



## **AUSTRALIAN CUSTOMS DUMPING NOTICE NO. 2012/05**

### **Formulated glyphosate**

### **Exported from the People's Republic of China**

### **Initiation of an investigation into alleged dumping**

The Chief Executive Officer (CEO) of the Australian Customs and Border Protection Service (Customs and Border Protection) has initiated an investigation, following an application lodged on behalf of Nufarm Limited and Accensi Pty Limited (the applicants), manufacturers of formulated glyphosate in Australia. The application seeks the publication of a dumping duty notice in respect of formulated glyphosate exported to Australia from the People's Republic of China (China).

The application alleges that formulated glyphosate has been exported to Australia from China at prices less than its normal value and that the dumping has caused material injury to the Australian industry through:

- loss of sales volume;
- loss of market share;
- reductions in prices and impacts on profit and profitability;
- reduced revenues;
- reduced capacity utilisation;
- increased inventory levels;
- inadequate returns on investment;
- reductions in capital expenditure;
- inability to attract capital to reinvest; and
- reduced employee numbers and subsequent reductions in wages bill.

The non-confidential version of the application, available on the public record to interested parties, as defined by subsection 269T(1) of the *Customs Act 1901* (the Act), contains the basis of the alleged dumping.

A notice under subsection 269TC(4) of the Act advising initiation of this investigation was published in *The Australian* newspaper on Monday 6 February 2012.

#### **The goods**

##### General description

The application specifies that:

*The imported product the subject of this application is formulated glyphosate, a non selective herbicide, imported in varying strengths of the active glyphosate acid ingredient ("glyphosate technical"). A non selective herbicide is one that controls weeds in all situations.*

*The application is concerned with imported Glyphosate in all its fully formulated liquid forms including Glyphosate 360, Glyphosate 450 and Glyphosate 570 and the fully formulated dry forms including Glyphosate 680.*

Therefore, the goods covered by the application and the investigation, includes formulated glyphosate in any form (i.e. not limited to liquid forms) and at any concentration (whether described according to weight of glyphosate technical by volume or percentage of glyphosate technical).

The goods are classified to the tariff subheading 3808.93.00 (statistical code 48) of Schedule 3 to the *Customs Tariff Act 1995*. The current rate of duty applicable to the goods imported from China is 5%.

Exclusions of certain goods from investigation

Glyphosate acid is the primary ingredient in the manufacture of formulated glyphosate. Glyphosate acid is **not** the subject of the investigation.

**Investigation process**

The investigation period is 1 January 2011 to 31 December 2011. Customs and Border Protection will examine exports to Australia of the goods during that period to determine whether dumping has occurred. Customs and Border Protection will examine details of the Australian market from 1 January 2008 for injury analysis purposes.

Where the Minister for Home Affairs (Minister) is satisfied, as to goods of any kind, that:

- (a) the amount of the export price of the goods that have already been exported to Australia is less than the normal value of those goods, and the amount of the export price of like goods that may be exported to Australia in the future may be less than the normal value of the goods; and
- (b) because of that, material injury to an Australian industry producing like goods has been or is being caused or is threatened, or the establishment of an Australian industry producing like goods has been or may be materially hindered;

the Minister may, by public notice, impose interim dumping duties.

**Lodgement of submissions**

Interested parties are invited to lodge submissions concerning the publication of the dumping duty notice sought in the application no later than the close of business on 19 March 2012, addressed to:

Director Operations 2  
International Trade Remedies Branch  
Australian Customs and Border Protection Service  
Customs House  
5 Constitution Avenue  
CANBERRA ACT 2601

Or by email: [tmops2@customs.gov.au](mailto:tmops2@customs.gov.au)

Interested parties wishing to participate in the investigation must ensure that submissions are lodged promptly. Interested parties should note that the CEO is not obliged to have regard to a submission received by Customs and Border Protection after the end of the period mentioned above if to do so would, in the CEO's opinion, prevent the timely placement of the statement of essential facts (SEF) on the public record.

Interested parties may reply to matters raised by other parties during the course of the investigation and in response to the SEF.

The CEO must maintain a public record of each investigation. The public record must contain, among other things, a copy of all submissions from interested parties (letters and electronic mail are generally regarded as "submissions" if they contain information relevant to the investigation).

Interested parties claiming that information contained in their submission is confidential, or that the publication of the information would adversely affect their business or commercial interests, must:

- provide a summary containing sufficient detail to allow a reasonable understanding of the substance of the information that does not breach that confidentiality or adversely affect those interests, or
- satisfy the CEO that there is no way such a summary can be given to allow a reasonable understanding of the substance of the information.



Submissions containing confidential information must be clearly marked "In-Confidence".

Interested parties must lodge a non-confidential version or a summary of their submission in accordance with the requirement above. In either case, interested parties must provide two copies of each for the public record.

Documents included in the public record are available at <http://adpr.customs.gov.au/Customs/>.

Alternatively, the public record may be examined at the office address below during business hours by contacting International Trade Remedies Branch on 02 6275 6547.

International Trade Remedies Branch  
Customs House  
5 Constitution Avenue  
CANBERRA ACT 2601

#### **Provisional measures**

A preliminary affirmative determination may be made not earlier than 60 days after the date of initiation provided that there appears to be sufficient grounds for the publication of a dumping duty notice. In accordance with section 269TD of the Act, provisional measures, in the form of securities in respect of interim dumping duty that may become payable on the goods, may be imposed where a preliminary affirmative determination has been made.

#### **Statement of essential facts**

The dates specified in this notice for lodging submissions must be observed to enable Customs and Border Protection to report to the Minister within the legislative timeframe. A statement of essential facts will be placed on the public record by 29 May 2012, or by such later date as the Minister may allow in accordance with section 269ZHI of the Act. The statement will set out the essential facts on which the CEO proposes to base a recommendation to the Minister. That statement will invite interested parties to respond to the issues raised within 20 days of the statement being placed on the public record.

#### **Report to the Minister**

Submissions received in response to the statement of essential facts will be taken into account in completing the report and recommendation to the Minister. A recommendation to the Minister will be made in a report on or before 10 July 2012 (or such later date as the Minister may allow), unless the CEO terminates the investigation.

#### **Review Officer**

Certain parties will have the right to seek review in accordance with Division 9 of Part XV B of the Act of either a decision by the CEO to terminate the investigation, or a decision of the Minister after considering the CEO's report.

#### **Customs and Border Protection contact**

Enquiries concerning this notice may be directed to the case manager on telephone number 02 6275 5965, fax number 02 6275 6990 or email [tmops2@customs.gov.au](mailto:tmops2@customs.gov.au).

Justin Wickes  
A/g National Manager - Operations  
International Trade Remedies Branch  
CANBERRA ACT

6 February 2012