

Australian Customs and Border Protection Investigation into the Alleged Dumping of Fully-  
Formulated Glyphosate from China  
Case Against an Anti-dumping Duty Prepared by Agrichem Manufacturing Industries Pty Ltd (T/A  
AGRONOMIQ) on behalf of Australian Independent Rural Retailers Pty Ltd (T/A AIRR)

I. Introduction

Thank you for the opportunity to present a case against an anti-dumping duty of fully-formulated Glyphosate imported into Australia from China. As you are aware from our earlier presentation to Customs, AIRR is a major importer of fully-formulated Glyphosate which is distributed to a network of around 1,300 resellers (including 240 AIRR-branded stores) who service Australia's 132,000 farmers. We are of the opinion that the allegation submitted by Nufarm has no merit and that its action, as foreshadowed by the ACCC on 3<sup>rd</sup> May 2002, is to obtain competitive advantage by disrupting the Australian Glyphosate market with a frivolous claim.

In Nufarm's 2011 Annual Report it shows a 15% gross margin return on Glyphosate sales in Australia, an extraordinarily high return for a product that they also designate as a commodity. It is difficult to believe that Nufarm is suffering financial damage with a return of this level, but if so then it is within Nufarm's capability to address this problem. Presumably this margin is eroded by overheads. The stockbroking community and financial press for at least the last two years have been criticising Nufarm because of its massive overheads resulting from very high staff levels. According to its website, Nufarm employs approximately 2,600+ staff worldwide, but apparently 2,000 of these staff are in Australia and New Zealand which accounted for approximately \$696 million or 33.4% of Nufarm's global revenue of \$2,084 million in 2010/11 (source: Nufarm 2011 Annual Report). Thus more than two-thirds of Nufarm's staff account for one-third of its revenue. Therefore, it is easy to conclude that the financial damage Nufarm claims it is suffering is of its own making. The same annual report discloses Nufarm's intention to exit the commodity end of the Glyphosate market which begs the question of why an investigation is necessary unless it was to disrupt the market.

In a letter to customers dated 7<sup>th</sup> February 2012, Nufarm's general manager Australasia (Mr. Lachlan McKinnon) sought to justify what could become, if approved, a significant price hike to Australian farmers. He explained which products were to be investigated and used the following words to define dumping

"As the largest locally based manufacturer of formulated glyphosate products, Nufarm has seen a significant erosion of market share over the past two years as imported fully formulated product has been brought into Australia at what we believe to be dumped prices. Dumping occurs when goods are sold for export at prices below the price at which like goods are sold on the domestic market of the country of export."

AGRONOMIQ/AIRR does not import any products which are sold in China and during the period to be investigated (2011) we imported only Glyphosate 450 and Glyphosate 360 with

Australian Customs and Border Protection Investigation into the Alleged Dumping of Fully-Formulated Glyphosate from China  
Case Against an Anti-dumping Duty Prepared by Agrichem Manufacturing Industries Pty Ltd (T/A AGRONOMIQ) on behalf of Australian Independent Rural Retailers Pty Ltd (T/A AIRR)

a low toxic aquatic wetter for the home garden market. The market in China comprises Glyphosate 360 with a standard wetter, Glyphosate 10% (now banned because it is actually a residue of waste water from the manufacturing process) and Glyphosate 777g/kg, a superior product to Nufarm's Glyphosate 680g/kg. These three products are all sold in small packaging to make them affordable to Chinese farmers.

In the same letter, Mr. McKinnon mentions that Glyphosate Technical is excluded from the investigation and in so doing has made it virtually impossible for Customs to investigate the cost of formulating Glyphosate in China with any accuracy. The price of Chinese Glyphosate Technical is generally well known and widely quoted in Australia, and anyone with a modest knowledge of chemistry can calculate the cost of formulation and packaging. Chinese Glyphosate companies are usually organised around profit centres, two of which are technical production and formulation. However, what is not known is the transfer price of Glyphosate Technical between the two centres and without this information it is pointless conducting the investigation.

Thus for a proper investigation to be conducted it should include Glyphosate Technical, but Nufarm would be reluctant to extend the investigation because, with Monsanto, it failed in its last anti-dumping application against Chinese Glyphosate in 2001/02. In 2001, most of the Glyphosate plants in China were owned by the government and if there was ever an opportunity to implement price control and dump Glyphosate it was then. However, Customs found no evidence of either. Today Chinese Glyphosate production is entrenched in the private sector where shareholders are only interested in the profit motive.

While we are absolutely certain there is no dumping of fully-formulated Glyphosate by our own supplier (Jiangsu Good Harvest-Weien Agrichemical Co. Ltd of Qidong City, China) we cannot speak for other suppliers, but as prices of all companies are similar it is doubtful that there is any dumping. Should Customs, following an investigation, find that there is dumping of fully-formulated Glyphosate in Australia then Australian farmers will ultimately pay the price of any anti-dumping duty (ADD). An ADD will not add any value, but only cost to fully-formulated Glyphosate in Australia and will enable Nufarm to increase its prices instead of addressing its core problem of reducing overheads.

We are sympathetic to formulators in Australia and believe that the current import duty of 5% on fully-formulated Glyphosate provides them with adequate protection to earn profits. However, an ADD will lead to super profits at the expense of farmers.

Our position is that there should not be an investigation and that the Nufarm-ACCENSI application be rejected forthwith. We believe we have provided incontrovertible evidence

PUBLIC  
FILE

52

Australian Customs and Border Protection Investigation into the Alleged Dumping of Fully-  
Formulated Glyphosate from China  
Case Against an Anti-dumping Duty Prepared by Agrichem Manufacturing Industries Pty Ltd (T/A  
AGRONOMIQ) on behalf of Australian Independent Rural Retailers Pty Ltd (T/A AIRR)

in the following pages to support our position and we have also proposed a solution to bring most Glyphosate formulation on-shore without the necessity of an ADD and therefore an impost against Australian farmers.

Australian Customs and Border Protection Investigation into the Alleged Dumping of Fully-Formulated Glyphosate from China  
Case Against an Anti-dumping Duty Prepared by Agrichem Manufacturing Industries Pty Ltd (T/A AGRONOMIQ) on behalf of Australian Independent Rural Retailers Pty Ltd (T/A AIRR)

II. If dumping does not occur then what are the factors causing the alleged financial disadvantage claimed by Nufarm and ACCENSI?

1. 1000-L Intermediate Bulk Carriers (IBCs) also known as Shuttles and Totes

Approximately 70% of all Glyphosate sold in Australia is packaged in IBCs because of convenience, economy and the absence of the drumMUSTER levy of 4 cents/Litre.

The major producer of IBCs globally is Schutz-DSL which operates a manufacturing business in both China and Australia.

Schutz sells IBCs in China for US\$125 each whereas in Australia they sell an identical product for AUS200-220 thereby adding 8 cents/Litre to the cost of local formulation. A penalty of 8 cents on a product that sells for around US\$2.72/Litre is quite severe.

Schutz collects (free-of-charge) and recycles the Chinese-manufactured IBCs through it Laverton North, Victoria manufacturing plant and sells the same as new. Schutz claims that 30% of its IBC output comprises recycled units which are thoroughly washed and damaged components replaced. Schutz further claims that recycling enables the company to maintain prices at the current level.

A market for second-hand IBCs has emerged resulting in cleaned IBCs selling in the price range AUD80-120. While second-hand IBCs significantly reduce or even eliminate the price disparity, they are less reliable and marketable. The US EPA is considering banning the use of second-hand IBCs (not recycled by Schutz) as containers of pesticides.

2. Wet-Cake or White-Cake

Excluding any transfer pricing, Glyphosate Technical manufacturers who also formulate end-user product have a 4 cents/kg advantage over companies (such as Nufarm) who buy in Glyphosate Technical by using wet-cake, that is, Glyphosate Technical 85% before it is dried to 98% (in the case of Good Harvest).

Wet-cake cannot be exported because of its relatively low yield and moist condition, but it may be easily transferred from the technical plant to the formulation plant on the one site in China.

A 4 cents/kg penalty is equivalent to a 2 cents/Litre penalty for Glyphosate 450.

Note that wet-cake is purified using a membrane system before it is used in the formulation process.

Australian Customs and Border Protection Investigation into the Alleged Dumping of Fully-  
Formulated Glyphosate from China  
Case Against an Anti-dumping Duty Prepared by Agrichem Manufacturing Industries Pty Ltd (T/A  
AGRONOMIQ) on behalf of Australian Independent Rural Retailers Pty Ltd (T/A AIRR)

3. Mono-isopropylamine (MIPA)

MIPA is the solvent that is used to solubilise Glyphosate Technical so that it will dissolve in water. The price of MIPA fluctuates with the price of oil.

Australian formulators of Glyphosate generally import MIPA from China or buy from traders who import from China.

MIPA is extremely dangerous with a BP of 32°C and its shipping cost to Australia adds around 2 cents/Litre to the cost of Glyphosate formulated in Australia.

The risk of using this product may be partially mitigated by using an aqueous solution of MIPA 70%, but this has a relatively low BP of 42°C. The water in MIPA 70% also adds to transport and production costs.

This problem will be resolved if, as expected, the potassium salt of Glyphosate replaces the IPA salt because the former may be formulated from locally-available potassium hydroxide.

4. Chinese Labour Costs

As evidenced by a decline in manufacturing in virtually all other sectors in Australia and most other western countries, Chinese labour costs are significantly less than those of the former.

While formulation of Glyphosate is generally capital intensive, it nonetheless includes a labour component, especially the packaging function.

Based on quotations received from toll formulators in Australia and the costs obtained from China (which were previously presented to Customs), the labour cost to formulate Glyphosate 450 in Australia is 20 cents/Litre compared with 5 cents/Litre in China.

5. Wetter Issue

Glyphosate 450 requires 120 gram/L of wetter to function efficiently. AGRONOMIQ/AIRR's premium Glyphosate contains Huntsman TERWET 3780 Tallow Amine wetter produced in the USA and exported to China. We understand that Nufarm/Monsanto uses the same or a similar wetter as do several other premium products sold in Australia.

There are several other wetters on the market, such as APGs, Betaines and Chinese-produced Tallow Amine. None are as efficient as TERWET 3780 or suitable for Australian conditions, but can be up to 20 cents/Litre less expensive. Glyphosate products containing less efficient wetters are often purchased by farmers who compensate for the reduced efficacy by using a tank-added wetter, a practice that adds cost to the treatment.

PUBLIC  
FILE 49

Australian Customs and Border Protection Investigation into the Alleged Dumping of Fully Formulated Glyphosate from China  
Case Against an Anti-dumping Duty Prepared by Agrichem Manufacturing Industries Pty Ltd (T/A AGRONOMIQ) on behalf of Australian Independent Rural Retailers Pty Ltd (T/A AIRR)

Chinese formulators will add the wetter of the customer's choice to fully-formulated Glyphosate products, as will Australian formulators.

Several importers are using less expensive wetters or even diluted TERWET 3780, but positioning their product in the premium category by claiming their Glyphosate 450 contains 120 gram/L of TERWET 3780.

If cheating on wetters in imported fully-formulated Glyphosate 450 ceased, local formulators would experience no difficulty in competing against the same. However, this problem is an APVMA issue.

6. Tax Rebate

Until mid-2011, Chinese manufacturers received a 5% tax rebate on the export of Glyphosate Technical. The value of the tax rebate was generally incorporated into the price of Glyphosate Technical.

This concession was not given to the export of fully-formulated Glyphosate, thus there was disparity in pricing which favoured the export of Glyphosate Technical and therefore formulators in Australia and elsewhere.

The current price for Glyphosate Technical is US\$4.05/kg for 98% purity. The rebate was equal to US\$4.05/1.05 which is approximately US\$3.86. The rebate of 19 cents was therefore deducted from the price resulting in an actual price of US\$3.86. However, now that the rebate has been removed, formulators are paying an additional US\$0.19/kg for Glyphosate Technical while the cost of fully-formulated Glyphosate remains the same. The removal of the rebate effectively adds 8 cents/Litre to the cost of formulating Glyphosate 450 in Australia.

7. Exchange Rate

Glyphosate is priced in US\$ and therefore the recent collapse of the US\$ against the AUD has benefitted both importers of fully-formulated Glyphosate and Glyphosate Technical for local formulation. However, most of the benefit has been offset by revaluation of the Chinese RMB against the US\$.

Since 18th March 2010 the AUD has increased in value against the US\$ by 15.4% while the RMB has increased in value by 7.3%, a difference of 8.1%. This means that the labour component of formulating Glyphosate 450 in Australia has increased against the Chinese component by 8.1% of 20 cents/Litre or approximately 2 cents/Litre.

Australian Customs and Border Protection Investigation into the Alleged Dumping of Fully-Formulated Glyphosate from China  
Case Against an Anti-dumping Duty Prepared by Agrichem Manufacturing Industries Pty Ltd (T/A  
AGRONOMIQ) on behalf of Australian Independent Rural Retailers Pty Ltd (T/A AIRR)

8. Economies of Scale

Although it cannot be quantified, the Glyphosate manufacturing and formulating segment in China has benefitted from economies of scale, which were enhanced by rationalisation of the industry in 2010/11. To place this factor into perspective, the current capacity of AGRONOMIQ/AIRR's supplier, Good Harvest (45,000 MT or 98,000,000 litres of Glyphosate 450) is more than sufficient to supply the entire Australia market. Good Harvest is not the largest manufacturer in China, but is currently installing an additional 30,000 MT of Glyphosate Technical capacity. Given the fragmented nature of the Australian formulation industry (eight large-sized formulation plants actively formulating Glyphosate), it is extremely difficult for Australian formulators to be cost competitive without any of the above-mentioned factors.

9. Total Cost

The total maximum cost of the above factors in AUD is as follows:

1. Intermediate Bulk Container	\$ 0.08
2. Wet-cake or white-cake	0.02
3. MIPA	0.02
4. Chinese labour costs	0.05
5. Wetter Issue	0.20
6. Tax rebate	0.08
7. Exchange Rate	0.02
Sub-Total	\$ 0.47
Import Duty (assume FOB price of AUD 2.56/L)	0.13
Net Benefit	\$ 0.34

Therefore, Chinese formulators enjoy a maximum 34 cents/Litre competitive advantage over Australian formulators.

Based on the above factors, which are well known to Chinese producers (and Nufarm and ACCENSI), there is no need for Chinese producers to dump fully-formulated Glyphosate in Australia even if they were predisposed to do so.

However, the differential of 34 cents may easily be reduced by the following action:

- Removal of the 5% import duty on Glyphosate 62% w/w (discussed in the next section).
- Greater surveillance by APVMA of the wetters used in Glyphosate 450 to eliminate cheating.
- The tax rebate has now been removed by the Chinese government and has restored parity between imported Glyphosate Technical and fully-formulated Glyphosate.

Australian Customs and Border Protection Investigation into the Alleged Dumping of Fully-  
Formulated Glyphosate from China  
Case Against an Anti-dumping Duty Prepared by Agrichem Manufacturing Industries Pty Ltd (T/A  
AGRONOMIQ) on behalf of Australian Independent Rural Retailers Pty Ltd (T/A AIRR)

- Switch from the MIPA salt to the potassium salt of Glyphosate salt which favours domestic formulation.



Australian Customs and Border Protection Investigation into the Alleged Dumping of Fully-Formulated Glyphosate from China  
Case Against an Anti-dumping Duty Prepared by Agrichem Manufacturing Industries Pty Ltd (T/A AGRONOMIQ) on behalf of Australian Independent Rural Retailers Pty Ltd (T/A AIRR)

III. A Solution to the Issue. The Removal of the 5% Import Duty on Glyphosate 62% w/w Manufacturing Concentrate

Glyphosate 62% w/w Manufacturing Concentrate is Glyphosate Technical that has already been "aminated" or reacted with MIPA. The product is transported in IBCs and carries a 5% import duty when imported into Australia.

Glyphosate Technical 95-98% on the other hand is a dry, granular product transported in One-MT bags which enter Australia duty free.

The benefits of using Glyphosate 62% w/w compared with Glyphosate Technical are as follows:

- Provides the formulator with a "free" IBC that does not require rinsing and therefore removes 8 cents/Litre from the differential.
- Eliminates the need for MIPA because amination is complete and therefore removes 2 cents/Litre from the differential.
- Formulation from Glyphosate Technical takes around three days because the product must be cool before the wetter may be added.
- On the other hand, formulation from Glyphosate 62% w/w allows the wetter to be added immediately and therefore significantly shortens the time and cost of formulation.
- The Australian formulator adds value by adding water, wetter, dye and anti-foam and repackaging the product into the same IBCs.
- Surplus Glyphosate 450 would be packed in Schutz 110-L recyclable drums produced in Australia. While these drums are also produced in China they do not have the pump fitting required for recycling, thus giving Australian formulators a competitive advantage.
- Recyclable 110-L drums and 1000-L IBCs do not carry a drumMUSTER levy of 4 cents/Litre.
- All labels would be printed in Australia.

As mentioned above, if Customs determines that an ADD on fully-formulated product is necessary, the cost will be ultimately passed to Australian farmers. However, if Glyphosate 62% w/w entered Australia duty free, Australian farmers would not be penalised and Australian companies would formulate virtually all liquid end-user Glyphosate products.

Please note that Glyphosate 62% w/w cannot be used to formulate the potassium salt of Glyphosate. The potassium salt of Glyphosate requires Glyphosate Technical which already enters Australia duty free.

Australian Customs and Border Protection Investigation into the Alleged Dumping of Fully-Formulated Glyphosate from China  
Case Against an Anti-dumping Duty Prepared by Agrichem Manufacturing Industries Pty Ltd (T/A AGRONOMIQ) on behalf of Australian Independent Rural Retailers Pty Ltd (T/A AIRR)

IV. The Special Case of Glyphosate Ammonium Salt

The ammonium salt of Glyphosate is dry granule compared to all other formulation which are liquid. The product is often classified as DF ("Dry Flowable") and WSG ("Water Soluble Granule") in formulations ranging from 680 gram/kg to 888 gram/kg.

Nufarm has listed Glyphosate 680 gram/kg as a product which should carry an ADD.

We believe that an ADD duty or an import duty on the ammonium salt of Glyphosate is not warranted for the following reasons:

- Chinese granular Glyphosate formulations are superior to those of Nufarm/Monsanto because of a higher loading of active material – 888 gram/kg in the case of the Good Harvest product which supersedes Nufarm's 680 gram/kg by a significant margin.
- Dry products offer the benefit of lower transportation costs, higher loading of active material and no packaging or recycling issues
- There is limited capacity to formulate the same quality of granular material in Australia – 100 MT per annum at Macspred in Ballarat.
- However, the Macspred capacity is used to formulate other DF or WSG/WDG products.
- Nufarm has been unsuccessful in gaining traction in the market for the ammonium salt of glyphosate despite the fact the product has been on the market for 10 years, largely because of the relatively low loading and high price.
- Nufarm obviously sees the new Glyphosate DF products from China as a threat to their liquid products and is seeking an ADD, not to protect local formulation, but to seek competitive advantage for their liquid products against superior products.

Chinese granulation plants have the benefit of economies of scale and also use wet-cake to formulate the ammonium salt of Glyphosate.

PUBLIC  
FILE 44

Australian Customs and Border Protection Investigation into the Alleged Dumping of Fully-Formulated Glyphosate from China  
Case Against an Anti-dumping Duty Prepared by Agrichem Manufacturing Industries Pty Ltd (T/A AGRONOMIQ) on behalf of Australian Independent Rural Retailers Pty Ltd (T/A AIRR)

V. Conclusion and Recommendation

In view of the foregoing, AGRONOMIQ/AIRR believes that Chinese producers are not dumping fully-formulated Glyphosate in Australia. There may be a perception of "dumping" because of the price of fully-formulated Glyphosate imported from China, but we have provided Customs with an explanation on how this perception could arise. The current disparity between the Chinese and Australian price of fully-formulated Glyphosate is a function of legitimate factors that arise out of normal commerce between the two countries and has nothing to do with dumping. Furthermore, we believe that Nufarm is mistaken when it claims that the prices of fully-formulated Glyphosate are lower in Australia than they are in China. The fact that the average Chinese farmer, until July 2011, used the waste residue from Glyphosate plants surely confirms the nonsense of the Nufarm argument. Finally, we have offered a solution to the problem that is within Customs' power to implement immediately, that is, to remove the 5% tariff from the importation of Glyphosate 62% w/w manufacturing concentrate. This action would provide equity to both Australian farmers and Australian formulators, including Nufarm.

As a result of the above we believe that there is no need for an investigation into the alleged dumping of fully-formulated product Glyphosate in Australia and that the Nufarm-ACCENSI application should be rejected. Moreover, without knowledge of the true transfer price of Glyphosate Technical from the manufacturing process to the formulation process it is impossible for Customs to arrive at the correct cost of fully-formulated product.