

The Director
Trade Measures Branch
Australian Customs and Border Protection Service
Customs House,
5 Constitution Avenue
Canberra ACT 2601

16 March 2012

RE: APPLICATION FOR ANTI-DUMPING MEASURES ON FORMULATED GLYPHOSATE

Dear Sir or Madam,

We attach herewith our submission in response to the Application made by Nufarm and Accensi for Anti-dumping measures on formulated glyphosate exported from the People's Republic of China.

We are of the view that:

- Any injury sustained by the Australian industry has been largely self inflicted, and not as a result of the alleged dumping of formulated glyphosate.
- More probable causes of the decline in production volume during a period of rising glyphosate demand are:
 - Failure to recognise that glyphosate is a commodity and not a proprietary, branded product that can be price managed.
 - The choice made by the industry to try and keep prices stable in a declining international market, and as a result surrender sales volume, rather than price.
 - The rapid increase in glyphosate demand in Australia, and the inability of the industry to accommodate that demand in a small timeframe.

And we are further of the view that any benefit given to this industry by the imposition of a dumping duty will be vastly outweighed by the cost disadvantage it will impose on the Australian agricultural industry and the many farmers and associated workers the industry employs.

It is almost ironic that at the same time 4Farmers is making a case for the removal of the 5% tariff on imported fully formulated glyphosate because local manufacture fails the local content test, Nufarm and Accensi make an application for a dumping duty. Is the application genuine or is it just to up the ante in the case for the removal of the tariff altogether?

This submission can be treated as non-confidential.

Yours sincerely,

4Farmers Pty Ltd

1. BACKGROUND

4Farmers is a wholly owned Australian company that has been supplying agricultural chemicals to Australian farmers for over 12 years. The company is not, as described in application by Nufarm and Accensi, just a Trader/Importer of fully formulated glyphosate products, but is active in the whole supply and distribution chain, being:

- An importer of fully formulated products and raw materials (TGAC)
- A formulator of numerous products, including glyphosate at our own production facility
- A user of toll formulation facilities, including Accensi
- A distributor of these products through our own distribution network throughout most states of Australia.

We note that the diagram on page 14 of the application indicates that Nufarm/Accensi formulate glyphosate tech only from USA Manufacturer. Certainly the glyphosate tech that we have supplied to Accensi has been of Chinese origin and we would not be alone in supplying Chinese tech to this company for formulation. And while on the subject of our use of toll formulation facilities at Accensi, it is noted that on numerous occasions we have been unable to have our TGAC formulated within a suitable timeframe due to Accensi's capacity constraints, and we have satisfied customer demand with fully imported product.

We note that the application on page 15 describes the market as being 85% broadacre. It would be at least that. We would add that the broadacre market favours products with a glyphosate active content of 450g/l plus, and that for this market Glyphosate 360 is a relic of the past. 4Farmers does not sell any glyphosate 360 in its dealings with over 3000 Australian broadacre farmers. Furthermore, the bulk of the market has also moved away from 20L drums with over 70% of 4Farmers sales being in 1000L IBC's. The continuing practice of Nufarm and Accensi to analyse the market and present their costings in terms of 20L or 1L containers of Glyphosate 360 makes their analyses and claims misleading and quite irrelevant in today's market. Also irrelevant and dated is Nufarms continuing belief that glyphosate is Roundup, a proprietary and branded product. The reality is that today's markets, at the farmer level and internationally now regard glyphosate as a commodity, and as a commodity, prices move according to supply and demand, and are not necessarily related to cost. Many a time Australian farmers have had to sell their commodity outputs at less than the cost of production (and less than prices paid in the limited domestic market).

2. CLAIMS OF INJURY TO AN AUSTRALIAN INDUSTRY

We are of the view that if any injury has been sustained by the applicants it has been self-inflicted and not as a result of the importation of fully formulated glyphosate.

The first observation we would make is that it is doubtful in the first instance whether the glyphosate formulation industry even satisfies the 25% local content requirement. In the Customs Investigation into the Alleged Dumping of Glyphosate Technical in 2002, Customs concluded that the process of converting salt to formulated product is not a substantial process, and that only the conversion of glyphosate technical to salt could be considered a substantial process. Glyphosate tech and MIPA alone generally account for more than 80% of the cost of the salt, and on many occasions, in the time of high tech prices, these two

imported products alone would account for more than 75% of the cost of the fully formulated product.

The key data pertaining to the applicants perception of the Australian market and Australian production (Appendices A1 and A2) have been classified as confidential so it is difficult to comment specifically on claims made on the basis of this data. The tables provided using data from these Appendices is represented as indexed values from a base year, and do not give the reader a clear picture. We can only therefore make some general comments on market growth and the capture of market share.

2.1 Market Growth

The market has grown substantially from 2007/08 partly for the reasons identified in the application, namely seasonal conditions, but helped during 2010/11 by lower prices. Lower prices combined with a need to spray leads to higher demand.

2.2 Market Share

The applicants claim that while overall market demand grew, they experienced a reduction in production volumes in during the period 2007/08 to 2010/11. The index of production variations (litres) does not tell us anything, but a drop of 31% from 2009/10 to 10/11 is claimed. All apparently attributable to the import of formulated product. We believe there are other reasons for the decline.

(a) Failing to surrender price.

Largely explained by the comments in the middle of page 25.

"The Australian industry's prices in 2010/11 have remained relatively stable – however, this has been as a consequence of the industry surrendering sales volumes (and not price)". The companies chose not to surrender price, and in so doing chose to surrender volume.

That is, the Australian industry ignored the reality of lower international prices and tried to hang on to the higher prices associated with higher tech costs (maybe because they were holding high cost technical) or because they were hanging on to the belief that glyphosate could be priced to the farmer according to its value rather than its cost. Again, the reality is that most farmers now buy glyphosate, not Roundup, and price along with quality are the drivers.

Failing to surrender price against a background of falling international prices inevitably leads to erosion of volume. The end user market is now well informed, and as is the case with fertiliser, farmers expect international price reductions to be passed on, and if a company is caught with high costs stocks – that's too bad. In a recent enquiry into the fertiliser industry some members of the committee took a dim view towards suppliers failing to pass on international price reductions, even if they were working through older high priced stocks.

(b) Capacity to Cater for the Increased Demand

It is not abundantly clear from the information available to the public, whether the production capacity of the applicants has increased, remained constant or declined over the period 07/08 to 10/11. The table on page 26, "Index of Capacity variations (litres)" indicates that capacity in 2010/11 was 87.9% of the capacity that was available in 07/08 and that the capacity in 09/10 was greater than the capacity in 10/11. Does this partly explain the reduction in volume and to what extent then were the applicants able to cater for the sudden increase in demand? As mentioned, in our own experience we cannot always rely on toll formulators to accommodate our requirements, and this is not a criticism. It is just a fact that the nature of the industry is such that an unexpected and significant rainfall event can change demand dynamics suddenly and it would be

impractical and uneconomic for the Australian industry to invest in capacity that may or may not be utilised on a regular basis. Indeed the nature of the industry is such that year round full utilisation of capacity is impossible, and our own production facilities (that produce over 2 million L/Kg of product annually) operate at full capacity for only six or seven months of the year and at a fraction of capacity for the remainder. We note that on page 26 employee numbers at Accensi and Nufarm have declined by 3.3% from 2007/08. We do not regard this as an indication of serious injury.

3. Australian Industry Pricing and Imported Product Pricing

The applicants claim that it has been importation of glyphosate from China at prices lower than the Australian industry cost that has caused them injury. We make the following comments in relation to this claim:

(a) The Cost of Glyphosate Technical

The key determinant of the cost of formulated glyphosate is the cost of the TGAC used in the formulation. Nufarm and Accensi indicated diagrammatically on Page 14 of the application that they sourced glyphosate tech from the USA. We would expect that Nufarm sources all or most of its technical from Monsanto, most of which would come from the USA. An examination of the relative cost of imported technical from China and the US during the period would provide a guide to the relative cost of formulated product. However, information provided from the ABS relating to the Imports and Clearances of Tariff Code 2931001001 and related codes (incorporating glyphosate technical) shows huge discrepancies between the cost of tech from China and tech from USA. During calendar 2008 when international prices went through the roof, the average cost per Kg ex China was AUD11.36 per Kg. For the same period the average cost of tech from USA was AUD3.48. Calendar 2009 was AUD6.04 China, vs AUD5.98 US, and 2010 was AUD3.09 and AUD2.89 respectively. US technical has been consistently cheaper, and somehow Nufarm was able to insulate itself from the price peak of 2008. We cannot comment on the supply arrangements between Monsanto and Nufarm, suffice to say that there is evidence to suggest that the pricing arrangements do not immediately follow the market and therefore comparative costings of Nufarm's product and imported product could be based on quite different technical prices. Perhaps in the same way that Nufarm was protected from the high tech costs of 2008, they did not get the full benefit of the tech price declines in 2010/11, making their product comparatively more expensive. We suggest that before customs can accept Nufarm's costings at face value, it needs to examine the supply arrangements it has with Monsanto.

(b) Formulated glyphosate costings

We refer to the toll formulation cost calculation for Glyphosate 450 submitted by Agronomiq to the public record of this investigation. Again this demonstrates that the key determinant of cost is technical, in their example representing 63% of the cost of formulated 450. The applicants (on page 28) show a 41 cents per L difference between the "dumped" Chinese product, and the locally formulated product. Production efficiencies in China and a small difference in the tech cost applied to the costing could easily explain that difference. A difference possibly due to the utilisation of old tech stocks, different purchase/ shipment times or different exchange management practices.

We note also that while Table A-9.2 shows a 49% differential in the Q4 Australian Industry price of 360g/L Roundup, it shows only a 14.6% differential for the dominant product in the market, 450 g/L. Comparisons between international prices and 360 or 360 equivalent are misleading and increasingly irrelevant.

4. CLAIMS OF DUMPING

We have not investigated the claims made by the applicants in regard to export pricing and normal pricing, suffice to say that the small sample of data referred to is hardly enough to support the introduction of a dumping duty that would benefit a relatively small and largely foreign owned Australian industry to the detriment of thousands of Australian farmers. We reiterate our view that glyphosate is no longer the branded, proprietary product Roundup, but an international commodity. Commodity prices are governed by supply and demand and do not always bear a relationship to cost.

We see again in the application, the use of irrelevant comparisons. Page 38 shows some kind of comparison between normal values in China of 450g/L in a 1 litre pack and export values. There isn't really a 450 g/L domestic market in China, the preferred product being 360g/L, and there is no 1 Litre pack size relevant to exported glyphosate 450. It's a comparison of two things that don't exist and far too hypothetical to draw any meaningful conclusion from.