions: Organic Related Material; Inorganic Related Material; Electronic Materials; and Functional and Processed Products. Organic Related Material division offers styrene-based resins, such as polystyrene resins, transparent polymers, and heat resistant resins, which are used in packing materials, home electrical appliances; acetic acid- based specialty chemicals, such as basic acetic acid through vinyl acetate; and acetylene-based organic chemicals. Inorganic Related Material division provides fertilizers, which include calcium cyanamide, YORIN, and humic acid magnesia fertilizer; inorganic chemicals, such as carbide, refractories, and desulfurizer for steel making; cement, such as Portland cement, blast furnace cement, and soil stabilizer; and special additives.	Reject	Company engaged in significant manufacturing activities: specialty chemicals.

**Table D2:**

**BECKER Report's Benchmark Distributors Based on Search Step III: 1997-2003**

No.	Company Name	GVKEY	Country	SIC	Business Description	Accept/Reject	Reason for Rejection
26	DOW CHEMICAL	4060	USA	2821	The Dow Chemical Company engages in the manufacture and sale of chemicals, plastic materials, agricultural, and other specialized products and services worldwide. The company operates in six segments: Performance Plastics, Performance Chemicals, Agricultural Sciences, Basic Plastics, Basic Chemicals, and Hydrocarbons and Energy. The Performance Plastics segment provides automotive products, building solutions, epoxy resins, intermediates and specialty resins, polyurethanes and polyurethane systems, specialty plastics and elastomers, and technology licensing and catalyst products. The Performance Chemicals segment offers polymers, latex, and specialty chemicals. The Agricultural Sciences segment provides pest management, agricultural, and crop biotechnology products and solutions. The Basic Plastics segment offers polyethylene, polypropylene, and polystyrene resins.	Reject	Company engaged in significant manufacturing activities: chemicals and plastics.
27	EASTMAN CHEMICAL CO	29392	USA	2821	Eastman Chemical Company engages in the manufacture and sale of various chemicals, plastics, and fibers primarily in the United States. It operates in five segments: Coatings, Adhesives, Specialty Polymers, and Inks; Fibers; Performance Chemicals and Intermediates; Performance Polymers; and Specialty Plastics. Coatings, Adhesives, Specialty Polymers, and Inks segment manufactures liquid vehicles, additives, specialty polymers, and other raw materials, which are integral to the production of paints and coatings, inks, adhesives, and other formulated products. Fibers segment provides Estrom acetate tow and Estrobond triacetin plasticizers, which are used in cigarette filters; Estrom natural and Chromspun acetate yarns for use in apparel, home furnishings, and industrial fabrics; and acetate flake and acetyl chemicals.	Reject	Company engaged in significant manufacturing activities: chemicals and plastics.
28	ELLEX MEDICAL LASER LTD	252260	AUS	3845	Ellex Medical Lasers Limited engages in the design and manufacture of lasers and ultrasound systems used by ophthalmologists to diagnose and treat eye disease. It offers a line of photodisruptors, photocoagulators, SLT systems, and ultrasound systems for diagnosing and treating cataract, retina, and glaucoma conditions. The company sells its products through distribution partners. Ellex operates primarily in Australia, the United States, Europe, Japan, and Asia. The company was founded in 1985 and is headquartered in Adelaide, Australia.	Reject	Company engaged in distribution of non-comparable products: lasers and ultrasound systems.
29	EMS-CHEMIE HOLDING AG	102283	CHE	2820	EMS-CHEMIE HOLDING AG operates in the performance polymers and fine chemicals/engineering sectors in Switzerland. Its products include EMS-GRIVORY polyamides for use in automotive, electronic, packaging, and optical industry; and EMS-GRILTECH, which is made up of fusible adhesives, technical fibers, and fusible adhesive fibers for technical and textile applications. The company provides services in the areas of engineering, energy supply, maintenance, logistics, real estate, information technology, personnel management, controlling, environmental protection, and safety. It also offers EMS-TOGO, which provides plant equipment, materials, and services to the automotive industry in the fields of bonding, coating, and sealing.	Reject	Company engaged in significant manufacturing activities: chemicals and polymers.
30	FENNER PLC	100262	GBR	3560	Fenner PLC engages in the manufacture and distribution of conveyor belting and reinforced precision polymer products worldwide. It operates in two segments, Conveyor Belting and Advanced Engineered Products. The Conveyor Belting segment manufactures heavyweight conveyor belts using rubber, PVC, and steel cord for various applications, which include underground and surface mining, aggregates, and various industrial uses, such as package handling and process industries. It also produces lightweight belting using PVC, urethane, thermoplastic elastomer blends, and rubber. The Advanced Engineered Products segment produces precision polymer products, which comprise precision drives for computer peripherals, copiers, and ATMs; problem-solving power transmission and motion transfer components; silicone and complex hoses for heavy duty trucks, buses, and off-road vehicles; and seals and sealing solutions for the fluid power and oil and gas industries.	Reject	Company engaged in distribution of non-comparable products: conveyor belts and reinforced precision polymer products.

**Table D2:**

**BECKER Report's Benchmark Distributors Based on Search Step III: 1997-2003**

No.	Company Name	GVKEY	Country	SIC	Business Description	Accept/Reject	Reason for Rejection
31	FERRO CORP	4622	USA	2851	Ferro Corporation produces specialty materials and chemicals for a range of manufacturers worldwide. It offers inorganic specialty products, including glazes, frits, enamels, pigments, dinnerware decorations, and other performance materials; organic specialty products, such as polymer specialty materials, engineered plastic compounds, pigments, electrolytes, specialty solvents, and high-potency pharmaceutical active ingredients; and electronic materials comprising high-performance dielectrics, conductive pastes, metal powders, and polishing materials. The company's products are used in various applications in markets, such as appliances, transportation, building and renovation, electronics, household furnishings, industrial products, packaging, and pharmaceuticals. Ferro Corporation was founded in 1919 and is headquartered in Cleveland, Ohio.	Reject	Company engaged in significant manufacturing activities: chemicals.
32	GENTEK INC	62865	USA	2810	GenTek, Inc., through its subsidiaries, manufactures industrial components and performance chemicals in primarily the United States and Canada. It operates in three segments, Valve Actuation Systems, Performance Chemicals, and Corporate and Other. The Valve Actuation Systems segment provides precision engineered valve actuation systems and components for gasoline and diesel engines for the automotive and heavy duty/commercial markets. The Performance Chemicals segment produces aluminum sulfate for potable water and waste water treatment applications, as well as supplies ferric sulfate and other specialty flocculants used for settling and/or separating solids from liquids; ammonium sulfate; and sodium nitrite.	Reject	Company engaged in significant manufacturing activities: valves.
33	GREAT LAKES CHEMICAL CORP	5306	USA	2890	Great Lakes Chemical Corporation engages in the development and delivery of specialty chemical solutions worldwide. The company operates in two segments: Industrial Performance Products and Consumer Products. Industrial Performance Products segment offers polymer additive solutions and performance products to various markets, including consumer electronics, computers and business equipment, automotive, furniture, fibers, wire and cable, household appliances, communications equipment, building and construction materials, packaging, textiles, polymers, cosmetics, soil fumigants, water purifying, fire suppression, and optical monomers. It also provides flame retardants, polymer stabilizers and optical monomers, brominated performance products, fire suppression products, fluorine specialty products, and industrial water additives. Consumer Products segment provides recreational water care products and household products.	Reject	Company engaged in significant manufacturing activities: polymer additive solutions.
34	HARIMA CHEMICALS INC	203000	JPN	2800	Harima Chemicals, Inc. engages in the manufacture and distribution of resins for paint, ink, and tackifiers. It also offers chemicals that include sizing agents, paper strengthening agents, flocculants, and de-inking agents for the paper making industry. In addition, Harima Chemicals distributes docosahexaenoic acid as health food and food additives. Additionally, the company provides health services that consist of equipment cleaning and sterilization services to the hospitals and clinics. Harima Chemicals also produces and sells western food products, such as chutney, curry, stew, and demiglace sauce, as well as ingredients used in Japanese cuisine. The company also owns and manages leisure services that include golf course, hotels, natural hot spa, swimming pool, and tennis courts. Harima Chemicals, Inc. is headquartered in Osaka, Japan.	Reject	Company engaged in significant manufacturing activities: resins.

Table D2:

BECKER Report's Benchmark Distributors Based on Search Step III: 1997-2003

No.	Company Name	GVKEY	Country	SIC	Business Description	Accept/Reject	Reason for Rejection
35	HAYES LEMMERZ INTL INC	26019	USA	3714	Hayes Lemmerz International, Inc. designs, manufactures, and distributes fabricated steel and cast aluminum wheels for automotive original equipment manufacturers and the automotive aftermarket. The company offers cast aluminum, fabricated steel, and aluminum wheels for passenger cars and light trucks, as well as fabricated steel wheels for commercial trucks and trailers. It also provides aluminum and polymer powertrain components, including engine intake manifolds, engine covers, water crossovers, and ductile iron exhaust manifolds. The company has operations in the United States, Germany, Italy, Spain, Belgium, the Czech Republic, Turkey, Brazil, South Africa, Mexico, Thailand, India, and Japan. Hayes Lemmerz International, formerly known as HLI Holding Company, Inc., was founded in 1908 and is headquartered in Northville, Michigan.	Reject	Company engaged in significant manufacturing activities: car wheels.
36	HERCULES INC	5589	USA	2890	Hercules Incorporated engages in the manufacture and marketing of specialty chemicals and related services for business, consumer, and industrial applications worldwide. It operates in two segments, Paper Technologies and Ventures (PTV), and Aqualon Group (Aqualon). The PTV segment offers functional performance chemicals, process treatment chemicals, pulping chemicals, water treatment chemicals, lubricants, and building and converted products, such as adhesives, resin modifiers, coatings, hydro hobic and release chemistries, crosslinkers and binders, and foam control. The Aqualon segment provides products, including water-soluble polymers, ethylcellulose, and rosin resins that comprise hydroxyethylcellulose and derivatives, carboxymethylcellulose, methylcellulose, hydroxypropylcellulose, guar and derivatives, ethylcellulose, phosphate ester surfactants, and rosin resins.	Reject	Company engaged in significant manufacturing activities: specialty chemicals.
37	HEXAGON AB	103065	SWE	3812	Hexagon AB develops and markets engineering technology products and services focusing on the measurement technologies and polymers worldwide. It offers measurement technology products, including hand tools, fixed and portable coordinate measuring machines, GPS systems, level meters, laser meters, total stations, sensors for airborne measurement, aftermarket services and software systems for one, two, or three-dimensional measurements. These products are used in the measurement of mountains, cities, roads, tunnels, bridges, and other construction projects; industrial components, such as large aircrafts; and micro-components. The company provides its measurement technology products to various industries comprising aerospace, security and defense, automotive, engineering, construction, mining and oil, electronics, computing, and medical industries, as well as government departments and authorities.	Reject	Company engaged in distribution of non-comparable products: measuring machines.
38	HITACHI CHEMICAL CO LTD	102177	JPN	3670	Hitachi Chemical Co., Ltd. provides electronics related, advanced performance, and housing equipment and environmental facilities products primarily in Japan and other parts of Asia. Its electronics related products include semiconductor and display related materials, such as slurry for chemical mechanical planarization, heat-resistant fine polymers, die bonding materials, epoxy molding compounds, anisotropic conductive films, light guides for liquid crystal displays, and electromagnetic interference shielding films for plasma display panels; printed wiring boards and related products, including multilayer printed wiring boards, multiwire boards, flexible printed wiring boards, package substrates, copper-clad laminates for printed wiring boards, photosensitive dry films for printed wiring boards, and plating chemicals for printed wiring boards; carbon anode materials for lithium ion batteries; and capacitors.	Reject	Company engaged in distribution of non-comparable products: electronics.

**Table D2:**

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No.	Company Name	GVKEY	Country	SIC	Business Description	Accept/Reject	Reason for Rejection
39	HODOGAYA CHEMICAL CO LTD	203112	JPN	2890	Hodogaya Chemical Co., Ltd. engages in the manufacture and sale of polymers and chemicals. The company operates in three segments: Specialty Polymers, Fine Chemicals, and Basic Chemicals segments. Specialty Polymers segment offers polyurethane raw materials and polyurethane derivatives, polytetramethylene ether glycol, heat insulating materials, adhesives, hardeners, release agents, polyurethane construction materials, and foundry materials. Fine Chemicals segment provides charge control agents, charge transport materials, organic light emitting diode materials, custom manufacturing, dyestuffs, and agrochemicals. Basic Chemicals segment offers sodium chlorate, hydrogen peroxide and its derivatives, and benzyl chloride. It sells its products in the United States, Europe, and Asia. Hodogaya Chemical Co. was established in 1916 and is headquartered in Kawasaki-shi, Japan.	Reject	Company engaged in significant manufacturing activities: polymers and chemicals.
40	HOGANAS AB	221269	SWE	3390	Hoganas AB develops, manufactures, and markets metal powder solutions. Its products include sintered components, soft magnetic composites, brazing, chemical and metallurgical, hot polymer filtration, iron fortification, friction, GLIDCOP dispersion strengthened copper, printing, sintered stainless steel filters, surface coating, and welding powders, as well as refined metals, including air-melt master alloys for foundry and forging applications. The company's solutions are used for the manufacture of metal-powder based components and consumables. In the consumables areas, its solutions are used in processes, such as preparing metals, supplements to chemical processes, surface coatings, and food additives. The company's products are primarily used in automotive, home appliances, lawn and garden, and hand-tool industries. It has operations in Europe, North and South America, and Asia. The company was founded in 1797 and is headquartered in Hoganas, Sweden.	Reject	Company engaged in significant manufacturing activities: metal powder solutions.
41	HONSHU CHEM IND CO LTD	203154	JPN	2820	Honshu Chemical Industry Co., Ltd. is a Japan-based fine chemical company. The Company has three business segment. The High Functional Resin Materials segment offers biphenol and specialized biphenol, which are used for liquid crystal polymers (LCP), specialty epoxy resins, specialty polycarbonates and others. The High Functional chemical Products segment manufactures, processes, purchases and sells TrisP-PA, trimethylphenol, meta- cresol and 4M 2B, which are used for photo resist, vitamin E, synthetic resins, pharmaceuticals, agricultural chemicals and others. The Other Chemicals segment offers phenol, which is used for synthetic resins, pharmaceuticals, agricultural chemicals and others. Honshu Chemical Industry has two subsidiaries and two associated companies.	Reject	Company engaged in significant manufacturing activities: fine chemicals.
42	HUNUS INC	286842	KOR	5160	HUNUS, Inc. primarily distributes basic chemical products in South Korea. It supplies various chemical products, including monomers, solvents, acrylate, methacrylate, additives, hardners, initiator/catalysts, amines, urethane, and pigments/fillers. The company also distributes engineering plastics and super enpla products, and silicone products, as well as building materials, such as asphalt shingles, sidings, exterior items, hardwood flooring, laminated flooring, and wallboard. In addition, HUNUS distributes a line of inkjet and laserjet printers, color and digital printers, and related accessories and consumables. Further, it provides printer maintenance and training services, and pay per use services. The company, formerly known as LOJIT Corporation, was founded in 1975 and is headquartered in Seongnam-si, South Korea.	Accept	Accept



**Table D2:**

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No.	Company Name	GVKEY	Country	SIC	Business Description	Accept/Reject	Reason for Rejection
43	ICI-IMPERIAL CHEM INDS PLC	5894	GBR	2800	Imperial Chemical Industries PLC engages in the research, manufacture, and sale of paints and other chemical products. It operates in five segments: Paints, Adhesives, Specialty Starches, Specialty Polymers, and Electronic Materials. The Paints segment offers decorative paint and packaging coatings for food and beverage cans. The Adhesives segment manufactures industrial adhesives, including waterborne, hot melt, pressure sensitive adhesives, and process lubricants. The Specialty Starches segment produces specialty food and industrial starches. The Specialty Polymers segment offers redispersible emulsion powder polymers, rheology modifiers, and dispersants and antiscalants for water treatment and personal care, as well as thickeners for paper coating.	Reject	Company engaged in significant manufacturing activities: paints.
44	ILLINOIS TOOL WORKS	5878	USA	3540	Illinois Tool Works, Inc. manufactures a range of industrial products and equipment. It offers industrial packaging products, including steel and plastic strapping, plastic stretch film and related equipment, paper and plastic products that protect goods in transit, and metal jacketing and other insulation products; power systems and electronics, such as arc welding equipment, metal arc welding consumables and related accessories, metal solder materials for PC board fabrication, equipment and services for microelectronics assembly, electronic components and component packaging, and airport ground support equipment; and components and assemblies for automobiles and trucks, fasteners, fluids and polymers for maintenance and appearance, filler s and putties for auto body repair, and polyester coatings and patch and repair products for the marine industry.	Reject	Company engaged in significant manufacturing activities: industrial packaging products.
45	INABATA & CO LTD	203265	JPN	5160	Inabata & Co., Ltd. provides solutions and services for information technology, electronics, housing materials, chemicals, plastics, and food enterprises worldwide. It operates in five divisions: Information Technology and Electronics, Housing Materials, Chemicals, Plastics, and Food. The Information Technology and Electronics division manufactures liquid crystal displays, flat panel displays, copiers and printers, electronic components, sealants, and electronics related products. The Housing Materials division supply various housing products, including fixtures and fittings, lumber products, aluminum products, and plastic products to housing construction companies, mid-size builders, and general building contractors. It also supplies finished products, semifabricated products, and raw materials to manufacturers of general building materials, aluminum sash manufacturers, and manufacturers of fixtures and fittings.	Reject	Company engaged in provision of non-comparable services: IT solutions and services.
46	INTERTAPE POLYMER GROUP INC	24943	CAN	2670	Intertape Polymer Group, Inc., through its subsidiaries, develops, manufactures, and sells polyolefin films, paper and film pressure-sensitive tapes, and complementary packaging systems in the United States, Canada, and internationally. It operates in two segments, Tapes and Films, and Engineered Coated Products. The Tapes and Films segment manufactures various specialized polyolefin plastic and paper based products, as well as packaging systems for use in industrial and retail applications. Its products include carton sealing tapes, industrial and performance specialty tapes, stretch films, and shrink wraps. This segment sells its products to industrial distributors and retailers. The Engineered Coated Products segment develops and manufactures industrial, consumer packaging, and productive covering products using engineered coated polyolefin, paper, and laminate materials.	Reject	Company engaged in significant manufacturing activities: films and tapes.

**Table D2:**

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No.	Company Name	GVKEY	Country	SIC	Business Description	Accept/Reject	Reason for Rejection
47	ISOTRON PLC	203393	GBR	8071	Isotron plc provides contract sterilization services to manufacturers in Europe. It sterilizes single-use medical products and reduces levels of microbial contamination; enhances the performance of polymers; and provides technical laboratory services. The company sterilizes cardiovascular devices, orthopedic devices, wound management, and disposable products. It also offers microbiological testing and sterilization validation studies to assist customers in meeting the requirements of various standards for the manufacture of medical devices and pharmaceuticals. The company's treatment processes are used to treat cosmetics and toiletries, pharmaceutical raw materials, veterinary products, laboratory disposables, dyes and colorants, horticultural products, food packaging, and food. Its material modification includes radiation treatment using either cobalt-60 gamma or electron beam irradiation, a process for initiating changes at a molecular level in polymers and other materials.	Reject	Company engaged in provision of non-comparable services: contract sterilization services.
48	ISU CHEMICAL CO LTD	208875	KOR	2860	ISU Chemical Co., Ltd. produces petrochemicals and fine chemicals in Korea. It offers raw material for detergents, alkyl benzene, and normal paraffin; and additives for polymers and solvents. In addition, the company provides automotive lubricants, general industrial lubricants, and special industrial lubricants. ISU Chemical Co. was founded in 1969 and is based in Seoul, Korea.	Reject	Company engaged in significant manufacturing activities: petrochemicals and
49	JACOBS ENGINEERING GROUP INC	6216	USA	1600	Jacobs Engineering Group, Inc. provides technical, professional, and construction services to industrial, commercial, and governmental customers worldwide. The company designs and engineers modern process plants, including projects for clients in the chemicals and polymers, pharmaceuticals and biotechnology, oil and gas refining, food and consumer products, and basic resources industries; buildings, such as facilities for healthcare, education, and criminal justice markets, as well as other buildings for clients in the private sector; infrastructure projects, including highways, roads, bridges, and other transportation systems, as well as water and wastewater treatment plants, water resources facilities, and other plants and facilities; technology and manufacturing facilities for clients in the aerospace, automotive, defense, semiconductor, and electronics industries; consumer products manufacturing facilities; and pulp and paper plants.	Reject	Company engaged in provision of non-comparable services: technical, professional and construction services to industrial, commercial and government customers.
50	JSR CORP	101040	JPN	2820	JSR Corporation, together with its subsidiaries, manufactures synthetic rubber, emulsions, and plastics. Its Elastomers segment offers general-purpose synthetic rubbers, including styrene-butadiene rubber and poly-butadiene rubber; special purpose synthetic rubbers, such as acrylonitrile-butadiene rubber, butyl rubber, and ethylene-propylene rubber; and thermoplastic elastomers that include syndiotactic 1,2-poly-butadiene, hydrogenated polymer, styrene-butadiene block copolymer, and styrene-isoprene block copolymer used in automotive tires, automotive parts, industrial rubber parts, plastic modifiers, injection molding items, hot melt adhesives and binders, and various shoe soles.	Reject	Company engaged in distribution of non-comparable products: synthetic rubber, emulsions and plastics.
51	KANEKA CORP	100306	JPN	2821	Kaneka Corporation engages in the manufacturing of synthetic resins, plastic products, chemicals and foodstuffs to pharmaceuticals, medical devices, electrical raw materials and synthetic fibers. Its products include MBS (modifier resin) resin, used to improve the shock, weather, and heat resistance of various types of plastic; pharmaceutical intermediates, used for ACE-inhibitors, a compound that reduces blood pressure; base polymer for modified silicone sealant, used as sealing material for construction; blood purification system treatment for the treatment of refractory hyperlipidemia, arteriosclerosis obliterans (peripheral artery occlusion disease), systemic lupus erythematosus, and dialysis related amyloidosis; polyolefin foam beads, a molding method, using pre-foamed beads, to manufacture polyethylene foam; solar cells; and ultra heat-resistant polyimide films. The company operates in Japan, Belgium, the United States, Singapore, Malaysia, Australia, and China.	Reject	Company engaged in significant manufacturing activities: plastic products and foodstuffs.

**Table D2:**

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No.	Company Name	GVKEY	Country	SIC	Business Description	Accept/Reject	Reason for Rejection
52	KAWAGUCHI CHEM IND CO LTD	202866	JPN	2810	Kawaguchi Chemical Industry Co., Ltd. manufactures chemicals, such as organic rubber chemicals, polymer additives, intermediates, photo-chemicals, rust preventives, and agricultural chemicals, as well as intermediates for pharmaceuticals in Japan. It offers rubber chemicals, which are used to facilitate rubber processing; polymer additives that include various synthetic resins, such as vinyl chloride, polypropylene, and ABS resin, as well as plastic chemicals; and intermediates, which are used for dyes and pigments, such as direct dyes, acid dyes, and basic dyes, as well as develops an application of its products to photosensitive papers as a color former.	Reject	Company engaged in significant manufacturing activities: chemicals.
53	KOLON INDUSTRIES INC	203455	KOR	2800	Kolon Industries, Inc. engages in the production and sale of synthetic fiber products in Korea. It offers fiber products that comprise nylon filament yarn, polyester filament yarn, spandex, miocell, and specialty yarn; Chamude products, including staple fiber, substrate, suede, and others; industrial materials, such as tireCord, technical yarn, airbag, and spunbond. The company also provides various films comprising PET film, nylon film, stamping foil, window film, dry film photo resist, media, and metallized film; engineering plastics, such as ENPLA and POM; specialty chemicals consisting of bulk pharmaceutical intermediates, specialty chemicals, specialty polymer, and biochemicals; and other factory products. Kolon Industries was founded in 1957 and is based in Kwacheon, South Korea.	Reject	Company engaged in significant manufacturing activities: synthetic fiber products.
54	LE CARBONE-LORRAINE	103305	FRA	3620	Groupe Carbone Lorraine engages in developing electrical applications of graphite. The company operates in two segments, Advanced Materials and Technologies, and Electrical Components. The Advanced Materials and Technologies segment engages in the design, manufacture, and marketing of anti-corrosion equipment based on graphite, tantalum, titanium, and fluoride polymers for the chemicals and pharmaceuticals industries. This segment also develops isostatic graphite solutions for high-temperature applications in semiconductors, aerospace, and glass industries; designs, markets, and sells high-energy braking components based on graphite and carbon. The Electrical components segment engages in the design, manufacture, and marketing of sliding electrical contacts; brushes for electric motors; and brushcards comprising brushes, brushholders, and electronic components. This segment also provides diagnostics, assistance, and maintenance services.	Reject	Company engaged in significant manufacturing activities: graphite.
55	LITHO SUPPLIES PLC	200386	GBR	5084	Litho Supplies Plc supplies printing and graphic arts materials, and equipment to the printing and corporate markets. It offers digital print solutions, such as printing consumables and electronic pre-press equipment; various equipment and consumables for the flexo industry, including computer to plate systems, plate mounting tapes, plate systems, and complimentary equipment, as well as thermal platemaking systems, which include analogue and digital photopolymer plates and platemaking equipment; and various pressroom products, as well as technical advice, advice on color management, fount audits, VOC testing, and ink rub testing services. The company also provides equipment and consumable products for the sign making, point of sale, and wide format printing markets. In addition, it offers a wide range of support on hardware, software and color control. The company markets its products through its Web site, www.litho.co.uk.	Reject	Company engaged in distribution of non-comparable products: printing and graphic art materials.

**Table D2:**

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No.	Company Name	GVKEY	Country	SIC	Business Description	Accept/Reject	Reason for Rejection
56	LITTELFUSE INC	25747	USA	3613	Littelfuse, Inc. engages in the manufacture and sale of circuit protection and electrical fuses for the electronic, automotive, and electrical markets in the Americas, Europe, and Asia-Pacific. It offers fuses and protectors, positive temperature coefficient re-settable fuses, varistors, polymer electrostatic discharge suppressors, discrete transient voltage suppression diodes, TVS diode arrays and protection thyristors, gas discharge tubes, power switching components, and fuse holders and blocks under various brand names, such as TECCOR, SIDACTor, and Battrax. The company also provides fuses that are used in automobiles, trucks, buses, and off-road equipment to protect electrical circuits and the wires, which supply electrical power to operate lights, heating, air conditioning, radios, windows, and other related controls. It provides automotive fuse products under various brand names, including ATO, MINI, MAXI, MIDI, MEGA, and CablePro.	Reject	Company engaged in significant manufacturing activities: circuit protection and electrical fuses.
57	LOW & BONAR PLC	100929	GBR	3990	Low & Bonar PLC engages in the design, conversion, and finishing of polymers and other specialist materials into products for various markets in Europe, North America, and Asia. The company operates through two divisions, Floors and Technical Textiles. The Floors division provides specialist contract flooring products and services, such as tiles, flocked floor products, entrance systems, and performance vinyls to the healthcare, education, transport, public buildings, leisure and hospitality, of fice buildings, retail, and residential housing markets. The Technical Textiles division specializes in the design, production, and marketing of technical textiles, such as fibrillated yarns, grass yarns, woven fabrics, non-woven fabrics, 3D polymeric structures, geotextiles, agrotextiles, composites, and coated fabrics, as well as synthetic construction fibers for cementitious products for a range of niche industrial applications.	Reject	Company engaged in significant manufacturing activities: floor products.
58	MATERIAL SCIENCES CORP	7107	USA	3470	Material Sciences Corporation and its subsidiaries engage in the design, manufacture, and marketing of material-based solutions for acoustical and coated applications. It offers acoustical material-based solutions that include multilayer composites consisting of metals, polymeric coatings, and other materials used to manage noise and vibration; and coated material-based solutions, which include coil coated and electrogalvanized protective and decorative coatings applied to coils of metal. The acoustical material-based solutions include products used for applications in disc brake noise dampers, automotive body panels, and engine parts. The coated material-based solutions include coil coated and electrogalvanized protective and decorative coated metal products for use as automotive fuel tanks, automotive body skins, metal building skins, appliance cabinets, heating and ventilation applications, lighting, and furniture and fixtures.	Reject	Company engaged in significant manufacturing activities: material-based solutions for acoustical and coated applications.
59	MEASUREMENT SPECIALTIES INC	12236	USA	3829	Measurement Specialties, Inc. engages in the design, development, and manufacture of sensors and sensor-based systems to original equipment manufacturers and end users. The company based on a portfolio of proprietary technology produces and markets various sensors to measure precise ranges of physical characteristics, including pressure, temperature, position, force, vibration, humidity, and photo optics. Its sensor products include pressure sensors and transducers, linear/rotary position sensor s, piezoelectric polymer film sensors, custom microstructures, load cells, accelerometers, optical sensors, and humidity and temperature sensors. These sensors are used for automotive, medical, consumer, military/aerospace, and industrial applications.	Reject	Company engaged in significant manufacturing activities: sensors and sensor-based systems.

Table D2:

## BECKER Report's Benchmark Distributors Based on Search Step III: 1997-2003

No.	Company Name	GVKEY	Country	SIC	Business Description	Accept/Reject	Reason for Rejection
60	MINERALS TECHNOLOGIES INC	25870	USA	2810	Minerals Technologies, Inc., a resource- and technology-based company, develops, produces, and markets a range of specialty mineral, mineral-based, and synthetic mineral products worldwide. The company operates in two segments, Specialty Minerals and Refractories. The Specialty Minerals segment engages in the production and sale of synthetic mineral product precipitated calcium carbonate, as well as a processed mineral product, quicklime. It also mines mineral ores, as well as processes and sells other natural mineral products, including limestone and talc. This segment serves paper, building materials, paint and coatings, glass, ceramic, polymer, food, automotive, and pharmaceutical industries. The Refractories segment manufactures monolithic and shaped refractory materials and specialty products; application and measurement equipment; and calcium metal and metallurgical wire products. This segment serves steel, nonferrous metal, and glass industries.	Reject	Company engaged in significant manufacturing activities: minerals.
61	MITANI SANGYO CO LTD	205582	JPN	5160	Mitani Sangyo Co., Ltd. engages in the distribution of basic chemicals; design and construction of air conditioning, water supply, and drainage facilities; and design and sale of furniture and air-conditioning equipment in Japan and internationally. It offers various basic chemicals, such as hydrochloric acid, sulfuric acid, and caustic soda. The company also offers various furniture units, such as equipped kitchens, unit bathrooms, storage furniture, and dressers. It also offers flooring materials and building equipment. In addition, the company develops and sells package software. Further, it offers resin electronic parts, molding resin products, synthetic resin, and printed substrates. Mitani Sangyo Co. was established in 1928 and is based in Tokyo, Japan.	Reject	Company engaged in provision of non-comparable services: construction of air conditioning, water supply, and drainage facilities.
62	MITSUBISHI CHEMICAL HLDGS CO	19045	JPN	2860	Mitsubishi Chemical Holdings Corporation, through its subsidiaries, engages in the production and sale of various chemical and healthcare products primarily in Japan. The company operates in four segments: Petrochemicals, Performance Products, Functional Products, Health Care, and Services. Petrochemicals segment provides various polymers, monomers, and basic chemicals, including purified terephthalic acid, polypropylene, polycarbonate/phenol chain, polytetramethylene ether glycol, 1,4-butandiol, and other derivatives. Performance Products segment offers optical recording media, printing supplies, display materials, Li-ion battery materials, carbon products, environment-related materials/services, active pharmaceutical ingredient, and food ingredients. Functional Products segment provides food packaging materials, polyester films, carbon fiber, alumina fiber, civil engineering materials, construction materials, agricultural materials, and plastic pipes.	Reject	Company engaged in significant manufacturing activities: petrochemical and healthcare products.
63	MITSUBISHI RAYON CO LTD	100163	JPN	2821	Mitsubishi Rayon Co., Ltd., along with its subsidiaries, engages in the manufacture and sale of monomers and polymers, based on its MMA (methyl methacrylate) and AN (acrylonitrile) business complexes. The company operates in three segments: Chemicals and Plastics; Fibers; and the Carbon Fiber and Composite Materials, Membranes, and Others. The Chemicals and Plastics segment provides chemicals, acrylic resins, acrylic resin processed products, coating resins, resin additives, plastic optical fibers, plastic rod lenses, and image display materials. The Fibers segment offers acrylic fibers, acetate fibers, polyester fibers, polypropylene fibers, and carpets. The Carbon Fiber and Composite Materials, Membranes, and Others segment provides carbon fibers and composite materials, aerospace materials, water purifiers, membranes, engineering and machinery systems, water treatment equipment and systems, and construction materials.	Reject	Company is a subsidiary.

**Table D2:**

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No.	Company Name	GVKEY	Country	SIC	Business Description	Accept/Reject	Reason for Rejection
64	MITSUI CHEMICALS INC	101127	JPN	2821	Mitsui Chemicals, Inc., together with its subsidiaries, manufactures and sells chemicals worldwide. It operates in four segments: Functional Chemicals and Engineering Materials (FCEM), Functional Polymer Materials (FPM), Basic Chemicals, and Petrochemicals. The FCEM segment offers functional fabricated products, electronics materials, information materials, agrochemicals, fine and performance chemicals, and healthcare materials. The FPM segment produces elastomers, performance polymers, specialty resins, and urethane chemicals. The Basic Chemicals segment provides fiber intermediates, PET resin, phenols, and industrial chemicals. The Petrochemicals segment manufactures petrochemical feedstocks, polyethylene, and polypropylene products. The company also involves in engineering, warehousing, and freight transportation. Mitsui offers its products for various purposes in automobiles, packaging, agriculture, information technology and health care sectors.	Reject	Company engaged in significant manufacturing activities: chemicals.
65	MIWON COMMERCIAL	209705	KOR	2800	MiWon Commercial Company Limited engages in the production and supply of various chemicals primarily in South Korea. It has four units: Performance Chemicals, Specialty Chemicals, Electronics Chemicals, and Polymer Additives. The Performance Chemicals unit produces and supplies a range of products from basic chemicals to specialty chemicals covering sulfurs and sulfuric acids, such as sulfur flake/granule/powder, fuming sulfur acid, and refined sulfuric acid; anionic, cationic, amphoteric, and nonionic surfactants; hair care resins; and rubber additives. The Specialty Chemicals unit primarily develops and produces photoinitiators and functional monomers used in UV-related industry. Its principal products include caprolactone acrylate, lauryl acrylate, isodecyl acrylate, phenol (ethoxylated) acrylate, stearyl acrylate, PEG400 diacrylate, trimethylolpropane triacrylate, dipentaerythritol pentaacrylate, and diethyleneglycol dimethacrylate.	Reject	Company engaged in significant manufacturing activities: chemicals.
66	MONTEFIBRE	102510	ITA	2820	Montefibre S.p.A operates in the chemical fibers, acrylic fibers, polyester fibers, and polymers sectors. The company, in joint venture Montefibre Hispania S.A. and Iberdrola Diversificacion S.A., engages in the production and sale of electricity at the Miranda de Ebro plant. Montefibre markets its acrylic fibers for textile applications under the LEACRIL trademark. Its product range includes products for short staple spinning (cotton and open-end); for worsted, carded, and semi-worsted wool spinning; and for direct use with the Wildman technology. It also offers various specialized products, including dyed fibers, overdyed fibers, super-shiny fibers, flat section fibers, high shrinkage fibers, low-pilling fibers, and micro-fibers. Montefibre is also present in other non-textile market segments with its acrylic fibre, RICEM, an asbestos substitute, and RICEMMC for mortar and concrete reinforcement.	Reject	Company engaged in distribution of non-comparable products: fibers.
67	MYERS INDUSTRIES INC	7636	USA	3089	Myers Industries, Inc. manufactures and distributes polymer products for industrial, agricultural, automotive, commercial, and consumer markets in North America and internationally. It operates through four segments: Lawn and Garden, North American Material Handling, Automotive and Custom, and Distribution. The Lawn and Garden segment provides injection-molded and thermoformed pots, hanging baskets, flats and carry trays, plug trays, nursery containers, propagation sheets, flats, and specialty pots under the Dillen, ITML, Pro Cal, and Listotm brands, which serve the horticultural container needs of the floriculture/horticulture market.	Reject	Company engaged in significant manufacturing activities: polymer products.

**Table D2:**

**BECKER Report's Benchmark Distributors Based on Search Step III: 1997-2003**

No.	Company Name	GVKEY	Country	SIC	Business Description	Accept/Reject	Reason for Rejection
68	NAGASE & CO LTD	102791	JPN	5160	NAGASE & CO., LTD. is a Japan-based supplier of chemical products. The Company is involved in the import, export, manufacture and domestic sale of a wide range of products. The Company offers chemical products, including dyestuffs, dyeing auxiliaries, chemicals for paper manufacturing, petrochemicals, synthetic chemical materials, pigments, coating materials, cosmetics and raw materials of toiletries; synthetic resin related products, including synthetic rubber, inorganic materials, as well as synthetic-resin-related equipment, devices and dies; electronic products, including electronic precision abrasive, communication devices and appearance testers, as well as life science products, such as materials for medical and agricultural chemicals, reagents for research, exogenous enzyme and health food. The Company is also engaged in the provision of logistics and information processing services, among others. The Company has 70 subsidiaries and 33 associated companies.	Accept	Accept
69	NEC TOKIN CORP	102235	JPN	3674	NEC Tokin Corporation offers electronic devices in Japan. It primarily operates three units: Energy Devices, Network Devices, and Functional Devices. The Energy Devices unit offers a range of capacitors and batteries that include electric double layer capacitors and proton polymer batteries, as well as tantalum capacitors and lithium ion rechargeable batteries. The Network Devices unit provides relays, optical network devices, and wireless devices, as well as other semiconductor technologies, such as IC cards and IC tags to the telecommunications networking market. The Functional Devices unit offers piezoelectric devices, such as piezoelectric actuators; magnetic Devices that include Flex-Suppressors; and planar-type transformers, as well as a s functional sensors that involve Eddy current type proximity sensors and DS sensors.	Reject	Company engaged in distribution of non-comparable products: energy, network and functional devices.
70	NICHIAS CORP	102773	JPN	3050	NICHIAS Corporation, through its subsidiaries, provides thermal insulation, sealing, and anti-corrosion technologies for energy, petroleum and petrochemical plants, automobiles, construction, electronics, and environmental protection sectors primarily in Japan. It offers various industrial products, such as specialty polymer products, including corrosion-resistant materials; fire-resistant and thermal insulation materials; and sealing materials for preventing fluid leakages, as well as automotive parts comprising cylinder head gaskets. The company also develops and manufactures various building materials with fire resistance, fireproofing, thermal insulation, and soundproofing primarily used in office buildings, hospitals, research facilities, factories, residences, and condominiums, as well as delivers building materials installation methods.	Reject	Company engaged in significant manufacturing activities: building materials.
71	NIPPON CHEMI-CON CORP	102248	JPN	3670	Nippon Chemi-Con Corporation engages in the manufacture and sale of aluminum capacitors, precision mechanical components, and various other electronics equipment. Its products comprise materials, including aluminum electrolytic foil, rubber seals, and aluminum cases, as well as silicon wafer, chip resistors, and other resale parts; aluminum electrolytic capacitors consisting of conductive polymer aluminum solid capacitors, lead type capacitors, snap-in terminal type capacitors, and screw insert terminal type capacitors; circuit components, including functional polymer type capacitors, electric double layer capacitors, film capacitors, and amorphous magnetic parts; and modules and devices consisting of bare chips packaging, precise mechanical parts, mini disc magnetic field modulation heads, and security related devices and option terminals. The company operates primarily in Japan, as well as in North America, Europe, and Asia.	Reject	Company engaged in significant manufacturing activities: aluminum capacitors.

**Table D2:**

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No.	Company Name	GVKEY	Country	SIC	Business Description	Accept/Reject	Reason for Rejection
72	NITTO DENKO CORP	100683	JPN	3679	Nitto Denko Corporation engages in the manufacture and sale of electrical insulating materials in Japan. The company's Industrial Products segment supplies bonding and joining materials, surface protection products, and sealing materials to the electronics, automotive, and housing and construction industries. Its products include bonding and joining products, surface protection products, anti-corrosion and waterproof products, sealing products, and packaging products and equipment. Nitto Denko's Electronics Products segment supplies optical films and other LCD-related products, flexible printed circuit materials, electronic processing materials, and semiconductor-related products for the production of home audiovisual equipment, mobile telephones, semiconductors, and hard disk drives. Its Functional Products segment supplies medical-related products, polymer separation membranes, and engineering plastic products.	Reject	Company engaged in significant manufacturing activities: electrical insulating materials.
73	NOLATO AB	213047	SWE	3080	Nolato AB, along with its subsidiaries, engages in the development and manufacture of polymer components and product systems for various industries. The company offers polymer system products for mobile phones and telecom base station customers, including mobile phone system products; tapes and packaging for mobile phones and other electronic items; EMI shielding solutions and materials for electronics; mechanical modules for mobile phones; and base station components. It also provides injection molding of silicone, injection molding of plastics and TPE, pharmaceutical packaging products, dipped latex products, extrusion of medical tubing, laboratory products, and catheter balloons for healthcare industry.	Reject	Company engaged in distribution of non-comparable products: polymer system products for phone industry.
74	NOVA CHEMICALS CORP	8009	CAN	2860	NOVA Chemicals Corporation, together with its subsidiaries, engages in the production and marketing of plastics and chemicals. It operates in three business units: Olefins/Polyolefins, Performance Styrenics, and INEOS NOVA. The Olefins/Polyolefins unit produces and markets ethylene, polyethylene, and higher-value polyethylene products, as well as various chemical and energy products. The Performance Styrenics unit produces and markets expandable polystyrene and styrenic performance polymer products. The INEOS NOVA unit produces and markets styrene monomer and solid polystyrene. The company's products are used in various applications, including rigid and flexible packaging, containers, plastic bags, plastic pipe, consumer electronics, building and construction materials, automotive components, housewares, and other industrial and consumer goods.	Reject	Company engaged in significant manufacturing activities: plastics and chemicals.
75	OKONG	286847	KOR	2891	Okong Corp. manufactures adhesives, sealants, wax/rubbing compounds, and tapes in South Korea. Its adhesive products include polyvinyl acetate solution adhesives for construction; water-based emulsion adhesives for flooring, paper processing, and woodworking; polyvinyl-based adhesives; modified acrylic tiling adhesives; acrylics and copolymeric emulsion; rubber-based adhesives; synthetic resin-based adhesives; epoxy resin-based adhesives; and hotmelt adhesives. The company's sealant products comprise silicon sealant, acryl sealant, butyl sealant, polyurethane sealant, urethane foam, and water repellant products. In addition, Okong provides rubbing compounds, polishing wax, water-based floor wax, grease floor wax, and floor cleaner. Further, the company offers OPP tape, aluminum tape, PE form tape, acryl foam tape, and tape cutter. Okong is headquartered in Incheon, South Korea.	Reject	Company engaged in significant manufacturing activities: adhesives, sealants, etc.
76	OPTOMAGIC CO LTD	242929	KOR	3357	Optomagic Co., Ltd. engages in the manufacture and sale of optic fiber products in South Korea. Its products include single mode optical fiber, zero water peak fiber, non-zero dispersion shifted fiber, optical fiber ribbon, preforms of single mode optical fiber, stainless steel loose tubes, strong bend fiber, tight buffered fiber, and polymer cladding optical fiber. The company is based in Ansan-si, South Korea. Optomagic Co., Ltd. is a subsidiary of Taihan electric Wire Co., Ltd.	Reject	Company engaged in significant manufacturing activities: optic fiber products.



**Table D2:**

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No.	Company Name	GVKEY	Country	SIC	Business Description	Accept/Reject	Reason for Rejection
77	OSAKA ORGANIC CHEM IND LTD	205458	JPN	2860	Osaka Organic Chemical Industry, Ltd. offers organic chemistry industry products, organic reagents pharmaceutical and agricultural intermediates, petrochemical products, and special polymers. It also engages in the production, marketing, refining, and processing of solvents. Osaka was founded in 1941 and is headquartered in Osaka City, Japan.	Reject	Company engaged in significant manufacturing activities: solvents.
78	PARK ELECTROCHEMICAL CORP	8348	USA	3672	Park Electrochemical Corp., a materials company, through its subsidiaries, designs, develops, manufactures, markets, and sells digital and radio frequency/microwave printed circuit materials for the telecommunications and Internet infrastructure, and computing markets. The company also offers composite materials, structures, and components for the aerospace markets. It engages in polymer chemistry formulation, coating technology, and composite structures and component design and fabrication. The company's printed circuit materials are used to fabricate complex multilayer printed circuit boards and other electronic interconnection systems, including multilayer back-planes, wireless packages, high-speed/low-loss multilayers, and high density interconnects (HDIs).	Reject	Company engaged in significant manufacturing activities: printed circuit materials.
79	PARKER CORP	202441	JPN	5160	Parker Corporation was established in 1951 and became publicly held in October 1989 by listing in the OTC. In March 2005, the company's share was listed on Tokyo Stock Exchange 2nd section. The company, created as a spin-off from Nihon Parkerizing, is a trading company dealing in chemicals, industrial machinery, and technology sales. The company owns a soundproofing materials facility in Thailand.	Reject	Company engaged in distribution of non-comparable products: industrial machinery and technology.
80	PLASTIC OMNIUM SA	103264	FRA	2820	Plastic Omnium SA, through its subsidiaries, engages in the manufacture and sale of automotive components and environmental products and services worldwide. It operates in three segments: Automotive Components, Plastic Omnium Environment, and Performance Plastics Products -3P. The Automotive Components segment designs and delivers exterior parts and modules, including bumpers and energy absorption systems, fender modules, front-end assemblies, and hatchback modules. It also provides fuel systems to global carmakers. The Plastic Omnium Environment segment provides upstream waste management solutions through a range of products, which includes wheeled containers, public drop-off receptacles, and litterbins. The Performance Plastics Products -3P segment manufactures fluoropolymers and other high-performance resins for the automotive and aeronautics industries. The company was founded in 1946 and is based in Levallois, France. Plastic Omnium SA is a subsidiary of Burelle SA.	Reject	Company engaged in significant manufacturing activities: automotive components and environment products.
81	POLYMER GROUP INC	62836	USA	2200	Polymer Group, Inc. manufactures and markets nonwoven and oriented polyolefin products. The company operates through two segments, Nonwovens and Oriented Polymers. Its Nonwovens segment offers nonwoven materials, which are used as substrates in diapers, training pants, feminine sanitary protection, adult incontinence, baby wipes, and household wiping products. This segment also offers components, including top sheet, transfer layer, backsheet fabric, leg cuff fabric, sanitary protective facings, and absorbent pads for incontinence guard, panty shield, and absorbent core applications; and disposable surgical packs, and wound care sponges and dressings, as well as apparel, including operating room gowns and drapes, face masks, and shoe cover used in medical applications. In addition, it provides various products for cable wrap, furniture and bedding, home furnishings, filtration, automotive components, and landscape and agricultural applications.	Reject	Company engaged in significant manufacturing activities: materials for diapers, training pants, etc.

**Table D2:**

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No.	Company Name	GVKEY	Country	SIC	Business Description	Accept/Reject	Reason for Rejection
82	POLYONE CORP	28194	USA	2821	PolyOne Corporation provides specialized polymer materials with operations in thermoplastic compounds, specialty polymer formulations, color and additive systems, thermoplastic resin distribution, and specialty polyvinyl chloride (PVC) vinyl resins. The company has four segments: Vinyl Business, International Color and Engineered Materials, PolyOne Distribution, and Resin and Intermediates. The Vinyl Business segment offers various products and services for vinyl coating, molding, and extrusion processors. It sells vinyl compounds, vinyl resins, and specialty coating materials based on vinyl to various manufacturers of plastic parts and consumer-oriented products, as well as offers materials testing and component analysis, custom compound development, colorant and additive, design assistance, structural analyses, process simulations, and extruder screw design services. The International Color and Engineered Materials segment offers additive masterbatches and engineered materials.	Reject	Company engaged in significant manufacturing activities: resins.
83	QUADRANT AG	102525	CHE	2821	Quadrant AG engages in the development, manufacture, and marketing of polymer materials in the form of semifinished and finished products worldwide. It operates in two divisions, High-Performance Plastics (QEPP/QCMS) and Plastic Composites/Cable Protection Systems (QPC/QCPS). The QEPP/QCMS division manufactures semifinished products, including polyamides, polyacetal, polyethylene, fluoroplastics, and polybenzimidazole. This division also offers injection-molded components and subassemblies. The QPC/QCPS division manufactures thermoplastic composites consisting of thermoplastics in the form of glass mats, glass fiber and polyester fabrics, or natural fibers, such as kenaf, sisal, flax, and hemp. It also offers consulting services and technical support for underground installation to its customers in the electrical utilities, telecommunications, and construction industries. The company was founded in 1996 and is based in Zurich, Switzerland.	Reject	Company engaged in significant manufacturing activities: polymer material.
84	RHODIA	112040	FRA	2800	Rhodia S.A., through its subsidiaries, produces, markets, and develops specialty chemicals primarily in Europe, the United States, South Korea, Brazil, and China. The company offers intermediates and polymers for use in downstream polyamide and non-polyamide products; oxygenated solvents for industrial products and paints, leather, automotive, packaging, inks, and consumer goods; engineering plastics for automotive, electrical, electronics, and consumer goods; engineering yarns and fibers for automotive, tires, filtration, printing, ropes, carpets, furnishings, and textiles; and textile yarns for lingerie and sportswear markets.	Reject	Company engaged in significant manufacturing activities: specialty chemicals.
85	RIFA INDUSTRIAL CO	211860	KOR	5160	Rifa Industrial Co., Ltd. is a Korea-based company primarily engaged in the distribution of chemicals and dyestuffs. The Company distributes organic and inorganic chemicals, including chemicals used for industries of fiber, coating, leather and synthetic medicine, food additive, rubber, glass, surfactant, solvent and others. It also distributes dyestuffs including reactive dyestuffs, acid dyestuffs, direct dyestuffs, disperse dyestuffs and others to the domestic and overseas markets. During the fiscal year ended March 31, 2008, the sale of dyestuffs accounted for approximately 55% of the Company's total revenue.	Reject	Company engaged in significant manufacturing activities: dyestuff.
86	RIKENGREEN CO LTD	202453	JPN	5160	Rikengreen Co. Ltd. is a distributor of agrochemical products. The products include herbicides, fungicides, insecticides and fertilizers. These products are sold to golf courses, parks, grounds, motorway facilities and condominiums. The company also sells food additives and preparations and offers land and real estate intermediary services. Rikengreen further deals with sales of paper-making and industrial agents, as well as with greening and landscaping works. The company was founded in 1957 and is based in Tokyo, Japan.	Accept	Accept

**Table D2:**

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No.	Company Name	GVKEY	Country	SIC	Business Description	Accept/Reject	Reason for Rejection
87	ROHM AND HAAS CO	9217	USA	2821	Rohm and Haas Company provides various specialty materials primarily for use in the building and construction, electronics, packaging and paper, industrial, transportation, household, personal care, water, and food markets. Its Electronic Technologies segment offers materials and fabrication services for printed circuit boards in computers, cell phones, automobiles, and many other electronic devices, as well as materials and processes that enable the performance of a diverse range of electronic, optoelectronic, and industrial finishing applications. The Display Technologies segment provides materials used in the production of electronic displays; and advanced specialty films and materials used in LCD and plasma displays. The Paint and Coatings Materials segment offers an array of versatile acrylic emulsion polymers and other technologies, as well as additives, such as thickeners, extenders, and opacifiers.	Reject	Company engaged in significant manufacturing activities: materials for printed circuit boards.
88	RPM INTERNATIONAL INC	8902	USA	2890	RPM International, Inc., through its subsidiaries, engages in the manufacture, marketing, and sale of various specialty chemical products to industrial and consumer markets worldwide. It operates in two segments, Industrial and Consumer. The Industrial segment offers sealants and institutional roofing systems, basement waterproofing sealants, and roofing maintenance and related services; joint sealing tapes, flashing tapes, cartridge sealants and adhesives, strips, foils and accessories, polymer flooring systems, tile systems, and fiberglass reinforced plastic gratings and shapes; heavy-duty corrosion-control coatings, fireproofing products, and containment linings; and textured finish coats, sealers, and variegated-aggregate finishes.	Reject	Company engaged in significant manufacturing activities: sealants and institutional roofing systems.
89	SAKAI TRADING CO LTD	206008	JPN	5160	SAKAI TRADING CO., LTD. is a Japan-based company mainly engaged in the chemical product-related business. The Company has two business segments. The Chemical Product-related segment provides chemical products such as pigments, vinyl stabilizers and catalysts, vinyl chloride resins, functional resins; synthetic resins such as reflection sheets and sanitary materials, as well as electronic materials, including optical electronic equipment materials and electronic equipment parts. The Others segment provides nonmetal minerals, industrial machinery and food additives. The Company has six subsidiaries.	Accept	Accept
90	SAM YUNG TRADING CO LTD	208933	KOR	5160	No business description was found.	Reject	Insufficient information available.
91	SAMSUNG SDI CO LTD	104582	KOR	3670	Samsung SDI Co., Ltd. engages in the manufacture and sale of digital display products primarily in Korea. Its products include color cathode ray tube, liquid crystal displays, vacuum fluorescent displays systems, and plasma display panels. The company also offers rechargeable batteries, such as lithium ion battery and lithium polymer battery, as well as involves in the research and development of energy sources for solar cells and fuel cells. Samsung SDI also operates in Asia, Europe, and America. The company was founded in 1970 and is headquartered in Suwon, South Korea. Samsung SDI Co., Ltd. is a member of Samsung Group of Companies.	Reject	Company engaged in significant manufacturing activities: digital display products.
92	SANKYOKASEI CORP	205509	JPN	5160	The Group's principal activity is to market chemical products on wholesale basis. The chemical product includes industrial chemicals, synthetic resins, construction materials and other industrial materials. The operations are carried through the following divisions: Civil engineering & building material related; Information & transport machine related; Daily use products; Industrial chemicals and Real estate.	Accept	Accept

**Table D2:**

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No.	Company Name	GVKEY	Country	SIC	Business Description	Accept/Reject	Reason for Rejection
93	SARNA KUNST HOLDINGS AG	208819	CHE	3290	Sarna Kunststoff Holding AG, through its subsidiary, Sarna Polymer Holding, Inc., engages in the development and manufacture of plastics products. It offers polymer-based waterproofing materials and systems for the construction and civil engineering industries. The company primarily provides polymeric membranes and accessory products. It also offers consulting and other services. The company primarily operates in North America, Europe, and Asia. Sarna Kunststoff Holding was founded in 1958 and is based in Sarnen, Switzerland. As of November 14, 2005, Sarna Kunststoff Holding AG is a subsidiary of Sika AG.	Reject	Company engaged in significant manufacturing activities: plastic products.
94	SEKISUI PLASTICS CO LTD	208292	JPN	3081	Sekisui Plastics Co., Ltd. engages in the development, manufacture, and sale of foamed plastics, functional materials, building and construction materials, and packaging systems in Japan. It offers various foamed plastics, including expandable beads for industrial applications; extruded foamed sheets for use in food product trays, instant noodle containers, and agricultural materials; non-crosslinked low-density polyethylene foamed sheets for packaging, construction, and agricultural applications; and extruded foamed boards for use in folding boxes and display panels. The company also offers functional materials, such as fine-particle polymer that is used as a matting agent for paints, a lubrication-improving agent for cosmetics, and a carrier support agent for the absorption of oil solutions and chemicals; and electroconductive high-polymer gel for detecting even a minute electrical current.	Reject	Company engaged in significant manufacturing activities: foamed plastics, functional materials, building and construction materials, and packaging systems.
95	SHIN-ETSU POLYMER CO LTD	202982	JPN	2820	Shin-Etsu Polymer Co., Ltd., through its subsidiaries, provides electronic, packaging, and construction products primarily in Japan and internationally. It operates in three segments: Electronic and Functional Products, Packaging Products, and Construction Material and Constructing. The Electronic and Functional Products segment offers keypads, inter-connectors, OA device components, silicone rubber molding products, and PVC compounds. The Packaging Products segment provides semiconductor-related containers, carrier tapes, wrap films, and plastic-sheet-related products. The Construction Material and Constructing segment offers PVC pipe-related products, exterior materials, products related to lavatories, store building, and construction decoration. The company was founded in 1960 and is headquartered in Tokyo, Japan. Shin-Etsu Polymer Co., Ltd. is a subsidiary of Shin-Etsu Chemical Co., Ltd.	Reject	Company engaged in distribution of non-comparable products: electronic packaging and construction products.
96	SHOKO CO LTD	208021	JPN	5160	Shoko Co., Ltd. engages in the wholesale distribution of chemicals, plastics, aluminum, inorganic materials, and analytical equipment. It primarily offers fertilizers and feed, agricultural and livestock materials, light metals, nonferrous metals, heavy metals, ceramics, graphite electrodes, fine carbon, petroleum and fuels, natural products, civil engineering and construction materials, electronic materials, precision materials, measurement instruments, and machinery and equipment. The company also engages in the real estate business, which includes sale of condominiums and land and houses; design and construction of buildings; and leasing of real estate properties.	Reject	Company engaged in provision of non-comparable services: real estate.

Table D2:

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No.	Company Name	GVKEY	Country	SIC	Business Description	Accept/Reject	Reason for Rejection
97	SHOWA DENKO KK	100696	JPN	2800	Showa Denko k.k., together with its subsidiaries, primarily engages in the manufacture and sale of chemical products in Japan and internationally. It operates in five segments: Petrochemicals, Chemicals, Electronics, Inorganics, and Aluminum. The Petrochemicals segment offers olefins that include ethylene and propylene; organic chemicals comprising acetic acid, vinyl acetate monomer, and ethyl acetate; and plastic products. The Chemicals segment provides various chemicals, such as caustic soda, chlorine, acrylonitrile, and ammonia; industrial gases, including fluorocarbons, oxygen, nitrogen, and hydrogen; and specialty chemicals that comprise amino acids, stabilized vitamin C, analytical columns, and specialty polymers. The Electronics segment offers HDs, compound semiconductors, rare earth magnetic alloys, specialty gases, alternatives to chlorinated solvents, and purity chemicals, as well as ceramic materials for semiconductors and fine carbons.	Reject	Company engaged in significant manufacturing activities: chemical products.
98	SIMONA KUNSTSTOFFWERKE AG	220326	DEU	2821	SIMONA AG engages in the manufacture and distribution of thermoplastic semi-finished products in Europe. Its products base includes extruded and pressed sheets, solid and hollow rods, profiles and welding rods, pipes and fittings, electrofusion sockets, and valves that are used in chemical, mechanical, civil, and structural engineering industries worldwide. The company operates in France, Italy, the U.K., Spain, Poland, Switzerland, the Czech Republic, the U.S., Mainland China, and Hong Kong. SIMONA has a production joint venture with Georg Fischer AG named Georg Fischer SIMONA Fluoropolymer Products GmbH for the manufacture of fluoroplastic pipes and fittings. The company was established in 1857 by Theodor and Heinrich Simon under the name Carl Simon Sohne, which was engaged in the leather business till 1960. The company is headquartered in Kim, Germany.	Reject	Company engaged in significant manufacturing activities: thermoplastic semi-finished products.
99	SK HOLDINGS CO LTD	209610	KOR	2911	SK Holdings Co., Ltd. produces and markets petroleum products, petrochemical products, and lubricant oils in South Korea and internationally. It also engages in the exploration, production, importation, and distribution of bituminous coal. The company supplies Jet fuel for domestic and visiting international airlines; bunker C for shipping companies and traders/brokers; asphalt products for construction industry; and sulfur for the manufacture of fertilizer and prolactam; as well as produces FCC bottom oil, which is used as the raw material for carbon black. It manufactures and supplies lubricants and lube base oil, and exports automotive/marine engine-oil. It also produces chemical products, including olefins, aromatics, solvents, polyethylene, polypropylene, advanced polymers, performance rubber, and inter-electrolyte materials.	Reject	Company engaged in significant manufacturing activities: petroleum products.
100	SLOVNAFT AS	206431	SVK	2911	Slovnaft, a.s. and its subsidiaries engage in the processing of crude oil, and the distribution and sale of refined products. The company produces motor gasoline, diesel, kerosene, heavy fuel oil, bitumen and oxidation mixture, sulphur, and other refinery products. As of December 31, 2007, it owned 209 filling stations in the Slovak Republic. Slovnaft also produces and supplies polymers, which are used in foil production for packaging, technical applications, and various daily use items and specialized parts for the automotive industry. In addition, the company involves in repairs and maintenance, crude oil trading, wholesale and retail, research and development, and transport and transport support activities. It primarily operates in Slovakia, the Czech Republic, Austria, Poland, Ukraine, Germany, and Italy. The company was founded in 1956 and is based in Bratislava, the Slovak Republic. Slovnaft, a.s. operates as a subsidiary of MOL Nyrt.	Reject	Company is a subsidiary.

**Table D2:**

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No.	Company Name	GVKEY	Country	SIC	Business Description	Accept/Reject	Reason for Rejection
101	SODA NIKKA CO LTD	208146	JPN	5160	SODA NIKKA CO., LTD. is a Japan-based chemical specialty trading company. Along with its subsidiaries, the Company is active in four business divisions. The Chemical division is principally involved in the sale of chemical products, including inorganic pharmaceuticals and organic pharmaceuticals. The Paper and Pulp division sells raw materials and equipment to the paper and pulp markets. The Functional Material division is primarily engaged in the sale of synthetic resins, equipment and materials. The Environment division specializes in the dealing of products, which include industrial pharmaceuticals, equipment and materials in the environment management market, as well as the construction of related works. Through one of its associated companies, the Company is also involved in the operation of business hotels. The Company has two subsidiaries and three associated companies.	Accept	Accept
102	SONGWON INDUSTRIAL CO LTD	208952	KOR	2821	Songwon Industrial Co., Ltd is a Korea-based company primarily engaged in the manufacturing of chemicals. The Company's products include alkyl phenols and cresols, bi-functional monomers, polymer stabilizers, polyvinyl chloride (PVC) stabilizers, organo-tin intermediates, agrochemicals, polyester diol, polyurethanes, super absorbent polymers, flocculants, acryl foam tape and plasticizers. During the year ended December 31, 2007, the sale of antioxidants contributed approximately 42% of the Company's total revenue.	Reject	Company engaged in significant manufacturing activities: chemicals.
103	SPARTECH CORP	9921	USA	3080	Spartech Corporation, together with its subsidiaries, operates as an intermediary processor of engineered thermoplastics primarily in North America. The company converts base polymers or resins into extruded plastic sheet and rollstock, thermoformed packaging, specialty film laminates, acrylic products, specialty plastic alloys, color concentrates and blended resin compounds, and injection molded and profile extruded products. It operates in three segments: Custom Sheet and Rollstock, Packaging Technologies, and Color and Specialty Compounds. The Custom Sheet and Rollstock segment manufactures plastic sheet, rollstock, laminates, and cell cast acrylic for the packaging, transportation, building and construction, recreation and leisure, electronics and appliances, signs/advertising, and aerospace markets. The Packaging Technologies segment manufactures plastic packages and rollstock primarily used in the food and consumer product markets.	Reject	Company engaged in significant manufacturing activities: thermoplastics.
104	STELLA CHEMIFA CORP	231124	JPN	2810	STELLA CHEMIFA CORPORATION is a Japan-based company mainly engaged in the manufacturing, import and sale of high-purity chemicals. The Company has three business segments. The High-purity Chemical segment manufactures and sells high-purity chemicals, principally fluoride. Its chemicals are used for etching agents, detergents, electrolytes for lithium-ion secondary batteries, surface preparation agent for metals, chlorofluorocarbon (CFC), fluorine resins, and intermediates for medical products and agricultural chemicals, among others. Its Transportation segment is engaged in the chemical logistics business, as well as the warehousing and custom clearance businesses. The Others segment is engaged in the research of pharmaceuticals, the sale of cosmetics and the provision of automobile maintenance and insurance agency services. STELLA CHEMIFA has eight consolidated subsidiaries and one associated company.	Reject	Company engaged in significant manufacturing activities: chemicals.

Table D2:

## BECKER Report's Benchmark Distributors Based on Search Step III: 1997-2003

No.	Company Name	GVKEY	Country	SIC	Business Description	Accept/Reject	Reason for Rejection
105	STEPAN CO	10056	USA	2840	Stepan Company along with its subsidiaries, produces specialty and intermediate chemicals, which are sold to other manufacturers and then made into a variety of end products. The Company operates in three segments: surfactants, polymers and specialty products. Surfactants refer to chemical agents that affect the interaction between two surfaces. They can provide actions, such as detergency (the ability of water to remove soil from another surface), wetting and foaming, dispersing, emulsification (aiding two dissimilar liquids to mix), demulsification, viscosity modifications and biocidal disinfectants. Polymers, which include phthalic anhydride, polyols and polyurethane foam systems, are used in plastics, building materials and refrigeration industries. Polymers are also used in coating, adhesive, sealant and elastomer applications. Specialty products include chemicals used in food, flavoring and pharmaceutical applications.	Reject	Company engaged in significant manufacturing activities: chemicals
106	SUMITOMO SEIKA CHEMICALS CO	220126	JPN	2860	Sumitomo Seika Chemicals Company Limited provides fine chemical and basic chemical products, as well as functional polymers, gas products, oxygen and other gas generators, and various kinds of equipment in Japan. Its fine chemicals include pharmaceutical intermediates; a lineup of sulfur compounds, such as thiophenol; and halogen compounds, including 2-chloropyridine, thionyl chloride, and sulfuryl chloride. The company's functional polymers consist of water-absorbent/water-soluble polymers; emulsions, latexes, and fine-particulate polymers; and special-function polymers. Its gas products include various industrial gases, such as semiconductor gases, laser gases, reference gases, analyzing blood gases, automobile exhaust gases, and malodorous gases, as well as nitrous oxide gas.	Reject	Company engaged in significant manufacturing activities: chemicals.
107	SUNOCO INC	10156	USA	2911	Sunoco, Inc., through its subsidiaries, manufactures and markets various petroleum products, including fuels, lubricants, and petrochemicals in the United States. It also manufactures chemicals and has interests in logistics and cokemaking. The company operates in five segments: Refining and Supply, Retail Marketing, Chemicals, Logistics, and Coke. The Refining and Supply segment manufactures petroleum products, including gasoline; and middle distillates, such as jet fuel, heating oil, and diesel fuel; and residual fuel oil. It also produces commodity petrochemicals, including olefins and their derivatives, such as ethylene, ethylene oxide polymers, and refinery-grade propylene; and aromatics and their derivatives comprising benzene, cyclohexane, toluene, and xylene. This segment also manufactures petroleum and lubricant products. It sells these products primarily to wholesale and industrial customers.	Reject	Company engaged in significant manufacturing activities: petroleum products.
108	SWP GROUP PLC	204768	GBR	3089	SWP Group Plc, through its subsidiaries, engages in the design, manufacture, and installation of specialist products for the construction and civil engineering industries in the United Kingdom and internationally. The company provides rainwater drain age and management systems, primarily syphonic drainage systems for large roofs; polyethylene pipe work fittings and fabrications to the customers serving gas, water, and petrochemical industries; spiral and other custom-built steel staircases, and balustrades; and polymer-based sheet materials used in various structural waterproofing applications, and fireproofing and soundproofing. SWP Group Plc is based in London, the United Kingdom.	Reject	Company engaged in significant manufacturing activities: specialist products for construction and engineering.
109	TAIHOKOHZAI CO LTD	204250	JPN	5160	TAIHOKOHZAI CO., LTD. engages in the manufacture and sale of various car-care products, machines and equipment maintenance chemicals, and cosmetics in Japan. It offers chemical products, including chassis paint, anti rust agent, cleaner, car wax, lubricant, and mold release agent; and environmental-related products, such as photocatalyst freshness holding equipment. The company also manufactures poisonous material and cosmetics. In addition, TAIHOKOHZAI CO. exports its products to Singapore, Malaysia, China, Taiwan, Thailand, and the Middle East. The company was founded in 1953 and is headquartered in Tokyo, Japan.	Reject	Company engaged in significant manufacturing activities: car-care products.

Table D2:

## BECKER Report's Benchmark Distributors Based on Search Step III: 1997-2003

No.	Company Name	GVKEY	Country	SIC	Business Description	Accept/Reject	Reason for Rejection
110	TAIYO KOGYO CO LTD	206405	JPN	5160	Taiyo Kogyo is engaged in the wholesale of agricultural materials, packing materials, synthetic resins, and civil engineering and construction materials. Products Taiyo Kogyo Co., Ltd. handles include plastic films and sheets for greenhouses; packaging foamed plastic products.	Reject	Company engaged in distribution of non-comparable products: packing materials, etc.
111	TIGERS POLYMER CORP	205428	JPN	3050	Tigers Polymer corporation engages in the manufacture and supply of vacuum cleaner hoses, and intake and drain hoses for washing machines and air conditioners. The company supplies molded engineering plastic gears with micron order precision and other parts for photocopiers and laser printers, such as electroconductive rubber rollers. It offers automotive air induction system parts, industrial and construction hoses, and rubber sheets. Tigers Polymer also offers rubber bridge cushions, snow-melting rubber mats, injection-molded high precision gears and conductive rubber sponge rollers used in copiers and other office machines, and various other polymer-based products. It also develops materials and molding technologies for automobile parts. The company operates in the United States, China, Thailand, and Malaysia. Tigers Polymer was established in 1948 and is headquartered in Osaka, Japan.	Reject	Company engaged in significant manufacturing activities: vacuum hoses.
112	TISZA CHEMICAL GROUP PLC	213138	HUN	2800	Tiszai Vegyi Kombinát Nyilvanosán Mukodó Reszvénytársaság operates in the polyethylene and polypropylene markets in Hungary and Europe. The company produces and sells olefins, including ethylene, propylene, and other olefin production co-products; polypropylene/copolymer and homogenous polymers; and low, medium, and high density polyethylene and polypropylene. It also supplies feedstock to various small and medium sized plastic processing companies. The company was founded in 1951 and is headquartered in Tiszaujváros, Hungary. Tiszai Vegyi Kombinát Nyilvanosán Mukodó Reszvénytársaság is a subsidiary of MOL Hungarian Oil and Gas Public Limited Company.	Reject	Company is a subsidiary.
113	TOAGOSEI CO LTD	102300	JPN	2800	Toagosei Co., Ltd. engages in the manufacture and sale of products in the chemical industry segment in Japan. It operates through four segments, which include commodity chemicals, acrylic products, specialty chemicals, and plastics. The company's commodity chemicals segment provides products, including caustic soda, oxygen, sulfuric acid, and trichloroethylene. Toagosei's acrylic products segment offers acrylic esters, acrylic acid, polymer flocculants, and special monomers and oligomers. Its specialty chemicals segment provides cyanoacrylate instant adhesives, silver-based antimicrobial agents, antifungal agents, heat-resistant adhesives, hot melt adhesives, and construction materials. The company's plastics segment offers pipes and couplings, environmental products, and nursing care products.	Reject	Company engaged in significant manufacturing activities: chemicals.
114	TOHOKU CHEMICAL CO LTD	206338	JPN	5160	TOHOKU CHEMICAL CO., LTD., a Japan-based chemical company along with its subsidiaries, has three business divisions. The Industrial Chemical division offers industrial chemicals, such as soda chemicals, organic chemicals, semiconductor chemicals, functional chemicals, epidemic control insecticide and vaccine, as well as industrial chemical-related equipment, including analyzers, educational aids, measuring equipment, pollution control equipment and machine tools. The Clinical Test Reagent division sells clinical test reagents, such as reagents for hematology, biochemistry, endocrinology, immunoserology and bacteriology, as well as reagent-related equipment, including clinical instrument, clinical test equipment, medical consumables, special consumables, testing consumables and medical hygienic products. The Others division provides food additives, agrochemicals and related equipment. Headquartered in Aomori Prefecture, the Company has three subsidiaries and one associated company.	Reject	Company engaged in distribution of non-comparable products: clinical test reagents, food additives, etc.



Table D2:

BECKER Report's Benchmark Distributors Based on Search Step III: 1997-2003

No.	Company Name	GVKEY	Country	SIC	Business Description	Accept/Reject	Reason for Rejection
115	TORII PHARMACEUTICAL CO LTD	206160	JPN	2834	Torii Pharmaceutical Co., Ltd. engages in the development, production, and distribution of pharmaceutical products in Japan. It offers hemodialysis drugs in the field of acute diseases, anti gout drugs in the field of lifestyle-related diseases, and drugs used in atopic dermatitis treatments in the field of skin diseases. The company's products include FUTHAN, an agent for the prevention of blood coagulation during extracorporeal circulation and for the treatment of acute pancreatitis and disseminated intravascular coagulation; STRONGER NEO-MINOPHAGEN C for the improvement of hepatic function in chronic hepatic disease patients and for the treatment of rash; and URINORM for treating hyperuricemia and gout. It also offers ANTEBATE to treat inflammatory manifestations of dermatosis; UBRETID for the treatment of myasthenia gravis and dysuria; KAYEXALATE for the removal of potassium from the gut; and Truvada, an agent used to treat HIV-1 infection in adults. Torii Pharmaceutical Co., Ltd.	Reject	Company engaged in distribution of non-comparable products: pharmaceutical products.
116	TOSOH CORP	101652	JPN	2860	Tosoh Corporation is a Japan-based manufacturer of chemicals and allied products. The Company has four business segments. The Petrochemical segment is engaged in the manufacture and sale of olefin products, polyethylene, processed plastic products and functional polymer. The Basic Raw Material segment offers caustic soda, vinyl chloride monomer, inorganic and organic chemicals, cement and others. The Functional Product segment provides inorganic and organic fine chemicals, measuring and diagnostic products, water processor, electronic materials, functional materials and urethan materials. The Service segment is engaged in product delivery and logistics services, insurance agency services, equipment maintenance services as well as product sale and purchasing. The Company has 117 subsidiaries and 23 associated companies.	Reject	Company engaged in significant manufacturing activities: chemicals.
117	TOYO INK MANUFACTURING CO	101953	JPN	2890	Toyo Ink Manufacturing Co., Ltd. manufactures printing inks, industrial chemicals, synthetic resin, and printing equipment and systems. Its printing inks category includes sheet-fed offset inks, web offset ink, newspaper ink, UV hybrid ink, gravure ink, flexographic ink, functional silk screen ink, paper coating vanish, automatic ink color matching system, and ultra slim EB irradiation system. In graphic arts, the group provides machinery and supplies, on-demand printing system, CTP plate making system, inspection equipment for prints, color management software, color sample book, and printing data management solutions. Its polymer chemicals segment comprises Can coatings, metal decorative ink, functional resins for construction paints, adhesives for labels and industrial use, laminating adhesives for packaging materials, hot-melting adhesives, waxes, marking films, and adhesive tapes for industrial use.	Reject	Company engaged in significant manufacturing activities: printing inks.
118	TOYOBO CO LTD	101772	JPN	2221	TOYOBO CO., LTD. manufactures high-tech materials principally in Japan. The company offers various industrial materials that include activated carbon fibers and filters; high-performance fibers, non-woven fabrics, and PPS fibers; and airbag fabrics, polyester filaments for tire codes, polyester staple fibers, functional filters, and nonwoven fabrics. It also provides films and functional polymers, which comprise packaging films, industrial films, copolyester polymers, engineering plastics, phot-functional materials, electronic materials, and acrylate functional polymers. In addition, TOYOBO CO. offers life science products that consist of enzymes for diagnostic reagents, diagnostic reagents, research reagents and equipments for life science, contract production of pharmaceuticals, hollow fiber membrane for artificial kidneys, and seawater desalination membrane modules.	Reject	Company engaged in significant manufacturing activities: fibers and filters.

**Table D2:**

**BECKER Report's Benchmark Distributors Based on Search Step III: 1997-2003**

No.	Company Name	GVKEY	Country	SIC	Business Description	Accept/Reject	Reason for Rejection
119	TRELLEBORG AB	101048	SWE	3060	Trelleborg AB is a Sweden-based provider of customized solutions and applications, based on polymer technology. It is a parent company with Trelleborg Group, which operates in four business areas. Trelleborg Engineered Systems offers engineered solutions for the process industry, infrastructure, construction, as well as offshore oil and gas extraction. Trelleborg Automotive features anti-vibration products for the light vehicles industry. Trelleborg Sealing Solutions is a supplier of precision seals for customers in the industrial, automotive and aerospace sectors. Trelleborg Wheel Systems provides industrial tires for forklift trucks and other material-handling equipment, as well as special tires for agricultural and forestry machines. The Company operates internationally, and is headquartered in Trelleborg, Sweden.	Reject	Company engaged in significant manufacturing activities: anti-vibration products.
120	UNION CARBIDE CORP	10857	USA	2860	Union Carbide Corporation engages in the manufacture and sale of chemicals and polymers primarily in the United States and Asia Pacific. It offers ethylene oxide for the manufacture of ethylene glycol, polyethylene glycol, glycol ethers, surfactants, and other performance chemicals and polymers; industrial chemicals and polymers for various specialty applications, including pharmaceutical, animal food supplements, personal care, industrial and household cleaning, coatings for beverage and food cans, and industrial coatings; and latex for decorative and industrial paints, adhesives, textile products, and construction products, such as caulks and sealants. The company also provides polyethylene for use in various applications, such as houseware; milk, water, bleach, and detergent bottles; grocery sacks; trash bags; packaging; water and gas pipe; and impact modifiers in other polymers and to produce flexible hose and tubing, frozen-food bags, and stretch wrap.	Reject	Company engaged in significant manufacturing activities: chemicals and polymers.
121	UNIPETROL AS	208737	CZE	2911	UNIPETROL, a.s., through its subsidiaries, engages in the processing of oil and petroleum products; and production of commodity chemicals, semi-finished industrial fertilizers, and polymer materials in the Czech Republic and internationally. Its products include synthetic rubber, mineral lubricants, plastic lubricants, paraffins, oils, and petroleum jellies. The company also involves in the distribution of fuels and operation of gas stations. In addition, UNIPETROL engages in the production, distribution, and sale of heat and electricity; and operation of railway tracks and railway transportation. Further, it offers leasing services; advisory services relating to research and development, environmental protection, and software and hardware; databank and network administration services; and apartment rental services. The company was founded in 1994 and is based in Praha, the Czech Republic. UNIPETROL, a.s. is a subsidiary of POLSKI KONCERN NAFTOWY ORLEN S.A.	Reject	Company engaged in provision of non-comparable services: processed oil and petroleum products.
122	UNITIKA LTD	100664	JPN	2200	Unitika, Ltd. engages in the fiber and textile business in Japan and internationally. Its polymers business provides films comprising nylon and polyester; resins and plastic molding products; spunbond nonwoven fabrics; and biomass material, such as polylactic acid. The company's environmental business engages in the development, construction, and operation of facilities of water treatment, emission treatment, and waste treatment, as well as conducts surveys and analyses relating to environmental preservation. Unitika's advanced materials business provides chemicals that are used as heavy metal fixation agents; and functional materials, such as glass cloth, glass beads, activated carbon fibers, metallic fibers, thermosetting resin, and aromatic polyimide. Its fibers and textiles business offers industrial materials for civil engineering, construction, and industrial products; ladies' and men's garments and sportswear; and lifestyle materials and bedclothes materials.	Reject	Company engaged in provision of non-comparable services: development, construction, and operation of facilities of water treatment, emission treatment, and waste treatment.

Table D2:

## BECKER Report's Benchmark Distributors Based on Search Step III: 1997-2003

No.	Company Name	GVKEY	Country	SIC	Business Description	Accept/Reject	Reason for Rejection
123	VICTREX PLC	212128	GBR	2821	Victrex plc manufactures and sells high performance materials for end users and processors in aerospace, automotive, electronics, food processing, industrial, medical, and semiconductor markets. It offers VICTREX PEEK polymers, which are high performance thermoplastics available in finished form, such as stock shapes, films, and coatings. The VICTREX PEEK polymers are used for applications in aerospace and aircraft components, automotive and transport machinery, consumer products and equipment, electronic components, food and beverage equipment and parts, industrial and chemical processing equipment, medical and healthcare devices, military and defense equipment, oil and gas machinery, deep drilling components, semiconductor processors, and textile machinery.	Reject	Company engaged in significant manufacturing activities: thermoplastics.
124	YULE CATTO & CO PLC	101302	GBR	2800	Yule Catto & Co plc is a United Kingdom-based chemicals group that operates through three business divisions. The Polymer Chemicals division's core products are water-based polymers, both dispersions and latices, polyvinyl alcohol/acetate, natural rubber latex, liquid polybutadiene and a number of specialized products. The Pharma Chemicals division's key products include generic and ethical pharmaceutical actives. This division is also involved in the development and manufacture of clinical phase compounds. The Impact Chemicals division comprises William Blythe, which manufactures iodine and metal salts; Oxford Chemicals, which manufactures high-impact flavour chemicals, and PFW, which manufactures aroma chemicals. It produces high-impact flavour ingredients for the food and drink industry. In August 2008, it sold Holliday Pigments SA, Holliday Pigments International SA, Holliday France SA and Holliday Chemical Espana SA to Rockwood Specialities Group Inc.	Reject	Company engaged in significant manufacturing activities: chemicals.
125	ZEON CORP	101154	JPN	2820	ZEON Corporation produces synthetic rubbers and specialty materials. The company operates through two segments, Elastomer and Specialty High Performance Materials. Its Elastomer segment provides synthetic rubbers, synthetic lattices, and chemicals. The company's Specialty High Performance Materials segment offers specialty plastics for applications in camera-equipped mobile phones and digital cameras; optical lenses for DVD recorders and players; and prisms, as well as optical pickup lenses; information materials, such as electronic materials and polymerized toners; and specialty chemicals, including synthetic aroma and synthetic organic pharmaceuticals. In addition, it provides reaction injection molding blending liquid, reaction injection molding products, medical equipment, gene recombination vaccines, butadiene extraction technology, outsourced production of vinyl chloride resins, vinyl chloride compounds, packaging and distribution materials, and housing materials.	Reject	Company engaged in significant manufacturing activities: synthetic rubbers.
126	ZOTEFOAMS PLC	206290	GBR	3086	Zotefoams plc, together with its subsidiaries, engages in the manufacture and distribution of cross-linked block foams. The company offers AZOTE, a polyolefin foam product, including PLASTAZOTE, EVAZOTE, SUPAZOTE, and PROPOZOTE products; ZOTEK F, a range of lightweight and closed-cell foams based on the fluoropolymer Kynar polyvinylidene fluoride; ZOTEK N, a range of lightweight, closed-cell, and cross-linked foams based on polyamide 6; ZOTEK S, an ultra-low density silicone foam; HIZOTE-D LH, a range of heavier density cross-linked block foams based on polyethylene; and HIZOTE-D EH, a range of heavier density cross-linked block foams based on ethylene vinyl-acetate copolymer. It also distributes T-Tubes brand of advanced insulation systems made from ZOTEK F foam that is used in clean process in industries, such as biotechnology, pharmaceuticals, and semiconductors in Europe, the Middle East, and Asia.	Reject	Company engaged in significant manufacturing activities: block foams.

Source:

(1) Standard and Poor's. (31 October 2008). Compustat (Global) Database.

**Statement of Brian C. Becker**

**APPENDIX E**

## Statement of Brian C. Becker

### Appendix E: Australian Search for Benchmark Companies for TNMM Analysis

#### I. Step One – Determine a List of Possible Australian Wholesale Distributors

##### a. *Background for Use of SIC Codes*

The Standard Industrial Classification (“SIC”) system is relied upon to establish industry-wide benchmarks. This system is structured on an industry basis and is used to promote the comparability of data describing various industries in the economy. Major industry groups are categorized under two-digit SIC codes. Extensions of these codes to three or four digits indicate a narrower industry definition.<sup>1</sup>

To identify the SIC codes to use in the search for Australian TNMM benchmarks, I accessed the descriptions provided at [www.census.gov](http://www.census.gov). I utilized two-digit SIC codes to obtain a list of all wholesale distributors in Australia.

##### b. *SIC Codes for SNF AUSTRALIA*

Two two-digit SIC codes were identified as being appropriate for collecting a comprehensive list of wholesale distributors in Australia. I chose the following SIC codes:

- 50: Wholesale Trade—Durable Goods; and
- 51: Wholesale Trade—Non-Durable Goods

Upon identifying the SIC codes that best matched wholesale distribution, I searched the Compustat (Global)<sup>2</sup> database with the requirement that the firms were incorporated in Australia, New Zealand or Papua New Guinea. In addition, I searched for companies with the words “acrylamide,” “coagula,” “floccula” and “polymer” in their business description provided by Compustat. Searching the Compustat (Global) database of over 35,000 companies<sup>3</sup> generated an output of 54 companies categorized in the SIC codes listed above (or having one or more of the keywords) and incorporated in Australia, New Zealand or Papua New Guinea.

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<sup>1</sup> A new system of industry classification was implemented in 1997 called North American Industry Classification System (“NAICS”) codes. However, practitioners still commonly use SIC codes to establish industry benchmarks.

<sup>2</sup> Produced by Standard and Poor’s, Compustat (Global) provides financial, business description, earnings, stock and other company specific data for publicly-held companies around the globe.

<sup>3</sup> Both the Research and Current Compustat (Global) databases as of 31 October 2008 were utilized.

## II. Step Two – Detailed Review of Financial Data

Once the 54 Australian wholesale distributors were selected, I compiled financial data for each company covering the fiscal years 1996-2003. Using these data, I further narrowed my search by rejecting potential benchmarks if:

- Financial data were not available for the years 1997-2003.
- The company performed a significant amount (greater than five percent sales) of research and development activities.
- The company did not have a positive operating margin for the combined years 1997-2003.

First, I selected only companies that had financial data available for the fiscal years 1997-2003. Using multiple years of financial data as compared to only one or two years of data provides a more accurate measure of profitability over the time period at issue. Furthermore, ensuring a company had been in operation for multiple years limits the effect of sub-normal operating margins of start-ups. Following this step of the search process, only 20 companies remained.

Second, to confirm that the potential Australian benchmarks did not perform significant research and development (R&D) activities, I computed the ratio of R&D to sales for each of the remaining 20 potential Australian wholesale distributors. Any company with a R&D to sales ratio of more than five percent was eliminated. This constraint had no impact on the number of potential Australian benchmark companies.

Lastly, I narrowed the search to include only companies that had a positive combined operating margin for the years 1997-2003. Persistent negative operating margins may be indicative of a company that is experiencing abnormal financial or operational difficulties. Following this step, only 17 companies remained. See **Table E1**.

## III. Step Three – Detailed Review of Business Activities

From these 17 potential Australian benchmark companies for SNF AUSTRALIA, I further refined the search based on the company having relatively similar business operations as SNF AUSTRALIA (*i.e.*, wholesale distribution). Potential benchmarks were eliminated based upon reviews of their business descriptions provided by Compustat (Global), financial websites,<sup>4</sup>

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<sup>4</sup> These websites included <http://finance.google.com/finance>, <http://investing.businessweek.com>, and <http://wrightreports.ecnext.com>.

companies' own websites, and companies' annual reports. After this business description analysis step, 13 companies were eliminated, resulting in a set of four Australian benchmark companies. See **Table E2** and below.

1. ALESCO CORPORATION LTD;
2. AUSTRALIAN PHARM INDS LTD;
3. COVENTRY GROUP LTD; and
4. CPI GROUP LTD.

#### **IV. Step Four – Determination of Arm’s-Length Profit Level Indicators**

For each Australian benchmark company, I computed the operating margin over 1997-2003. See **Table 13B** and below.

##### **Profit Level Indicators for SNF AUSTRALIA’s Australian Benchmarks: 1997-2003**

<b>Australian Benchmarks</b>	<b>Operating Margin (1997-2003)</b>
Bottom of Interquartile Range	1.3 percent
Median	1.8 percent
Top of Interquartile Range	2.3 percent

#### **V. Business Descriptions of Australian Wholesale Distributors**

##### **1. ALESCO CORPORATION LTD**

Web Address: <http://www.alesco.com.au>

SIC Code: 5000

Country: Australia

##### **Business Description:**

“The Alesco of today is supplying market-leading products to key sectors in the Australian and New Zealand economies. Our customers include businesses in the home building, renovations, mining, construction, medical, scientific and automobile sectors.... [Alesco is the] largest marketer and distributor in Australia and New Zealand.”<sup>5</sup>

<sup>5</sup> Alesco Corporation Limited. (2003). Annual Report for Fiscal Year Ended 31 May 2003, pp. 4-5.

**2. AUSTRALIAN PHARM INDS LTD**

Web Address: <http://www.api.net.au>

SIC Code: 5122

Country: Australia

Business Description:

“The principle activities of [Australian Pharmaceutical] during the course of the financial year were wholesale distribution of pharmaceutical, medical, dental and allied products; manufacture of pharmaceutical medicines and consumer toiletries; and the provision of finance and retail services to pharmacists.”<sup>6</sup>

**3. COVENTRY GROUP LTD**

Web Address: <http://www.coventrys.com.au>

SIC Code: 5013

Country: Australia

Business Description:

“Coventry Group Ltd is a Western Australian based diversified industrial company with an annual turnover of \$435 million. Incorporated as a public company in 1936 and listed on the Australian Stock Exchange since 1966, Coventry Group operates in every Australian state and New Zealand through a network of over 130 branches, employing approximately 1,900 people and has over 3,400 shareholders. Our business interests are: Automotive Parts Distribution, Industrial Products Distribution, Bitumen Products and gasket Manufacturing.”<sup>7</sup>

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<sup>6</sup> In fiscal 2003, Australian Pharmaceutical’s wholesale distribution division accounted for over 98 percent of total consolidated revenues. Australian Pharmaceutical Industries Limited. (2003) Annual Report for Fiscal Year Ended 30 April 2003, pp. 3 & 48.

<sup>7</sup> In fiscal 2003, Coventry’s Automotive Parts and Industrial Parts distribution divisions accounted for over 94 percent of total revenues. Coventry Group Ltd. (2003). Annual Report for Fiscal Year Ended 30 June 2003, p. 2.



**4. CPI GROUP LTD**

Web Address: <http://www.cpigroup.com.au>

SIC Code: 5110

Country: Australia

Business Description:

“The principal activities of [CPI Group Ltd] during [fiscal 2003] comprised the sale and distribution of fine papers and the sale of printing equipment and consumables to the printing industry.”<sup>8</sup>

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<sup>8</sup> CPI Group Ltd. (2003). Annual Report for Fiscal Year Ended 30 June 2003, p. 9.

**Table E1:****Passage or Rejection of Australian Distributors Based on Step II: 1997-2003**

No.	Company Name	GVKEY	Country	SIC	Pass/Reject	Reason for Rejection
1	ABB GRAIN LTD	254378	AUS	5150	Reject	Company did not have financial data for latest seven years.
2	ADG GLOBAL SUPPLY LTD	253551	AUS	5080	Reject	Company did not have financial data for latest seven years.
3	ADVANCE HEALTHCARE GROUP LTD	249498	AUS	5047	Reject	Company did not have financial data for latest seven years.
4	ALESCO CORPORATION LTD	200314	AUS	5000	Pass	Pass
5	AMBERTECH LTD	272783	AUS	5065	Reject	Company did not have financial data for latest seven years.
6	ATLAS GROUP HLDGS	256982	AUS	5051	Reject	Company did not have financial data for latest seven years.
7	AUSTRALIAN PHARM INDS LTD	229876	AUS	5122	Pass	Pass
8	AWB LTD	248767	AUS	5150	Reject	Company did not have financial data for latest seven years.
9	BROADWAY INDS	200837	NZL	5040	Reject	Company did not have financial data for latest seven years.
10	C AT LTD	274905	AUS	5040	Reject	Company did not have financial data for latest seven years.
11	CELLNET GROUP LTD	242334	AUS	5065	Reject	Company did not have financial data for latest seven years.
12	CITIC AUSTRALIA TRADING LTD	254902	AUS	5000	Reject	Company did not have financial data for latest seven years.
13	CLEMENTS MARSHALL CONSOL LTD	200876	AUS	5140	Reject	Company did not have financial data for latest seven years.
14	CMA CORPORATION LTD	273420	AUS	5051	Reject	Company did not have financial data for latest seven years.
15	CONCEPT HIRE LTD	248822	AUS	5082	Pass	Pass
16	COOL OR COSY LTD	256758	AUS	5070	Reject	Company did not have financial data for latest seven years.
17	CORPORATE EXPRESS AUSTRALIA	211368	AUS	5110	Pass	Pass
18	COVENTRY GROUP LTD	201317	AUS	5013	Pass	Pass
19	CPI GROUP LTD	200956	AUS	5110	Pass	Pass
20	DANKS HOLDINGS LTD	201559	AUS	5070	Pass	Pass
21	EBOS GROUP LTD	201739	NZL	5047	Reject	Company did not have financial data for latest seven years.
22	EMAIL LTD	100471	AUS	5051	Reject	Company did not have financial data for latest seven years.
23	EMBELTON LTD	249486	AUS	5030	Pass	Pass
24	FUNTASTIC LTD	247829	AUS	5090	Reject	Company did not have financial data for latest seven years.
25	GSF CORP	252590	AUS	5140	Reject	Company did not have financial data for latest seven years.
26	HEADLINE GROUP LTD	253483	AUS	5090	Pass	Pass
27	HELLABY HOLDINGS LTD	209820	NZL	5000	Pass	Pass
28	HOUSEWARES INTERNATIONAL LTD	242650	AUS	5064	Reject	Company did not have financial data for latest seven years.
29	HOWARD SMITH LTD	19358	AUS	5070	Reject	Company did not have financial data for latest seven years.
30	ITX GROUP LTD	284303	AUS	5045	Reject	Company did not have financial data for latest seven years.
31	LIGHTING CORP LTD	252266	AUS	5063	Reject	Company did not have financial data for latest seven years.
32	MEDICAL CORP AUSTRALASIA LTD	211540	AUS	5047	Reject	Company experienced operating losses.
33	MERCURY BRANDS LTD	248282	AUS	5130	Pass	Pass
34	METCASH LTD	223097	AUS	5140	Reject	Company experienced operating losses.
35	NETWORK FOODS LTD	253369	AUS	5140	Pass	Pass

**Table E1:****Passage or Rejection of Australian Distributors Based on Step II: 1997-2003**

No.	Company Name	GVKEY	Country	SIC	Pass/Reject	Reason for Rejection
36	NEW OPPORTUNITY	253503	AUS	5065	Reject	Company did not have financial data for latest seven years.
37	NSL HEALTH LTD	253388	AUS	5047	Reject	Company did not have financial data for latest seven years.
38	OROTON GROUP LTD	208674	AUS	5130	Reject	Company did not have financial data for latest seven years.
39	PAPERLINX LTD	236137	AUS	5110	Reject	Company did not have financial data for latest seven years.
40	PHARMANET GROUP LTD	249506	AUS	5047	Reject	Company experienced operating losses.
41	PRIMAC HOLDINGS LTD	212638	AUS	5190	Reject	Company did not have financial data for latest seven years.
42	REDISLAND AUSTRALIA LTD	259658	AUS	5140	Reject	Company did not have financial data for latest seven years.
43	REECE AUSTRALIA LTD	101605	AUS	5070	Pass	Pass
44	ROBERTS LTD	253594	AUS	5150	Pass	Pass
45	SAM'S SEAFOOD HOLDINGS LTD	149382	AUS	5140	Reject	Company did not have financial data for latest seven years.
46	SEEKA KIWIFRUIT IND LTD	270204	NZL	5140	Reject	Company did not have financial data for latest seven years.
47	SIGMA PHARMACEUTICALS LTD	254380	AUS	5047	Reject	Company did not have financial data for latest seven years.
48	SIMS GROUP LTD	208079	AUS	5093	Pass	Pass
49	STOKES (AUSTRALSIA) LTD	253460	AUS	5000	Pass	Pass
50	TAG PACIFIC LTD	237805	AUS	5000	Pass	Pass
51	TDG LOGISTICS LTD	242992	AUS	5140	Reject	Company did not have financial data for latest seven years.
52	TSV HOLDINGS LTD	271176	AUS	5065	Reject	Company did not have financial data for latest seven years.
53	TURNERS & GROWERS LTD	270981	NZL	5140	Reject	Company did not have financial data for latest seven years.
54	WRIGHTSON LTD	210834	NZL	5099	Reject	Company did not have financial data for latest seven years.

Source:

(1) Standard and Poor's. (31 October 2008). Compustat (Global) Database.

**Table E2:**

**SNF AUSTRALIA's Australian Benchmark Distributors Based on Search Step III: 1997-2003**

No.	Company Name	GVKEY	Country	SIC	Business Description	Accept/Reject	Reason for Rejection
1	ALESCO CORPORATION LTD	200314	AUS	5000	Alesco Corporation Limited, through its subsidiaries, engages in the marketing and distribution of industrial brands to the building and renovations, scientific and medical, and construction and mining sectors in Australia and New Zealand. It manufactures and markets a range of building products in kitchens, bathrooms, laundries, garages, roads, laboratories, mines, and commercial applications for glass-fitters, kitchen designers, mining companies, commercial builders, scientists, and hospitals. The company also offers kitchen rangehoods, canopyhoods, ducting systems, laundry tubs, ironing centers, and food waste disposers, as well as garage doors and automatic openers. In addition, the company markets medical, scientific, and testing equipment to the laboratory, environmental, and research markets; and specialized construction chemicals, earthmoving and heavy duty truck tires, concrete solutions, and decorative concrete products.	Accept	Accept
2	AUSTRALIAN PHARM INDS LTD	229876	AUS	5122	Australian Pharmaceutical Industries Limited engages in the wholesale distribution of pharmaceutical and allied products. It operates in three segments: Pharmacy Distribution, Retailing, and Manufacturing. The Pharmacy Distribution segment distributes pharmaceutical and medical products to pharmacy; and provides retail services, and loans to pharmacy customers in Australia. The Retailing segment engages in the purchase and sale of various health, beauty, and lifestyle products in retail industry in Australia. The Manufacturing segment owns rights to pharmaceutical medicines manufactured by related parties in Australia; and manufactures pharmaceutical medicines and consumer toiletries in New Zealand. The company was founded in 1910 and is based in Camellia, Australia.	Accept	Accept
3	CONCEPT HIRE LTD	248822	AUS	5082	Concept Hire Limited, through its subsidiaries, engages in the hire and sale of scaffold equipment to the building and construction industry in Australia. Its solutions include parameter access, birdcages, formwork support, staging, public protection, mobile scaffolds, maintenance access, hand railing, and edge protection. The company supplies scaffold for various projects, including the construction of multi storey buildings, heritage restorations, and the petrochemical and civil engineering industries, as well as to two storey home builders. Its customer base includes builders, civil engineers, and scaffolding companies. Concept Hire was founded in 1985 and is based in Springvale, Australia.	Reject	Company is a subsidiary.
4	CORPORATE EXPRESS AUSTRALIA	211368	AUS	5110	Corporate Express Australia Limited engages in the distribution and sale of business essentials in Australia and New Zealand. It sources, warehouses, and distributes business essentials, including office and computer supplies, such as paper, pens, stationery, business machines, mail room supplies, briefcases, cartridges, CD-ROM's, DVDs, and computer peripherals; information technology (IT) solutions; business furniture; and integrated printing services and information management solutions, such as catalogues, campaigns and product launches, magazines, direct mail, marketing communication materials, distribution solutions, operational forms printing and branding, and corporate ID. The company's promotional marketing activities include catalogue programs, creative art studio, personalized and electronic catalogue, brand loyalty and recognition programs, trade and consumer sales promotions, licensing opportunities, uniforms and corporate apparel, and one-off special orders.	Reject	Majority ownership held by Buhrmann NV as of 2003.

**Table E2:**

**SNF AUSTRALIA's Australian Benchmark Distributors Based on Search Step III: 1997-2003**

No.	Company Name	GVKEY	Country	SIC	Business Description	Accept/Reject	Reason for Rejection
5	COVENTRY GROUP LTD	201317	AUS	5013	Coventry Group, Ltd. supplies automotive parts, industrial products, bitumen products, and gaskets to the industrial and automotive markets. The company operates in three segments: Automotive Parts, Industrial Products, and Gasket Manufacturing. The Automotive Parts segment distributes and markets automotive parts and accessories, tools, and workshop equipment; mining and general industrial consumables; and specialized transport and heavy haulage products. The Industrial Products segment engage in the distribution and marketing of industrial and construction fasteners, including bolts, nuts, and screws, as well as general industrial products; distribution, design, and installation of lubrication and hydraulic fluid systems, hose, and fitting products; and distribution and marketing of office chair components, as well as hardware, components, and finished products to domestic and commercial furniture, cabinet making, joinery, and shop fitting industries.	Accept	Accept
6	CPI GROUP LTD	200956	AUS	5110	CPI Group, Ltd. engages in the sale and distribution of paper products, and the sale of printing equipment and ink products to the commercial offset printing industry in Australia and New Zealand. It offers a range of paper products, including coated, uncoated, specialty, self adhesive, and office and digital papers. The company also sells ink products, such as UV and aqueous coatings, UV and water based laminates, UV and water based primers, press consumables, washes, fountain solutions, press chemicals, printing blankets, and printing blanket converters. In addition, CPI Group offers a range of equipment, including sheetfed and Web offset presses, commercial finishing and digital finishing equipment, as well as used machinery to the graphic arts industry. The company was founded in 1977 and is headquartered in Braeside, Australia.	Accept	Accept
7	DANKS HOLDINGS LTD	201559	AUS	5070	Danks Holdings Limited engages in the wholesale distribution of hardware and garden products in Australia. The company also owns and operates retail stores under the Home Timber and Hardware, Thrifty-Link Hardware, and Plants Plus Garden Centre brand names. Its product lines principally include housewares, builder's hardware, hand and power tools, paint and paint sundries, outdoor living/sporting goods, automotive products, garden and lawn products, and building supplies and materials, as well as electrical, plumbing, and heating accessories. The company was founded in 1859 and is based in Braeside, Australia.	Reject	Company engaged in significant retail operations: hardware.
8	EMBELTON LTD	249486	AUS	5030	Embelton Limited manufactures, distributes, and sells flooring products, structural noise and vibration control systems, and various industrial products in Australia and internationally. The company primarily engages in the distribution of flooring and consumer products, including wooden parquetry flooring, pre-finished and natural strip flooring, cork tiles, rubber and sports flooring, adhesives and finishes, and various other flooring accessories, as well as compressed cork sheets, blocks, and rolls. It also offers various industrial and construction products, such as structural noise and vibration isolation systems, anti vibration mountings, seismic restraints for resiliently mounted equipment, recycled and natural rubber sheets, spandex cork jointing and other jointing media, and tube and pipe bending.	Reject	Company engaged in significant manufacturing activities.
9	HEADLINE GROUP LTD	253483	AUS	5090	HeadLine Group Limited engages in the design and distribution of giftware products in Australia. The company offers its products to retail outlets. It was formerly known as HomeLeisure Limited and changed its name to HeadLine Group Limited in 2007. The company is based in Sydney, Australia.	Reject	Company engaged in significant design activities.

**Table E2:**

**SNF AUSTRALIA's Australian Benchmark Distributors Based on Search Step III: 1997-2003**

No.	Company Name	GVKEY	Country	SIC	Business Description	Accept/Reject	Reason for Rejection
10	HELLABY HOLDINGS LTD	209820	NZL	5000	Hellaby Holdings Limited, through its subsidiaries, engages in the importation and distribution of automotive parts in New Zealand and Australia. Its Automotive division distributes automotive and commercial replacement parts; and operates as a whole sale distributor of diesel fuel injection, turbocharger, and ancillary diesel engine parts. The company's Industrial division engages in importing, distributing, and servicing materials handling, construction, and transport equipment, as well as tires and wheels. It also involves in forklift rental. Hellaby Holdings' Retail division engages in the retail of indoor/outdoor living, spa pools, and home heating products, as well as specialty shoes. Its Diversified division manufactures knitted textiles and flexible plastic packaging. The company was formerly known as Renouf Corporation and changed its name to Hellaby Holdings Limited in 1993. Hellaby Holdings is based in Auckland, New Zealand.	Reject	Company engaged in significant retail and rental operations: spa pools and home heating products.
11	MERCURY BRANDS LTD	248282	AUS	5130	Austin Group Limited engages in the design, import, and wholesale of fashion apparel. It supplies surf, street, and casual wear for ladies, men, and children. The company sells its products through independent retailers, boutiques, and departmental stores in New Zealand and Australia. Austin Group Limited was founded in 1982 and is based in Breakwater, Australia.	Reject	Company engaged in provision of non-comparable services: design and fashion of apparel.
12	NETWORK FOODS LTD	253369	AUS	5140	Network Foods Limited engages in the marketing and distribution of confectionery and food products in Australia. The company distributes simmer sauces, rice bars, chocolate sandwich cookies, sour straps, sandwich straps, hot dogs, pizzas, burgers, ice creams, and gummy products to grocery, wholesalers, mass merchant, convenience stores, pharmacies, and supermarkets. It also imports confectionery and food products. The company distributes its products through 350 wholesalers, approximately 20,000 traditional retail outlets, 2,000 convenience stores, 3,600 pharmacies, and approximately 2,000 supermarkets. Network Foods was founded in 1986 and is based in Thomastown, Australia.	Reject	Company is a subsidiary.
13	REECE AUSTRALIA LTD	101605	AUS	5070	Reece Australia Limited distributes plumbing and bathroom products in Australia. Its plumbing products include hot water units, pipe and fittings, valves, tools and hardware, clips and pipe supports, toilets, pumps, water filters, air conditioning units, gas spares, and material safety data sheets. The company's bathroom products include bathroom accessories, heated towel rails, basins, tap ware, baths and spa baths, bath and shower outlets, shower cubicles and bath screens, shower bases, toilets and bidets, vanity units and bathroom furniture, kitchen sinks, kitchen and bathroom appliances, laundry trough and cabinets, and wastes.	Reject	Company engaged in significant retail operations: bathroom products.
14	ROBERTS LTD	253594	AUS	5150	Roberts Limited offers various products and services primarily to the rural market in Australia. It operates in two segments, Rural Services and Property Services. The Rural Services segment offers livestock agency, wool broking, rural merchandise, rural machinery, stock food manufacture, and finance and insurance services. This segment arranges insurance cover and provides finance to farmer clients for the purchase of rural supplies, farm machinery, and livestock, as well as cash advances to cover other input costs relating to wool and other farm based activities. The Rural Services segment also operates as a wool brokers; offers services in various areas of livestock marketing and procurement relating to sheep, lambs, and cattle; manufactures a range of feeds for animal industries; and distributes farm requirements, including tractors, farm implements, farm machinery, and engines and power equipment, as well as offers spare parts and repair services.	Reject	Company engaged in provision of non-comparable services: rural services and property services.

**Table E2:**

**SNF AUSTRALIA's Australian Benchmark Distributors Based on Search Step III: 1997-2003**

No.	Company Name	GVKEY	Country	SIC	Business Description	Accept/Reject	Reason for Rejection
15	SIMS GROUP LTD	208079	AUS	5093	Sims Group Limited operates in the metal recycling industry. It operates in four segments: Ferrous Secondary Recycling, Non-Ferrous Secondary Recycling, Secondary Processing, and Recycling Solutions. The Ferrous Secondary Recycling segment engages in the collection, processing, and trading of iron and steel secondary raw material. The Non-Ferrous Secondary Recycling segment involves in the collection, processing, and trading of other metal alloys and residues, primarily aluminum, lead, copper, zinc, and nickel bearing materials. The Secondary Processing segment engages in melting, refining, and ingoting various non-ferrous metals; and the reclamation and reprocessing of plastics. The Recycling Solutions segment provides environmentally responsible solutions to the disposal of post consumer products. It has operations in Australia, Papua New Guinea, the United States, Canada, New Zealand, the United Kingdom, Sweden, Holland, and Germany.	Reject	Company engaged in provision of non-comparable services: metal recycling services and solutions.
16	STOKES (AUSTRALSIA) LTD	253460	AUS	5000	Stokes (Australasia) Limited engages in the merchandising and distribution of appliance spare parts, badges and medallions, and electrical switches and controls, as well as in the manufacture of electric elements and metal components in Australia and New Zealand. It distributes appliance spare parts for ovens, cooktops, washing machines, clothes dryers, vacuum cleaners, refrigerators, dishwashers, hot water services, and microwave ovens; and spare parts to the laundry, refrigeration, and dishwasher service and repair markets. The company also distributes vacuum cleaner parts, including disposable dust bags, motors and carbon brushes, power heads, floor tools, hoses and accessories, extension rods, cloth bags and accessories, repair and extension leads, and switches and controls; immersion heaters; vacuum cleaners; and belts, brush strips, and filters. In addition, it offers stock actuators; line strainers; and liquid handling products.	Reject	Company engaged in significant manufacturing activities: electric elements.
17	TAG PACIFIC LTD	237805	AUS	5000	Tag Pacific Limited operates as a strategic investor primarily in Australia and New Zealand. The company, through its subsidiaries, engages in building and delivering software applications for healthcare; and provision of stored energy products and solutions for use in emergency, backup, generated, and renewable power situations. It distributes a range of products, including batteries and charging equipment, inverters, industrial DC and AC systems, UPS systems, emergency lighting, portable generators, and renewable energy products. The company also designs and manufactures generators and ancillary power equipment for various uses, including co-generation, telecommunications, and military. In addition, the company manufactures and distributes various building products for commercial interiors markets, including whiteboards, pinboards, and acoustic panels. The company is headquartered in Sydney, Australia.	Reject	Company engaged in provision of non-comparable services: software development.

Source:

(1) Standard and Poor's. (31 October 2008). Compustat (Global) Database.

**Statement of Brian C. Becker**

**APPENDIX F**





Our ref. 08021392

19 November 2008

Dr Brian C. Becker  
President  
Precision Economics, LLC  
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WASHINGTON, DC 20006

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Darwin

By Courier

Dear Dr Becker

**SNF (Australia) Pty Ltd v Commissioner of Taxation of the Commonwealth of Australia, Federal Court Proceeding No. VID 132 of 2008**

1. We act on behalf of the Respondent, the Commissioner of Taxation ("the Commissioner") in proceedings commenced by SNF (Australia) Pty Ltd ("SNF") in the Federal Court of Australia, Victoria.
2. SNF has instituted proceedings to appeal decisions of the Commissioner dated 7 January 2008 to disallow SNF's objections dated 6 August 2007 to assessments issued by the Commissioner. The assessments adjusted SNF's taxable income by:
  - 2.1. including the amounts at paragraphs 2.2.a-2.2.g below in SNF's taxable income under or by virtue of Double Taxation agreements between Australia, USA, France and China; and
  - 2.2. alternatively, excluding those amounts from the allowable deductions of SNF, under Division 13 of Part III of the *Income Tax Assessment Act 1936* (Cth) ("the ITAA 1936"), in calculating SNF's taxable income:
    - a. \$2,280,228 in the 1998 year;
    - b. \$752,943 in the 1999 year;
    - c. \$2,539,061 in the 2000 year;
    - d. \$711,419 in the 2001 year;
    - e. \$1,710,588 in the 2002 year;
    - f. \$2,478,487 in the 2003 year; and
    - g. \$2,693,574 in the 2004 year.
3. The proceeding is listed for hearing for 5 days commencing on 27 April 2009.

4. We propose to seek a written report from you in due course, which we may file in this proceeding. Your report is due to be filed and served by 27 February 2009. Pursuant to court orders any expert report by SNF, in reply to your report, is due to be filed by 9 April 2009. You may be required to give oral evidence in this proceeding as to any opinion held by you.
5. We also propose to provide you with further material for your consideration in due course. In the meantime, in order to advance your understanding of the case pending the above, we enclose the following documents.

**DOCUMENTS ENCLOSED**

6. We enclose for your information the documents listed in **Attachment 1**, entitled Schedule of Documents.

**GUIDELINES FOR EXPERT WITNESSES**

7. We enclose a copy of a practice direction issued by the Federal Court of Australia entitled "Guidelines for Expert Witnesses in Proceedings in the Federal Court of Australia" (**Attachment 2**). You are required to comply with these guidelines in the preparation of your report.
8. The guidelines require you to include the following statement in your report:

"I have made all the inquiries which I believe are desirable and appropriate and no matters of significance which I regard as relevant have, to my knowledge, been withheld from the Court."
9. It is essential that you make all inquiries relevant to the report to comply with this requirement.

**CONFIDENTIALITY AND MODEL LITIGANT GUIDELINES**

10. We confirm that on 18 March 2008 we provided to you a copy of section 16 of the ITAA 1936 which concerns the confidentiality of information respecting the affairs of taxpayers and confirm that you are bound by the obligations in that section in relation to information provided to you in these instructions and the attached documents. We confirm that on 19 March 2008 you signed the enclosed undertaking as to confidentiality provided to you with a copy of section 16 of the ITAA 1936 (**Attachment 3**).
11. Also enclosed is a copy of the Model Litigant Guidelines contained in the Legal Services Directions issued by the Attorney-General under section 55ZF of the *Judiciary Act 1903* (Cth) (**Attachment 4**). The Legal Services Directions apply to the Commonwealth of Australia and its agencies, including the Commissioner. You are instructed to comply with the Model Litigant Guidelines..

**FEES**

12. We confirm that you have provided us with details of your hourly rates.

**GENERAL**

13. If you require any additional information please contact Mr Evan Evagorou on telephone number +61 3 9242 1246 or mobile phone number 0417 694 714 or Mr Eli Bursky on +61 3 9242 1302.

Yours sincerely



**Evan Evagorou**  
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Encl



Our ref. 08021392

5 December 2008

Dr Brian C. Becker  
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Darwin

By Courier

Dear Dr Becker

**SNF (Australia) Pty Ltd v Commissioner of Taxation of the Commonwealth of Australia, Federal Court Proceeding No. VID 132 of 2008**

1. We refer to our letter dated 19 November 2008.
2. We enclose Attachment 1 to our letter of 19 November 2008 amended to include the attached documents at numbers 29, 30, 31 and 32 of the Attachment.
3. If you require any additional information please contact Mr Evan Evagorou on telephone number +61 3 9242 1246 or mobile phone number 0417 694 714 or Mr Eli Bursky on +61 3 9242 1302.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Evan Evagorou', written over a horizontal line.

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Our ref. 08021392

22 December 2008

Dr Brian C. Becker  
President  
Precision Economics, LLC  
1901 Pennsylvania Avenue NW, Suite 200  
Washington, DC 2006

By courier

Dear Dr Becker

**SNF (Australia) Pty Limited v Commissioner of Taxation, Federal Court of  
Australia proceeding No. VID 132 of 2008**

1. We refer to our letters dated 19 November 2008 and 5 December 2008, which enclosed the documents at no. 1-32 of Attachment 1.
2. We now enclose copies of the documents at no. 33-77 of Attachment 1.
3. In this letter, we seek your expert opinion on the questions at paragraphs 9-14 below. Please answer those questions having regard to the abbreviations at paragraph 4 below.

**Abbreviations**

4. In this letter, we have also adopted the following abbreviations:

Term	Definition
CUP method	Comparable uncontrolled price method
Property	The polyacrylamide purchased by SNFA from the Related Suppliers during the Relevant Period
Related Suppliers	SNF SA, <sup>1</sup> SNF SAS, Chemtall, Pearl River and SNFCF

<sup>1</sup> Now known as SPCM SA.

Relevant Period	The period 1 January 1997 to 31 December 2003
SNFA	SNF (Australia) Pty Limited
year of income	A year ended 31 December (in lieu of the proceeding 30 June)

**Questions**

5. Please assume that the questions before the Court are as follows:

**Question A**

6. What are the profits, if any, that might be expected to have accrued to SNFA in each year of income during the Relevant Period if the conditions that operated between SNFA and each of the Related Suppliers in their commercial or financial arrangements were the same as those which might be expected to operate between independent enterprises dealing wholly independently with one another?

**Question B**

7. Did the consideration paid by SNFA for the Property in each year of income during the Relevant Period exceed the consideration that might reasonably be expected to have been given or agreed to be given in respect of the acquisition of the Property under an agreement between independent parties dealing at arm's length with each other in relation to the acquisition? If so, what is the amount of the excess?
8. In order to assist the Court in answering the above questions, please provide your expert opinion in relation to the following questions.

**Question 1**

9. Is the material briefed sufficient to enable you to form a view as to whether the "Customer" transactions referred to in the affidavits of:

9.1. Mr Karoudjian; and

9.2. Mr Schlag / Mr Schroeter,

were truly comparable uncontrolled transactions to the acquisitions of Property by SNFA?

**Question 2**

10. If the material is not sufficient, what are the classes and sources of information or evidence you would need to form such a view about that comparability?

**Question 3**

11. If the material is sufficient, are the transactions identified in those affidavits as comparable truly comparable uncontrolled transactions when compared to the acquisitions of Property by SNFA, and, if not, why not?

**Question 4**

12. Is there in your view a transactional profit method which you would suggest is an appropriate methodology to apply in assisting the Court in determining the answers to questions A and B above?

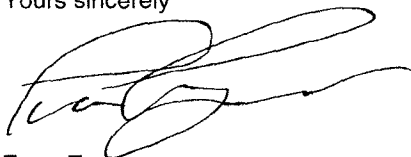
**Question 5**

13. Is that method more appropriate in your view than the CUP method in this case and, if so, why?

**Question 6**

14. Is there any other information or evidence that is necessary or desirable for you to give your expert opinion as to the profits which would be expected to have accrued to SNFA in each of the years of income during the Relevant Period if a transactional profit method were to be applied?
15. If you wish to discuss your instructions with us, please contact Evan Evagorou on the telephone number below or Eli Bursky on +61 3 9242 1302.

Yours sincerely



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**Guidelines for Expert Witnesses in Proceedings in the  
Federal Court of Australia**

**Practice Direction**

This replaces the Practice Direction on Guidelines for Expert Witnesses in Proceedings in the Federal Court of Australia issued on 6 June 2007.

Practitioners should give a copy of the following guidelines to any witness they propose to retain for the purpose of preparing a report or giving evidence in a proceeding as to an opinion held by the witness that is wholly or substantially based on the specialised knowledge of the witness (see - **Part 3.3 - Opinion** of the *Evidence Act 1995* (Cth)).

M.E.J. BLACK

Chief Justice

5 May 2008

**Explanatory Memorandum**

The guidelines are not intended to address all aspects of an expert witness's duties, but are intended to facilitate the admission of opinion evidence (footnote #1), and to assist experts to understand in general terms what the Court expects of them. Additionally, it is hoped that the guidelines will assist individual expert witnesses to avoid the criticism that is sometimes made (whether rightly or wrongly) that expert witnesses lack objectivity, or have coloured their evidence in favour of the party calling them.

Ways by which an expert witness giving opinion evidence may avoid criticism of partiality include ensuring that the report, or other statement of evidence:

- (a) is clearly expressed and not argumentative in tone;
- (b) is centrally concerned to express an opinion, upon a clearly defined question or questions, based on the expert's specialised knowledge;
- (c) identifies with precision the factual premises upon which the opinion is based;



- (d) explains the process of reasoning by which the expert reached the opinion expressed in the report;
- (e) is confined to the area or areas of the expert's specialised knowledge; and
- (f) identifies any pre-existing relationship (such as that of treating medical practitioner or a firm's accountant) between the author of the report, or his or her firm, company etc, and a party to the litigation.

An expert is not disqualified from giving evidence by reason only of a pre-existing relationship with the party that proffers the expert as a witness, but the nature of the pre-existing relationship should be disclosed.

The expert should make it clear whether, and to what extent, the opinion is based on the personal knowledge of the expert (the factual basis for which might be required to be established by admissible evidence of the expert or another witness) derived from the ongoing relationship rather than on factual premises or assumptions provided to the expert by way of instructions.

All experts need to be aware that if they participate to a significant degree in the process of formulating and preparing the case of a party, they may find it difficult to maintain objectivity.

An expert witness does not compromise objectivity by defending, forcefully if necessary, an opinion based on the expert's specialised knowledge which is genuinely held but may do so if the expert is, for example, unwilling to give consideration to alternative factual premises or is unwilling, where appropriate, to acknowledge recognised differences of opinion or approach between experts in the relevant discipline.

Some expert evidence is necessarily evaluative in character and, to an extent, argumentative. Some evidence by economists about the definition of the relevant market in competition law cases and evidence by anthropologists about the identification of a traditional society for the purposes of native title applications may be of such a character. The Court has a discretion to treat essentially argumentative evidence as submission, see Order 10 paragraph 1(2)(j).

The guidelines are, as their title indicates, no more than guidelines. Attempts to apply them literally in every case may prove unhelpful. In some areas of specialised knowledge and in

some circumstances (eg some aspects of economic evidence in competition law cases) their literal interpretation may prove unworkable.

The Court expects legal practitioners and experts to work together to ensure that the guidelines are implemented in a practically sensible way which ensures that they achieve their intended purpose.

**Nothing in the guidelines is intended to require the retention of more than one expert on the same subject matter – one to assist and one to give evidence. In most cases this would be wasteful. It is not required by the Guidelines. Expert assistance may be required in the early identification of the real issues in dispute.**

### **Guidelines**

#### **1. General Duty to the Court (footnote #2)**

- 1.1 An expert witness has an overriding duty to assist the Court on matters relevant to the expert's area of expertise.
- 1.2 An expert witness is not an advocate for a party even when giving testimony that is necessarily evaluative rather than inferential (footnote #3).
- 1.3 An expert witness's paramount duty is to the Court and not to the person retaining the expert.

#### **2. The Form of the Expert Evidence (footnote #4)**

- 2.1 An expert's written report must give details of the expert's qualifications and of the literature or other material used in making the report.
- 2.2 All assumptions of fact made by the expert should be clearly and fully stated.
- 2.3 The report should identify and state the qualifications of each person who carried out any tests or experiments upon which the expert relied in compiling the report.
- 2.4 Where several opinions are provided in the report, the expert should summarise them.
- 2.5 The expert should give the reasons for each opinion.
- 2.6 At the end of the report the expert should declare that "[the expert] has *made all the inquiries that [the expert] believes are desirable and appropriate and that no matters of significance that [the expert] regards as relevant have, to [the expert's] knowledge, been withheld from the Court.*"

- 2.7 There should be included in or attached to the report; (i) a statement of the questions or issues that the expert was asked to address; (ii) the factual premises upon which the report proceeds; and (iii) the documents and other materials that the expert has been instructed to consider.
- 2.8 If, after exchange of reports or at any other stage, an expert witness changes a material opinion, having read another expert's report or for any other reason, the change should be communicated in a timely manner (through legal representatives) to each party to whom the expert witness's report has been provided and, when appropriate, to the Court (footnote #5).
- 2.9 If an expert's opinion is not fully researched because the expert considers that insufficient data are available, or for any other reason, this must be stated with an indication that the opinion is no more than a provisional one. Where an expert witness who has prepared a report believes that it may be incomplete or inaccurate without some qualification, that qualification must be stated in the report (footnote #5).
- 2.10 The expert should make it clear when a particular question or issue falls outside the relevant field of expertise.
- 2.11 Where an expert's report refers to photographs, plans, calculations, analyses, measurements, survey reports or other extrinsic matter, these must be provided to the opposite party at the same time as the exchange of reports (footnote #6).

### **3. Experts' Conference**

- 3.1 If experts retained by the parties meet at the direction of the Court, it would be improper for an expert to be given, or to accept, instructions not to reach agreement. If, at a meeting directed by the Court, the experts cannot reach agreement about matters of expert opinion, they should specify their reasons for being unable to do so.

footnote #1

As to the distinction between expert opinion evidence and expert assistance see *Evans Deakin Pty Ltd v Sebel Furniture Ltd* [2003] FCA 171 per Allsop J at [676].

footnote #2

See rule 35.3 Civil Procedure Rules (UK); see also Lord Woolf "Medics, Lawyers and the Courts" [1997] 16 C.J.Q. 302 at 313.

footnote #3

See *Sampi v State of Western Australia* [2005] FCA 777 at [792]-[793], and *ACCC v Liquorland and Woolworths* [2006] FCA 826 at [836]-[842]

footnote #4

See rule 35.10 Civil Procedure Rules (UK) and Practice Direction 35 – Experts and Assessors (UK); *HG v the Queen* (1999) 197 CLR 414 per Gleeson CJ at [39]-[43]; *Ocean Marine Mutual Insurance Association (Europe) OV v Jetopay Pty Ltd* [2000] FCA 1463 (FC) at [17]-[23]

footnote #5

The “*Ikarian Reefer*” [1993] 20 FSR 563 at 565

footnote #6

The “*Ikarian Reefer*” [1993] 20 FSR 563 at 565-566. See also Ormrod “*Scientific Evidence in Court*” [1968] Crim LR 240.