

AGRONOMIQ (AGRICHEM MANUFACTURING INDUSTRIES PTY LTD) A.C.N. 125 437 185

24th December 2012

Mr. Timothy Flor
Supervisor
International Trade Remedies Branch
Australian Customs and Border Protection Service
5 Constitution Avenue
Canberra 2601 ACT

Dear Tim,

Re: <u>Investigation into Dumping of 2,4-D: Response to Nufarm Letter Dated 21st</u>
<u>December 2012</u>

We have had the opportunity to read the letter from Nufarm dated 21st December 2012. There are certain matters in the letter that need to be addressed and are discussed below.

1. <u>Number of Submissions</u>

Nufarm is concerned that we have submitted 10 documents. We were unaware that there was a limit. If there is no limit then we are prepared to continue pressing our case to achieve the result all Australian farmers are seeking - the discontinuation of the iniquitous Anti-dumping Duty (ADD) of 2,4-D which is nothing more than impost on 2,4-D for the benefit of Nufarm shareholders. If the writer is questioning our standing in this matter, we remind Nufarm that we are currently the largest importer of Chinese 2,4-D in Australia and that we are not simply responding to their submissions to make them feel uncomfortable.

2. <u>Intemperate Language</u>

The author of the letter uses words such as "scurrilous", "false", "offensive", "wrong", "contradictory", "confusing" and "misconception" without an iota of evidence as to which material in our submission these words relate. However, we have not presented any information in our 11 submissions (including this one) which is not true and therefore may be described with any of these words, except "offensive". This statement also includes to advance the debate on whether or not the ADD should be continued after March 2013. As far as "offensive" is concerned, the perpetrator of an untruth will always find the truth offensive.

3. Continuous Disclosure

As a former non-executive director of two Australian companies listed on the ASX and chairman of a UK company listed on the LSE, I had an obligation to be familiar with the concept of "continuous disclosure". The author of the Nufarm letter is obviously ignorant of the concept. Continuous disclosure requires the listed entity to continually and promptly disclose to the market all information that is price sensitive. Nufarm failed to disclose the fact that there was to be an investigation into the continuation of an ADD on 2,4-D in the first place and this was the first breach. This information is price sensitive because the outcome will probably result in a price movement due to the importance of 2,4-D in the Nufarm product portfolio. The statement that "Nufarm acknowledged that its positive overall profit performance in the last 12-24 months, however, current trade data shows that the favourable profit environment is under threat due to an observed decline in import prices" is clearly price sensitive and should have been disclosed to the ASX on 5th December 2012. If it cannot be disclosed to the ASX then it cannot be true. It is a red herring to suggest that the statement has no connection with the statement made by the Managing Director of Nufarm on 6th December 2012 because:

- Nufarm is an Australian company having commenced operations in Fawkner (a Melbourne suburb) in the mid-1950s.
- 2,4-D is a major component (phenoxy herbicides represent 23% of sales) of the Nufarm product portfolio.
- Australia is a major component of the Nufarm Group (34% of revenue and the single largest component).
- Nufarm is listed on the ASX and therefore everything that occurs in Australia is highly influential to the group as a whole.
- The majority of shareholders in Nufarm are Australian legal persons.
- Australian-produced 2,4-D is sold in the important US market (23% of revenue).

Perhaps the author would like to inform us how the words, "a favourable profit environment is under threat" cannot be price sensitive. Would not the ordinary investor, upon reading this statement, sell his/her shares in Nufarm? The author needs only to consult with Nufarm's board members <u>and</u> the ASX to determine if this statement should be published on the ASX website.

4. Knowledge of Nufarm

We have extensive knowledge of Nufarm operations.

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5. Current Chinese Price of 2,4-D acid

We expected that Nufarm would attempt use our concession that the current price of Chinese 2,4-D acid (US\$2.85/kg) had fallen since its own clumsy attempt to construct a price us and we are not disappointed. However, Nufarm has elected not to repeat that Chinese formulators also pay this lower price for 2,4-D acid, a fact that completely rules out the dumping of Chinese 2,4-D acid in Australia. It should also be noted that a price of US\$2.85/kg for Chinese 2,4-D acid is significantly higher than the current Ascertained Export Price of US\$ con the other hand, the lower prices should make the Australian market less attractive for the "300" producers waiting on our doorstep!

6. Production at Laverton North for the Australian Market

AGRONOMIQ has never claimed "that Nufarm does not produce 2,4-D at its Laverton North plant for the domestic Australian market." However, Nufarm itself in several of its submissions has made this claim or strongly inferred that it produces only for the US market. However, we do claim that the bulk of production from Laverton North is exported to the US leaving only token supply to the domestic market. Nufarm 2,4-D is simply too expensive for the Australian market in general, otherwise why import 2,4-D from India?

6. Elasticity of Demand

Nufarm has not addressed elasticity of demand, but it is worth mentioning that should Customs in its wisdom grant Nufarm another five years of protection, two outcomes are likely:

- Nufarm will lose market share of the Australian Crop Protection market because the Australian farming community is resentful of Nufarm's frequent attempts to increase prices of commodity products without increasing value. Loss of market share will possibly result in a fall of the Nufarm share price which takes us back to continuous disclosure.
- There are now many substitutes to 2,4-D (for example, Sulphonyl Urea herbicides) and farmers will switch to these newer herbicides. While many of these substitutes are priced significantly higher than 2,4-D, the application rate is such that the cost per hectare is significantly less than 2,4-D. Substitution will benefit the MNCs which have developed the new molecules and this may also result in Nufarm losing further market share with the obvious result.

We are of the view that the ADD on 2,4-D (or an increase in the current level of protection) will be, at best, a zero-sum game for Nufarm.

7. <u>Conclusion</u>

The duplicity under-pinning the Nufarm submissions is perhaps best illustrated in Nufarm's "Results Briefing" released to and published the ASX website in September 2012. In this presentation, Mr. Brian Benson, General Manager Agriculture, stated there is a, "strong demand and positive pricing environment for phenoxy herbicides." Mr. Benson is not just stating that prices are positive, but the "environment" (meaning demand and competition factors) is positive. Nufarm has not submitted any evidence, except for one xenophobic statement about the "300", that this environment will change.

We look forward to your response.

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Yours sincerely,

Myles Stewart-Hesketh

<u>Director</u>