ADC 430

CONTINUATION OF MEASURES
2, 4-DICHLOORPHENOXYACETIC ACID

EXPORTED FROM THE PEOPLE’S REPUBLIC OF CHINA

VERIFICATION REPORT – EXPORTER

SHANDONG WEIFANG RAINBOW CHEMICAL CO. LTD.

November 2017
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1 BACKGROUND

On 20 July 2017, the Commissioner of the Anti-Dumping Commission (the Commissioner) gave public notice of his decision to initiate a continuation inquiry in respect of 2, 4-Dichlorophenoxyacetic acid (the goods) exported to Australia from the People’s Republic of China (China). The background relating to initiation of this inquiry is contained in Consideration Report No. 430.

The Anti-Dumping Commission (the Commission) notified Shandong Weifang Rainbow Chemical Co., Ltd. (Rainbow) of the initiation of the inquiry, and sought its cooperation through the completion of an Exporter Questionnaire (REQ) regarding the goods.

Rainbow provided a complete response to the exporter questionnaire within the required timeframe. The information provided demonstrated that Rainbow exported the goods to Australia from China during the period 1 July 2016 to 30 June 2017 (the inquiry period).

A verification team visited Rainbow’s manufacturing facility located in the Binhai Economic Development Area, Weifang, Shandong, China in October, 2017.
2 THE GOOD AND LIKE GOODS

2.1 The good exported to Australia

During the inquiry period Rainbow exported the goods to Australia, including products that met the goods description. The goods exported to Australia by Rainbow included the 2,4-D, a selective herbicide mainly in the forms of 2, 4-D acid and 2, 4-D ester.

The 2, 4-D covered by the anti-dumping measures includes:

- Sodium salt;
- 2, 4-D acid;
- 2, 4-D intermediate products (salts and esters), including:
  - iso butyl ester technical;
  - ethyl ester technical;
  - 2 ethyl hexyl ester technical;
  - dimethylamine (DMA); and
  - iso-propylamine (IPA);
- 2, 4-D fully formulated products; and
- All other forms of 2, 4-D.

The goods are generally, but not exclusively, classified within the following tariff subheadings of Schedule 3 to the *Customs Tariff Act 1995*:

<table>
<thead>
<tr>
<th>Tariff Subheading</th>
<th>Statistical Code</th>
<th>Unit</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>2918.99.00</td>
<td>43</td>
<td>kg</td>
<td>2,4-Dichlorophenoxyacetic acid (free acid)</td>
</tr>
<tr>
<td>2918.99.00</td>
<td>44</td>
<td>kg</td>
<td>Salts and esters of 2,4-dichlorophenoxyacetic acid</td>
</tr>
<tr>
<td>2918.99.00</td>
<td>48</td>
<td>kg</td>
<td>Other</td>
</tr>
<tr>
<td>3808.93.00</td>
<td>41</td>
<td>kg</td>
<td>Goods wholly of, or with a basis of 2,4-dichlorophenoxyacetic acid, its salts or esters</td>
</tr>
<tr>
<td>3808.93.00</td>
<td>53</td>
<td>kg</td>
<td>Others</td>
</tr>
</tbody>
</table>

2.2 Like goods sold on the domestic market

The verification team confirmed that Rainbow sold like goods (2-4D Sodium Salt) in the domestic market during the inquiry period.

2.3 Model matching

For the purpose of model matching, the visit team considers that it is appropriate to have regard to:

- Product type, i.e. formulation or technical (acid);
• Formulation base, i.e. amine or ester; and,
• 2,4-D strength (gram/Litre of 2,4-D)

The verification team has chosen this criteria as it is consistent with the cost to make and sell (CTMS) data presented by Rainbow in its REQ.

2.4 Like goods – preliminary assessment

The verification team considers that 2,4-D produced by Rainbow for domestic sale have characteristics closely resembling those of the goods exported to Australia and are therefore ‘like goods’ in accordance with subsection 269T(1) of the Customs Act 1901 (the Act)\(^1\).

\(^1\) All legislative references in this report are to the Customs Act 1901, unless otherwise stated.
3 VERIFICATION OF EXPORT SALES TO AUSTRALIA

3.1 Verification of Australian sales to audited financial statements

The verification team verified the completeness and relevance of Rainbow’s Australian sales listing by reconciling it to audited financial statements in accordance with ADN No 2016/30.

During the verification, Rainbow identified and rectified one discrepancy in the Australian exports sales listing related to export sales which were made through a related party initially identified as third country sales. The company updated the Australian sales listing and balanced sales back to the accounts and audited financial statements.

The verification team did not identify any further issues.

Details of this verification process are contained in the verification work program, and its relevant attachments, at Confidential Attachment 1.

3.2 Verification of Australian sales to source documents

The verification team verified the accuracy of Rainbow’s Australian sales listing by reconciling it to source documents in accordance with ADN No. 2016/30.

During the verification, Rainbow rectified an Australian sales transaction regarding handling and other charges which had been incorrectly calculated. Another three sales transactions were found to have incorrect bank charges which were similarly corrected.

The verification team did not identify any further issues.

Details of this verification process are contained in the verification work program, and its relevant attachments, at Confidential Attachment 1.

3.3 The exporter

For all Australian export sales during the inquiry period, the verification team considers Rainbow to be the exporter of the goods.2

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2 The Commission generally identifies the exporter as a principal in the transaction, located in the country of export from where the goods were shipped, that gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or its own vehicle for delivery to Australia; or a principal in the transaction, located in the country of export, that owns, or previously owned, the goods but need not be the owner at the time the goods were shipped.
3.4 The importer

In relation to the goods exported to Australia by Rainbow the verification team considers that all customers listed in the Australian sales listing were the beneficial owners of the goods at the time of importation, and therefore were the ‘importers’ of the goods.

3.5 Related customers

The verification team identified a low volume of sales Rainbow made through two related companies being intermediaries. These sales were considered immaterial and therefore did not influence the export price.

The verification team identified that Rainbow acquired one of its Australian customers during the inquiry period. The verification team reviewed the prices of the goods sold to this customer and compared these to the prices of the goods sold to non-related customers. The prices to related and non-related customers were found to be similar. The verification team was satisfied that the prices for Rainbow’s exports to its Australian related customer were not influenced by the commercial relationship and sales to this customer were considered arms length transactions.

3.6 Arms length

In respect of all Australian sales of the goods made by Rainbow to customers during the inquiry period, the verification team found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than its price; or
- the price was influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller; or
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.\(^3\)

The verification team therefore considers that all export sales to Australia made by Rainbow during the inquiry period were arms length transactions.

3.7 Export price – preliminary assessment

The verification team is satisfied that the Australian sales listing is complete, relevant and accurate and can be used to determine the export price under subsection 269TAB(1)(a), as the price paid by the importer to the exporter less transport and other costs arising after exportation.

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\(^3\) Section 269TAA of the Act refers.
The verification team’s preliminary export price calculations are at Confidential Appendix 1.
4 COST TO MAKE AND SELL

4.1 Verification of costs to audited financial statements

The verification team verified the completeness and relevance of Rainbow’s cost to make and sell (CTMS) spreadsheet by reconciling it to the company’s audited financial statements in accordance with ADN No. 2016/30. The verification team did not identify any issues.

Details of this verification process are contained in the verification work program, and its relevant attachments, at Confidential Attachment 2.

4.2 Verification of costs to source documents

The verification team verified the accuracy of Rainbow’s CTMS spreadsheet by reconciling it to source documents in accordance with ADN No. 2016/30.

The verification team did not identify any issues during this process. Details of the verification process are contained in the verification work program, and relevant attachments, at Confidential Attachment 2.

4.3 Related party purchases

The verification team identified one supplier that might be related to Rainbow, based on the company’s response to the Exporter Questionnaire and documentation supplied for the purpose of verification. The volume of materials supplied to Rainbow by this supplier was considered immaterial and the price paid to the supplier considered reasonable.

4.4 Cost to make and sell – summary

Having verified Rainbow’s CTMS spreadsheet to its audited financial statements and to source documents, the verification team is satisfied that the CTMS spreadsheet is complete, relevant and accurate.

Rainbow’s CTMS data is at Confidential Appendix 2.
5 VERIFICATION OF DOMESTIC SALES

5.1 Verification of domestic sales to audited financial statements

The verification team verified the completeness and relevance of Rainbow’s domestic sales listing by reconciling it to audited financial statements in accordance with ADN No. 2016/30.

The verification team did not identify any issues during this process. Details of the verification are contained in the verification work program, and relevant attachments, at Confidential Attachment 1.

5.2 Verification of domestic sales to source documents

The verification team identified two domestic sales transactions during the inquiry period. The verification team obtained source documents in relation to these sales. The verification team was further satisfied that the value, volume and details of these sales were accurate.

Details of the verification process are contained in the verification work program, and relevant attachments, at Confidential Attachment 1.

5.3 Ordinary course of trade

Section 269TAAD provides that if like goods are sold in the country of export at a price less than the cost of such goods, and are unrecoverable within a reasonable period, then they are taken not to have been sold in the ordinary course of trade (OCOT).

The verification team compared the revenue (i.e. net sales value) for each domestic sale to the corresponding quarterly domestic CTMS to test whether those sales were profitable.

Where the volume of unprofitable sales exceeded 20 per cent for a particular model, the verification team tested the recoverability of the unprofitable sales by comparing the revenue for each transaction to the corresponding weighted average CTMS over the investigation period. All domestic sales were observed to be profitable.

5.4 Suitability of domestic sales

Subparagraph 269TAC(2)(a)(i) provides that the normal value of goods exported to Australia cannot be ascertained under subsection 269TAC(1) where there is an absence, or low volume, of sales of like goods in the market of the country of export.

Low volume is defined by subsection 269TAC(14) as less than 5% of the total volume of the goods under consideration that are exported to Australia.

The verification team found that there were no sales of a 2,4-D model on the domestic market that was comparable to a model exported to Australia during the inquiry period. For the relevant models exported to Australia the verification team has constructed the normal value under paragraph 269TAC(2)(c).
5.5 Profitability of domestic sales

As stated in section 2.2, there was a quantity of 2,4-D domestic sales which were considered like goods. However, these were not utilised for determining a normal value under section 269TAC(1) as these particular sales were in relation to models which were not comparable to those models exported to Australia.

The verification team has therefore worked out a the profit margin of domestic sales under Regulation 45(2) of the Customs (International Obligations) Regulation 2015 (the Regulations) by using data relating to the production and sale of like goods by the exporter of the goods in the ordinary course of trade.

The rate of profit applied by the Commission is detailed in Confidential Appendix 3.

5.6 Domestic sales – summary

The verification team is satisfied that Rainbow did sell like goods during the inquiry period, however it did not have sufficient domestic sales of like goods which were either comparable or in sufficient volume to allow the calculation of normal value under 269TAC(1).
6 ADJUSTMENTS

To ensure the normal value is comparable to the export price of goods exported to Australia, the verification team has considered the following adjustments in accordance with subsection 269TAC(9).

6.1 Inland transport

The verification team considers that because export inland transport costs have a direct relationship with the Australian export sales transactions, an upward adjustment is required for these costs.

6.2 Handling and related costs

The verification team considers that because export handling and related costs have a direct relationship with the Australian export sales transactions, an upward adjustment is required for these costs.

6.2.1 Credit costs

The verification team has applied an upward adjustment to reflect the cost of credit offered to Australian export customers.

6.2.2 Bank fees

The verification team considers that because bank fees have a direct relationship with the Australian export sales transactions, an upward adjustment is required for these costs.

6.3 VAT

It was noted that an upward adjustment is required for value added tax (VAT), to reflect net VAT liability for the exported goods.

The exporter incurred an un-refundable VAT expense on export sales to Australia during the inquiry period.

Consequently the visit team recommends upward adjustments of the weighted average difference between VAT expensed and VAT recovered be applied to the normal value of export sales to Australia.

6.4 Adjustments – conclusion

The verification team is satisfied that there is sufficient and reliable information to justify the following adjustments, in accordance with subsection 269TAC(9) of the Act, and considers these adjustments are necessary to ensure a fair comparison of normal values and export prices:
<table>
<thead>
<tr>
<th>Adjustment Type</th>
<th>Deduction/addition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inland transport</td>
<td>Add the cost of inland transport</td>
</tr>
<tr>
<td>Handling and other</td>
<td>Add the cost of handling and other</td>
</tr>
<tr>
<td>Credit costs</td>
<td>Add the cost of export credit.</td>
</tr>
<tr>
<td>Bank fees</td>
<td>Add the cost of bank fees</td>
</tr>
<tr>
<td>VAT</td>
<td>Add the cost of non-refunded VAT costs</td>
</tr>
</tbody>
</table>

The verification team’s preliminary adjustment calculations are included in normal value calculations at Confidential Appendix 4.
7 NORMAL VALUE

Given that Rainbow had insufficient sales of like goods in China that would be relevant for determining normal values, the verification team considers that the normal value of the goods cannot be ascertained under subsection 269TAC(1).

Therefore, the verification team considers that the normal value should be determined under subsection 269TAC(2)(c), using the cost of production or manufacture of the goods in the country of export; and, on the assumption that the goods, instead of being exported, had been sold for home consumption in the ordinary course of trade in the country of export, the SG&A costs associated with such a sale and the profit on that sale.

As required by subsections 269TAC(5A) and 269TAC(5B), the costs of production or manufacture, the SG&A costs and profit must be established in accordance with Regulations 43, 44 and 45 of the Regulations, respectively.

For the models exported to Australia the verification team has constructed normal values in accordance with paragraph 269TAC(2)(c). To construct the normal value for each quarter, the verification team has used:

- the weighted average cost of production for Australian export sales\(^4\); plus
- SG&A costs applicable to the sale of like goods sold domestically\(^5\); plus
- profit (as discussed in section 5.5).

The verification team considers that certain adjustments, in accordance with subsection 269TAC(9), are necessary to ensure fair comparison of normal values with export prices, as outlined in section 6 of this report.

The verification team’s preliminary normal value calculations are at Confidential Appendix 5.

\(^4\) Regulation 43(2) of the Regulations refers

\(^5\) Regulation 44(2) of the Regulations refers
8 DUMPING MARGIN

The dumping margin has been assessed by comparing weighted average Australian export prices to the corresponding quarterly weighted average normal value for the inquiry period.\(^6\)

The dumping margin in respect of 2,4-D exported to Australia by Rainbow for the inquiry period is **25.6 per cent.**

Details of the preliminary dumping margin calculation are at Confidential Appendix 1.

\(^6\) In accordance with subsection 269TACB(2)(a).
### 9 APPENDICES AND ATTACHMENTS

<table>
<thead>
<tr>
<th>Confidential Appendix 1</th>
<th>Australian export price</th>
</tr>
</thead>
<tbody>
<tr>
<td>Confidential Appendix 2</td>
<td>CTMS</td>
</tr>
<tr>
<td>Confidential Appendix 3 &amp; 4</td>
<td>Domestic Sales and Normal Value</td>
</tr>
<tr>
<td>Confidential Appendix 5</td>
<td>Dumping Margin</td>
</tr>
<tr>
<td>Confidential Attachment 1</td>
<td>Verification work program – Sales and Adjustments</td>
</tr>
<tr>
<td>Confidential Attachment 2</td>
<td>Verification work program – Company, Goods and Costs</td>
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