



**Australian Government**

**Australian Customs and  
Border Protection Service**

**R E P O R T**

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

**EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA**

**VISIT REPORT - AUSTRALIAN INDUSTRY**

**NUFARM LIMITED**

**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**

**March 2012**

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## 2 BACKGROUND

### 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, Australian Customs and Border Protection Service (Customs and Border Protection) restarted the 20 day period for considering the application.

On 6 February 2012, following consideration of the application, 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 (ACDN) No. 2012/05 provides further details of this investigation and is available at [www.customs.gov.au](http://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 45 refers). Nufarm was an interested party (although not the applicant) in this investigation.

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

### 2.2 Purpose of visit

We explained to Nufarm that the purpose of our visit was to:

- obtain general information about the Australian market for formulated glyphosate;
- gain a greater understanding of the company's manufacturing, marketing, sales and distribution processes;
- verify information provided in the application relating to the company;
- obtain additional financial data to assist in the analysis of the claimed injury to the Australian industry;
- give the company the opportunity to provide any further comments or raise any further issues it believed relevant to the investigation; and
- discuss and gather data relevant to establishing an unsuppressed selling price (USP).

A copy of the visit agenda is at **Confidential Attachment GEN01**.

During its previous involvement in Customs and Border Protection's investigations for formulated glyphosate and other agricultural chemicals (e.g. 2-4D), Nufarm has been visited and undergone verification of data submitted to Customs and Border Protection (most recently in 2008).

**2.3 Contact details**

Company:	Nufarm
ABN	37 091 323 312
Address:	103-105 Pipe Road, Laverton North, VIC 3026
Telephone:	(03) 9282 1444
Fax:	(03) 9282 1111
Date of visits:	Visit 1: 28 February to 1 March 2012 Visit 2: 20 March to 21 March 2012

The following representatives were present at various stages of the visits.

Company/Agency	Representatives
Nufarm	<ul style="list-style-type: none"> <li>• Lachlan McKinnon, General Manager, Australasia</li> <li>• Bernard Lee, Industry &amp; Government Affairs Manager</li> <li>• Michael Summons, Regional Business Manager, Roundup &amp; Glyphosate</li> <li>• Maree Porter, Regional Financial Controller, Australia and New Zealand</li> <li>• Other financial accounting and sales support staff</li> </ul>
T.R. O'Neill & Associates Pty Ltd	<ul style="list-style-type: none"> <li>• Terry O'Neill, Adviser</li> </ul>
John O'Connor & Associates	<ul style="list-style-type: none"> <li>• John O'Connor, Director</li> </ul>
Customs and Border Protection	<ul style="list-style-type: none"> <li>• Christie Sawczuk, Manager, Operations 2</li> <li>• Rod Jones, Manager, Operations 1</li> <li>• Rachel Lohan, Supervisor, Operations 1</li> </ul>

**2.4 Investigation process and timeframes**

As an applicant, we confirmed that Nufarm were cognisant of the key reporting investigation timeframes as specified in ACDN 2012/05. We provided a summary of the investigation process and timeframes as follows:

- the investigation period is 1 January to 31 December 2011;
- Customs and Border Protection will examine the Australian market from January 2008 for the purpose of analysing the condition of the Australian industry;
- a preliminary affirmative determination (PAD) may be made no earlier than 10 April 2012 – which is the first working day after the Easter public holiday. 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, to the issues raised (submissions received in response to the SEF will be considered when compiling the report and recommendations to the Minister); and

- Customs and Border Protection's report to the Minister is due on 10 July 2012<sup>1</sup>.

## **2.5 Visit report**

As Nufarm has previous experience with the verification and visit reporting process, we briefly explained to the company that we would prepare a report of our visit (this report) and provide it to the company to review its factual accuracy, and to identify those parts of the report it considers to be confidential.

We noted that, in consultation with Nufarm, we would prepare a non-confidential version of the report to be placed on the Public Record.

## **2.6 Introductory presentations**

At the commencement of the first visit, Nufarm representatives provided two PowerPoint presentations which covered:

- company background, organisational structure and product differentiation for Nufarm Australia Ltd (Nufarm Australia) and Crop Care Australasia Pty Ltd (Crop Care);
- information regarding the Australian agrochemical market, drivers for demand, market segmentation and key distribution channels; and
- information regarding the Australian formulated glyphosate market, including; market volumes and shares, market segmentation, key distribution channels and glyphosate chemistry (covering production methods, purpose and utilisation and benefits for use).

Copies of the presentations are at **Confidential Attachment GEN02**.

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<sup>1</sup> On 24 May 2012, public notification was provided regarding the Minister's decision to grant an extension to the SEF. The revised due dates for the SEF and final report are 25 June 2012 and 9 August 2012 respectively.

**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 for weight basis (expressed as a percentage)
Litre (L)	360	41.6%
L	450	50.6%
L	570	61.5%
Kilogram (Kg)	690	75.7%

This table is indicative only<sup>3</sup>.

<sup>2</sup> Application for the publication of a dumping duty notice for formulated glyphosate exported from China (Application), page 7.

<sup>3</sup> Application, 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".*

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 the application, and the investigation does not include glyphosate acid.

**3.1.1 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 applicable to the relevant tariff subheadings.

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<sup>4</sup> Application, page 8.



## 4 BACKGROUND - NUFARM AND THE AUSTRALIAN INDUSTRY

### 4.1 Corporate, organisational and ownership structure

Nufarm was established in 1957 and is an Australian Public Company (limited by shares) listed on the Australian Stock Exchange.

Nufarm is currently ranked the ninth largest crop protection company in the world and has substantial operations in North and South America, Europe, New Zealand and Asia (with 14 manufacturing sites and sales made in 100 markets). Nufarm is the largest crop protection company in Australia which manufactures and supplies agricultural chemicals, including herbicides, insecticides and fungicides products.

In Australia, Nufarm operates through the following four subsidiaries:

- Nufarm Australia – an Australian public company limited by shares which was registered in 1957;
- Crop Care – an Australian proprietary company limited by shares which was registered in 1993;
- Croplands Equipment Pty Ltd – an Australian proprietary company limited by shares which was registered in 1985; and
- Nuseed Proprietary Limited – an Australian proprietary company limited by shares which was registered in 1993.

We noted that the names of the companies listed above have changed since initial registration; however these changes are not detailed in this report.

As part of Nufarm's introductory presentation they provided a chart showing its structure, including the identities of all legal entities within the global business (**Confidential Attachment GEN02** refers). Nufarm also provided a chart displaying their corporate structure (**Confidential Attachment GEN03**).

As a manufacturer of crop protection products in Australia, Nufarm has production facilities located in Lytton, Queensland (QLD), North Laverton, Victoria (VIC) and Kwinana and Welshpool, Western Australia (WA). Nufarm also has an extensive network of twelve regional service centres in key agricultural areas, including; New South Wales, Southern Australia, Tasmania, QLD and VIC. Nufarm has Sales Managers positioned in all Australian states and territories and research and development (R&D) field teams and R&D Managers regionally dispersed.

Nufarm advised that it operates according to a service delivery and value add business model; which includes:

- manufacturing (synthesis and product formulation);
- logistics (extensive network of regional service centres);
- regulation (337 product registrations held with the Australian Pesticides and Veterinary Medicines Authority (APVMA));
- product development (significant investment in R&D programs to develop new products, innovative packaging and product mixtures);

- marketing (agency and loyalty programs); and
- sales (field sales force and after sales service and administration).

#### Company background as relevant to formulated glyphosate

In 2011, Nufarm's sales of glyphosate represented █% of total sales for all products<sup>5</sup> (reflecting a decrease from █% in 2010).

Two of Nufarm's Australian subsidiaries, Nufarm Australia and Crop Care are directly involved in supplying formulated glyphosate into the Australian market.

Nufarm manufacture formulated glyphosate (in liquid forms) at its plants in VIC and WA (and are also responsible for financial, R&D and logistic functions). Nufarm's production facilities in QLD are for insecticide and fungicide products. Nufarm Australia and Crop Care are responsible for selling and marketing functions in respect of formulated glyphosate. Nufarm advised that Nufarm Australia offers full service and value, strong branded proprietary products (i.e. Round Up), technology leading products and programs (including Round Up Powermax) and industry and market leaderships (i.e. stewardships). Crop Care offer lower cost products, strong branded proprietary products (i.e. Hammer) and adopt a segmented market approach (i.e. seed treatment focus).

Nufarm is the exclusive distributor of Round Up® agricultural herbicide brands in Australia, as they entered into an agreement with Monsanto in 2002 for exclusive distribution rights to these products. The original Round Up herbicide, containing the active ingredient glyphosate, was introduced in 1974 by Monsanto and its patent for these products expired in September 2000.

Nufarm also manufacture Nufarm formulated products and toll manufacture formulated glyphosate on behalf of other Australian companies.

The application states that Nufarm is also a member of Croplife Australia (an industry association).

#### **4.2 Accounting structure and details of accounting systems**

The accounting period of Nufarm is financial year 1 August to 31 July<sup>6</sup>.

Nufarm Australia and Crop Care's financial statements are consolidated into global annual statements and financial reports for the Australia/New Zealand (NZ) segment for Nufarm Limited, which are audited annually. This segment's results incorporate the four Australian subsidiaries and NZ Nufarm, which are reconciled through a global business 'matrix'. In 2011, sales by the Australia/New Zealand segment represented █% of total sales for all Nufarm companies / subsidiaries.

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<sup>5</sup> Including phenoxy herbicides, other herbicides, insecticides, fungicides, seeds and other. *Nufarm Limited Annual Report 2011*, page 12.

<sup>6</sup> Refer to section 8.2 for a description of Nufarm's financial quarters. Any references to dates in this report are in accordance with Nufarm's reporting period (unless otherwise specified).

As part of the application Nufarm Limited Annual Reports for 2010 and 2011 and Nufarm Australia's and CropCare's internal financial statements for years ending July 2010 and July 2011 were provided (Nufarm's Confidential Attachment A-6.3.2 of the application refers). At the visit, Nufarm provided updated internal income profit and loss (P&L) statements to January 2012.

Nufarm utilise a Business Process Analysis (BPA) financial consolidation tool to record / reconcile Nufarm's financial accounts to statutory accounts for the global Nufarm group.

To verify the data provided in the application Nufarm provided a letter from its auditors, KPMG to confirm that the data provided to Customs and Border Protection reconciled "without exception" to:

- Nufarm Australia's audited BPA trial balance at 31 July 2010 and 2011;
- Crop Care's audited BPA trial balance at 31 July 2010 and 2011; and
- Consolidation schedule for the years ending 31 July 2010 and 2011 audited as part of the Nufarm Limited group audit.

The letter and attachments are at **Confidential Attachment COM01**.

Nufarm utilises JD Enterprise (E.1) as its financial (general ledger) and management accounting system. During the verification we viewed Nufarm extract financial information in respect of sales and costs from this system, which utilises Julian dates. Nufarm advised that this system is regularly reviewed by KPMG.

Nufarm also utilises an Enterprise Resource Planning (ERP) tool to produce E-Dash and crystal financial reports to enable it to extract, manipulate and analyse financial data. During the visits for the purpose of verifying data, we viewed Nufarm interrogating the E.1 system and downloading and exporting relevant financial data into reports.

Nufarm Australia and Crop Care's accounting practices are in accordance with generally accepted accounting principles and international accounting standards. Nufarm's general ledger chart of accounts was also provided at Nufarm's Confidential Attachment A-6.3.1 of the application.

#### **4.3 Relationship with suppliers and customers**

##### **Suppliers**

Nufarm advised that it does not have any direct relationships with the Chinese exporters of formulated glyphosate. The application states that:

■ companies within the Nufarm Group have approximately ■ % in shareholding in ■

- a representative of Nufarm was a member of the Board of Directors of ■ until 2009-10; and

■ companies within the Nufarm Group have supply agreements with ■

However at the visit Nufarm clarified that the shareholdings and agreements relate to supply of glyphosate technical (not formulated glyphosate products) to countries other than Australia. Nufarm advised that it has made a significant investment with [REDACTED] in establishing their production facilities and processes for formulated glyphosate (which is exported to markets other than Australia).

#### Customers

Nufarm advised that it does not have any relationships with its domestic customers other than that of buyer or seller.

### **4.4 Nufarm's manufacturing facilities and product range**

#### **4.4.1 Manufacturing facilities**

Nufarm operates two manufacturing facilities in Australia at which formulated glyphosate is produced:

- North Laverton (VIC), which contains two dedicated glyphosate vessels; and
- Kwinana (WA), which contains one dedicated glyphosate vessel.

As mentioned previously, Nufarm manufacture a range of herbicide, insecticide and fungicides products at sites in North Laverton, Kwinana, Lytton and Welshpool. Plant operating capacity (with current resources available) for formulated glyphosate represents [REDACTED]% and [REDACTED]% of total production capacity at North Laverton and Kwinana respectively.

Nufarm advised that they (with Accensil) currently supply approximately [REDACTED]% of the total glyphosate market, [REDACTED] million (M) Roundup Equivalent Litres (RELs<sup>7</sup>).

Nufarm's production facilities incorporate a number of segregated manufacturing sheds, laboratories, offices and warehouse. The sites also include laboratories for quality control and formulation development. Packaging for formulated glyphosate is a shared production line. Nufarm advised that the product which is produced is either packaged on site, packaged at distribution centres or delivered in bulk.

Details in respect of Nufarm's production capacity and employment numbers are at section 8.8.

#### **4.4.2 Product range (formulated glyphosate)**

Nufarm is Australia's predominant manufacturer of crop protection products and they have 39 registrations with the APVMA for formulated glyphosate products (including the Monsanto Roundup brands). Nufarm supply formulated glyphosate to the Australian market which it:

- manufacturers;
- purchases from other Australian companies (including through sub contract manufacture arrangements);

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<sup>7</sup> Nufarm advised that they have estimated market size and market volumes for formulated glyphosate in RELs, which is a measurement used to convert products at varying concentrations to 360 g / L Roundup (the first patented formulated glyphosate product which was introduced into the Australian Market by Monsanto) equivalent L.

- toll manufactures on behalf of other Australian companies; and
- imports.

Nufarm also exports small volumes of formulated glyphosate to other countries.

As discussed at section 4.1, Nufarm is the exclusive distributor of *Roundup* crop protection products in Australia, which are supplied to distributors. Nufarm advised that they do not sell direct to end users, [REDACTED]

Nufarm manufactures formulated glyphosate with an active concentration containing glyphosate technical and a salt base of either mono-isopropylamine (MIPA) or potassium. Nufarm also supply an ammonium salt based formulated glyphosate in dry (water based granules) form, which is imported (as Nufarm do not manufacture dry product).

Nufarm has recently developed new product formulations and recently released the *Roundup Attack Herbicide* with IQ inside (registered in November 2011). Nufarm also recently developed a new chemical "*QuikPour*" 15 L cardboard container, with a large mouth and collapsible internal liner. From July 2011, Nufarm commenced supply of certain formulated glyphosate (including Roundup 360, Roundup Biactive, Roundup DST and Glyphosate CT) in the new QuikPour containers.

Nufarm manufactures formulated glyphosate in various packaging sizes and has registrations for products in multiple packaging sizes (from 200 mL to bulk containers). In 2011, Nufarm manufactured the following formulated glyphosate products (shown by packing type):

Formulation (kg)	Product name	Packaging type
360	Roundup 360	1 L, 5L and 20L
	Roundup Biactive	5 L, 20 L and 110 L
	Weedmaster Duo	1 L, 5 L, 10 L, 20 L, 110 L and 1000 L
450	Gladiator 450	20 L, 110 L and 1000 L
	Glyphosate CT	25 L, 20L 110L and 1000L
	Roundup CT	20 L, 110 L and 1000 L
470	Roundup DST	20 L, 110 L, 500 L and 1000 L
510	Gladiator Maximus	20 L, 110 L and 1000 L
540	574	500 L and 1000L
	Credit + Bonus (Kit)	20 L, 110 L and 1000 L
	Credit	20 L, 110 L and 1000 L
	Gladiator Optimax	20 L, 110 L and 1000 L
	Roundup Powermax	15 L, 20 L, 110 L, 500 L, 1000 L and bulk
570	Mon 76453	20 L
	Nul 2359	15 L
	Roundup Attack	15 L, 20 L, 110 L, 500 L and 1000 L

Nufarm also toll manufacture formulated glyphosate with glyphosate technical sourced by Nufarm or supplied by the customer. These toll manufactured products are registered by other Australian companies and Nufarm manufacture products on behalf

of these companies. In 2011, Nufarm toll manufactured the following formulated glyphosate products (shown by packing type):

Formulation (g/L)	Product Name	Product registrant	Packaging type
360 g/L	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]
510 g/L	[REDACTED]	[REDACTED]	[REDACTED]
540 g/L	[REDACTED]	[REDACTED]	[REDACTED]

#### Arrangements with other Australian manufacturers

Nufarm advised that it manufactured formulated glyphosate which was shipped to other Australian formulators, which was recorded in its accounting system as goods manufactured by a third party. For example, during 2010-11 to 2011-12, Nufarm's accounting system highlights that it sub contracted [REDACTED] Pty Ltd ([REDACTED]) to pack off 574, 800 L of formulated glyphosate 540 g/L (product code 574). Nufarm advised that [REDACTED] is not the manufacturer of the goods, as they only re-fill re-usable containers from a bulk storage tank. [REDACTED]

#### Imports

In 2011, Nufarm imported formulated glyphosate 690 g/L (Roundup Ready and Roundup Ready Plant Shield) from Argentina, which controls annual and perennial weeds for Roundup Ready technology cotton crops. [REDACTED]

#### Exports

In 2011, Nufarm manufactured and exported formulated glyphosate 360 g/L (Weedmaster Duo and RoundUp) and 450 g/L (Glyphosate CT). These exports represented less than 1% of total volume of all formulated glyphosate sales in 2011.

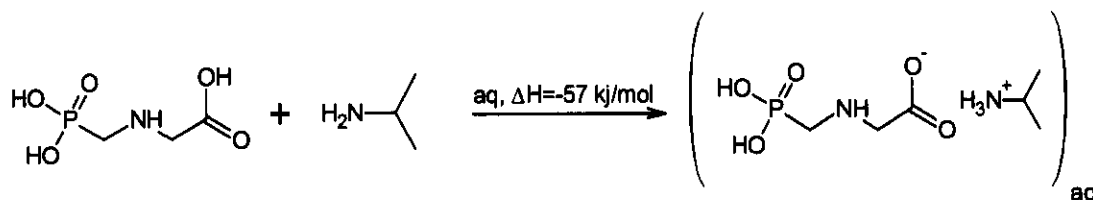
#### **4.4.3 Nufarm's formulated glyphosate production process**

As specified in the application, Nufarm's formulated glyphosate production process is as follows:

*"The initial stage of the process involves the amination of glyphosate acid and mono- isopropylamine to produce the isopropylamine salt of the N-phosphonomethylglycine molecule (i.e. the active ingredient). The amination process is essentially a controlled acid-base chemical reaction. The amination process is an exothermic reaction that generates significant heat.*

*The amination process is carried out in large purpose built reaction vessel that incorporates cooling equipment and microprocessor based process controls to maintain the temperature of the chemical reaction. This facilitates production in large-scale batches. The vessels are also equipped with sulphuric acid scrubbers to prevent emission of noxious fumes of mono-isopropylamine to the atmosphere.*

The following depicts the chemical reaction that occurs during the amination process.



The second stage of the process involves formulation, where the isopropylamine salt of glyphosate is blended with surfactants and other ingredients to produce a glyphosate herbicide at the desired level of concentration (i.e. between 7.2 – 540 grams per litre). The addition of surfactants facilitates the absorption of the active ingredient by plants. Without the addition of the surfactants, plants do not readily absorb the isopropylamine salt of glyphosate.

After formulation, the glyphosate herbicide is packaged in a variety of retail containers ranging from 250 ml to 1000 litre. The herbicide is also loaded into bulk containers for transport to refilling stations located through regional Australia<sup>8</sup>.

We noted that the production process described above relates to glyphosate with a MIPA salt base. However in the application (at Confidential Attachment A-3.6, a diagram was provided which illustrated the production process of formulated glyphosate with an ammonium or potassium salt base (Confidential Attachment COM02 refers)).

During the verification visit we conducted an inspection of Nufarm's production (and warehousing) facilities at North Laverton. As a result of the information provided by Nufarm and our inspection of Nufarm's production facilities, we are satisfied that Nufarm:

- produces formulated glyphosate in the method described above; and
- undertake at least one substantial process of manufacture in producing formulated glyphosate in Australia.

During 2008 to 2011, Nufarm manufactured glyphosate which it manufactured or toll manufactured (with glyphosate technical sourced by Nufarm or the toll customer). For the purpose of this report to distinguish these products they are herein referred to as:

- "Nufarm's own sales" – formulated glyphosate manufactured by Nufarm (with a Nufarm label);
- "Third party sales (Nufarm technical)" – toll manufactured for a third party with glyphosate technical sourced by Nufarm; and

<sup>8</sup> Application, page 10.

- *"Third party sales (third party customer)"* – toll manufactured for a third party with glyphosate technical supplied by a third party.

#### 4.5 Like goods

Like goods are defined as "goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration"<sup>9</sup>.

The application states that:

*"The imported goods are alike to locally produced formulated glyphosate as they each possess the following essential characteristics:*

- (i) *Glyphosate technical is the dominant active ingredient in the locally produced formulated glyphosate products and the imported formulated glyphosate product;*
- (ii) *The various formulations represent variations in the presentation of the glyphosate technical for both the locally produced and imported goods;*
- (iii) *The production of formulated glyphosate (for both locally produced and imported goods) is a relatively standard process.*
- (iv) *All glyphosate formulations whether locally produced or imported have the same end use.*
- (v) *All glyphosate formulations whether locally produced or imported generally have the same channels of market distribution.*
- (vi) *There is an absence of any clear dividing line in terms of market segmentation between the various formulations and product substitution can occur between the formulated products (whether locally produced or imported)"<sup>10</sup>.*

Nufarm advised that the formulated glyphosate produced domestically are like goods to the formulated glyphosate imported from China and that there is no discernable difference between the products. Nufarm reiterated that:

- Formulated glyphosate is a non selective herbicide, where glyphosate technical is converted into a soluble form at varying concentrations, through the addition of water and surfactants.
- When packaged all products (imported and local) at varying formulation strengths are labelled for identical uses.
- The AMPVA controls registration and supply of formulated glyphosate in the Australian market. All imported and local formulations (at varying strengths) are applied within the approved application rates indicated on the product label, expressed on a litre per hectare basis.

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<sup>9</sup> Subsection 269T(1)

<sup>10</sup> Application, page 10.



- The different formulated product can be interchanged, as the end user can adjust application and usage rates. Nufarm advised that there is variability in the quality of the surfactants used to produce formulated glyphosate (in particular for the Chinese imports).

We sought Nufarm's views on the different salts of glyphosate (i.e. MIPA, potassium and ammonium) and whether these are all like goods.

In their submission dated 19 March 2012, Nufarm claim that all salts of glyphosate are like goods. Nufarm advised that formulated glyphosate with an IPA salt base (is the predominant product in the market, as it is highly effective. It noted that the costs of potassium salt are slightly lower where as the ammonium salt cost are slightly higher (however with increased efficacy in killing weeds). In advice to Customs and Border Protection dated 27 April 2012, Nufarm stated that in the Australian market formulated glyphosate with an ammonium salt base are dry products, as the liquid products with this salt base are not registered (and therefore illegal).

We sought Nufarm's views on whether 62% isopropylamine (IPA) salt forms of glyphosate (manufacturing concentrate) were like goods. This is an intermediary product produced following the first stage of the animation production process, where surfactants and water have not been added. Nufarm advised that this product requires further formulation (with addition of surfactants and dies etc). Nufarm does manufacture this product (in minor volumes). In a submission provided at the second visit (dated 19 March 2012), Nufarm claim that the IPA salt 62% glyphosate products are like goods with the same ultimate end use (as a herbicide). Nufarm indicated that currently, based on market intelligence, significant volumes of this product are not being imported.

#### **4.5.1 Preliminary assessment**

Customs and Border Protection examined the evidence presented in the application and concluded in CON 183 that the Australian industry produces like goods to the goods the subject of the application.

Customs and Border Protection considered that the applicants demonstrated that:

- the primary physical characteristics of imported and locally produced formulated glyphosate are similar;
- the imported and locally produced formulated glyphosate are manufactured in a similar manner;
- the imported and locally produced formulated glyphosate are commercially alike as they are sold to common end users; and
- the imported and locally produced formulated glyphosate are functionally alike as they have the same end-uses.

Based on the information in the application, information provided and verified at the visit to Nufarm and our tour of Nufarm's production facilities we consider that the goods produced by Nufarm are like goods to formulated glyphosate imported from China.

**4.6 Annual turnover**

Nufarm's annual net revenue (\$AUD) for its Australian companies for domestic and export products (including formulated glyphosate) was submitted with Nufarm's Confidential Appendix A6 as summarised below for the 2011 financial year:

Product market	Gross Revenue for glyphosate	Rebates	Net sales revenue for glyphosate	% of total net revenue for glyphosate
Nufarm sales - domestic				
Third party (all)				
Export				
Total				

**Export sales**

We noted that export sales of like goods have been at minor quantities and values since 2007.

**Revenue reconciliation to BPA and statutory global group accounts**

In order to verify Nufarm's total revenue and profits for all sales (as shown in application appendices) to audited financial reports / statutory accounts, Nufarm provided a comprehensive financial reconciliation package (**Confidential Attachment COM03** refers). This package shows total revenue and profit figures for Nufarm's financial year 2010 and FY 2011 linking through:

- the Nufarm company group's complex global business matrix to the audited figures in Nufarm's Annual Report;
- results for Nufarm Australia and Crop Care as reported in the Australasian segment;
- results for Nufarm Australia and Crop Care as recorded in the BPA consolidation tool;
- results for Nufarm and Crop Care shown in the E.1 system; and
- data provided in Nufarm's application appendices.

Within the reconciliation package, Nufarm noted variances of figures (which were not significant) and provided appropriate explanations (including treatment of sales made into regions by different Nufarm companies). Copies of the BPA and E.1 income statements and general ledger accounts were also provided.

Working through the reconciliation package with Nufarm, we are satisfied that revenue and profit data provided to Customs and Border Protection is reliable, accurate and complete and can be linked to audited financial reports.

**5 AUSTRALIAN MARKET****5.1 General**

The application states that formulated glyphosate is used as an herbicide for broad-acre weed control, along with certain horticulture and home and garden applications (requiring weed control).

**5.2 Australian manufacturers**

The application identified the following eleven companies, other than Nufarm and Accensi, as Australian toll manufacturers of formulated glyphosate.

Company
Autopack Pty Ltd
Bayer Australia Pty Ltd
Cheminova Manufacturing Pty Ltd
Chempak (Aust) Pty Ltd
Eureka Manufacturing Pty Ltd
Gemax Pty Ltd
Imtrade Australia Pty Ltd
Intec Industries Pty Ltd
Loral Ipsum Pty Ltd
Opal Australasia Pty Ltd
Rygel Australia Pty Ltd

Nufarm provided estimates of the production capacity, operating rates and production volumes (for formulated glyphosate 360 g/L equivalents) of the other identified members of the industry (other than Nufarm and Accensi), based on market intelligence. The applicants identified market shares for the other Australian producers in 2010-11, which were not significant.

**5.3 Imports (Nufarm's views)**

Nufarm advised that the Australian market for formulated glyphosate is supplied through local production and imports from a number of sources, mainly China, but also including Argentina, Indonesia, Malaysia, New Zealand and Singapore. Nufarm advised that over the past couple of years there has been a shift in market volumes and size towards Chinese imports. It noted that historically formulated glyphosate was imported from Israel, Malaysia and Vietnam.

The application states that import data for formulated glyphosate is not individually identifiable in published Australian Bureau of Statistics data. Nufarm therefore sourced export data for China (from [REDACTED])<sup>11)</sup> and for all other countries (from [REDACTED]) for the purposes of estimating import volumes.

Nufarm estimated that imports from China had increased their share of the market from approximately 5% in 2009-10 to approximately 45% in 2010-11. Nufarm advised

11 [REDACTED]

that this increase in market share occurred as total market size increased from 100 RELs to approximately 115 M RELs. Nufarm advised that most of the formulated glyphosate was exported from China to Australia in 20 L and 1,000 L containers.

#### 5.4 Market size

Nufarm estimated that the Australian formulated market size for 2010-11 was approximately [REDACTED]. Nufarm advised that their market size estimation was based on the following:

- Nufarm's own production and sales volume;
- market intelligence for sales volumes of other Australian formulators; and
- export data in respect of exports to Australia obtained from [REDACTED] and [REDACTED]

Nufarm stated that the formulated glyphosate market size had increased from [REDACTED] in 2007-08, which predominately reflects increased demand due to increased rainfall and changed agricultural farming practices (evidenced through increased conservation tillage (as opposed to ploughing or chemical tillage)). Nufarm advised that market demand for formulated glyphosate for the period August 2011 to January 2012 has been below forecasts, however it was anticipated that the total market size for 2011 to 2012 would be comparable to the preceding financial year (as the market performance was expected to improve in the second half of the year). Nufarm advised that the market size was very dependant on seasonality (and rainfall).

#### 5.5 Market segments and distribution arrangements

##### Market segmentation

Nufarm identified the following five market segments in the Australian formulated glyphosate market (in order of market size):

Segment	Weed control	% of market	Peak period	Usage rates	Application
Pre plant winter cropping	Broadacre weed control	[REDACTED]	March to June	Low	Conservation tillage
Fallow weed control	Broadacre weed control	[REDACTED]	October to January	High	Moisture conservation
Pre plant summer cropping	Broadacre weed control	[REDACTED]	October to December	High	Conservation tillage
Industrial/retail and home	Railways, mining, forestry weed control	[REDACTED]	All year	Very high	Focus on perennial weeds
Horticulture	Trees, nuts, vines and vegetable weed control	[REDACTED]	Autumn and spring	High	Spraying programs

Nufarm explained that formulated glyphosate products are supplied to the agricultural sector for planting and weed control purposes and to retail and horticultural market segments and that preferences/customer choice for formulated glyphosate products may vary between market segments. Nufarm advised that in Australia there is approximately 21 M hectares of crops to which formulated glyphosate is applied (at

approximately [REDACTED] applications in the winter pre plant period and [REDACTED] applications during the summer/fallow period).

### Distribution

A diagram of distribution / supply channels to market was provided in the presentation by Nufarm (as provided in the application).

This diagram provides a description of each of the market suppliers follows:

- Traders / importers – traders are responsible for importing fully formulated glyphosate products from Asian manufacturers and then selling to other suppliers, distributors and end users.
- Formulators - are responsible for importing glyphosate technical to formulate glyphosate products in house and then sell the formulated product to other suppliers and distributors. Nufarm formulates products for its own sales whilst Accensi and Nufarm also formulate glyphosate on behalf of local suppliers in Australia.
- Other suppliers - are responsible for purchasing formulated glyphosate products from traders and other formulators and selling to distributors.
- Distributors - Distributors act as traders and import fully formulated product from Asian manufacturers, but more generally are responsible for purchasing formulated product from traders, formulators and other suppliers.

The application noted that distributors can act as traders and import fully formulated product from Asian manufacturers, but are more generally responsible for purchasing formulated product from traders, formulators and other suppliers.

The majority of formulated glyphosate is supplied and sold through distributors to end-users; approximately [REDACTED] M RELs ([REDACTED]%) is sold direct from traders to end users. Nufarm identified the following major distributors and their estimated market shares as:



Nufarm advised that traditional market distribution channels have changed over the last few years, with an increasing number of independent distributors (trading through the internet).

### **5.6 Product segmentation**

Nufarm advised that there is a commercial (product) differentiation for glyphosate formulations based on active ingredient strength. It noted that formulated glyphosate 360 g/L is predominately supplied to the horticulture / retail market and is not supplied to the broad acre market segment. It noted that the product most utilised in the Australian market was formulated glyphosate 450 g/L, with increasing volumes of 510 g/L and 540 g/L formulated glyphosate. It noted that this transition was due to

product branding and efficacies associated with products with higher active ingredients and larger containers sizes.

Nufarm stated that their Glyphosate CT formulated glyphosate product (or Gladiator CCA) as well as other 450 gram per litre products were preferred in the fallow market segment.

### 5.7 Factors influencing market performance

Nufarm stated that formulated glyphosate has become the most predominantly utilised herbicide (globally). Formulated glyphosate has a low cost as a farming input and has a superior performance to use rate to other products. Glyphosate's costs per hectare are low in comparison with other farm inputs. Nufarm advised that formulated glyphosate was an environmentally safe product that was specific to plants, required lower dose rates in comparison with other products and had low user toxicity.

Nufarm advised that the Australian formulated glyphosate market is a unique market as a result of Australia's dry environment which is seasonality demand driven. It noted that given large geographical size of Australia, that suppliers needed connectivity with their end users (local farmers).

At the visit Nufarm identified the following key factors affecting agrochemical markets, including formulated glyphosate:

- volatility in cost of goods and profitability;
- climatic variability (and scarcity of natural resources (including water);
- changing agricultural and farming practices (including water use, crop efficiencies);
- regulatory impact;
- growth in genetically modified (GM) crops;
- corporate and stocking policies; and
- changed distribution channels and market participants.

#### Volatility in cost of goods and profitability

Nufarm advised that volatility in costs and prices effect market demand / supply and inventory costs for formulated glyphosate. It advised that during 2007 to 2009, significant price volatility (in particular price decreases) for glyphosate occurred due to global supply shortages for glyphosate technical, simultaneous with an increasing number of Chinese glyphosate manufacturers and suppliers. It noted that some price stability was achieved following increased regulation of domestic manufacturers in China, which rationalised supply (reducing the number of suppliers).

#### Climatic variability (and scarcity of natural resources (including water) and changing agricultural and farming practices)

The application noted that the Australian market for formulated glyphosate has grown significantly since 2007-08, reflecting increased market demand due to a change in local climatic conditions that supported improved conditions for use (i.e. increased rainfall equals increase in weeds). Earlier season rainfall has also meant accelerated weed growth, necessitating higher formulated glyphosate usage rates. As mentioned previously changed agricultural practices has resulted in significant increased used of formulated glyphosate. Nufarm noted that future growth in the market may be impacted on increased weed resistance to formulated glyphosate an growth of GM crops.

**6 SALES<sup>12</sup>****6.1 Introduction**

As part of its application, Nufarm provided Customs and Border Protection with a line by line sales listing for the twelve months ending July 2011 (Confidential Appendix A4 of the application refers). The sales transaction listing identified sales made by Nufarm Australia and Crop Care (and inter-company / staff sales<sup>13</sup>).

[Nufarm's identification of sales]. For the purposes of this section of the report, references to Nufarm's sales include sales by Nufarm Australia and Crop Care, unless otherwise specified.

At the visit we sought to verify the company's sales information to its financial accounts and source documents for selected sales in order to establish that the information provided was complete, relevant and accurate.

To cover the entire investigation period, subsequent to the first verification visit, Nufarm provided an updated sales transaction listing to include sales for the period August 2011 to January 2012 (Confidential Attachment SALES01 refers). Nufarm also provided source sales data for formulated glyphosate and other products (which we viewed being extracted from the E.1 system) for the period November 2010 to January 2012 (Confidential Attachment SALES02 refers). As the transaction listing included all sales transactions types (including credits) which impact total values and / or volume of sales, Nufarm provided a sales order transaction type list to assist with verification (Confidential Attachment SALES03 refers). This source data formed the basis for sales values and volumes contained in Nufarm's Confidential Appendices A4 and A6.

**6.1.1 Customers and Level of trade**

As previously mentioned, the majority of Nufarm's customers are distributors for Nufarm's own and Nufarm's third party sales, which represent the key distribution channels into the agrochemical markets including formulated glyphosate. During the period November 2010 to January 2012, Nufarm's main customer groups (and customer group size as designated by Nufarm) included:

(customer type)	Customer group size <sup>14</sup>

<sup>12</sup> Unless specified, this section does not cover sales of imported formulated glyphosate or formulated glyphosate which is produced via sub contracted manufacture arrangements with other Australian companies.

<sup>13</sup> These were not significant. Nufarm allocated these sales to their Manufacturing division.

<sup>14</sup> These groupings were based on sales volume.

Within these customer groups, Nufarm supplied formulated glyphosate to multiple customers (including regional distributors within the customer group).

Nufarm's distribution customers on sell the goods to other suppliers or sell directly to end users (i.e. farmers or the retail market).

### **6.1.2 Related parties and arms length transactions**

In the application, Nufarm claimed that no sales were made to related parties and that all transactions were arms length. During the visit we noted that inter-company sales of formulated glyphosate occurred in 2011, as identified in Nufarm's Confidential Appendix A4. We calculated that these sales represented less than [REDACTED] of total sales for the year and thus were not deemed significant to warrant further investigation.

Based on our assessment, we consider all transactions to have been at arms length.

### **6.1.3 Ordering, invoicing and delivery arrangements**

Nufarm advised that the ordering process for customer varies (by region), however provided the following generic description of ordering and invoicing arrangements:

- Customer contacts Nufarm (specifically Sales Mangers) usually through email, telephone or facsimile and requests an order of formulated glyphosate.
- The majority of orders are managed through Nufarm's ERP (excel software server system) which is used for business planning and sales forecasting by product family (Nufarm stated that it also utilises a demand forecasting system which informs supply schedules).
- The price is negotiated and agreed with the customer (this includes a toll fee for third party sales).
- ERP generates purchase orders (and assesses stock availability and dispatch methods). Nufarm advised that it does not supply products on a consignment basis.
- If needed, an order for manufacture is forwarded to the production department
- Nufarm advised that seasonality, demand / supply drivers and commodity prices will impact on its forecasting for glyphosate technical to meet toll manufacture requirements (although very minimal volume was toll manufactured in 2011).
- Purchase orders are issued based on forecast orders, which are forwarded to the customer.
- Goods may be delivered as described below:
  - Nufarm organises delivery direct to customers (small volume);
  - goods are delivered to distribution centres which organise delivery of the goods to others distributors (who then on sell to other customers, including via agricultural stores); and
  - goods are delivered to distribution centres that organise delivery direct to customer warehouses or direct to the end user (still within a specified distribution channel).
- Nufarm advised that formulated glyphosate is predominately supplied through distribution centres, if produced at Laverton and through third party logistics if produced at Kwinana.



- Invoices are provided to the customer (with Nufarm or Crop Care listed as the supplier).
- The customer pays the invoice based on their credit terms.
- If applicable, rebates are made retrospectively in respect of the goods to customers based on rebate agreements or terms of sale.

Nufarm noted that historically it had (informal) supply agreements with toll customers, which reflect agreed costing model (by packaging size) to calculate a toll price. It noted that very small volume of formulated glyphosate had been supplied to third parties in 2011. Nufarm also advised that one of their toll customers also has an agreement with Monsanto regarding distribution of Monsanto products.

Nufarm advised that it participates in environmental and recycling programs associated with formulated glyphosate packaging (including drum master levy collection).

#### Round Up Ready

Nufarm advised that sales of *Round Up Ready* formulated glyphosate products occurs through distribution agents (█ in Australia), which receive commissions (standard and performance) for these sales. Nufarm provided a copy of the distribution agreement (product schedule) for *Round Up Ready Herbicide with Plantshield* in the application. We note that this arrangement is only relevant for the imported formulated glyphosate.

#### 6.1.4 Pricing

[Pricing methodology].

█ Nufarm provided internal price lists for all products (including formulated glyphosate) by package type for each month during September 2010 to July 2011 (Confidential Attachment A5.8 of the application refers).

Nufarm advised that there is significant pricing competition in the market and that formulated glyphosate 450 g/L is the base product which is a determinant for pricing of other formulated glyphosate products (as pricing for this product operates as a floor price). Nufarm advised that pricing was demand elastic (reflecting the large number of market participants). █

█ Nufarm advised that demand for formulated glyphosate with active ingredients above 450 g/L is dependant on the price of formulated glyphosate 450 g/L, as the products are substitutable. Consumers can purchase increased volumes of formulated glyphosate 450 g/L at lower prices (instead of purchasing the higher concentrated product) and adjust product usage rate. Nufarm stated that they are price takers for formulated glyphosate 450 product; although can be price setters in formulated glyphosate with higher concentration levels.

Nufarm advised that historically there has been minimal pricing variance for formulated glyphosate sold in different packaging sizes (e.g. 20 L or 110 L), however this has changed over the last 12 months. They stated that currently there is a variance of 10 to 15 cents per L for container costs, which impacts price (for all formulated glyphosate products).

Nufarm stated that the terms of sale for the significant majority of formulated glyphosate) sold domestically were [REDACTED]

Nufarm advised that it also provides off invoice discounts and rebates, in particular to regular customers (which are reflective of contractual rebate agreements). These rebates form part of Nufarm's pricing support policy. Section 6.1.7 discusses rebates in further detail.

### 6.1.5 Credit Terms

In 2011, the credit terms applicable to Nufarm's formulated glyphosate sales varied by customer, with payments due:

[REDACTED]

[REDACTED]

Nufarm provided a spreadsheet listing all payment terms, calculated number of payment days and examples of invoice dates and payment dates. We noted that commercial invoices only specify invoice dates and payment due dates and actual payment (credit) terms are not specified. Based on the commercial documentation provided for selected sales, we were able to verify that the payment terms reasonably reflected dates as shown on the commercial invoices.

Nufarm provided a copy of the interest calculation spreadsheet and copies of the accounts statement for the injury analysis period (this related to Nufarm's Confidential Appendix A6).

### 6.1.6 Freight

Nufarm organises delivery of formulated glyphosate to distribution centres, distributors and customers (dependant on region / product type). Nufarm provided a list of all freight providers which the company utilised for delivery of formulated glyphosate (and other crop protection chemicals) (**Confidential Attachment SALES04** refers). Nufarm advised that while the majority of sales [REDACTED]

[redacted] [freight details] (**Confidential Attachment SALES05** refers). We noted some minor discrepancies which we addressed through verification. Freight expenses were further verified as part of the cost verification.

### 6.1.7 Rebates and discounts

#### Rebates

As a pricing support strategy, Nufarm offers rebates (expressed as price or volume) to customers. These rebates are paid retrospectively. Nufarm explained that while price trends for formulated glyphosate may remain static, that rebates expressed as a percentage of price has increased since 2007-08 (section 6.1.3 refers).

Nufarm has rebate agreements with key customers, although it advised that rebates were also applied to sales to customers without rebate agreements. Rebate agreements cover all products and different types of rebates (at different levels, usually expressed as a percentage of price) apply to specific customers, including corporate rebates, trading allowance and other pricing supports. Rebates also vary by product type and customer location (region) (i.e. national and regional rebates apply). Payment of rebates is cyclical and varies by customer / product (i.e. rebates may be paid monthly, semi annual, end of season or ad hoc). Nufarm advised that rebates were provided as credit notes, payments and free stock.

Nufarm included rebates in their cost to make and sell at Confidential Appendix A.6 and in the list of their domestic sales of formulated glyphosate. Verification of rebates (and allocation basis) is discussed at section 6.3.

#### Discounts

Nufarm also advised that they provided off the invoice discounts for customers, in respect of formulated glyphosate which usually equated to [redacted].

### 6.2 Verification of domestic sales

#### 6.2.1 Verification to financial accounts (completeness)<sup>15</sup>

We sought to reconcile Nufarm's sales (volume and value) data to the company's management accounts to ensure completeness. As mentioned previously Nufarm provided a set of line by line sales data for both *Nufarm's own*, *Nufarm's third party (Nufarm technical)* and *Nufarm's third party (customer technical)* formulated glyphosate products. During the visits, we viewed Nufarm interrogating E.1 to run trial balance by object reports for all products for the months covering the investigation period (including August to December 2010) from relevant general ledger accounts (for cost centres for Nufarm Australia and Crop Care) for domestic / export sales, inter-company sales, discounts and rebates. Print screen views of these reports are at **Confidential Attachment SALES06**. Nufarm explained that sales values shown in E.1 were at level 1 (inclusive of rebates) and for all sales transaction types (including returns and credits etc). Despite some very minor variances we were able to reconcile values shown in E.1 to financial statements (by subtracting relevant accounts).

<sup>15</sup> In respect of domestic sales verification we verified sales data for 2010-2011 at the first verification visit and data for quarters 1 and 2 of 2011-2012 at the second visit, following the similar verification processes.

As the general ledger data shown in E.1 contains sales values only, we viewed Nufarm running crystal reports for details of this data. These reports contained line by line sales transactions for products with the glyphosate molecule and non glyphosate molecule (which Nufarm identified as like and non like goods). As previously mentioned, sales data for Nufarm's appendices was based on this source data. Using the total from this report, Nufarm were able to reasonably reconcile the value of all sales to Nufarm's financial statements. Given Nufarm's confidentiality concerns in respect of non glyphosate sales, once we were satisfied that data from E.1 represented total sales they removed details of these sales from the source data. However Nufarm provided summary product lists (for Nufarm Australia and Crop Care) for all products (with some sales volumes) from the source data **Confidential Attachment SALES07**. This process also identified that certain formulated glyphosate products which were like goods were initially omitted from Nufarm's application appendices. Nufarm provided a revised Confidential Appendix A.4 (and other related appendices) (**Confidential Attachment SALE08** refers) to incorporate these products.

As E.1 data shows sales value inclusive of rebates and does not show sales volume, crystal and E-Dash reports (pivot summaries of sales data) were extracted to substantiate values (net rebates) and volumes in 2010-11 and in particular quarters (for 2011-12) to verify to the source data (which included sales value net of rebates – level 2) used to prepare Nufarm's Confidential Appendix A.4 (revised and initial).

Print screen views of relevant reports and data extractions and the actual reports are at **Confidential Attachment SALES09**.

#### Linking source data to application appendices

Discrepancies were initially identified with domestic sales values and volumes shown in extracted source data reports and Nufarm's Confidential Appendices A4 and A6. This was a result of particular sales order transactions being included which were not actual sales, but were credit or trial stock. Using the list of all sales order types provided by Nufarm we were able to identify and discount sales orders which did not relate to actual sales (or impact cost of goods) but which impacted source data total values and volumes. We were then able to reconcile source data to application appendices (Nufarm also ran defined crystal reports for relevant sales transactions for particular periods to further substantiate source data).

Nufarm provided a reconciliation excel workbook showing values and volumes (as relevant) for all application appendices (linking A4 where applicable to A2, A3, A5 and A6) (**Confidential Attachment SALES10** refers). We noted a discrepancy between application appendices in respect of sales of [REDACTED] product. Nufarm advised that when a sale is processed for a [REDACTED] a sales detail line is recorded for the combined product as well as for the individual component (i.e. a [REDACTED] and a [REDACTED]), which are recorded as nil sales value resulting in duplication. In their revised Confidential Appendix A4, Nufarm identified [REDACTED]-sales which were part of [REDACTED] (**Confidential Attachment SALES11** refers). We were able to use Nufarm's [REDACTED] to verify sales volumes to other appendices.

We also viewed Nufarm utilise E-Dash inquires to obtain information for specific sales transactions.

### 6.2.2 Conclusion on completeness

We are satisfied that the revised sales spreadsheets provide a complete and relevant list of all sales of the goods by Nufarm to the Australian market and are reliable for use in injury analysis.

### 6.3 Verification to source documents (accuracy)

Prior to the visit we selected the following *Nufarm own* and *Nufarm third party* formulated glyphosate sales from Nufarm's transactions from the sales lists for verification to source documents.

Product strength	Item No.	Item Description
360 g/L		
360 g/L		
360 g/L		
450 g/L		
450 g/L		
450 g/L		
470 g/L		
470 g/L		
510 g/L		
510 g/L		
540 g/L		
540 g/L		
540 g/L		
570 g/L		
570 g/L		

For each selected sale, Nufarm provided the relevant:

- commercial invoice (and/or adjustment note/credit note as applicable);
- purchase order;
- delivery documents;
- evidence of payment made by the customer (including remittance statements from Nufarm's bank account);
- rebate credit notes (shown as volume or price discounts), if applicable; and
- rebate calculation summaries by customer and period and other supporting documentation.

The sales source documentation is at **Confidential Attachment SALES12**.

#### Evidence of payment

As listed above for each transaction Nufarm provided a copy of the bank statement (remittance advice) showing the customers payments into Nufarm's designated bank account. For transactions where the amounts did not directly reconcile, the remittance advice outlining which invoices were paid or the debtors ledger were also provided to assist in reconciling the bank statement to the invoice.

We noted that the invoice amounts were paid in full for each of the selected transactions. We note that off invoice rebates applied to most customers, as discussed below.

Verification of rebates

Nufarm advised that rebates applicable to sales are accrued. As discussed previously we viewed Nufarm interrogating E.1 to extract details for general ledger accounts (by cost centre per company), including rebates accrued. The E.1 reports were then reconciled to Nufarm's financial statements.

Nufarm advised that rebate amounts accrued may not be the actual amounts paid. It also noted that rebates are paid in different period from when they are accrued. To ensure accuracy of rebate allocation to sales, Nufarm adopted the rebate allocation methodology from a previous dumping investigation, by allocating rebates paid to sales.

For the period 2010-11 to the second quarter of 2011-12, Nufarm identified for all sales (domestic, internal company and export) each customer group:

- rebates paid for products with the glyphosate molecule;
- rebates paid for products without the glyphosate molecule; and
- residual rebates which were not attributable directly to particular products (i.e. corporate rebates).

To allocate residual rebates paid to formulated glyphosate sales, Nufarm calculated a ratio to determine the proportion of total rebates which were applied to glyphosate products and to other products. To calculate unit rebates paid Nufarm divided the total rebates paid (for glyphosate and non glyphosate products, including apportioned residual rebates) by total sales volume (per quarter / annum). Nufarm's rebate calculations form **Confidential Attachment SALES13**. Nufarm also utilised E-dash pivot to provide rebate data by customer to showing total rebates, rebates apportioned by product type and residual rebates to be apportioned to glyphosate products (**Confidential Attachment SALES14** refers).

For each formulated glyphosate sale Nufarm applied the calculated unit rebate which it multiplied by sales quantity (as shown in Confidential Appendix A4 and the source data sales listings) to determine an "Extended Sales Price"(net rebates). Nufarm also incorporated rebates paid by quarter and annum in Confidential Appendix A.6.

We viewed Nufarm extract rebate accounts summary showing rebates accrued and paid (by sales transaction type) by company to link to E.1 / GL accounts. We identified a minor discrepancy which was less than [REDACTED]% (which Nufarm explained related to a write back to the P&L). We viewed Nufarm interrogating E.1 to identify a rebate associated with particular invoices (shown as a credit note – "CB" sales transaction).

Nufarm provided their [REDACTED] and we sighted rebates agreements for several other major customers (which could not be released to third parties with out the consent of all parties) (**Confidential Attachment SALES15** refers).

We also viewed Nufarm utilise E-Dash inquires to obtain information for rebates (shown as credit notes) linked to specific commercial invoices for formulated glyphosate sales. We verified rebates for particular customers shown in the E.1 system and E-dash pivot reports during November 2010 and April 2011. Print screen views of the report extractions (and process) are at **Confidential Attachment SALES16**.

We consider that Nufarm's rebate allocation appears accurate and reasonable.

### **6.3.1 Conclusion on accuracy**

Based on the material provided we are satisfied that:

- the invoiced amounts and sales details in the revised sales listing are accurate;
- the invoiced amounts were paid by Nufarm's customers (noting these sales were linked to rebates);
- the net proceeds and net transaction amounts within the revised sales list are accurate;
- the rebate amounts shown in the sales listings have been reasonably apportioned (and are based on actual amounts paid); and
- the quantity (in L) is recorded accurately in the revised sales listing.

On this basis, we consider the revised sales data is accurate.

### **6.4 Conclusion on sales**

We have verified the revised sales data to source documents and to Nufarm's income statement and we are satisfied that the data is accurate, relevant and complete.

## Nufarm visit report - Formulated Glyphosate Page 32



costs to sell (Confidential Appendix A6 refers). These spreadsheets are at **Confidential Attachment CTMS02**.

## 7.2 Production and sales volumes

Nufarm advised that it used sales volumes as its basis for costs as one bulk product can belong to multiple product families sold by Nufarm and sold to third party customers.

We consider that cost attribution based on sales volumes is suitable for the purpose of injury analysis.

## 7.3 Verification of cost to make

Nufarm explained that it uses standard costs for the raw materials that are updated each quarter. Raw materials comprising glyphosate technical and raw materials other incipients are shown in the CTMS spreadsheet at the standard cost for that quarter.

At the end of the each quarter the difference between the standard and actual cost is recorded as a purchase price variance (PPV), this PPV is shown in the CTMS spreadsheet as part of fixed manufacturing costs.

Stock on hand is re-valued at the end of each quarter to the new standard cost. The new standard cost is calculated based on the actual and or forecast cost of purchases. The stock revaluation is shown in the CTMS spreadsheet as part of fixed manufacturing costs.

Formulation overheads comprise fixed and variable overheads including depreciation and are shown as part of variable manufacturing costs.

The last cost in the cost to make is packaging costs, which is a weighted average of costs for the 20 L and 1000 L containers.

### 7.3.1 Raw material costs

Nufarm provided its cost book and bill of materials for the three selected products; these documents are at **Confidential Attachment CTM01**.

Nufarm provided details of the standard cost of glyphosate technical in Roundup 0574 for the quarter ending July 2011 from its accounting system; the details match those in the CTMS worksheet. [REDACTED]

[REDACTED]. These documents are at **Confidential Attachment CTM02**.

Nufarm advised that the glyphosate technical is purchased from [REDACTED]

[REDACTED]. Nufarm provided a copy of the contract for our viewing, [REDACTED]

[REDACTED] [Details regarding glyphosate technical costs and purchasing arrangements].

Included in the cost of the other incipients are items such as the base, dye, anti-foam and surfactant / wetter agents.

Nufarm provided a purchase price variance listing for the quarter ending July 2011, the PPV matched the details in the CTMS worksheet. Nufarm explained that the PPV listing comprised two variances, an OV variance which is the difference between the standard cost and the cost on the purchase order and a PV variance which is the difference between the cost on the purchase order and the final invoiced cost.

We selected suppliers of the glyphosate tech and the two main other incipients from this listing and then selected individual invoices from the listings for verification. Nufarm provided the selected invoices; proof of payment and a worksheet reconciling the OV and PV variances, these documents are at **Confidential Attachment CTM03**.

Nufarm also provided listings for the stock revaluation; these documents are at **Confidential Attachment CTM04**.

### 7.3.2 Formulation overheads

Nufarm explained that formulation overhead cost is calculated as a weighted average of fixed and variable overhead expenses attributed to dedicated glyphosate vessels at Laverton and Kwinana plants divided by total volume of glyphosate produced. To ensure completeness of overhead costs included, Nufarm provided a list of these fixed and variable overhead costs (shown by account code) for their Laverton plant for the period 2010-11.

The majority of glyphosate is produced at Laverton; however both plants also have shared production areas where other formulated products [REDACTED] are manufactured.

Costs are directly assigned to glyphosate where identified, for example depreciation of the plant and equipment solely attributable to glyphosate. Shared costs in shared formulation areas are allocated based on volumes of products produced or an allocation based on staff expenses identified with the products. Nufarm also looked at historical data for volumes and overhead costs over the last 4 to 5 years to identify overhead cost drivers and recovery rates. Nufarm provided detailed costing workbooks to show formulation overhead calculations and allocations. We verified these expenses and product volumes (used for allocations) for 2010-11 and were able to link to Nufarm's P&L accounts.

We selected depreciation to verify to the calculations in the worksheet. Nufarm provided an asset listing relating to glyphosate, the year to date depreciation expense match the plant and equipment depreciation expense directly attributable to glyphosate in the worksheet.

Documents relating to formulation overheads are at **Confidential Attachment CTM05**.

### 7.3.3 Packing costs

Nufarm explained that packing costs had been calculated on the weighted average packing costs for 20 L and 1000 L packs. Nufarm further explained that these packing costs had been used as the goods exported from China were only in the 20 litre and 1000 litre packs and this is what Nufarm had to compete against.

We considered the use of packing costs for the 20 L and 1000 L containers a reasonable method to apply to the CTMS. The two products account for the majority of volume sold and the costs have been relatively stable over the injury period.

Packing costs were recalculated to take into account application of weighted average costs per L; these changes resulted in lower packing costs in the appendices. Documents and calculations for the packing costs are at **Confidential Attachment CTM06**.

### 7.4 Selling, General & Administrative expenses

Nufarm advised that global costs relating to Nufarm's global business had been separated from Nufarm's Australian business; global costs have their own cost centres in the ERP system. Nufarm provided details relating to global expenses, these documents are at **Confidential Attachment CTS01**.

Selling, general and administration (SG&A) overheads were allocated using the proportion of glyphosate sales volume to the company's total sales volumes of all products. Foreign exchange (forex) gains and losses and interest charges have also been applied on a sales volume basis.

Interest charges were recalculated to take into account inter-company loans, these changes resulted in a lower interest charge per litre. Documents relating to SG&A, interest and forex charges are at **Confidential Attachment CTS02**.

### 7.5 Other cost issues

#### Large sales returns

Nufarm advised that in the period June 2009 to January 2010, unusually large volume of formulated glyphosate product was returned by customers. The product (valued at [REDACTED] M) was returned due to significant global price decreases due to over supply and reduced demand (due to dry conditions). This resulted in the inability for distributors to on sell stock at higher prices. Nufarm advised that the returned stock was accepted by Nufarm as part of its pricing support policy. Nufarm's 2010 Annual Report states that AUD \$[REDACTED] M related to losses and costs for pricing support in respect of glyphosate (with AUD \$[REDACTED] M recorded as a half yearly result). These returns are reflected in the A6 data.

#### Bad debts

[REDACTED]

[REDACTED]

). [Confidential Contractual Arrangements].

[REDACTED]

[Confidential Contractual Arrangements]. [Confidential Attachment CTM07 refers).

[REDACTED]

Confidential Contractual Arrangements ](

[REDACTED]

[Confidential Contractual Arrangements].

## 7.6 Verification of CTMS to accounts

Nufarm provided a detailed reconciliation of the P&L accounts for Nufarm and Crop Care to the published Annual Reports for Nufarm; this reconciliation also identified and separated global costs associated with the Nufarm businesses. Details were also provided reconciling individual accounts, including raw materials, purchase price variances, SG&A expenses and formulation overheads to the P&L accounts. Nufarm also provided a detailed CTMS reconciliation workbook with all cost components,

volumes and cost allocations for products sold domestically and exported from 2007-08 to 2011-12 (quarter 2). We were able to match data contained in this workbook to relevant general ledger and management accounts.

These reconciliations are at **Confidential Attachment CTMS04**.

### **7.7 Conclusion**

We have verified the cost data provided in Appendix A6.

The revised appendices that take into account the changes in packing costs and interest charges are at **Confidential Appendix01**.

We are satisfied the revised data is complete, accurate and reliable and only includes costs in respect of domestic sales of like goods.

PUBLIC RECORD

**8 INJURY****8.1 Applicant's injury claims**

The application claims that formulated glyphosate has been exported to Australia from China at prices lower than its normal value and that this dumping has caused material injury to the Australian industry producing formulated glyphosate. The application identified the injurious effects as:

- 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 application claims that material injury to the Australian industry caused by dumping commenced after imports of formulated glyphosate exported to Australia from China increased by almost 400% in 2010-11.

**8.2 Injury analysis period and approach**Period

Customs and Border Protection is examining the Australian market and the economic condition of the industry from 1 January 2008 for the purposes of injury analysis.

As previously mentioned; Nufarm's financial year is from 1 August to 31 July, as tabulated below:

Calendar month	Nufarm's quarters
August	Quarter 1
September	
October	
November	Quarter 2
December	
January	
February	Quarter 3
March	
April	
May	Quarter 4
June	
July	

Nufarm's quarterly financial data contained in Confidential Appendix A6 was presented in accordance with Nufarm's financial year. Therefore, as monthly data could not be extrapolated for the purposes of analysing and assessing injury data, the period

February to January was utilised as the closest equivalent period to a calendar year. This approach was considered reasonable for the purposes of assessing trends over time.

### Products

For the consideration of the application, the economic condition of the applicants was assessed excluding the applicants toll manufactured products. This approach was adopted as the sales volume for other Australian manufacturers, which were used to calculate the total Australian industry's sales volume, included Nufarm's and Accensi's sales of "toll" manufactured product. Therefore to avoid double counting sales volumes of the toll manufactured products, the applicants consolidated sales and cost data did not include toll manufactured products. For the purpose of assessing reasonable grounds of injury caused by dumping the exclusion of toll manufactured products from the analysis was acceptable, however, it was noted that the application claimed that injury *"is particularly evidenced in formulated glyphosate production that is toll manufactured..."*<sup>17</sup>.

For the purposes of this report to provide a comprehensive analysis of Nufarm's performance in respect of total formulated glyphosate production and sales, the following section includes analysis for:

- "Nufarm's own" formulated glyphosate products – these are Nufarm's registered products and where Nufarm sources glyphosate technical;

"Nufarm's third party" [REDACTED]

- [REDACTED]

[Details of third party sales].

Due to commercial sensitivities regarding third party sales, for the following section, where applicable, different types of sales have been identified as "type A" and "type B" third party sales.

Nufarm's sales of imported formulated glyphosate 690 g/L (which represented approximately [REDACTED] % of total formulated glyphosate sales in 2011) have not been included in the analysis in this section.

As Nufarm manufacture and sell a range of formulated glyphosate products, for the purposes of injury assessment, the graphs shown in the section below highlight total formulated glyphosate sales and sales of specific formulated glyphosate products (i.e. 450 g/L, 540 g/L and 570 g/L), which when combined represented over 90% of the total sales volumes (during 2008 to 2011). Data for differing product families has been amalgamated for the specific formulated glyphosate products. All data is presented on actual volumes not RELs.

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<sup>17</sup> Application, page 29.

[REDACTED] [details regarding products].

Factors impacting on injury analysis

We note that the following factors have effects on Nufarm's financial data which may impact analysis of injury factors:

- large returns of sales product (which was written off);
- [REDACTED] (and bad debt);
- introduction of new (higher premium) product formulations to replace existing product formulations; and
- cessation of third party (toll manufactured) sales during certain period.

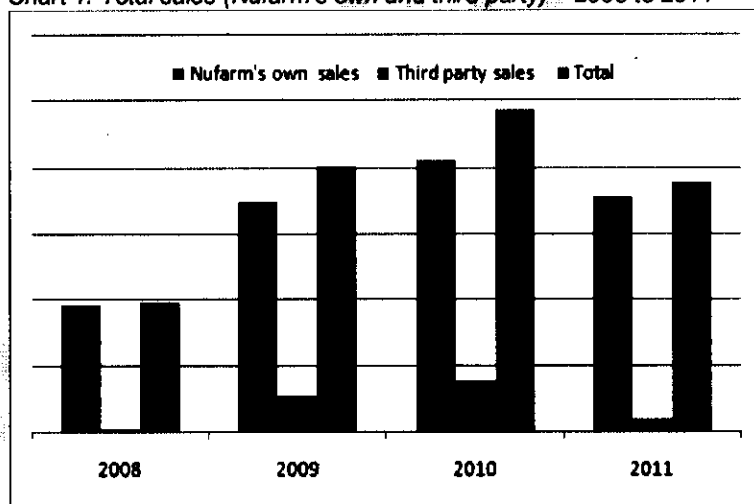
We note that the first two factors (discussed previously) impact on Nufarm's financial data prior to the investigation period. We also note that for the purposes of this report we are considering trends over time.

**8.3 Volume trends (excluding market share)<sup>19</sup>**Total sales – all formulated glyphosate products

The following chart illustrates Nufarm's annual sales volumes<sup>20</sup> [REDACTED]

[REDACTED] [type of sales] during the period 2008 to 2011.

Chart 1: Total sales (Nufarm's own and third party) – 2008 to 2011



This chart shows that Nufarm's total [REDACTED] glyphosate sales volume increased from 2008 to 2010 and decreased from 2010 to 2011.

Nufarm explained that the formulated glyphosate market experienced an expansion between 2008 and 2011, which was partially reflective of the end of drought periods in Australia.

<sup>19</sup> A conclusion on market share will be made following analysis of data gathered at visits to the other Australian Industry applicants and the importers of the goods.

<sup>20</sup> Note for the purposes of this report, production sales and unit price and costs data is shown by L.

<sup>21</sup> [REDACTED] [details regarding products].

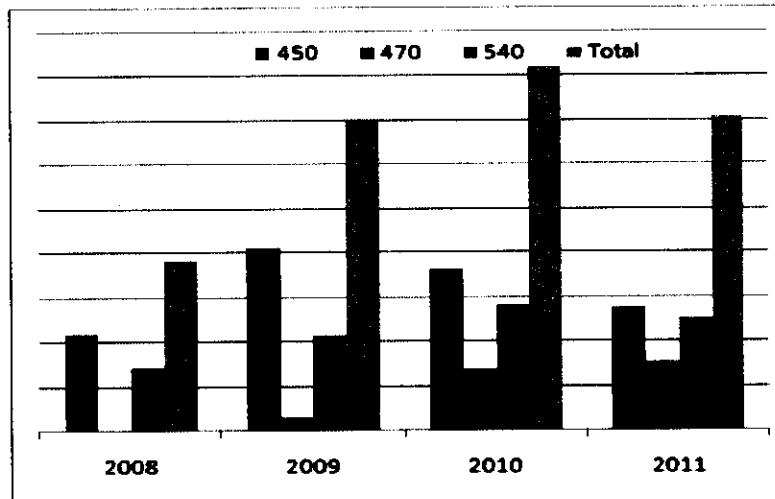


[details regarding Nufarm's third party sales].

### Nufarm's own sales

The following chart illustrates Nufarm's annual sales volumes for *Nufarm's own sales* of formulated glyphosate (all) products and for formulated glyphosate 450 g/L, 470 g/L and 540 g/L for 2008 to 2011.

Chart 2: Nufarm's own sales -- 2008 to 2011



The chart shows that:

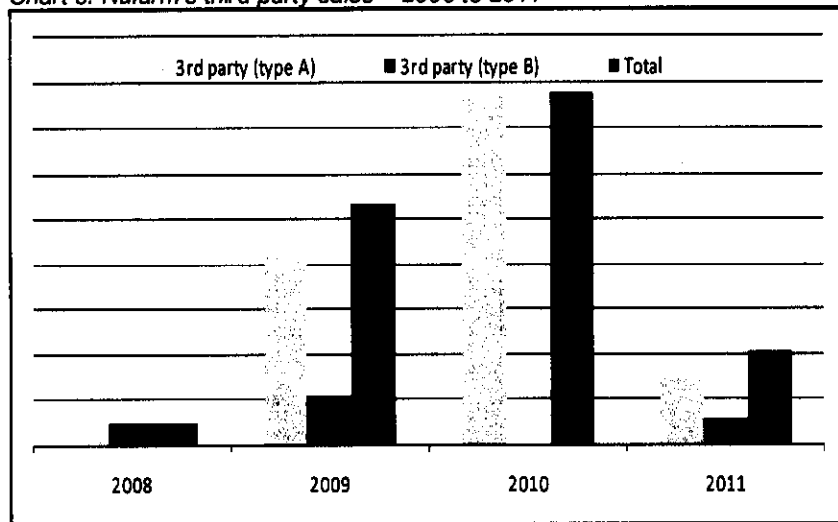
- the total sales volume for *Nufarm's own* formulated glyphosate products increased from 2008 to 2010 and decreased from 2010 to 2011;
- formulated glyphosate 450 g/L decreased continually from 2009 to 2011;
- formulated glyphosate 470 g/L increased continually from 2009 to 2011; and
- formulated glyphosate 540 g/L increased from 2008 to 2010 and decreased from 2010 to 2011.

### Nufarm's third party sales

The following charts illustrates Nufarm's annual total sales volumes for *Nufarm's third party* [redacted] formulated glyphosate products<sup>22</sup> during 2008 to 2011.

<sup>22</sup> This includes formulated glyphosate [redacted] Specific product names are listed in section 4.4.2. Note, for any third party sales with very minor volume, cost data has been incorporated into the most appropriate product family (resulting in slight variation in product list to the Confidential Appendix A.6).

Chart 3: Nufarm's third party sales – 2008 to 2011



The chart shows that Nufarm's third party formulated glyphosate total sales increased substantially from 2008 to 2010 and decreased significantly from 2010 to 2011. There has been a significant reduction in sales Nufarm's third party ( ) from 2010 to 2011 and for Nufarm's third party ( ) from 2009 to 2010 (which no sales in 2010). However, sales volume for Nufarm's third party ( ) increased in 2011 (which related to sales to one customer).

#### 8.4 Revenue effects

The application claims that the applicants have lost sales volume which has also resulted in reduced revenues.

#### Total revenue – all formulated glyphosate products

The following charts illustrate Nufarm's revenue (net rebates) for Nufarm's own and Nufarm's third party ( ) formulated glyphosate products (at all strengths) during 2008 to 2011.

Chart 4: Nufarm's own total sales revenue by product – 2008 to 2011

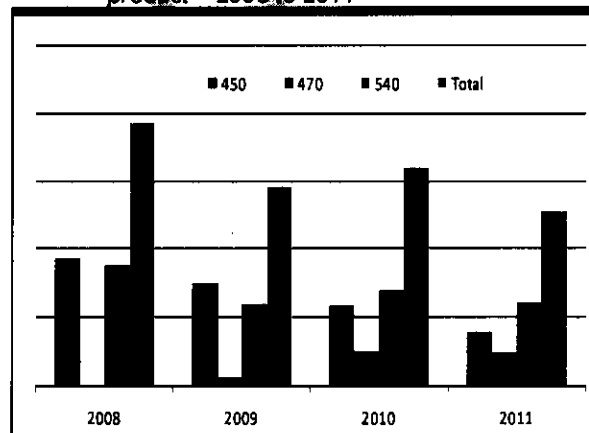
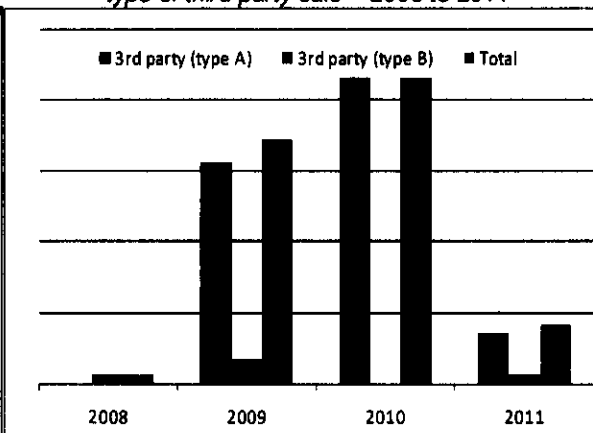


Chart 5: Nufarm's third party sales revenue total and by type of third party sale – 2008 to 2011



The charts show that for:

- Nufarm's own sales revenue for all formulated glyphosate products decreased from 2008 to 2009, increased from 2009 to 2010 and decreased from 2010 to 2011 (resulting in sales revenue at the lowest level since 2008);
- Nufarm's own sales revenue there was a constant downward trend from 2008 for formulated glyphosate 450 g/L;
- Nufarm's third party ( ) sales revenue for formulated glyphosate products increased significantly from 2008 to 2010 and decreased significantly from 2010 to 2011 (reflecting reduced or no sales volume).
- Of total Nufarm third party sales the most substantial variation in sales revenue occurred for ( ) sales, as sales revenue significantly decreased (reflecting decreased sales volume) from 2010 to 2011.

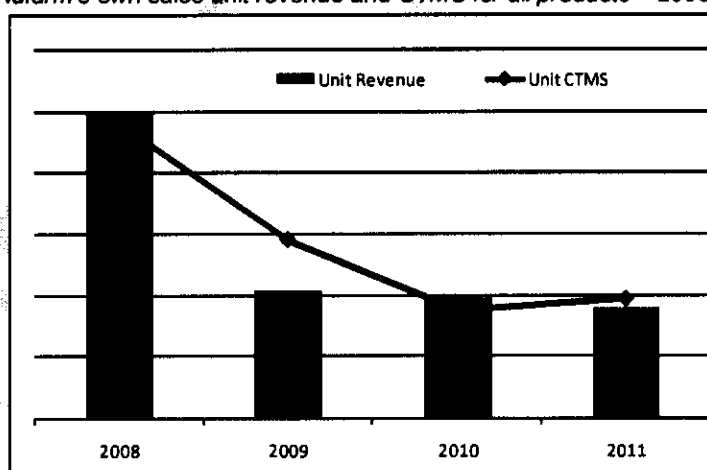
### 8.5 Price effects

Price depression occurs when a company, for some reason, lowers its prices. Price suppression occurs when price increases for the applicant's product, which otherwise would have occurred, have been prevented. An indicator of price suppression may be the margin between revenues and costs.

The following charts illustrate Nufarm's weighted average annual unit revenue and CTMS for Nufarm's own, Nufarm's third party ( ) formulated glyphosate products (at all strengths) during 2008 to 2011.

#### Nufarm's own sales

Chart 6: Nufarm's own sales unit revenue and CTMS for all products – 2008 to 2011



The chart shows that:

- since 2008, there has been a downward trend for unit revenue for total Nufarm's own formulated glyphosate products (which indicates price depression);
- there has been a downward trend from 2008 to 2010 for unit CTMS for total Nufarm's own formulated glyphosate products, with unit CTMS increasing from 2010 to 2011;

- the relationship between unit prices and CTMS for *Nufarm's own* formulated glyphosate products has varied, as unit CTMS was greater than unit revenue from 2008 to late 2009 but increased above unit revenue in 2011. As unit CTMS increased in 2010 while unit revenue continued to decrease (this indicates price suppression).

### Nufarm's third party sales

Chart 7: Nufarm's third party (type A)  
unit sales revenue and CTMS – 2008 to 2011

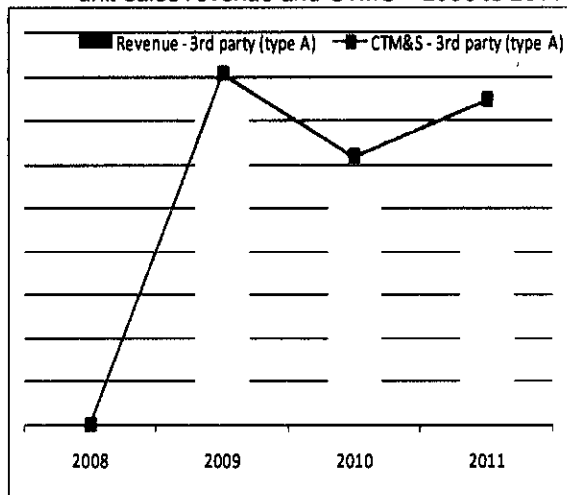
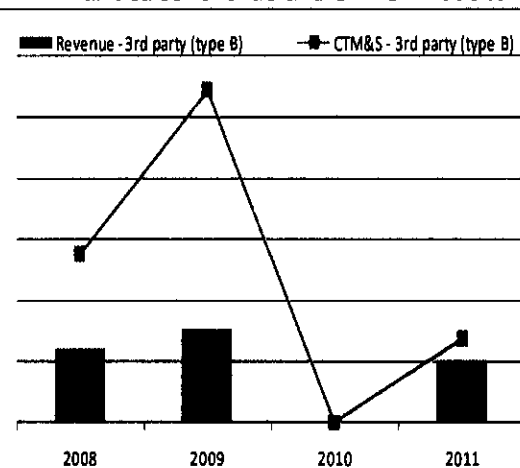


Chart 8: Nufarm's third party (type B)  
unit sales revenue and CTMS – 2008 to 2011



We note that as *Nufarm's third party* formulated glyphosate sales ceased during certain periods that this impacts on the trends lines shown in the graph above.

The chart shows that:

- since 2009, there has been a downward trend in unit revenue for *Nufarm's third party* formulated glyphosate products (which indicates price depression);
- there has been a downward trend in unit CTMS from 2009 to 2010 *Nufarm's third party* formulated glyphosate products. The unit CTMS for these products increased from 2010 to 2011, reflecting CTMS trends for Nufarm's own products;
- the relationship between unit prices and CTMS for *Nufarm's third party* has varied. For *Nufarm's third party*

There were no sales of these products in 2010 and in 2011 the unit CTMS for these products increased while unit revenue decreased from 2009 levels (indicating price suppression, but to a lesser extent).

Pricing and CTMS analysis has also been competed by product strength for all products supplied by Nufarm and is at **Confidential Attachment INJURY01**.

**8.6 Profit and profitability effects<sup>23</sup>**

The following charts illustrate Nufarm's weighted average annual unit profit and profitability for Nufarm's own, Nufarm's third party ( ) formulated glyphosate products (at all strengths) during 2008 to 2011.

**Nufarm's own sales**

Chart 9: Nufarm's profit for Nufarm's own total products – 2008 to 2011

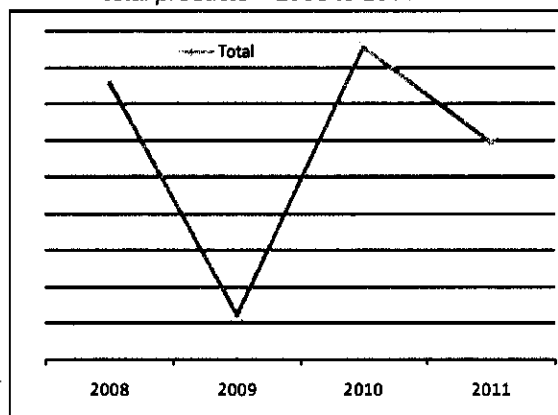
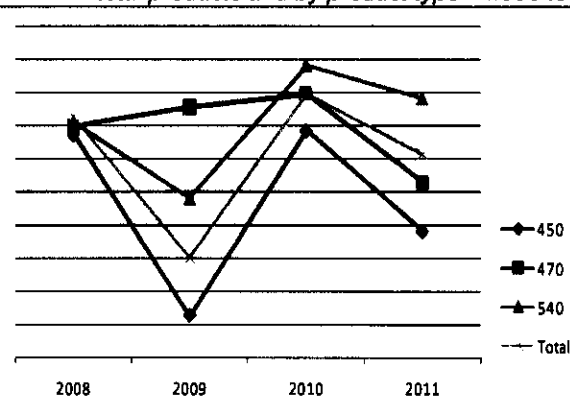


Chart 10: Nufarm's profitability for Nufarm's own total products and by product type – 2008 to 2011



The charts show that profits for Nufarm's own formulated glyphosate sales decreased significantly from 2008 to 2009, increased from 2009 to 2010 and decreased from 2010 to 2011. The charts also show that the profitability of Nufarm's own formulated glyphosate sales, followed similar trends compared to profits, which decreased from 2010 to 2011 but to levels higher than 2009 (which reflects the period in which Nufarm made significant sales returns due to highly overvalued inventory). Since 2010, there has been a significant decline in profit and profitability of Nufarm's own formulated glyphosate sales.

**Nufarm's third party sales**

Chart 11: Nufarm's profits for Nufarm's third party products – 2008 to 2011

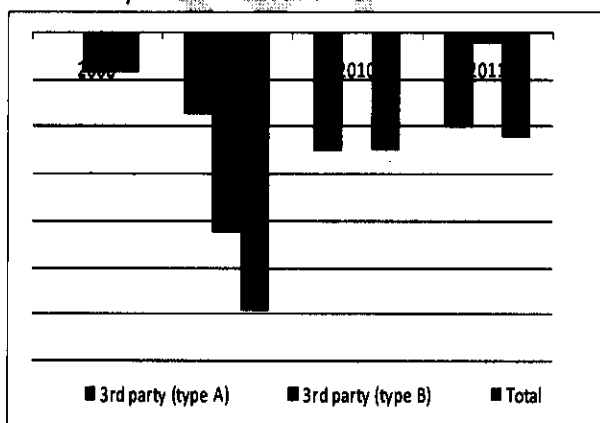
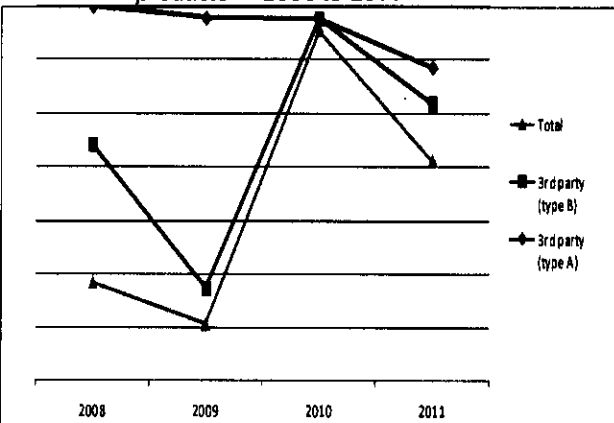


Chart 12: Nufarm's profitability for Nufarm's third party products – 2008 to 2011



23

profit].

[factor impacting

The charts show profits for *Nufarm's third party sales* have been negative from 2008 to 2011, although have improved since 2009. Profitability for *Nufarm's third party total sales and Nufarm's third party* [REDACTED] followed similar trends (which was also negative during this period). For these products profitability decreased from 2008 to 2009, although substantially increased from 2009 to 2010 and decreased from 2010 to 2011. Since 2010 there has been an improvement in profits in *Nufarm's third party total sales and a significant decline in profit and profitability for all Nufarm third party sales* [REDACTED] although to levels higher when compared to 2008, but as discussed this period reflects significant sales returns and highly overvalued inventory levels.

### 8.7 Summary of major injury indicators

Based on the preliminary analysis detailed above, it appears that Nufarm has experienced injury in the form of:

#### All products – total Nufarm's own sales and Nufarm's third party formulated glyphosate products

- lost sales volume from 2010 to 2011;
- reduced revenues from 2010 to 2011;
- reduced profitability from 2010 to 2011;

#### Nufarm's own formulated glyphosate products (only)

- lost sales volume from 2010 to 2011;
- price depression, since 2008;
- reduced revenues from 2008 to 2010;
- price suppression;
- reduced profits and profitability from 2010 to 2011;

#### Nufarm's third party glyphosate products (only)

- lost sales volume from 2010 to 2011;
- price suppression;
- reduced revenue from 2008 to 2011; and
- reduced profitability from 2010 to 2011.

### 8.8 Other injury factors

#### Assets

The application makes no injury claims in respect of assets.

#### Capital investment

Nufarm advised that it has made some investment for formulated glyphosate production. Since 2008, it has invested [REDACTED] to upgrade glyphosate production facilities (including installation of new production equipment and technologies, upgrading warehousing facilities and packaging equipment). As evident in Nufarm's revised Confidential Appendix A.7, capital investment in respect of formulated glyphosate production has been fairly constant since 2008 (representing between [REDACTED] of total capital investment for all production).

Research and development (R&D)

Nufarm advised that it has undertaken considerable investment in R&D related to production of formulated glyphosate, including through the development of new technologies and product formations. Nufarm has R&D teams and managers positioned in their regional service centres. As mentioned at section 4.4.2, particular formulated glyphosate products are the first products to be available in the new QuikPour 15 L packaging. R&D expenses for formulated glyphosate as shown in the revised Confidential Appendix A7 increased in 2010-2011 [REDACTED]

Return on investment (ROI)

Nufarm advised that its ROI in relation to formulated glyphosate has decreased in 2011. To support this claim Nufarm provided financial information regarding its ROI in Confidential Appendix A.7.

Capacity

In Confidential Appendix A7 of the application, Nufarm provided production capacity figures for all plants and plants specifically used to manufacture formulated glyphosate for the period 2007-08 to 2010-11. Following the visits Nufarm provided a spreadsheet detailing plant production capacity calculations and a revised Confidential Appendix A7 to cover the calendar year 2011 (Confidential Attachment INJURY01 refers).

Nufarm's maximum practical and physical production capacity for formulated glyphosate is tabulated below:

Plant	Practical capacity with existing resource constraints	Maximum physical capacity with allowance for R&M
Laverton	[REDACTED]	[REDACTED]
Kwinana	[REDACTED]	[REDACTED]
Total capacity	[REDACTED]	[REDACTED]

Nufarm explained that practical production capacity was calculated assuming existing resource constraints (with the plant operating at 24 hours for five days with current labour). Maximum physical capacity was calculated assuming the plants are operating at 24 hours on seven days per week, with additional labour.

Nufarm also calculated production capacity utilisation rates based on practical production capacity figures, as tabulated below:

Period	Nufarm's capacity utilisation
2007-2008	[REDACTED]
2008-2009	[REDACTED]
2009-2010	[REDACTED]
2010-2011	[REDACTED]
Quarter 1 2011-2012 (Aug - Oct)	[REDACTED]
Quarter 2 2011-2012 (Nov - Jan)	[REDACTED]

Nufarm advised that its three designated glyphosate manufacturing vessels are currently operating at below maximum capacity and less than practical capacity, which

is supported by Nufarm's data. They attribute this to the rapid rise in Chinese exports to Australia in 2010-11. This reduced capacity predominately reflects declined volumes of formulated glyphosate produced.

#### Employment

In Confidential Appendix A7 of the application, Nufarm provided details of its employment numbers (shown as an average number of staff per week) for like goods for its Laverton and Kwinana production facilities for the period 2008-07 to 2010-11. Subsequent to the visit Nufarm provided a revised Confidential Appendix A7 which included data for the first two quarters of 2011-12 (**Confidential Attachment INJURY02** refers). The revised Confidential Appendix A7 highlights that during the injury analysis period the average of staff attributed to formulated glyphosate declined from [REDACTED]. We noted that over this period the average number of employees fluctuated, with a significant increase from 2008-09 to 2009-10 and decreased from 2009-10 to quarter 2 in 2011-12. In 2010-11 of total employees those directly attributed to formulated glyphosate was [REDACTED]% which has decreased from [REDACTED]% in 2010-11 (although is higher than [REDACTED]% in 2009-10).

Nufarm's Confidential Appendix A7 shows a significant reduction in average FTE assigned to production of like goods. Nufarm advised that the hours (shifts) worked by employees has also reduced for both plants in 2010-2011. We note that the FTE levels (and number of hours worked) attributed to non like goods production increased in 2010-11.

#### Productivity

The application makes no injury claims in respect of productivity.

#### Stocks

Data in respect of this indicator in Nufarm's revised Confidential Appendix A7 shows an increase in inventory stocks from 2009-10 to quarter 2 in 2011-12. These increases were significant with stock levels increasing by approximately [REDACTED]%.

#### Cash flow measures

The application makes no injury claims in respect of cash flow measures. Data in respect of this indicator is shown in Nufarm's revised Confidential Appendix A7.

#### Wages

Data in respect of this indicator is shown in Nufarm's revised Confidential Appendix A7. This data shows that the total wages bill associated with FTE for like goods reduced from 2009-2010 to 2010-2011. The average wage bill associated with FTE for like goods increased during the same period reflecting reduced FTE numbers.



## 9 CAUSATION

We discussed with Nufarm whether the alleged dumping of imported formulated glyphosate can be demonstrated to be causing material injury to the Australian industry (including Nufarm). The following section examines the evidence provided to substantiate this claim, noting the information provided relates to Nufarm only, which may or may not be indicative of the Australian industry.

### 9.1 Volume and price effects

Nufarm claim that they have lost significant sales volumes for *Nufarm's own* and *Nufarm's third party* formulated glyphosate products. In particular Nufarm claim that for *Nufarm's third party* sales they have reduced sales volumes significantly as they have not been able to reduce prices required to be able to match low prices of Chinese imports.

Nufarm also claim that their selling prices have been undercut by prices of the imported Chinese formulated glyphosate supplied to the Australian market. The application claims that a comparison of selling prices (at the distributor level of trade) for imported formulated glyphosate to the Australian industry's selling prices shows significant levels of price undercutting (ranging between [REDACTED]% and [REDACTED]%). Nufarm also claim that, in certain circumstances, they have reduced prices, particularly for *Nufarm's own products* to compete with the dumped imports. However, they have not been able to match all offers for imported Chinese formulated glyphosate if the price would be below Nufarm's fully absorbed CTMS. Supplying product below the CTMS would have a significant negative impact on profit and profitability.

In assessing these claims in CON 183, Customs and Border Protection notes that based on the information provided there appears to be some level of price undercutting for certain formulated glyphosate products

At the visit Nufarm advised that the Australian formulated glyphosate market is highly competitive, predominantly due to very low barriers to entry and evidenced by the large number of suppliers. To support claims of head to head competition, including price undercutting and to support claims in respect of price and volume effects Nufarm provided the following:

- Evidence no.1 - diary extracts from notations recorded by Nufarm representatives in respect of meetings and price / cost negotiations with key customers (**Confidential Attachment CAUSATION01** refers);
- Evidence no.2 - market intelligence report titled "*450 Glyphosate Pricing Intelligence*" (**Confidential Attachment CAUSATION02** refers); and
- Evidence no.3 - sales rebate data and PowerPoint graphs (**Confidential Attachment CAUSATION03** refers).

**9.1.1 Evidence no.1 – diary extracts<sup>24</sup>**

Customer A – [REDACTED] (volume effect – to show increasing volume of Chinese imports)

19 October 2010

- Nufarm's notations highlight that based on market intelligence approximately 2 to 3 M L of formulated glyphosate has been exported from China and entered the Australian market.

Customer B – [REDACTED] (volume and price effects)

7 October 2010

- Nufarm's notations describe formulated glyphosate sales to [REDACTED] in 2010 (including volume, packaging, delivery time, rebate, costs and price). The diary extract also highlights the proposed new costing model to supply formulated glyphosate ([REDACTED]). The new costing model was requested by [REDACTED] seeking supply at new price due to competitive pressures in the market (at the retail level).

26 October 2010

- [REDACTED] Nufarm's notations highlight costs for formulated glyphosate imported from China, based on assumptions for delivery cost and payment terms. Price of formulated glyphosate in 1000 L IBCs exported by Good Harvest Weien Agrochemcial Co., Ltd (Good Harvest) being supplied at [REDACTED].
- [REDACTED] price with Nufarm's toll price based on cost assumptions for raw materials (MIPA, surfactants and packing), noting Chinese imports were 15-20% cheaper.

2 February 2011

- Nufarm's notations state [REDACTED] agreement is not profitable and Nufarm will need to exit the supply agreement. Noting that Nufarm will honour existing purchase orders but that no further purchase orders should be taken.
- Noted that imported formulated glyphosate from China was 15-20% cheaper than Nufarm's third party 450 g/L formulate glyphosate.
- Nufarm [REDACTED] were facing competition in the market place from imported formulated glyphosate from China.

3 February 2011

- Nufarm's notations state that the formulated glyphosate market is facing increasing pricing pressures from imported formulated glyphosate from China. Noted in particular, that competition was very intense for formulated glyphosate 450 g/L, the price of Nufarm's product was [REDACTED] compared to the price of product from China at [REDACTED] (delivered in June 2011).

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<sup>24</sup> Nufarm noted that while some of the evidence relates to late 2010 it was relevant for goods supplied in 2011.

Chinese pricing based on commercial invoice provided to distributors [REDACTED]  
[REDACTED] Chinese landed price of imported formulated glyphosate 450 g/L (in 1000 L) was [REDACTED]  
[REDACTED] and costs of the goods in China were [REDACTED].

[REDACTED] Nufarm noted it would not be able to match these prices and would need to exit their supply agreement with [REDACTED]

28 February 2011

[REDACTED] Nufarm's notations highlight that Chinese formulated glyphosate 450 g/L manufactured by Good Harvest and Shandong Weifang Rainbow Chemical Co., Ltd (Rainbow) was very cost competitive and below [REDACTED]

[REDACTED] Noted that as Nufarm cannot offer equivalent prices compared to the imported Chinese goods that they would not be able to supply product to [REDACTED]

• [REDACTED]

5 May 2011

- Nufarm's notations highlight [REDACTED]—supply forecasts from May 2011 to December 2011 as nil.
- Noted that formulated glyphosate (in 1000 L) was being supplied by Chinese exporters (i.e. Good Harvest) at [REDACTED].
- Notation details previous and proposed decreased costs / prices for formulated glyphosate 450 g/L supplied in 20 L, 110 L and 1000 L to [REDACTED]
- Noted that it would be difficult for Nufarm to maintain business and margin compared to prices of the importer product from China.

Customer C - [REDACTED] (price effects)

4 November 2011

[REDACTED] Nufarm's notation from a meeting held with [REDACTED] representatives and includes recorded quotes of imported formulated glyphosate from China (and supplied locally by [REDACTED]) which were cheaper than Nufarm's product (it is not clear whether this was [REDACTED])

- Noted that it was more cost competitive and hence attractive to source product from China.

### 9.1.2 Evidence no.2 – formulated glyphosate 450 g/L pricing market intelligence

As evidence of pricing competition and price undercutting by cheaper imported formulated glyphosate from China, Nufarm provided a market intelligence report titled "450 Glyphosate Pricing Intelligence" (Report).

This report, prepared by Nufarm, contains monthly summaries of market intelligence regarding sales volume (including packaging size), market participants (predominantly distributors and traders) and prices / quotes (including delivery and payment term) at the distribution and retail levels for formulated glyphosate supplied to the Australian market (including the imported Chinese product). This report also details prices of

glyphosate technical purchased from Chinese supplier and used by Australian companies to toll manufacture formulated glyphosate.

The report includes monthly notations regarding increasing volume of formulated glyphosate (in particular from China), which has resulted in increased pricing pressures in the Australian market. The report indicates that the Chinese product is being traded at approximately 20% below other supply sources to the formulated glyphosate 450 g/L market. Nufarm noted in January 2011, that the pricing points for the formulated glyphosate sourced from China were well below Nufarm's acceptable margin levels. Nufarm noted that in February, March and April 2011, increased supply from Chinese exporters as a result of excess capacity and difficulty to supply products to other global export markets.

The report also notes other factors impacting the formulated glyphosate market. It notes that in April 2011 product demand stagnated as many distributors were holding stock from the summer period. The end users also started to demand winter pre plant products (including Roundup PowerMax). The report notes that prices in the Australian formulated glyphosate market were at historically low levels in July and August 2011, partially due to suppressed glyphosate technical price. In September 2011, it was noted that some of the pricing improvement was a result of the appreciation of the Australian dollar. The September 2011 notes indicate that a Chinese exporter was offering to supply formulated glyphosate with a Chinese sourced (as opposed to imported) surfactant at a lower cost.

#### Customs and Border Protection's preliminary views

Nufarm claims that lost sales volume can be directly attributed to the significant increase (the application claims by 400%) in dumped imports of formulated glyphosate from China in 2010-11. At this stage, based on the evidence provided, it appears that Nufarm lost sales volume, in particular to their third party customers [REDACTED], as a result of more competitively priced Chinese imported formulated glyphosate (450 g/L). Further investigation is required from Nufarm's other lost sales customers regarding whether or not the lost sales volumes was due to allegedly dumped Chinese imports. Views and evidence from these customers will be sought regarding sourcing supply from Chinese imports or Australian manufacturers (including toll manufacture).

Customs and Border Protection notes that the market pricing report evidences that the Australian formulated glyphosate market is highly competitive, which may also be attributed to competitive pressures from goods not sourced from China (and due to excess supply and supply options (i.e. whether to import product or toll manufacture)). However it is clear that the documentary evidence supports Nufarm's claim that price undercutting of the Chinese imports occurred in 2011 for both *Nufarm's own* and *Nufarm's third party* products. As a result of the price undercutting Nufarm either offered to reduce prices (predominately for *Nufarm's own sales*) or where they could not accommodate reduced prices (especially if the price would be below Nufarm's CTMS, including margin) they lost sales volume (especially for *Nufarm's third party sales*). The evidence also shows pricing pressures and impacts on Nufarm's customers at the distribution level who compete directly with importers of the Chinese goods (at the retail level).

### 9.1.3 Evidence no.3 – rebates

At the verification visit Nufarm stated that in response to increasing pricing pressure from Chinese imports in the formulated glyphosate market that customer rebates have increased (which is a pricing strategy utilised by Nufarm instead of reducing invoiced prices). To substantiate this claim Nufarm provided domestic and third party sales data for formulated glyphosate for the period 2007-08 to 2009-10 (shown by quarter). This data highlights sales volume, total and unit sales net value (AUD), total and unit rebate (AUD) and percentages for rebates as a proportion of net sales value.

#### Customs and Border Protection's preliminary views

We note that rebates as a percentage of net sales value for formulated glyphosate have increased since 2007-08. We note that in quarters 2 and 3 in 2010-11 rebates per L were higher than all other periods except quarters 1 and 2 in 2008-09. We note that rebates expressed as a proportion of net sales value have been at higher levels since quarter 1 in 2009-10 (when rebates the proportion peaked at ■%, which relates to large returns in the six months to January 2010). However we note that since quarter two 2009-10, rebates as a proportion of net sales value has only varies by less than-■%.

It is clear that as sales value and volume have decreased, rebates expressed as a proportion of these factors have increased. There is a trend to increasing rebates, however this trend commenced prior to the importation of alleged dumped imports from China (which the applicants claim commenced in 2010-11). As the rebate data presented does not cover the period July to December 2011 (which is part of the investigation period), a conclusion in relation to a causation effect cannot be made, at this stage.

### 9.2 Capacity utilisation

As the volume of goods manufactured by the Australian industry has declined (i.e. lower plant throughput) the Australian producer's costs to manufacture are higher than they otherwise would be. The application further claims that lower production volumes due to an increase in import volumes of dumped formulated glyphosate in 2010-11 have caused the Australian industry's costs to be higher than it would otherwise be, impacting on profits and profitability.

As detailed at section 4.8, Nufarm provided capacity utilisation figures for both plants for 2008 to quarter 2 in 2011-12. It is evident that during this period capacity utilisation in respect of formulated glyphosate has reduced, which directly correlates to lost sales volume.

### 9.3 Other comments

Nufarm claims that should the increased trend in Chinese exports be permitted to continue in 2011-12, then further reductions in local supply, reduced employment numbers, limited capital investment, and a diminution of industry profits and profitability will result.

The application states that the recent increase in Chinese imports of formulated glyphosate can be partially attributed to the removal of the 9% export rebate on

glyphosate acid in July 2010. Furthermore the Chinese Government's decision to retain a 5% export rebate on exports of formulated glyphosate has resulted in increased volumes of exported formulated glyphosate, instead of glyphosate acid.

PUBLIC RECORD

**10 UNSUPPRESSED SELLING PRICE**

USP 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 generally derives the non-injurious price by first establishing a price at which the applicant might reasonably sell its product in a market unaffected by dumping. This price is referred to as the unsuppressed selling price.

Customs and Border Protection's preferred approach to establishing unsuppressed selling prices observes the following hierarchy:

- industry selling prices at a time unaffected by dumping;
- constructed industry prices – industry CTMS 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.

Nufarm has indicated that it will provide a submission to Customs and Border Protection in respect of a proposed USP.

**11 ATTACHMENTS**

<b>Confidential Attachment No#</b>	<b>Attachment title</b>
Confidential Attachment GEN01	Verification visit agenda
Confidential Attachment GEN02	Nufarm's introductory Power Point presentations
Confidential Attachment GEN03	Nufarm's corporate structure
Confidential Attachment COM01	KPMG audit reconciliation package (verifying data provided to Customs and Border Protection)
Confidential Attachment COM02	Nufarm's production process diagram
Confidential Attachment COM03	Nufarm's reconciliation package to BPA and audited global accounts
Confidential Attachment SALES01	Revised domestic sale transaction listing
Confidential Attachment SALES02	Source data for Nufarm's sales (multiple workbooks)
Confidential Attachment SALES03	Sales order transaction listing
Confidential Attachment SALES04	List of freight forwarders
Confidential Attachment SALES05	Source documentation for freight
Confidential Attachment SALES06	Screen views of E.1 general ledger account trial balance reports for sales, discounts and rebates (and others)
Confidential Attachment SALES07	Product summaries from source data
Confidential Attachment SALES08	Updated Confidential Appendix A4
Confidential Attachment SALES09	E.1 screen views, E-dash and crystal reports for verification of sales
Confidential Attachment SALES10	Application appendices reconciliation excel workbook
Confidential Attachment SALES11	Nufarm's [REDACTED] reconciliation
Confidential Attachment SALES12	Sales source documentation
Confidential Attachment SALES13	Nufarm's rebate calculations
Confidential Attachment SALES14	E-Dash rebate reports (and screen views)
Confidential Attachment SALES15	Rebate agreements



**PUBLIC RECORD**

Public file

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<b>Confidential Attachment No#</b>	<b>Attachment title</b>
Confidential Attachment SALES16	E.1 screen views for rebate verification
Confidential Attachment CTMS01	Excel spreadsheets for formulated products selected for verification
Confidential Attachment CTMS02	Nufarm's Confidential Appendix A6
Confidential Attachment CTMS03	Cost reconciliation workbooks
Confidential Attachment CTM01	Cost workbooks and bills of materials
Confidential Attachment CTM02	Verification documentation for raw glyphosate technical
Confidential Attachment CTM03	Source documentation and supporting invoices for other raw materials (and PV and OV workbooks / reports)
Confidential Attachment CTM04	Stock revaluation listing
Confidential Attachment CTM05	Formulation overhead documentation
Confidential Attachment CTM06	Documents and calculations for the packing costs
Confidential Attachment CTM07	E.1 screen view – glyphosate technical query showing distribution fee
Confidential Attachment CTS01	Global expense documentation
Confidential Attachment CTS02	Documentation (and workbooks) for SG&A, interest and forex charges
Confidential Appendix01	Revised and final Confidential Appendix A.6
Confidential Attachment INJURY01	Revised Confidential Appendix A7
Confidential Attachment INJURY02	Revised production capacity calculations
Confidential Attachment CAUSATION01	Evidence no.1 - diary extracts from notations
Confidential Attachment CAUSATION02	Evidence no.2 - market intelligence report titled "450 Glyphosate Pricing Intelligence"
Confidential Attachment CAUSATION03	Evidence no.3 - sales rebate data and PowerPoint graphs