

31 October 2012

Mr Tim Flor
Case Manager
Operations 3
International Trade Remedies Branch
Australian Customs and Border Protection Service
Customs House
5 Constitution Avenue
CANBERRA ACT 2601

For Public File

Dear Mr Flor

Re: Continuation and Review Inquiries – 2,4-Dichlorophenoxyacetic acid exported from the People's Republic of China

Introduction

I refer to Australian Customs Dumping Notice No. 2012/39 announcing the commencement of inquiries into the continuation and review of anti-dumping measures on 2,4-Dichlorophenoxyacetic acid ("2,4-D acid") exported from the People's Republic of China ("China").

The goods covered by the measures is 2,4-D in all forms including 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), iso-propylamine (IPA), 2,4-D fully formulated products, and all other forms of 2,4-D.

Nufarm Limited ("Nufarm") is the sole Australian manufacturer of 2,4-D and is the applicant company that has requested the continuation of measures on 2,4-D exported from China.

Nufarm understands that Customs and Border Protection has requested information from identified Chinese exporters of 2,4-D acid, intermediates, technical and formulations to assist in verifying normal values and export prices for goods exported from China. It is further understood that the identified Chinese exporters have elected not to cooperate with Customs and Border Protection in the continuation and review inquiries.

Nufarm's application for the continuation of measures included a constructed selling price to *prima facie* establish a normal value for 2,4-D acid sold in China. In the absence of verifiable information in the country of export, Nufarm considers an alternate basis for normal value should be considered by Customs and Border Protection.

Proposed normal value

In Trade Measures Report No. 58 ("Report No. 58"), Customs and Border Protection considered a number of information sources for determining normal values for 2,4-D exported from China, including:

- sales by other domestic sellers in China;
- Chinese export sales to third countries;
- constructed selling price based on Chinese manufacturer's costs;

- domestic sales information submitted by Nufarm;
- normal value information verified for 2,4-D exported from India and the U.K.; and
- Australian industry's cost to make and sell ("CTM&S").

Customs and Border Protection was unable to verify Chinese selling price and cost information. Customs and Border Protection therefore determined normal values for 2,4-D exported from China on the basis of "notional" selling price information for like goods sold in India, as this was considered to be the best available information at the time.

The normal values for 2,4-D exported from China have not been reviewed since the original investigation (where measures were imposed on exports from China and the U.K.).

Anti-dumping measures on 2,4-D exported from the United Kingdom ("U.K.") were not extended in 2007, hence exporters in the U.K. are not involved in the current continuation and review investigations involving 2,4-D exported from China.

In the absence of Chinese exporter cooperation, consideration is required of the best available information for determining normal values for 2,4-D products exported from China under s.269TAC(6) of the Customs Act. Nufarm submits that the most appropriate, verified information, relates to domestic selling price and CTM&S data available from the Australian industry.

It is noted by Nufarm that in the absence of exporter cooperation in the investigation into processed currants exported from Greece¹, Customs and Border Protection reverted to the best available information that was considered to be the Australian industry's CTM&S.

Nufarm considers that in the present circumstances, the most reliable and available information (for Chinese 2,4-D normal value purposes) that can be verified adequately by Customs and Border Protection relates to domestic selling prices for 2,4-D products or CTM&S data for the Australian industry. Nufarm has provided domestic sales data for the period to 31 May 2012. Nufarm's CTM&S data has also been provided to Customs and Border Protection for this period. Nufarm has achieved a level of profit on domestic sales in the 2011/12 year and it is considered that a level of profit is required to be included on normal values that are based on Nufarm's CTM&S data.

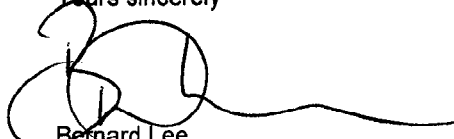
Recommendation

In the absence of cooperation of Chinese exporters of 2,4-D products to Australia, Nufarm proposes that normal values for 2,4-D products exported from China be determined on the basis of Nufarm verified data for domestic sales of 2,4-D equivalents for 2011/12 or, Nufarm's CTM&S plus profit in 2011/12.

Nufarm welcomes the opportunity to discuss the basis for Chinese normal values for 2,4-D at Customs and Border Protection's forthcoming return visit to Nufarm to complete verification of Nufarm's financial data.

If you have any questions concerning this submission, please do not hesitate to contact me on (03) 9282 1444.

Yours sincerely


Bernard Lee
Manager Industry and Government Affairs

¹ Refer Trade Measures Report No. 140 – Processed dried currants exported from Greece.

FLOR Timothy

From: Bernard Lee <Bernard.Lee@au.nufarm.com>
Sent: Wednesday, 31 October 2012 3:30 PM
To: FLOR Timothy
Subject: Fw: Attached Image
Attachments: 1960_001.pdf

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Tim

Please find attached a letter concerning determination of normal values. The letter is marked for inclusion on the public file.

Regards

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----- Forwarded by Bernard Lee/AU/Nufarm on 31/10/2012 03:27 PM -----

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Date: 31/10/2012 03:27 PM
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