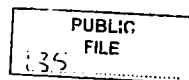




Australian Government
Australian Customs and
Border Protection Service



**INVESTIGATION INTO THE ALLEGED DUMPING OF
FORMULATED GLYPHOSATE**

EXPORTED FROM

THE PEOPLE'S REPUBLIC OF CHINA

IMPORTER VISIT REPORT

FARMOZ PTY LTD

**THIS REPORT AND THE VIEWS OR RECOMMENDATIONS CONTAINED
THEREIN WILL BE REVIEWED BY THE CASE MANAGEMENT TEAM AND
MAY NOT REFLECT THE FINAL POSITION OF CUSTOMS AND BORDER
PROTECTION**

April 2012

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2 BACKGROUND AND PURPOSE

2.1 The application

On 21 December 2011, Nufarm Ltd (Nufarm) and Accensi Pty Ltd (Accensi) lodged an application requesting that the Minister for Home Affairs (the Minister) publish a dumping duty notice in respect of formulated glyphosate exported to Australia from the People's Republic of China (China).

The applicants subsequently provided further information in support of their application. As a result, Customs and Border Protection restarted the 20 day period for considering the application.

On 6 February 2012, following consideration of the application, the Australian Customs and Border Protection Service (Customs and Border Protection) initiated an investigation. Public notification of initiation of the investigation was made in *The Australian* on 6 February 2012. Australian Customs Dumping Notice No. 2012/05 provides further details of this investigation and is available at www.customs.gov.au.

Customs and Border Protection has previously conducted two investigations into formulated glyphosate from China. The most recent investigation was in 2001-02, following an application lodged by Monsanto Australia Limited (Trade Measures Report No. 45 refers).

There are no current anti-dumping or countervailing measures on formulated glyphosate exported to Australia from China.

2.2 Purpose of meeting

Farmoz was listed in the application as an importer/trader of fully formulated glyphosate products and as an 'other supplier' – responsible for purchasing formulated glyphosate products from traders and other formulators and selling to distributors.

A search of Customs and Border Protection's commercial database showed that Farmoz imported glyphosate from China between 1 January 2011 and 31 December 2011 (the investigation period). Customs and Border Protection notified Farmoz of the initiation of the investigation and sought their co-operation by providing the company with an importer questionnaire to complete. Farmoz was also provided with a list of its imports during the investigation period, extracted from Customs and Border Protection's import database, for verification.

Farmoz completed the importer questionnaire, providing details regarding the company, overseas supplier information, imports and importation expenses. A copy of Part A (company and supplier details) of Farmoz's questionnaire response is at **Confidential Attachment GEN01**.

The purpose of this visit was to:

- confirm that Farmoz was an importer of formulated glyphosate and obtain information to assist Customs and Border Protection establish the identity of the exporter(s);
- verify information on imports of formulated glyphosate to assist in the determination of export prices from China;
- establish whether the purchases were arms length transactions;
- establish post exportation costs incurred in importing;
- discuss the Australian market for formulated glyphosate;
- recommend how export price may be determined under s. 269TAB of the *Customs Act 1901*; (the Act); and
- provide Farmoz with an opportunity to discuss any issues it believed relevant to the investigation.

During the visit, it was identified that the majority of Farmoz's formulated glyphosate products sold in Australia were manufactured, or toll manufactured by the Australian industry ([REDACTED]) [comment on toll manufacturers used]. Therefore at the visit we sought Farmoz's views on the following:

- factors that affect the commercial decisions to source formulated glyphosate via domestic manufacturing facilities, either toll manufactured or otherwise as opposed to importing formulated product;
- changes in toll manufactured and imported formulated glyphosate volumes; and
- the Australian formulated glyphosate market.

2.3 Meeting

Details of the meeting were as follows:

Company	Farmoz Crop Protection Pty Ltd
Address	Suite 1, Level 4, Building B 207 Pacific Highway St Leonards, NSW 2065
Telephone no.	02 9431 7800
Fax no.	02 9431 7700
Date	2 April 2012
Present at the visit	
Farmoz	Mr David Peters, Managing Director Mr Robert Kalf, General Manager – Supply Chain Mr Stuart Deer, Chief Financial Officer
Customs and Border Protection	Mr Tom O'Connor, Manager, Operations 1 Mrs Michelle Gibson, Manager, Operations 3

Prior to the meeting we forwarded an agenda to Farnoz and advised that we would require supporting documentation for the selected sales that had been previously identified. A copy of the visit agenda is at **Confidential Attachment GEN02**.

At the meeting we provided a summary of the investigation process and timeframes as follows:

- the investigation period is from 1 January 2011 to 31 December 2011;
- Customs and Border Protection set the injury analysis period to commence from 1 January 2008 for the purpose of analysing the market conditions of the Australian industry;
- a preliminary affirmative determination (PAD) could be made no earlier than 10 April 2012;
- provisional measures may be imposed at the time of the PAD or at any time after the PAD has been made, but Customs and Border Protection would not make such a determination until it was satisfied that there appears to be, or that it appears there will be, sufficient grounds for the publication of a dumping duty notice;
- a Statement of Essential Facts (SEF) will be placed on the public record by 28 May 2012 or such later date as the Minister allows - the SEF will set out the material findings of fact on which Customs and Border Protection intends to base its recommendations to the Minister and will invite interested parties to respond, within 20 days from its release date, to the issues raised (submissions received in response to the SEF will be considered when compiling the Final Report and recommendations to the Minister);
- Customs and Border Protection's Final Report to the Minister is due by 10 July 2012, unless an extension to the SEF is approved by the Minister.

2.4 Visit report

We advised Farnoz that we would prepare a report of our visit and provide it to Farnoz in order for them to review its factual accuracy and identify those parts of the report considered confidential. Following consultation about confidentiality, a non-confidential version of the report would be prepared for placement on the public file. The company agreed to that arrangement and to assist in its preparation.

Farnoz was co-operative and did not refuse any request for information.

3 THE GOODS**3.1 The goods**General description

The goods the subject of the application (the goods) is formulated glyphosate. 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".

Formulated glyphosate products are used for the non-selective control of weeds and are absorbed by the leaves and green tissue of susceptible plants. Translocated throughout the plant, formulated glyphosate based herbicides inhibit a specific enzyme, EPSP synthase, which plants need in order to grow. Without that enzyme, plants are unable to produce other proteins essential to growth, so they yellow and die over the course of several days or weeks.

Glyphosate formulations

The application states that in the Australian market the different formulations (of glyphosate) are described according to grams of glyphosate technical per litre (g/L) or kilogram, whereas on the global market the formulations are commonly described by the percentage of glyphosate technical contained in the formulations on a weight for weight basis. The application contains the following indicative comparison of the glyphosate formulations described by grams per litre / kilogram or percentage basis of glyphosate technical.

Unit of product	Glyphosate content – measured as g/L or grams per Kg	Glyphosate content – measured on a weight per weight basis (expressed as a percentage)
Litre (L)	360	41.6%
L	450	50.6%
L	570	61.5%
Kilogram (Kg)	680	75.7%

This table is indicative only².

¹Application for the publication of a dumping duty notice for formulated glyphosate exported from China (Application), page 7.

²Application, page 8.

The application specifies that:

*"This 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 form including Glyphosate 680"³.*

The applicants claim that:

- the imported formulated glyphosate products (at varying strengths) have the same end use;
- all formulations strengths are substitutable;
- the imported dry formulation can be substituted for liquid forms; and
- all imported formulations are applied within the approved application rates indicated on the product label, expressed on a litre per hectare basis.

At the consideration stage of the investigation, Customs and Border Protection considered that the goods covered by the application and 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).

Exclusion of certain goods from investigation

The application specifies that it is important to distinguish between formulated glyphosate (i.e. the goods) and glyphosate acid, which is the primary ingredient in the manufacture of formulated glyphosate. Glyphosate acid is **not** the subject of the application.

Customs and Border Protection considers that the goods covered by this application, and the subsequent investigation does **not** include glyphosate acid.

3.2 Tariff classification

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

There are currently no Tariff Concession Orders (TCO) applicable to the relevant tariff subheadings.

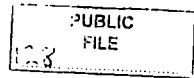
3.3 'Like' goods

Farmoz advised that formulated glyphosate produced domestically are like goods to the formulated glyphosate imported from China.

Farmoz noted that glyphosate 360g/L in the Australian market contains special surfactants which are non toxic to frogs. There is no requirement for these

³Application, page 8.

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amphibian-friendly surfactants in the Chinese market, and thus any imports of this product from China are specifically manufactured for the Australian market and not sold in the Chinese market.

Farmoz noted that the glyphosate 360g/L (amphibian friendly) was mainly supplied to the local council market for the purposes of activities such as cleaning out drains.

Farmoz advised that dry and liquid formulated glyphosate products are like goods, although they are used slightly differently. They stated that the dry formulated glyphosate was more for use in agricultural/ farming applications rather than consumer household use.

Farmoz advised that the Chinese market does not use 450g/L formulation, which Farmoz considers is the most popular formulation in Australia.

4 COMPANY BACKGROUND

4.1 Company background

Farmoz is a privately owned company, limited by shares, registered in Australia from 31 October 1990 under the ABN 55 050 328 973. Farmoz is 50% owned by Makhteshim-Agan Australasia Pty Ltd and 50% owned by Ecktrade Pty Ltd (which is 100% owned by Makhteshim-Agan Australasia Pty Ltd). Makhteshim-Agan Australasia Pty Ltd is fully owned by Makhteshim-Agan Holding B V (Netherlands), which is 40% owned by Koor Industries Ltd located in Israel and 60% owned by China National Agrochemical Corporation, a subsidiary of China National Chemical Corporation (ChemChina).

Farmoz advised that it was a privately owned company until 2004 when it was bought by Makhteshim-Agan Australasia Pty Ltd (Makhteshim). Prior to the 2004 purchase of Farmoz, the company was focused predominantly on manufacture (through toll manufacturers) and sales of glyphosate. Since the 2004 change in ownership, the company has started to re-balance and supply a wider variety of crop protection products.

Farmoz advised that ChemChina's major shareholding in Makhteshim-Agan Holding B V was only recent, with the investment occurring in October 2011.

Farmoz employs approximately [REDACTED] employees and reports up to Makhteshim-Agan Industries office in Israel via the Asia Pacific office in Singapore.

4.2 Company overview

Farmoz is a major supplier of crop protection products to Australian farmers through a network of rural resellers. They do not sell direct to end users.

In its response to the importer questionnaire, Farmoz described its role in the Australian market for formulated glyphosate as an importer and wholesaler.

In addition, Farmoz stated that they manufacture formulated glyphosate through arrangements with several toll manufacturers.

Farmoz purchase imported and locally produced glyphosate technical which it has manufactured into fully formulated glyphosate through the outsourcing of formulating to several toll manufacturers. In addition, since quarter three 2011, Farmoz have imported a small volume of fully formulated glyphosate.

Farmoz estimates that its sales of glyphosate represent [REDACTED] of its annual turnover of all products for 2011. It estimates that sales of imported fully formulated glyphosate represent [REDACTED] of total sales for 2011.

4.3 Accounting structure and details of accounting systems

The accounting period of Farmoz is 1 January to 31 December.

Farmoz's financial statements are consolidated into the Makhteshim-Agan Australasia statements, which are audited annually.

At the visit, Farmoz provided an income (profit and loss (P&L)) statement to December 2011, at **Confidential Attachment COM1**.

Farmoz utilises the SAP system as its financial accounting system and Qlik view for management accounting. Farmoz's accounting practices are in accordance with Australian generally accepted accounting principles and International Accounting Standards.

4.4 Relationship with suppliers

During the investigation period Farmoz sourced imported formulated glyphosate from two overseas suppliers, [REDACTED] [REDACTED] [supplier details]. In addition, it imported herbicides, anti-sprouting products and plant-growth regulators from [REDACTED] [REDACTED] [supplier details] during the investigation period.

Farmoz advised that they have a normal commercial relationship with [REDACTED] [REDACTED] [supplier details] and that import sales were arms length transactions.

4.5 Relationships with customers

Farmoz identified sales of formulated glyphosate (both toll manufactured in Australia and imported fully formulated) during the investigation period to [REDACTED] [REDACTED] [customer details].

We were informed that despite the origin of the glyphosate technical or formulated product, Farmoz does not classify finished goods inventory in this manner. Accordingly, Farmoz are not able to differentiate between fully formulated glyphosate that is manufactured from imported glyphosate technical and fully formulated glyphosate manufactured from locally sourced glyphosate technical.

Further, Farmoz advised that its glyphosate sales data does not differentiate between imported fully formulated glyphosate and locally manufactured fully formulated glyphosate.

4.6 Farmoz's product range

4.6.1 Product range

As an importer, manufacturer and wholesaler, Farmoz's sales are made to distributors, who then on-sell to farmers and other end users.

Farmoz sells the following formulations in a variety of sizes:

Glyphosate 360g/L: Sold under the brand name of Wipeout Bio (amphibian friendly) in one litre, five litre, 20 litre and 110 litre packages. Farmoz source this product

[redacted] through the toll manufacturer [redacted] utilising frog friendly surfactants supplied by [redacted] [supplier details]

Glyphosate 450g/L: Sold under the brand name of Wipeout in 20 litre, 110 litre and 1,000 litre packages. Farmoz 's sources of supply for 450g/L include purchases of the fully formulated product from [redacted], [supplier details] from domestic toll manufactures on Farmoz's behalf and imports of the fully formulated product.

Glyphosate 540g/L: Sold under the brand name Wipeout Accelerate in 20 litre, 110 litre and 1,000 litre packages. Farmoz purchase this product [redacted] [supplier details]

Glyphosate 510g/L: Sold under the brand name Wipeout Plus 510 in 20 litre, 110 litre and 1,000 litre packages. Farmoz purchased the licence for this formulation from [redacted] and have it toll manufactured by [redacted] [supplier details] At the time of the licence agreement [redacted] [supplier details]

4.6.2 Toll manufacturing

Farmoz have never toll manufactured themselves, always using toll manufacturers to produce its products however primarily utilise [redacted]; [supplier details] and to a lesser degree [redacted]; [supplier details] to toll manufacture its products. Farmoz stated that terms of payment with its toll manufacturers was [redacted] days.

We were advised that Farmoz have commercial arrangements with the following toll manufacturers:

[redacted]

[redacted]

[redacted]

[redacted]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[Details of suppliers and specific arrangements with Farnoz]

5 IMPORTS**5.1 Introduction**

Customs and Border Protection's import database identified that during the investigation period, Farmoz imported goods under the tariff subheading 3808.93.00 (statistical code 48) from [REDACTED] suppliers. As the statistical unit of measurement for imports under 3908.93.00 is kilograms, we calculated the volume in L by dividing the volume in kilograms by the specific gravity for glyphosate, 1.2. The quantity (in Litres) imported from each supplier is summarised in the table below:

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As discussed below, Farmoz did not start importing fully formulated glyphosate until [REDACTED] with the first shipment arriving in Australia in [REDACTED].

All of the imported goods from [REDACTED] [supplier details] were glyphosate 450 g/L. The goods imported from [REDACTED] [supplier details] were described as herbicides, anti-sprouting products and plant-growth regulators. Farmoz clarified that these goods imported from [REDACTED] [supplier details] are glyphosate 450 g/L.

Farmoz's list of imports extracted from the import database is at **Confidential Attachment IMP01**.

Farmoz import fully formulated glyphosate 450g/L in 20 litre and 1000 litre packages. Farmoz prefer to import the 1000L packages due to higher market demand for this product and only started to import 20L in early 2012.

5.2 Rationale for importing

Farmoz sources supply through toll manufacture using imported and locally produced glyphosate technical and started importing fully formulated glyphosate [REDACTED] [time frame]

During 2011, [REDACTED] of Farmoz's formulated glyphosate was manufactured in Australia via toll manufacturers. Farmoz advised that production via toll manufacture in Australia allows for better control of quality and that the time required to ship products to Australia from China is lengthy.

Farmoz stated that the decision to import fully formulated glyphosate was based on the competitive pressures. Farmoz considered that whilst it currently only imports small volumes of formulated glyphosate, in the future it would consider importing greater volumes if the cost to import fully formulated glyphosate dropped below the cost to manufacture.

Farmoz advised that it is [REDACTED] cheaper to import glyphosate 450g/L in the 20L size than it is to manufacture it in Australia, although there are lots of issues transporting 20L containers due to stuffing issues in the container.

We were advised that the 110L containers used for sale in Australia are an

Australian designed returnable drum system which cannot be imported. In addition, China does not like these returnable drums to be re-imported into China.

5.3 Ordering process and price

Farmoz explained that it has an office in China who gather its import purchase requests and decide which company to buy from. They advised they there are [redacted] companies in China who use the Huntsman frog friendly surfactant. [redacted] [surfactant supplier details]

To place an order, Farmoz informed us that its Chinese office places the orders with the manufacturer, with the price [redacted]. [pricing details] For glyphosate only, manufacturers are [redacted] [pricing details]

Farmoz advised that Chinese manufacturers base their pricing on market intelligence, not a method such as costs plus a profit margin.

Once manufactured the formulated glyphosate is shipped in 20 foot containers with Farmoz directing the shipment to designated ports around Australia based on its target markets. Importation of glyphosate technical is again shipped in 20 foot containers and then sent to port that corresponds with toll manufacturer/s in that area.

Farmoz advised that sailing time is 20 days but Farmoz work off an order – delivery timeframe of 6 weeks between order and the products arrival. Farmoz advised that no rebates were offered from the Chinese manufactures nor was any assistance in the form of financing or advertising offered to Farmoz.

Sales terms offered by [redacted] [details of sales terms]

Sales terms offered by [redacted] [details of sales terms]

Payment for the goods is made as specified on the commercial invoice.

5.4 Verification

Prior to the visit Customs and Border Protection requested that Farmoz provide the necessary source documents in relation to selected shipments. These documents were in the form of individual consignment information and invoicing to allow Customs and Border Protection to reconcile the documents to the completed

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importer questionnaire form. Farmoz's completed importer questionnaire is at **Confidential Attachment IMP02**.

The documentation provided by Farmoz generally took the form of the following:

- commercial invoices (proforma and tax);
- purchase orders;
- shipping documents, including bills of lading;
- packing lists;
- certificate of analysis;
- import declaration form and receipt of Customs duty;
- copy of shipping insurance policy (does not show insurance fees);
- evidence of payment for Customs clearance fees and port charges; and
- evidence of payment to the commercial supplier.

The source documentation is at **Confidential Attachment IMP03**.

During the visit we reviewed the documentation and were satisfied with the reconciliation of the commercial invoices to the completed importer questionnaire form. We noted that some information regarding shipment costs and Australian importation costs had not been input into the spreadsheet by Farmoz and input it ourselves. The revised importer questionnaire form is at **Confidential Attachment IMP04**.

5.5 Importation costs

All selected shipments of formulated glyphosate were made on CIF terms, where the exporter organised and paid for overseas freight and marine insurance. Therefore commercial invoices for insurance and freight could not be provided.

Farmoz provided costs for inland freight to its warehouse, storage and unpacking and delivery. These costs were provided on an Australian dollar per litre basis. Farmoz advised that it took yearly expenditure and apportioned these costs across all products based on the products relative purchase price.

We calculated the average importation expenses for the selected consignments, as tabulated below:

Cost item	Weighted average post importation cost (AUD) per unit (per L)
Australian post importation costs (excluding Goods and Services Tax and Customs Duty)	██████████

5.6 Who is the importer

We noted that Farmoz:

- is named as the customer on supplier invoices;

- is named as the consignee on the bill of lading;
- declares itself as the owner of the goods for entry to Customs and Border Protection; and
- pays the importation costs associated with the entry.

We consider Farnoz was the beneficial owner of the goods at the time of importation and is therefore the importer.

5.7 Who is the exporter?

Customs and Border Protection will generally identify the exporter as:

- a principal in the transaction located in the country of export from where the goods were shipped who gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or their own vehicle for delivery to Australia; or
- a principal will be a person in the country of export who owns, or who has previously owned, the goods but need not be the owner at the time the goods were shipped.

Where there is no principal in the country of export Customs will normally consider the exporter to be the person who gave up responsibility for the goods as described above.

The selected shipments we examined contained sales from two of Farnoz's overseas suppliers; shipments for each supplier are discussed separately below.

██████████ [supplier name]

When we reviewed the documentation provided in relation to the selected shipments of formulated glyphosate, we identified that ██████████ [supplier name] sold the goods to Farnoz and arranged for their transport to Australia.

Upon review of this documentation, we identified that:

- ██████████ [supplier name] is identified as the supplier in the commercial invoices;
- ██████████ is identified as the supplier on the bills of lading;
- Farnoz orders the goods from ██████████;
- Farnoz is identified as the consignee on the bills of lading;
- ██████████ [supplier name] pays the relevant costs of ocean freight and insurance; and
- Farnoz pays ██████████ [supplier name] for the goods.

Subject to a visit to ██████████, [supplier name] we are satisfied that ██████████ [supplier name] is the exporter of the goods.

██████████ [supplier name]

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When we reviewed the documentation provided in relation to the selected shipments of formulated glyphosate, we identified that [REDACTED] [supplier name] sold the goods to Farmoz and arranged for their transport to Australia.

Upon review of this documentation, we identified that:

- [REDACTED] [supplier name] is identified as the supplier in the commercial invoices;
- [REDACTED] [supplier name] is identified as the supplier on the bills of lading;
- Farmoz orders the goods from [REDACTED] [supplier name];
- Farmoz is identified as the consignee on the bills of lading;
- [REDACTED] [supplier name] pays the relevant costs of ocean freight and insurance; and
- Farmoz pays [REDACTED] [supplier name] for the goods.

Subject to a visit to [REDACTED], [supplier name] we are satisfied that [REDACTED] [supplier name] is the exporter of the goods.

6 AUSTRALIAN MARKET AND SALES**6.1 General**

Farmoz believe that the 450g/L product is the leading product in Australia and is still dominating the market, however there are a greater variety of formulated glyphosate products and strengths -higher and lower grams per litre available now.

Farmoz advised us that when the Monsanto patent on glyphosate expired in 1992; Farmoz was one of the first companies to start selling glyphosate and grew the market through the 1990s.

Within Australia Farmoz considers it has approximately [REDACTED] of the market share of all agricultural products in Australia. However it stated that there is a lack of market research allowing them to verify such facts so this is only an estimate.

With regard to formulated glyphosate Farmoz estimates that formulated glyphosate makes up around [REDACTED] of the total weed killing products market in Australia. As glyphosate drops in price, sales increase. Farmoz stated that even when the price of glyphosate peaked in 2008 it was still cheaper than using a machine hoe to kill weeds.

Farmoz advised that formulated glyphosate does not have a shelf life (does not degrade) however, market considerations such as fluctuations in the price and or currency mean that it is too risky to produce and hold excessive inventory of either product.

We were informed that customers have accepted imported brands of glyphosate and have changed their preferences there by not just wanting to purchase the Nufarm's brand. Accordingly, brand erosion has occurred as imported brands have been tried by consumers who have not experienced any problems.

Farmoz explained that the majority (96%) of glyphosate sales pass through a distribution chain (importer, wholesaler, distributor, retailer) with approximately 4% by-passing this supply chain and going directly to end users. They stated this is because Australia is such a large country and that transporting goods vast distances is very expensive. Hence networks (manufacturing and distribution) have been set up to be geographically located close to the end user markets.

Farmoz stated that the Australian glyphosate market has experienced volatility over recent years, being affected by the drought and then the 2008 spike in the price of glyphosate (up to \$13 a kg). The 2008 price spike was brought on by Monsanto restricting supply to the US market. It was believed that the shortage in supply would be a long term problem, however supply was only short for around 9 months and the price returned to normal within a year.

As a result of this supply shortage China had to build up the capacity to supply glyphosate to the rest of the world markets. As the price of glyphosate increased, the Chinese capacity also increased until it reached a point where supply exceeded demand and the price fell.

Farmoz advised that when the price of glyphosate increased in 2008, companies were stuck holding stock. This experience has made people wary of holding stock and the structure of the whole industry has changed to hold less stock in inventory.

Locally however Farmoz advised us that presently there is ample toll manufacturer capacity in Australia with approximately 40% of capacity currently being utilised.

Australia's exchange rate is considered problematic. Farmoz indicated that the current exchange rate for the Australian dollar has made manufacturing in Australia more expensive and advised that profit margins have been dropping over the past decade and have deteriorated markedly in the past few years.

Farmoz stated that the Australian formulated glyphosate market has low barriers to entry, which puts pressure on traditional markets. They advised that the government had created low cost entry into agriculture, increasing competition and providing a supply of lower cost chemicals for the market.

We were informed that Nufarm use to set the market price for glyphosate in Australia but in the past year this has changed as some imported products are priced lower than Farmoz's cost structure. Farmoz questioned whether these importers were importing glyphosate under the correct tariff classification.

6.2 Price Setting and Rebates

Farmoz's product range is outlined in 4.6.1 above.

Farmoz [REDACTED], explaining that glyphosate is a traded commodity and when that the market determines the price.

When we queried Farmoz about any rebates it may offer, Farmoz advised [REDACTED]

[Rebate details]

6.3 Sales verification

In its response to the importer questionnaire, Farmoz provide a spreadsheet containing detailed sales transactions. At the visit we discovered that this spreadsheet only contained sales of 450g/L glyphosate. Consequently we asked for all sales of formulate glyphosate sales which Farmoz provided (**Confidential Attachment SALES 1**).

Prior to our visit to Farmoz we selected 10 sales transactions for verification of source documents. For the selected sales transactions Farmoz provided us with commercial invoices and proof of payment. We located these sales in the sales spreadsheet and noted that the invoice numbers, date, amount and values reconciled between the invoices and the sales spreadsheet.

Based on the source documents provided we are satisfied that the sales values in the detailed sales transaction spreadsheet are accurate. The source documents are at **Confidential Attachment SALES 2**.

6.4 Profitability of sales

In order to calculate the sales revenue for each shipment, we used the detailed sales transaction data to calculate the weighted average monthly sale price per litre (less rebates and discounts) for 450g/L in 20L and 1000L sizes. We used the weighted average price per litre calculated in the month following the ships arrival for the corresponding container size.

We analysed the profitability of Farnoz's selected shipments. Of the [redacted] shipments, we found that [redacted]

[redacted]

[redacted]

[redacted]

[redacted] [details of shipment profitability]

During the visit Farnoz advised that it needs to offer customers a package of products, including glyphosate, as customers prefer to purchase several products at the one time. During sales discussions, glyphosate requires very little time and effort to sell compared to other products. [redacted]

[redacted] [glyphosate profit details]

6.5 Forward orders

In its response Farnoz identified [redacted] forward orders of glyphosate [redacted]. [redacted] [details of forward orders]

7 TOLL MANUFACTURING COSTS

During our visit we were provided with information regarding the cost incurred by Farmoz for the toll manufacture of formulated glyphosate. As well as providing us with incentive agreements (discussed in section 4.6.2), we were provided with the following documents which can be found at **Confidential Attachment COM 3**:

- Commercial invoices for Farmoz's purchase of [REDACTED] [product and supplier details]
- Commercial invoices for Farmoz's purchase of surfactants from [REDACTED]; [supplier name]
- Commercial invoices for Farmoz's purchase of monoisopropylamine (MIPA) from [REDACTED] [supplier name]
- Commercial invoices for Farmoz's purchase of glyphosate technical from [REDACTED] [supplier name]
- Bill of materials for Wipeout 450 g/L (110L), Wipeout 450 g/L (20L), Wipeout 450 g/L (1000L), Wipeout 360 g/L (20L), Wipeout 360 g/L (1L), Wipeout 360 g/L (5L); showing for each formulation the ingredients, quantity, unit price and total cost of components for that formulation.

We assessed the monthly average prices of wetcake, glyphosate technical, MIPA and surfactants as well as formulation costs and total costs to observe the price trend in these items over 2011. The following tables display this information.

CONFIDENTIAL TABLE REMOVED

From the invoices supplied we examined the toll manufacturing bills of material to determine the accuracy of the standard costs being used. Apart from the glyphosate wetcake and glyphosate technical, the bills of materials costs were reasonably representative.

Farmoz provided a sample of bills of material from its various toll manufactures. We took the bill of materials price information provided by Farmoz and input key information into the schedule below.

CONFIDENTIAL TABLE REMOVED

8 ARMS LENGTH

In determining export prices under s. 269TAB(1)(a) of the Act and normal values under s. 269TAC(1) of the Act, the legislation requires that the relevant sales are arms length transactions.

Section 269TAA of the Act outlines the circumstances in which the price paid or payable shall not be treated as arms length. These are where:

- there is any consideration payable for in respect of the goods other than price;
- the price is influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller;
- in the opinion of the Minister, the buyer, or an associate of the buyer, will, directly or indirectly, be reimbursed, be compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

During the verification visit, Farmoz stated that it does not receive any reimbursement, rebates or other support from its suppliers in respect of the goods. We confirmed that the price invoiced by the exporters, was the price paid by Farmoz.

[redacted]
[details of profitability of importations]

Based on the information which was provided, we did not find any evidence that:

- there is any consideration payable other than price; or
- that the price is influenced in Farmoz's favour by a commercial or other relationship between [redacted] [supplier names]
- At this stage, we have not identified any information that indicates that sales between [redacted] [supplier names] were not arms length transactions.

9 MATERIAL INJURY AND CAUSATION

Farmoz considers that it is hard to assess if the increase in imported glyphosate is due to dumping and the cause of injury, or whether it is other factors such as the exchange rate or market drivers.

We were advised by Farmoz that Nufarm said they were being injured and that this is more in a reduction in manufacturing volumes. Farmoz stated that the sheer volume of glyphosate imported during the first quarter of 2011 alone would have had to injure the Australian Industry. [REDACTED]

[REDACTED] [Farmoz gave their view on the impact of measures]

10 UNSUPPRESSED SELLING PRICE

Unsuppressed selling price and non-injurious price issues are examined at an early stage of an investigation and, where possible and appropriate, preliminary examinations are made during the application consideration period for the purpose of assessing injury and causal link and therefore the appearance of reasonable grounds for the publication of a dumping duty notice.

Customs and Border Protection considers one of the following approaches to establishing unsuppressed selling prices:

- industry selling prices at a time unaffected by dumping;
- constructed industry prices – industry cost to make and sell plus profit; or
- selling prices of un-dumped imports.

Having calculated the unsuppressed selling price, Customs and Border Protection then calculates a non-injurious price by deducting the costs incurred in getting the goods from the export free on board point (or another point if appropriate) to the relevant level of trade in Australia. The deductions normally include overseas freight, insurance, into-store costs and amounts for importer expenses and profit.

Farmoz stated that they will consider the issue of USP and were happy to provide us with information and data to assist in the calculation of an USP.

11 RECOMMENDATIONS

As a result of the importer questionnaire submitted by Farmoz and the verification conducted on site, at this stage and pending further verification at exporters' company premises in China, we are of the opinion that the goods imported by Farmoz are:

- goods that have been exported to Australia otherwise than by the importer;
- goods that have been purchased by the importer from the exporter;
- purchases of the goods by the importer were arms length transactions; and
- the goods are subsequently sold by the importer to a person who is not an associate of the importer.

Subject to further inquiries with the exporters, we are satisfied that the export prices can be established under s. 269TAB(1)(a) using the invoice prices less any costs in respect of matters arising after exportation.

PUBLIC FILE

12 CONFIDENTIAL ATTACHMENTS

Confidential Attachment GEN01	Part A of Farmoz's importer questionnaire response (confidential version)
Confidential Attachment GEN02	Verification visit agenda
Confidential Attachment COM 1	Farmoz profit and loss statement 2011
Confidential Attachment COM 2	[REDACTED]
Confidential Attachment COM 3	Toll manufacture cost source documentation
Confidential Attachment COM 4	Toll manufacture cost spreadsheet
Confidential Attachment IMP01	Farmoz's list of imports extracted from the import database
Confidential Attachment IMP02	Importer questionnaire form provided by Farmoz for Part B of their importer questionnaire response
Confidential Attachment IMP03	Source documentation relating to importation of the selected consignments
Confidential Attachment IMP04	Farmoz revised importer questionnaire
Confidential Attachment SALES 1	Farmoz's detailed sales transaction listing for 2011
Confidential Attachment SALES 2	Source documentation relating to the verified sales