



24th April 2013

Mr. John Bracic  
Director, Operations 1  
International Trade Remedies Branch  
Australian Customs and Border Protection Service  
Customs House  
5 Constitution Avenue  
Canberra 2601 ACT

Dear Mr. Bracic,

Re: Resumption of Investigation into the Alleged Dumping of Formulated  
Glyphosate Exported from the People's Republic of China

I note that a letter dated 27 March 2013 from Nufarm was recently up-loaded to the Customs website on 17th April 2013. Before addressing this letter I wish to raise a more fundamental issue that dates back to Nufarm's application to impose an anti-dumping duty on fully-formulated Glyphosate imported from China.

On 6th February 2012, Nufarm's application, made on behalf of the Australian industry producing like goods to the imported goods was uploaded to the Customs website with the following declaration:

"This declaration is made on behalf of the Australian industry producing like goods to the imported the subject of this application. The application is supported by Australian producers whose collective output comprises:

- 25% or more of the total production of the like goods; and,
- more than 50% of the total production of like goods by those Australian producers who have expressed either support for, or opposition, to this application."

It is now public knowledge that on or about 28th February 2013, Nufarm was given six-months notice by Monsanto that it was withdrawing the Roundup<sup>®</sup> Glyphosate rights from Nufarm and transferring the same to Sinochem International. We understand that Monsanto and Sinochem International plan to formulate Glyphosate under the Roundup<sup>®</sup> brand for the Australian market in either Indonesia or Malaysia.

We also understand from public statements that Nufarm generated revenue of around AUD100 million per annum from the sale of Roundup<sup>®</sup> in Australia. In an announcement to the ASX dated 5th March 2013, Nufarm claimed it controlled approximately 50% of the Australia Glyphosate market and 60% of these sales were under the Roundup<sup>®</sup> brand. The balance of sales (40%) was obviously via Nufarm's own brands which have not been the focus of Nufarm's attention for the past decade. [REDACTED]

[REDACTED]. The Australian Glyphosate market is now highly competitive and there are not only several brands of Glyphosate in the market which are currently better known than the Nufarm brands, but Nufarm will now have to compete against the Roundup<sup>®</sup> brand in which it has invested heavily for the past decade. Therefore, we submit that Nufarm is unlikely to grow the market share held by its own Glyphosate brands in the foreseeable future, that is, its Australian market share will remain at around a maximum of 20%.

Therefore, given the above circumstances, Nufarm may no longer claim that its application is supported by:

- "25% or more of the total production of the like goods; and,
- more than 50% of the total production of like goods by those Australian producers who have expressed either support for, or opposition, to this application."

We also understand that Accensi, which joined Nufarm in its original application, withdrew as a joint applicant several months ago. Therefore, we respectfully recommend termination of the investigation because Nufarm no longer has locus standi in this matter.

#### Appropriate Third Country Export Market for Comparison

Nufarm's recommendation in its letter dated 27th March 2013 of using the US as an "appropriate third country" is flawed. Not only are there at least another 40 countries which also meet the criteria outlined in Nufarm's letter, but the writer has conveniently ignored the fact that the principle Glyphosate product sold in Australia (Glyphosate 450 IPA) is not sold in the US market.

However, even if Glyphosate 450 was sold in the US, we are light-years away from using a third country to establish whether or not Good Harvest is dumping fully-formulated Glyphosate in Australia. Bearing in mind that we are Good Harvest's largest customer by far in Australia and are fully aware of the volume we imported and the price we paid in 2011, Nufarm has still not addressed the issues raised by Good Harvest on which Nufarm's claim is based. The most pressing of these issues is to provide evidence to support the allegation that Good Harvest exported 20 million kg of Glyphosate 450 to Australia in 2011 at an average price of US\$2.16/Litre. Our Return to Customs shows the exact prices we paid for all shipments of Good Harvest Glyphosate during 2011 - the average price was US\$ [REDACTED]/Litre. We know the source of this information (Guangzho CCM) and we are fully aware that this company was totally discredited during the recent investigation into the continuation of protection measures on Nufarm's domestically-produced 2,4-D herbicide. Good Harvest has never provided Guangzho CCM with information.

One possible reason "20 million kg" claim is that Good Harvest is the only Chinese company which holds an export license for Glyphosate 450, but it allows other Chinese companies to use this license. Thus the 20 million kg represents total exports of Glyphosate 450 from China in 2011 and obviously Guangzho CCM has incorrectly attributed all of this volume to Good Harvest by only examining the licensee. However, Nufarm had an obligation to thoroughly investigate this issue before making outrageous statements on incorrect assumptions. In any event this explanation confirms our belief that no further investigation of Good Harvest is warranted.

Please note there is no formula that may be used with any accuracy to convert the price of Glyphosate 360 into Glyphosate 450. One has to take into account the purity of the Glyphosate Technical (Good Harvest is 98% compared with Monsanto's 95%), the type and amount of wetter used, and the packaging. These are also reasons why using third country export prices is inappropriate. Nufarm's claim that its Glyphosate 450 selling prices were depressed and suppressed over the injury period because of imports from China is gratuitous and not supported by any of the available evidence. If Nufarm's price was indeed suppressed it was by its own election as part of its conventional commercial discounting process.

However, we trust this information will not be necessary because Nufarm clearly no longer represents the Australian industry on which the application was predicated. It is also in Nufarm's best interest to withdraw the application as henceforth - because of the loss of the Monsanto Roundup® relationship - the company will now be dependent upon the very people (Chinese Glyphosate producers) they elected to alienate over the past 15 months.

Yours sincerely,



Myles Stewart-Hesketh  
Director