



Australian Government
Australian Customs and
Border Protection Service

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No:.....

CUSTOMS ACT 1901 - PART XVI

INTERNATIONAL TRADE REMEDIES BRANCH

STATEMENT OF ESSENTIAL FACTS NUMBER 183

**ALLEGED DUMPING OF FORMULATED GLYPHOSATE
EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA**

25 June 2012

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2 ABBREVIATIONS & SHORTENED FORMS

Abbreviation / shortened form	Full title / form
Accensi	Accensi Pty Ltd
ACDN	Australian Customs Dumping Notice
the Act	Customs Act 1901
APVMA	Australian Pesticides and Veterinary Medicines Authority
CEO	Chief Executive Officer
China	People's Republic of China
CON183	International Trade Remedies Branch Consideration Report No. 183 (the Consideration Report for this investigation)
CTMS	cost to make and sell
Customs and Border Protection	Australian Customs and Border Protection Service
FOB	free on board
the goods	the goods the subject of the application ('formulated glyphosate')
MIPA	mono-isopropylamine
NIP	non-injurious price
Nufarm	Nufarm Limited
Selected cooperating exporters	exporters that provided adequate and timely responses to the exporter questionnaire, which were verified
Selected non-cooperating exporters	exporters that did not respond to the exporter questionnaire
SG&A expenses	selling, general and administration expenses
the Minister	Minister for Home Affairs
USP	unsuppressed selling price
Tariff Act	Customs Tariff Act 1995
TCO	Tariff Concession Order
Trade Measures Report No. 45	TM Report No. 45

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3 SUMMARY AND RECOMMENDATIONS

This investigation is in response to an application lodged on behalf of Nufarm Limited (Nufarm) and Accensi Pty Ltd (Accensi) (herein referred to as 'the applicants') in relation to the allegation that dumping of formulated glyphosate¹ exported to Australia from the People's Republic of China (China) caused material injury to the Australian industry producing like goods.

This statement of essential facts (SEF) sets out the facts on which the delegate of the Chief Executive Officer (CEO) of the Australian Customs and Border Protection Service (Customs and Border Protection) for the investigation (Investigation No. 183) proposes to base their recommendations to the Minister for Home Affairs (the Minister) in relation to the application.

3.1 Preliminary findings

Customs and Border Protection found that there has been no dumping of formulated glyphosate by selected cooperating² Chinese exporters. Customs and Border Protection found that the volumes of formulated glyphosate exported by selected non-cooperating³ exporters (all other Chinese exporters) was less than 3% of the total Australian import volumes and therefore was negligible.

Provided that no new information is put to Customs and Border Protection that would establish that dumping has caused, or threatens to cause, material injury to the Australian industry, Customs and Border Protection proposes that the CEO terminate the investigation in relation to formulated glyphosate exported to Australia from China.

3.2 Application of law to facts

3.2.1 Authority to make decision

Division 2 of Part XVB of the *Customs Act 1901*⁴ (the Act) sets out, among other matters, the procedures to be followed and the matters to be considered by the CEO in conducting investigations in relation to the goods covered by an application.

3.2.2 Application

On 20 December 2011, an application was lodged on behalf of the applicants requesting that the Minister publish a dumping duty notice in respect of formulated glyphosate exported to Australia from China.

¹ Refer to the full description of the goods in section 5 of this SEF.

² Defined at section 8.3.2.

³ Ibid.

⁴ A reference to a division, section or subsection in this report is a reference to a provision of the *Customs Act 1901*, unless otherwise specified.

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On 6 and 23 January 2012, additional information in respect of the application was received, which restarted the consideration period.

The CEO was satisfied that the application was made in the prescribed manner by a person entitled to make the application.

3.2.3 Initiation of Investigation

After examining the application, the CEO was satisfied that:

- there was, or was likely to be established, an Australian industry in respect of like goods; and
- there appeared to be reasonable grounds for the publication of a dumping duty notice in respect of goods the subject of the application.

The CEO decided not to reject the application and notice of the initiation of this investigation was published on 6 February 2012.

3.2.4 Statement of essential facts

The CEO must, within 110 days after the initiation of an investigation, or such longer period as the Minister allows, place on the public record a SEF on which the CEO proposes to base his recommendation in relation to the application.

In formulating the SEF, the CEO must have regard to the application concerned, any submissions concerning publication of the notice that are received by Customs and Border Protection within 40 days after the date of initiation of the investigation and any other matters considered relevant.

The SEF for the investigation was originally due on or before 28 May 2012. The Minister granted an extension to the timeframe and the revised SEF due date is 25 June 2012. The final report for this investigation is due to the Minister on or before 9 August 2012.

3.3 Preliminary findings and conclusions

Customs and Border Protection has made the following preliminary findings and conclusions based on available information at this stage of the investigation.

3.3.1 The goods and like goods (Chapter 5 of this report)

Locally produced formulated glyphosate are like goods to the goods the subject of the application.

3.3.2 Australian Industry (Chapter 6 of this report)

There is an Australian industry producing like goods, comprising at least two Australian producers (including toll manufacturers) of formulated glyphosate. The applicants accounted for more than 75% of the Australian production of like goods during the investigation period (1 January to 31 December 2011).

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3.3.3 Australian Market (Chapter 7 of this report)

In 2011, the estimated size of the Australian market for formulated glyphosate was approximately 65 million litres⁵ measured in formulated glyphosate 450g/L equivalent litres. In 2011, the Australian formulated glyphosate market was supplied by Australian production and imports, which were predominately from China. Formulated glyphosate is typically sold into the market by distributors who supply formulated glyphosate to other suppliers or end users.

3.3.4 Dumping (Chapter 8 of this report)

Customs and Border Protection has determined the following preliminary dumping margins for formulated glyphosate exported to Australia from China:

Exporter – (China)	Margin
Jiangsu Good Harvest Weien Agrochemical Co Ltd (Good Harvest)	-2.0%
Zhejiang Xinari Chemical Industrial Group Co.,Ltd (including goods indirectly exported through Zhejiang Wynca Import And Export Co., Ltd (Wynca IE))	-1.6%
Shandong Weifang Rainbow Chemical Co., Ltd (Rainbow)	-0.8%

Figure 1: Preliminary dumping margins

Customs and Border Protection has found that formulated glyphosate exported to Australia by selected cooperating exporters was not dumped. Customs and Border Protection found that the volume of the goods exported by the selected non-cooperating exporters was less than 3% of the total import volume, and therefore was negligible.


3.3.5 Economic condition of the industry (injury) (Chapter 9 of this report)

The Australian industry suffered injury in the form of:

- lost sales volume;
- reduced market share (for total sales);
- price depression;
- price suppression;
- reduced revenue;
- reduced profits and profitability;
- reduced production capacity utilisation;
- inadequate returns on investment;
- increased inventory levels (Nufarm only);
- reduced employee numbers (Nufarm only); and
- reduced total wages bill (for Nufarm only).

⁵ In this SEF the terms "litre" and "L" and "kilogram" and "Kg" are used interchangeably.

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3.3.6 Has dumping caused material injury (Chapter 10 of this report)

Customs and Border Protection has preliminarily established that formulated glyphosate exports from China were not dumped by the selected cooperating exporters. The volume of formulated glyphosate exported by selected non-cooperating exporters is negligible. Therefore, any injury experienced by the Australian industry cannot be attributed to dumping.

3.3.7 Proposed recommendation

Based on these preliminary findings Customs and Border Protection proposes to recommend that the CEO terminate the investigation in respect of formulated glyphosate exported from China.

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4 BACKGROUND

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4.1 Introduction

On 21 December 2011, an application was lodged on behalf of Nufarm and Accensi requesting that the Minister publish a dumping duty notice in respect of formulated glyphosate exported to Australia from China.

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

On 6 February 2012, following consideration of the application, the CBO decided not to reject the application and 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.

The investigation period is 1 January 2011 to 31 December 2011 (herein referred to as the investigation period). Customs and Border Protection has examined the Australian market from January 2008 for the purpose of analysing the condition of the Australian industry.

4.1.1 Previous investigations and measures

Customs and Border Protection has previously conducted two investigations in respect of glyphosate exported from China. The most recent investigation was in 2001-02, following an application lodged by Monsanto Australia Limited (Trade Measures Report 45 (TM Report No. 45) refers). Nufarm was an interested party (although not the applicant) in that investigation.

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

4.1.2 International anti-dumping investigations

As detailed in Consideration Report No. 183 (CON 183), international anti-dumping and countervailing administrations in the United States, the European Union and South America have conducted investigations in respect of glyphosate (glyphosate technical and formulated glyphosate). CON 183 summarises the outcomes of these activities.

4.2 Responding to this SEF

This SEF sets out the essential facts on which Customs and Border Protection proposes to base its final recommendations. This statement represents an important stage in the investigation. It informs interested parties of the facts established and allows them to make submissions in response to the statement. It is important to

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note that the statement may not represent the final views of Customs and Border Protection.

Interested parties have 20 days to respond to the statement. Responses to this SEF should be received by Customs and Border Protection no later than **Monday 16 July 2012**. Customs and Border Protection is not obliged to have regard to any submission made in response to the SEF received after 16 July 2012, if to do so would prevent the timely preparation of its final report and recommendations.

Submissions should preferably be emailed to itrops2@customs.gov.au. Alternatively they may be sent to facsimile number +61 2 6275 6990, or posted to:

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

Confidential submissions must be clearly marked accordingly and a non-confidential version of any submission is required for inclusion on the public record. A guide for making submissions is available at the Customs web site (follow the links to: Anti-Dumping > Reference Material > Guidance for Submissions).

The public record contains non-confidential submissions by interested parties, the non-confidential versions of Customs and Border Protection visit reports and other publicly available documents. It is available by request in Canberra (phone 02 6275 6547) or online at <http://www.customs.gov.au/anti-dumping/cases.asp>. This SEF should be read in conjunction with documents on the public record.

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5 THE GOODS AND LIKE GOODS

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5.1 Preliminary finding

Customs and Border Protection considers that locally produced formulated glyphosate are like goods to the goods the subject of the application (the goods).

5.2 The goods

5.2.1 General description

The goods are formulated glyphosate. The initiation notice for the investigation 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"⁶.

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, 5-enolpyruvylshikimate 3-phosphate (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.

5.2.2 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 in 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 formulated glyphosate described according to grams of glyphosate technical per litre or kilogram (reflecting the Australian market) and described by the percentage of glyphosate technical contained in the formulations on a weight for weight basis (reflecting global market).

⁶ Application for the publication of a dumping duty notice for formulated glyphosate exported from China (Application), page 7.

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Unit of product	Glyphosate content – measured as g/L or grams per Kg	Glyphosate content – measured on a weight per weight basis (expressed as a percentage)
Litre (L)	360	41.6%
L	450	50.6%
L	570	61.5%
Kilogram (Kg)	690	75.7%

Figure 2: Formulated glyphosate comparisons⁷.

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"⁸.

The applicants claim that:

- the imported formulated glyphosate products (at varying strengths) have the same end use;
- all formulation 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, included 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).

5.2.3 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 do not include glyphosate acid.

⁷ Application, page 8. This table is indicative only.

⁸ Ibid.

5.3 Tariff classification

Formulated glyphosate is now classified under the tariff subheading 3808.93.00 (statistical code 49) of Schedule 3 to the *Customs Tariff Act 1995*. During the investigation period, formulated glyphosate was 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 (TCOs) applicable to the relevant tariff subheadings.

5.4 Like goods

5.4.1 General

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"*⁹.

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 products;*
- (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)"*¹⁰.

⁹ Subsection 269T(1) of the Act.

¹⁰ Application, page 10.

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Nufarm and Accensi advised that the formulated glyphosate produced domestically are like goods to the formulated glyphosate imported from China and that there is no discernable difference (excluding surfactants) between the products.

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. This view was supported by the major importers and most of the exporters visited by Customs and Border Protection.

All product formulations (and packing types) must be registered with the Australian Pesticides and Veterinary Medicines Authority (APVMA). The APVMA controls registration and supply of formulated glyphosate in the Australian market. Registrations are held by Australian industry (including the applicants and other formulators), importers and Chinese suppliers. 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. The regulatory requirements in respect of agrochemical products supplied in Australia are significantly more stringent than compared to Chinese requirements.

5.4.2 Physical characteristics

Raw materials

Active ingredient – glyphosate technical

Interested parties stated that formulated glyphosate products manufactured in Australia or imported from China contain similar concentrations of glyphosate technical. Formulated glyphosate sold on the domestic market in China was described on a weight to weight basis, whereas the products exported to Australia were described on a weight to volume basis and active content is calculated by glyphosate technical.

Formulated glyphosate sold in Australia must meet regulatory requirements for active ingredient strengths, although there is a 5% tolerance. Interested parties claimed that reducing the active ingredient strength (within allowed tolerances) reduces production costs and that there may be no discernable difference identified by the end user. These parties also claimed that formulated glyphosate may be imported illegally with active ingredient strengths below acceptable tolerances, although this issue is more relevant to the APVMA than the Customs and Border Protection investigation.

Customs and Border Protection considers that all formulated glyphosate described on a weight to weight basis of glyphosate technical are covered by the goods

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description and that the Australian industry produces like goods in respect of these goods.

Salts of glyphosate (excluding 62% IPA glyphosate)¹¹

Formulated glyphosate with different salt bases, including mono-isopropylamine (MIPA), potassium and ammonium are supplied to the Australian and domestic markets in China. There are different efficacies associated with the salts of glyphosate, however they all form part of the final fully formulated product with the same end use. MIPA (which is petroleum based) is a highly flammable input and is imported because it is not produced in Australia. There are cost advantages in manufacturing with a non MIPA salt base because importation and handling costs are not applicable.

In its submission dated 19 March 2012, Nufarm claimed 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 there is a cost differential between different salts. In advice to Customs and Border Protection dated 27 April 2012, Nufarm stated that formulated glyphosate with an ammonia salt base in liquid form is currently not registered in Australia, although it is sold domestically in China. It considers that these products would be illegal in Australia. The Australian industry does not manufacture like goods in respect of formulated glyphosate which would be considered illegal in the Australian market¹².

Several interested parties (including Agronomix Manufacturing Industries Pty Ltd trading as AGRONOMIQ) / Australian Independent Rural Retailers (AIRR)¹³ submitted that ammonium salt based glyphosate products (which are in dry form) should be outside the scope of the investigation, on the basis that the Australian industry cannot manufacture these products in sufficient quantities.

Customs and Border Protection found that the salt of glyphosate is identifiable for all APVMA registered formulated glyphosate products. Regardless of the salt type, these products are classified as formulated glyphosate for herbicide application. Customs and Border Protection found that the Australian industry manufactures formulated glyphosate with varying salt bases that are like (with similar characteristics) to formulated glyphosate with varying salt bases exported from China (including the dry formulated glyphosate with an ammonium salt base).

Customs and Border Protection considers that all formulated glyphosate with any registered salt base are covered by the goods description and that the Australian industry produces like goods in respect of these goods.

¹¹ A related goods / like goods issue in respect of another salt of glyphosate for a 62% glyphosate product is discussed separately at section 5.4.2.

¹² This may change in the event a new product was registered in the Australian market.

¹³ AGRONOMIQ / AIRR joint submission dated 31 May 2012 refers.

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Inferior quality – surfactants

The most significant variation between all formulated glyphosate products is the surfactant utilised, which represents a cost differential. The surfactant is the binding agent, which facilitates the absorption of active ingredient (glyphosate technical) to the plant / weed surface. Different surfactants are utilised in the different product formulations with varying glyphosate technical concentrations. A product with a higher glyphosate technical concentration requires a different surfactant on a per litre or kilogram basis compared to a product formulation with lower glyphosate technical concentration. The applicants and certain importers claimed that the surfactant used for products exported to Australia or sold on the domestic market in China differed.

Interested parties claimed that the Australian industry and the major Chinese exporters predominately sourced surfactant from an Australian manufacturer (a tallow amine surfactant with 120 g/L required for formulated glyphosate 450 g/L).

Interested parties claimed that products are prevalent in the Australian market that contained inferior quality surfactants or where the ingredient level is less than 120g/L (as it is diluted). Production costs are reduced if inferior quality (and hence cheaper) surfactants are used. These parties claimed that Chinese manufacturers also exported products to Australia containing lower quality surfactants. Importers claimed that the impact of the inferior surfactant may not be identifiable by the end user, although if the end user (i.e. farmer) was not satisfied with product effectiveness, it can be assumed that they would cease sourcing from the relevant supplier.

Customs and Border Protection considers that formulated glyphosate with any registered surfactant (applied in accordance with regulatory standards) are covered by the goods description and that the Australian industry produces like goods in respect of these goods.

Form – liquid versus dry (granular)

Formulated glyphosate products in liquid (aqueous solution) and dry (water based granules) are supplied in the Australian and Chinese markets. Formulated glyphosate with active ingredients in higher loading concentrations are usually in dry form, usually for formulated glyphosate 600 g/L and above.

Dry glyphosate formulations have particular advantages over a liquid product, including:

- that it is easier to handle during the manufacturing process (including clean up);
- it potentially is easier to handle by the end user (less chemical exposure);
- its compatibility with residue-free packages and unit-dose packages; and
- many environmentally or toxicologically attractive surfactants are physically compatible with glyphosate salts in a dry formulation.

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The application covers liquid and dry formulated glyphosate products because they have the same functionality and end use (water is added to both products and subsequently applied to weeds / plants). This claim was reiterated by Nufarm in its submission dated 19 March 2012. In 2011, Customs and Border Protection's import data base identified that liquid and dry products were exported to Australia by Chinese exporters. The applicants currently do not manufacture formulated glyphosate in dry form. Customs and Border Protection is cognisant that other Australian formulators can manufacture dry formulated glyphosate in minimal quantities.

Interested parties advised that the pricing and packaging of the liquid and dry products varies.

In a submission dated 26 April 2012, Zhejiang Xinan Chemical Industrial Group Co.,Ltd (Zhejiang Xinan) claimed that liquid formulated glyphosate manufactured in Australia was dry formulated glyphosate was not a like good to the liquid formulated glyphosate produced by Australian industry, due to differences in respect of chemical composition (raw materials), physical characteristics, manufacturing processes, packaging and usage. Zhejiang Xinan claimed that formulated glyphosate in dry form should be to be excluded from the investigation scope.

Other Chinese exporters, Australian formulators and importers submitted that liquid and dry formulated glyphosate are like goods as they have similar characteristics and both are soluble formulations which when added to water are applied as herbicides. The products are therefore interchangeable and substitutable.

In considering the views presented by interested parties, Customs and Border Protection considers that formulated glyphosate in liquid and dry form (both being soluble by water) are covered by the goods description and that the Australian industry produces like goods in respect of these goods.

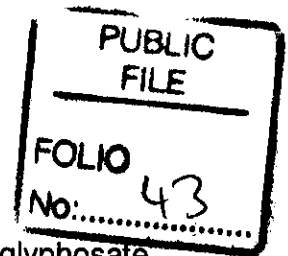
5.4.3 62% IPA salt forms of glyphosate (manufacturing concentrate)

Certain interested parties submitted that 62% IPA salt forms of glyphosate (manufacturing concentrate) were not like goods to formulated glyphosate and should be outside the investigation scope. This product is currently subject to a TCO application (following an application lodged by an importer).

The manufacturing concentrate glyphosate is an intermediary product produced following the first stage of the amination production process, where surfactants and water have not been added. This product requires further formulation (with addition of surfactants and dyes etc). Currently, Nufarm manufactures and sells this product (in minor volumes) and Accensi does not manufacture this product.

In a submission dated 19 March 2012, Nufarm claimed that the IPA salt 62% glyphosate products are like goods to the goods with the same ultimate end use (as an herbicide). To support its claim, Nufarm referenced the findings of previous

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Australian¹⁴ and international anti-dumping investigations in respect of glyphosate products. These investigations concluded that 62% manufacturing concentrate glyphosate was covered by the goods description and that the Australian industry manufactured goods that were like to these goods.

The majority of other interested parties, including Apparent / AIRR claimed that 62% manufacturing concentrate glyphosate is like to the goods, as this product is an intermediary product, which has not been fully formulated. These interested parties claimed that the intermediate product cannot directly be applied for broad acre weed control or garden end use, as it needs further manufacturing. If applied directly to weeds it will have no effect as it is an active ingredient and contains no binding agent. Interested parties consider that the 62% glyphosate product is more comparable to glyphosate technical, which is excluded from the investigation scope (as it is not manufactured in Australia).

Customs and Border Protection established that the previous Australian and international anti-dumping investigations in respect of glyphosate included a broader range of products from glyphosate technical to the fully formulated product. However the current application is explicit in excluding glyphosate technical and only relates to fully formulated products. The manufacturing concentrate also has significantly different chemical properties. If the application covered glyphosate technical, the 62% manufacturing concentrate glyphosate would be covered by the goods description.

Reflecting the description of the goods contained in the application, and views of interested parties, Customs and Border Protection considers 62% manufacturing concentrate glyphosate is not covered by the description and that 62% manufacturing concentrate glyphosate produced by the Australian industry are not like goods to the goods. This product is considered to be out of the investigation scope.

5.4.4 Manufacturing processes

Customs and Border Protection found that formulated glyphosate manufacturing processes in Australia and in China (including but not limited to the glycine and iminodiacetic acid (IDA) production processes) varied.

For instance, in respect of producing glyphosate with an MIPA salt base, the initial production stage for formulated glyphosate in liquid forms involves the manufacture of glyphosate technical, which is then combined with MIPA to produce the isopropylamine salt of the N-phosphonomethylglycine molecule (the active ingredient). The next process involves formulation, where the isopropylamine salt of glyphosate is blended with surfactants and other ingredients through a filtration and

¹⁴ TM Report No 45 refers.

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sedimentation process to produce formulated glyphosate as an aqueous solution. The final product is packaged for sale.

The production process for dry formulated glyphosate is different to liquid formulated glyphosate, however the key steps are similar as glyphosate technical is blended with surfactants and other ingredients, although the product goes through granulation and drying processes.

Customs and Border Protection found that irrespective of production process used to manufacture formulated glyphosate, the end product is considered a like good.

5.4.5 Commercial likeness

Interested parties claimed that there is a commercial (product) differentiation between glyphosate formulations based on active ingredient strength, although the different formulated products can be interchanged because the end user can adjust the application and usage rate.

Formulated glyphosate 360 g/L is predominantly supplied to the smaller garden retail and horticulture markets, whereas formulated glyphosate at 450 g/L or above are supplied to agricultural markets. The stock standard product utilised in the Australian market is formulated glyphosate 450 g/L, with increasing volumes of 510 g/L and 540 g/L formulated glyphosate. There is also product differentiation by packaging sizes (i.e. 1 L, 110 L and 1000 L (or IBCs) containers¹⁵). Formulated glyphosate 360 g/L product is predominantly supplied in smaller packing containers (in particular, 1 L bottles and 20 L drums), however the 450 g/L product and formulations with active ingredient strengths greater than 450 g/L are supplied in packaging sizes 20 L and above.

Australian customers predominantly demand formulated glyphosate in 1000 L Intermediate Bulk Container (IBCs), followed by 20 L and 110 L containers. The Australian industry product and Chinese imports are supplied in Schutz IBCs (sourced domestically or imported to Australia) as part of the Schutz container recycle system.

Interested parties advised that market demand for the 360 g/L formulated glyphosate has decreased in the last few years, as the overall market has transitioned away from this product (which initially was considered the base product). This transition is due to product branding and placement and efficacies associated with products with higher active ingredients and larger container sizes. The price of the 360 g/L product is also higher reflecting higher container and surfactant costs, which are higher). In the last few years, premium products with higher technical components have been supplied to the market.

¹⁵ The terms "containers" and "sizes" are used interchangeably in this report.

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Customs and Border Protection found that while there is commercial differentiation between certain formulated glyphosate products, overall (excluding formulated glyphosate 360 g/L) they are supplied to the broad acre agricultural market and are interchangeable. Commercial differences are reflected in price, which varies between products, however are not quantifiable or indicative that formulated glyphosate products manufactured by the Australian industry are not commercially like to the goods.

5.4.6 Functionality

When packaged all formulated glyphosate products (imported and local) at varying formulation strengths are labelled for identical uses and have the same functionality.

All imported and local formulations (at varying strengths) are recommended to be applied within the approved application rates indicated on the product label, expressed on a litre per hectare basis. Different formulated products can be interchanged, as the end user can adjust application and usage rates.

5.5 Conclusion

The goods

Customs and Border Protection considers that the following products are covered by the goods description and that the Australian industry manufactures like goods in respect of these goods:

- formulated glyphosate with varying salt bases (that are registered in Australia);
- formulated glyphosate with varying active concentrations (and surfactants) that meet AVPMA regulations; and
- formulated glyphosate in liquid and dry form.

Customs and Border Protection considers that 62% manufacturing concentration glyphosate is not covered by the goods description.

Like goods

Customs and Border Protection considers that the applicants (through their application and verified information) demonstrated that (excluding 62% manufacturing concentration):

- 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.

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Therefore Customs and Border Protection considers that the goods produced by Nufarm and Accensi (representative of the Australian industry) are like goods to formulated glyphosate exported from China.

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6 AUSTRALIAN INDUSTRY

6.1 Preliminary finding

Based on the information available, Customs and Border Protection considers that:

- there are a number of Australian producers (including toll manufacturers) of formulated glyphosate;
- formulated glyphosate manufactured by Australian producers are like goods;
- the like goods were wholly or partly manufactured in Australia¹⁶;
- a substantial process of manufacture was carried out in Australia by the Australian producers¹⁷; and
- there is an Australian industry producing like goods¹⁸.

6.2 Introduction

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 (Aus) Pty Ltd
Eureka Manufacturing Pty Ltd
Gemax Pty Ltd
Intrade Australia Pty Ltd
Intec Industries Pty Ltd
Loral Kosum Pty Ltd
Opal Australasia Pty Ltd
Regel Australia Pty Ltd

Figure 3: Other Australian toll manufacturers

These toll manufacturers produce formulated glyphosate for third parties. These third parties either completely or partially supply raw material and packaging (including labels) to the toll manufacturers. Nufarm and Accensi toll manufacture formulated glyphosate on behalf of third parties (section 9.4 refers).

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.

¹⁶ Section 269T(2) of the Act refers.

¹⁷ Section 269T(3) of the Act refers.

¹⁸ Section 269T(4)(a) of the Act refers.

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The applicants claim that, in 2011, they accounted for sales of more than 75% of the total local production of formulated glyphosate (excluding their third party sales). They claim that that by including third party sales, this is likely to exceed 85%.

The eleven companies listed in the table above were contacted by Customs and Border Protection and invited to participate in the investigation. Only one of the companies listed above indicated their willingness to participate. A submission (dated 30 March 2012) to the investigation was lodged on behalf of Cheminova (Aust) Pty Ltd which is the parent company of Cheminova (Manufacturing (MFG)) Pty Ltd (Cheminova) and Ospray Pty Ltd (an importer of formulated glyphosate). Cheminova (Aust) Pty Ltd manufactures formulated glyphosate with an MIPA salt base at their production facilities in Wyong (which were purchased from Bayer Australia Pty Ltd in 2008). Based on production data provided in the application and submitted on behalf of Cheminova (unverified), they are the third largest manufacturer of formulated glyphosate (behind Nufarm and Accensi).

Cheminova supports the application and claim that the significant import volume of formulated glyphosate from China immediately affected its production and profitability and resulted in a reduction in employment (in the investigation period). As Nufarm and Accensi represent the significant majority of the Australian production of formulated glyphosate and as data provided by Cheminova is unverified, further analysis of injury in the SEF is based on data provided by Nufarm and Accensi. Cheminova were willing to have their data verified, however as their proportion of the market is not significant and given the preliminary recommendation to terminate the investigation, they were not visited.

Other toll manufacturers

During verification visits to importers, Customs and Border Protection established that importers also sourced product through toll manufacture arrangements. Importers also were capable of manufacturing formulated glyphosate in minor volumes using their own production facilities (on an ad hoc basis). Given the complexity and ad hoc nature of these small volumes (which were not verifiable), and as the other toll manufacturers were not major market participants (in 2011); these sales volumes were not included in any subsequent market analysis.

6.3 Formulated glyphosate production process

As specified in the application, Nufarm's formulated glyphosate (with a MIPA salt base and in liquid form) production process is as follows:

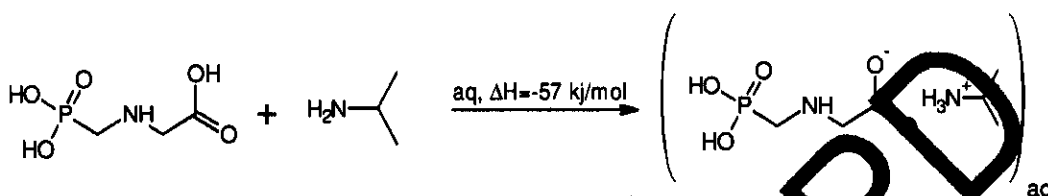
"The initial stage of the process involves the amination of glyphosate acid and mono- isopropylamine to produce the isopropylamine salt of the N-phosphonomethylglycine molecule (i.e. the active ingredient). The amination process is essentially a controlled acid-base chemical reaction. The amination process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

The amination process is carried out in large purpose built reaction vessels that incorporates cooling equipment and microprocessor based process controls to maintain the temperature of the chemical reaction.

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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.

Customs and Border Protection found that the production process described above also related to Accensi's production process, with variance in respect of packaging sizes and delivery. The application (Confidential Attachment A-3.6) contained a diagram which illustrated the production process of formulated glyphosate with an ammonium or potassium salt base.

6.3.1 Substantial process of manufacture

The application also claims that:

Formulated glyphosate is made from imported glyphosate technical, there being no manufacturer of glyphosate acid in Australia. Similarly, some raw material surfactants (i.e. those not purchased locally from Huntsman Chemicals), mono-isopropylamine ("MIPA"), and antifoam consumed in the production of formulated glyphosate are all imported ingredients.

The formulation of glyphosate is considered a substantial process of

¹⁹ Application, page 10.

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*manufacture where transformation of the glyphosate technical into a commercial herbicide occurs*²⁰.

An importer advised that it did not consider the production of formulated glyphosate with a potassium salt base to be a substantial process of manufacture. However they provided no further information in respect of this claim.

6.3.2 Production facilities

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

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

Accensi operates two manufacturing and warehousing facilities in Australia, at which formulated glyphosate is produced:

- Narangba (Queensland (QLD)), which contains two glyphosate vessels; and
- Kwinana (WA), which contains one glyphosate vessel.

Customs and Border Protection inspected Nufarm's and Accensi's production (and warehousing facilities) in North Laverton and Narangba respectively.

As a result of the information provided by the applicants and inspections of the applicants' production facilities, Customs and Border protection is satisfied that Nufarm and Accensi:

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

6.3.3 Salts and active ingredient levels – manufacturing range

Nufarm and Accensi manufacture formulated glyphosate with varying active concentrations and a salt based of MIPA or potassium. The applicants do not currently manufacture formulated glyphosate with an ammonium salt base or in dry (granular) form. The applicants' range of formulated glyphosate products which were supplied during the investigation period are tabulated below.

²⁰ Application, page 11.

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Formulation (g/L)	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

Figure 4: Nufarm's formulated glyphosate product range

Formulation (g/L)	Package type
360	1L, 2.5L, 5L, 10L, 20L, 200L, 500L and 1000L
450	20L, 110L and 1000L
510	20L, 100L, 120L and 1000L
540	20L, 100L, 110L and 1000L

Figure 5: Accensi formulated glyphosate product range

6.3.4 Manufacturing types – own products versus toll manufacture

During 2008 to 2011, Nufarm supplied formulated glyphosate to the Australian market which it:

- manufactured (as its own sales);
- toll manufactured on behalf of other Australian companies; and
- imported.

Accensi is predominantly a toll manufacturer. It considers that all formulated glyphosate it supplied during 2008 to 2011 was toll manufactured for third parties. During the corresponding period Accensi toll manufactured formulated glyphosate:

- using glyphosate technical sourced by Accensi; and
- using glyphosate technical sourced by Accensi's toll customer.

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6.4 Conclusion

Customs and Border Protection is satisfied that there is at least one substantial process of manufacture performed in Australia (by the applicants) and, therefore, that the goods may be taken to have been produced in Australia.

Accordingly, Customs and Border Protection is satisfied that there is an Australian industry producing like goods to the imported goods.

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7 AUSTRALIAN MARKET

7.1 Preliminary finding

Customs and Border Protection estimates that in 2011 the size of the Australian market for formulated glyphosate was approximately 65 million litres measured in formulated glyphosate 450g/L equivalent litres (this excludes volumes of formulated glyphosate supplied by toll manufacturers, other than the applicants). Customs and Border Protection found that the Australian market volume and size was less than estimated in the application (which interested parties advised was overstated). Customs and Border Protection found that given that formulated glyphosate is subject to a tariff classification which encompasses other herbicides, market size estimates provided by other interested parties may have included imports which were not the goods.

Customs and Border Protection considers that the verified sales volume of the applicants and the import data in Customs and Border Protection's database provide a reasonable estimate of market size (noting that the market size would be higher with the addition of sales volume for other toll manufacturers).

Customs and Border Protection found that the formulated glyphosate market has increased since 2008, however decreased during the investigation period.

7.2 Introduction

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).

Fully formulated products manufactured by the applicants, other Australian industry formulators and imported products are supplied to the Australian agricultural (including horticulture) market. The products are also sold to domestic / residential and industrial end-users for weed control purposes.

7.3 Market supply

The Australian formulated glyphosate market is supplied by the Australian manufacturers (applicants and other formulators) and imports. Based on data from Customs and Border Protection's import database, in 2011 China was the predominant source of import, representing 76%. Other significant import sources included Argentina, the United States, Malaysia and New Zealand.

The major importers of Chinese formulated glyphosate²¹ included Landmark Operations Limited, 4 Farmers Pty Ltd, Titan AG, Farmoz Pty Ltd and Gemax Pty

²¹ For the purposes of this SEF, a major importer imported more than 7% of the total import volume from China.

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Ltd. Customs and Border Protection visited and verified information provided by all these importers, except Gemax Pty Ltd²².

7.3.1 Toll versus importing

Importers that were visited by Customs and Border Protection advised that to meet supply requirements for formulated glyphosate they:

- imported glyphosate technical and provided to Australian formulators to manufacture; and/or
- imported fully formulated product from China.

In addition to the above, several importers also advised that they were in the process of establishing their own toll manufacture facilities. In a submission dated 30 May 2012, AGRONOMIQ advised that they have commenced formulated glyphosate production (post the investigation period).

Interested parties claimed that the glyphosate market is very dynamic with the price of glyphosate technical, which is priced in USD and subject to exchange rate changes, fluctuating. This impacts on commercial decisions to toll manufacture, manufacture on site or import fully formulated glyphosate. Importers consider the price of technical glyphosate and other raw materials to be provided to Australian toll manufacturers compared to the price of the imported formulated glyphosate product. Interested parties submitted that the cost differential between toll and imported product could vary by up to 10%. If possible, importers also consider costs associated with manufacturing their own products in order to satisfy supply requirements. The timeframe to import glyphosate technical (which can take five weeks) impacts supply decisions.

7.4 Market size

Customs and Border Protection estimated the size of the Australian market, expressed in litres of 450 L equivalents, using data verified during visits to the applicants, importers, exporters, data provided by other interested parties, and data from Customs and Border Protection's import database.

As noted in CO 183, a broad range of herbicides are imported under tariff classification 38.93.00, including the goods and non goods. The description of the goods is not always indicative. It also appears that formulated glyphosate may have been imported under other tariff classifications.

Given these factors, as further information was provided by importers and exporters (which was verified), Customs and Border Protection's import data was cleansed to remove errors. This included the addition of some goods classified as "glyphosate

²² This company did not participate in the investigation.

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technical", which were confirmed to be formulated glyphosate, based on information obtained from importers and manufacturers.

As the statistical unit for the applicable tariff classification and statistical code is kg, Customs and Border Protection applied a conversion factor supplied by the Australian industry of 1.197 to convert kilograms to litres, based on the specific gravity for formulated glyphosate 450 g/L.

For the purposes of presenting market volumes and market shares different product concentrations have been converted to 450 g/L equivalents. This approach varies from the application (and Nufarm's preferred approach), which converted formulated glyphosate products at varying concentrations to 360 g/L Roundup equivalents²³.

Formulated glyphosate 450 g/L is the predominant product supplied in the Australian market by the Australian industry and importers. Interested parties submitted that formulated glyphosate 450 g/L is the stock standard product and contended that conversion rates to measure volume in 450 g/L equivalents were more appropriate and relevant. The majority of the Chinese imports were also formulated glyphosate 450 g/L.

Customs and Border Protection estimates that the size of the Australian market for formulated glyphosate²⁴ was approximately 65 million litres of 450g/L equivalents in 2011. Movements in the size of the Australian market are illustrated in the following chart. The market grew from 2008, peaking at 83 million litres of 450g/L equivalent in 2010 before decreasing in 2011.

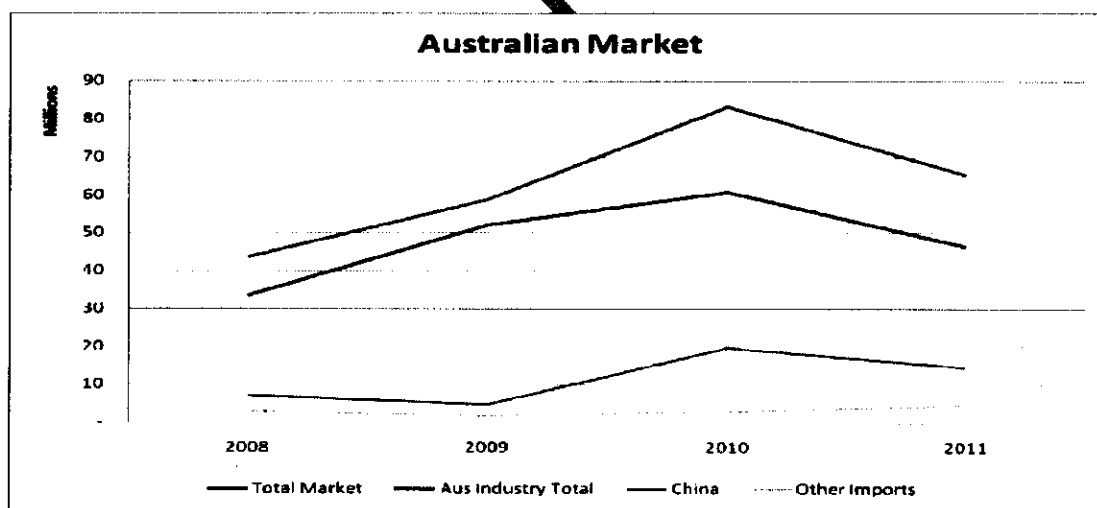
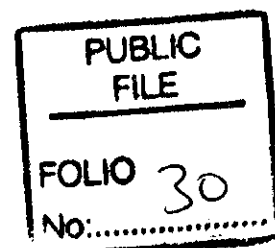


Figure 6: 2011 market size - 450g/L equivalent formulated glyphosate

²³ The first patented formulated glyphosate product which was introduced into the Australian market by Monsanto.

²⁴ This includes the applicants' data only in respect of volumes for Australian formulators.

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7.5 Market segmentation and distribution arrangements

7.5.1 Market segmentation

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

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

Figure 7: Australian formulated glyphosate market segments

The applicants explained that formulated glyphosate products are supplied to the agricultural sector for plant 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. An applicant advised that in Australia, there is approximately 21 million hectares of crops to which formulated glyphosate is applied (at approximately 1 to 2.5 applications in the winter pre plant period and 4 to 5 applications during the summer/fallow period).

7.5.2 Distribution

A diagram of distribution/supply channels to market was provided in the application²⁵.

This diagram provided a description of each of the market suppliers as 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.

²⁵ Application, page 14.

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- 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 (and other overseas) 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 (and other overseas) manufacturers, but are more generally responsible for purchasing formulated product from traders, formulators and other suppliers.

Customs and Border Protection found that the majority of formulated glyphosate is supplied and sold through distributors to end-users. This reflected the large geographical size of Australia, as suppliers need connectivity with their end users (local farmers).

To further illustrate the formulated glyphosate market, Nufarm provided the following diagram²⁶:

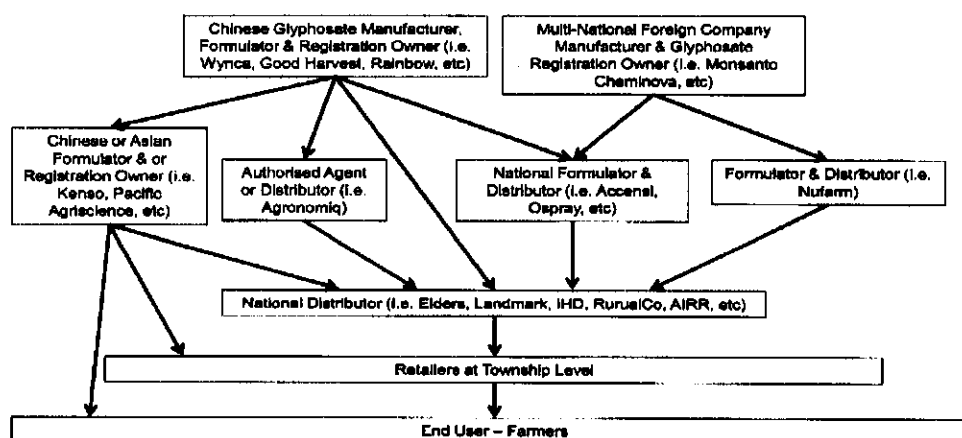


Figure 8: Market distribution channels

7.6 Factors influencing market performance

7.6.1 Climatic variability, scarcity of natural resources and changing agricultural and farming practices

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. Earlier season rainfall has

²⁶ Australian Industry - Anti-Dumping Investigation Formulated Glyphosate Industry presentation to Customs and Border Protection dated 17th of April 2012, is available on the public record.

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also meant accelerated weed growth, necessitating higher formulated glyphosate usage rates. Changed agricultural practices (including conservation tillage) have resulted in increased usage of formulated glyphosate. Interested parties noted that future growth in the market may be impacted by increased weed resistance to formulated glyphosate and the growth of genetically modified crops.

7.6.2 Price

Interested parties advised that price is the primary driving factor in the Australian formulated glyphosate market. The applicants noted that the importers of the Chinese goods are the price setters. While varying product strengths and formulation types are available, the recent market trend has been to take the lowest cost product available and set it as the benchmark because there is a direct relationship between pricing of the various products. That is, for example, pricing for formulated glyphosate 450 g/L products impacts the prices for formulated 540 g/L products.

7.6.3 Volatility in cost of goods and profitability

The volatility of costs and prices affect market demand / supply and inventory costs for formulated glyphosate. During 2007 to 2009, significant price volatility (in particular price decreases) for glyphosate technical occurred due to global supply shortages for glyphosate technical, simultaneously with an increasing number of Chinese glyphosate manufacturers and suppliers. As a result, due to potential significant price variations, market participants are cautious about holding high inventory stocks. This may be problematic and cause supply shortages for high demand periods (e.g. following an unforeseen substantial rain pattern).

7.6.4 Key demand factor - seasonality and climatic conditions

Interested parties advised that demand for formulated glyphosate is closely linked to seasonal conditions as demand reflects weather variations and agricultural output levels. For example, as rain stimulates weed growth, this impacts the Australian market through facilitating higher demand for formulated glyphosate. Market demand is dependent on the growth cycle for weeds and timing of crops. Interested parties claimed that, excluding seasonality impacts, overall the market demand (impacting total market size) has been fairly constant except for the past two years where it appears to have grown beyond what would be expected from normal seasonal variation.

7.6.5 Distribution channels to market

Several interested parties advised that as a result of the large volume of product registrants, "traditional" market distribution channels are changing. The factory to farm business model is currently being tested, which is achieved by removing one, two or even three distribution channel layers (e.g. products supplied directly from the exporter to the farm). An applicant claimed that this change combined with price cutting, where participants at one distribution level are being asked to match prices at lower distribution levels, is putting further downwards pressure on price.

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The barriers to entry for the Australian glyphosate market are relatively low. It is relatively inexpensive (approximately \$600) to register a product / label, and this resulted in a significant increase in registrants in the last two years. There has also been an increase in low cost businesses, some operating from residential homes (operating through the internet).

7.6.7 Differences in product quality

Interested parties claimed that as a result of continued downwards pressure on price, imported Chinese product at reduced quality is starting to emerge.

7.6.8 Product substitution

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 compared to other products. Glyphosate's costs per hectare are low in comparison with other farm inputs. Formulated glyphosate is an environmentally safe product and is specific to plants, which require lower dose rates in comparison with other products and has low use toxicity. While there are other herbicides which may partially be substitutable for formulated glyphosate (including paraquat), there is no other non-selective herbicide as safe to use, as readily available and comparably priced.

8 DUMPING INVESTIGATION**8.1 Preliminary findings**

Dumping margins for the investigation period were calculated by comparing weighted average export prices with the corresponding weighted average normal values. Preliminary dumping margins are summarised in the following table.

Exporter – (China)	Margin
Good Harvest	-2.7%
Zhejiang Xinan, including goods indirectly exported through Wynca IE	-1.6%
Rainbow	0.8%

Figure 9: Preliminary dumping margins

The volume of the goods exports to Australia from China during the investigation period represented by the selected cooperating exporters is approximately 95%. The exports of the goods by the selected cooperating exporters were found to be un-dumped.

The volume of the goods exported by selected non-cooperating exporters²⁸ represented less than 3% of the total Australian import volume and is therefore negligible.

Therefore, Customs and Border Protection proposes to recommend that the investigation be terminated.

8.2 Introduction

Dumping occurs when a product from one country is exported to another country at a price less than its normal value. The dumping margin is the difference between the export price²⁹ and the normal value³⁰.

The investigation period, for the purpose of assessing dumping margins, was from 1 January 2011 to 31 December 2011. The investigation must be terminated so far as it relates to a particular country, if the volume of dumped goods from that country is negligible³¹. The volume of dumped goods is negligible if this figure is less than 3% of the total Australian import volume³². The investigation must be terminated so far

²⁷ Defined at section 8.3.2.

²⁸ Defined at section 8.3.2.

²⁹ Section 269TAB of the Act.

³⁰ Section 269TAC of the Act.

³¹ Section 269TDA(3) of the Act.

³² Section 269TDA(4) of the Act.

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as it relates to an exporter if there has been no dumping by that exporter, or there has been dumping but the dumping margin is less than 2%³³.

This section of the SEF reports on Customs and Border Protection's determination of export prices, normal values and dumping margins for Chinese exporters of formulated glyphosate.

8.3 Number and categorisation of exporters

8.3.1 Number of exporters

At the commencement of the investigation, Customs and Border Protection interrogated its import database and identified potential exporters of formulated glyphosate from China³⁴. The application also nominated exporters (6) of formulated glyphosate from China.

Customs and Border Protection contacted all identified exporters (13) and invited them to cooperate in the investigation. Additional exporters (12) of goods described as "*herbicides*" in Customs and Border Protection's import data base were also contacted, inviting them to make themselves known as a formulated glyphosate exporter and to cooperate with the investigation.

Three exporters contacted Customs and Border Protection and requested copies of the exporter questionnaire and associated spreadsheets to complete. Good Harvest, Zhejiang Xinan (including indirect exports through Wynca IE) and Rainbow completed the exporter questionnaire and associated spreadsheets, providing details regarding their company, production, exports, domestic sales, cost to make and sell (CTMS) expenses and adjustments. These three exporters represented approximately 95% of the total volume of formulated glyphosate exported to Australia from China for the investigation period.

As only three exporter questionnaire responses were received a sampling exercise in terms of subsection 269TACF(8) of the Act was not required for this investigation.

Customs and Border Protection visited the three exporters and verified the information provided in the exporter questionnaire responses.

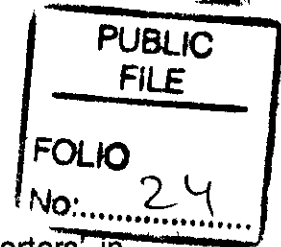
8.3.2 Categorisation of exporters

Customs and Border Protection determined exporter-specific dumping margins after investigating the exportations of all exporters in the investigation period. Therefore,

³³ Section 269TDA(1) of the Act.

³⁴ As discussed in preceding sections, a range of herbicide products and formulation were imported under the relevant tariff subheading, including goods which are not the GUC.

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Customs and Border Protection regards all exporters to be 'selected exporters' in relation to section 269T.³⁵

In the case of the three exporters that provided adequate and timely responses to the exporter questionnaire, Customs and Border Protection was able to base the dumping margin calculations on the data submitted. These exporters were considered to be 'selected cooperating exporters'.

The calculation of dumping margins for each selected cooperating exporter is at **Confidential Appendix 1**.

In the case of those exporters that did not respond to the questionnaire, Customs and Border Protection regarded these exporters as 'selected non-cooperating exporters'. The total volume of formulated glyphosate exported by selected non-cooperating exporters represented less than 3% of the total volume imported to Australia from all countries (for the investigation period). These export volumes were negligible. Dumping margins were not determined for these exporters given the negligible import volumes (section 8.6 refers).

8.4 Selected cooperating exporters

Customs and Border Protection undertook verification visits to three selected cooperating exporters and based preliminary dumping margin calculations upon that verified data.

These exporters are as follows:

- Good Harvest;
- Zhejiang Xinan (including indirect exports through Wynca IE); and
- Rainbow.

Reports for visits to these exporters are available on the public record for Investigation No 183.

8.5 Dumping margins for selected cooperating exporters - China

8.5.1 Good Harvest

Export prices

Section 269TAB of the Act establishes the basis for determining the export price for the goods exported to Australia. Section 269TAB(1)(a) of the Act provides that where a sale is between the importer and exporter, someone other than the importer has

³⁵ Section 269T(1) provides that "selected exporter, in relation to a dumping duty notice or a countervailing duty notice in respect of goods, means an exporter of goods the subject of the application or like goods whose exportations were investigated for the purpose of deciding whether or not to publish that notice."

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exported the goods, and the sale is an arms length transaction, the export price is the price paid (or payable) to the exporter by the importer less any charges incurred after exportation.

Export prices were established in accordance with s.269TAB(1)(a) of the Act, by reference to the invoice from Good Harvest to the Australian customer less any part of that price that represents a charge in respect of the transport of the goods after exportation or in respect of any other matter arising after exportation.

Normal values

Section 269TAC of the Act establishes the basis for determining the normal values for the goods exported to Australia. Section 269TAC(1) of the Act provides that the normal value of any goods exported to Australia is the price paid or payable for like goods sold in the ordinary course of trade (OCOT) for home consumption in the country of export in sales that are arms length transactions by the exporter, or if like goods are not so sold by the exporter, by other sellers of like goods.

Section 269TAAD of the Act establishes the conditions under which the Minister may be satisfied that the price of domestic sales is taken not to have been paid in the OCOT. Customs and Border Protection compared Good Harvest's domestic selling prices to its CTMS and found that a substantial quantity³⁶ of transactions were not profitable, and not recoverable within a reasonable period³⁷. These transactions are therefore considered not to be in the OCOT. The remaining volume of domestic sales were a low volume, as defined in s.269TAC(4) and are not considered large enough to permit proper comparison.

As Good Harvest made some domestic sales of like goods of formulated glyphosate in the OCOT (even though in small volumes), using other sellers information as a basis for normal values in accordance with s.269TAC(1) of the Act is irrelevant.

As normal values cannot be ascertained under s.269TAC(1) of the Act, they were established in accordance with s.269TAC(2)(c) of the Act, using Good Harvest's weighted average CTMS data, by each product formulation.

As highlighted in the *Good Harvest Exporter Visit* report³⁸, no profit was added to the constructed normal values due to the low volume of sales of like goods made in the OCOT and the absence of profit made on the same general category of goods. However, s.269TAC(2)(c) of the Act states that profit should be added when constructing normal values. Therefore as prescribed by s.269TAC(5)(B) of the Act, an appropriate amount of profit was determined in accordance with Regulation 181A. Sub Regulation 181A(2) states that the Minister, must, if reasonably possible, work out the amount of profit using data relating to sales of like goods by the exporter in the OCOT. Notwithstanding that overall domestic sales were not made in the OCOT,

³⁶ s.269TAAD(2) of the Act.

³⁷ s.269TAAD(1) of the Act.

³⁸ *Good Harvest Exporter Visit report* dated May 2012, is available on the public record.

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there were some sales of like goods that were in the OCOT. The weighted average profit from these sales has been used to construct normal values.

To ensure the comparability of normal values to export prices the following adjustments were made:

- Negative adjustment – the inland freight and handling expenses in respect of the Free On Board (FOB) export price were adjusted downwards to establish ex-works price comparable to CTMS;
- Negative adjustment – inventory expenses;
- Positive adjustment – non-refundable Value Added Tax (VAT) (calculated as a percentage); and
- Positive adjustment – export credit terms.

Dumping margins

The dumping margin for Good Harvest was established in accordance with s.269TACB(2)(a) of the Act, by comparing the weighted average of export prices over the whole of the investigation period with the weighted average of corresponding normal values over the whole of that period. The preliminary dumping margin for Good Harvest is -2.0%.

8.5.2 Zhejiang Xinan (Including indirect exports through Wynca IE)

Submission – dry formulated glyphosate – out of investigation scope

In a submission dated 26 April 2012, Zhejiang Xinan claimed that there are significant differences between formulated glyphosate liquid and formulated glyphosate in granular ('dry') form and that granular glyphosate should be excluded from the scope of the investigation. However, Customs and Border Protection considers that the liquid and dry formulated glyphosate are covered by the goods description (as discussed at section 5.4.1). For the purposes of establishing export prices and normal values, dry formulated products exported to Australia and sold domestically in China were included.

During the investigation period Zhejiang Xinan exported formulated glyphosate directly and indirectly as specified below:

- *Direct exports*: comprising all export sales executed directly between Zhejiang Xinan and Australian importers from January 2011 to August 2011; and
- *Indirect exports*: comprising all export sales made between Zhejiang Xinan and Australian importers through Wynca IE, in its capacity as intermediary export agent from September 2011 to December 2011.

For direct export sales to Australia by Zhejiang Xinan, Customs and Border Protection considers:

- that the goods have been exported to Australia otherwise than by the importer;
- that the goods have been purchased by the importer from the exporter; and
- the purchases of the goods were arms length transactions.

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Export prices

Export prices for direct export sales from Zhejiang Xinan were established in accordance with s.269TAB(1)(a) of the Act, by reference to the invoice from Zhejiang Xinan to the Australian customer less any part of that price that represents a charge in respect of the transport of the goods after exportation or in respect of any other matter arising after exportation.

For indirect export sales to Australia by Zhejiang Xinan through Wynca IE, Customs and Border Protection considers:

- that the goods have been exported to Australia other than by the importer; and
- the purchases of the goods were arms length transactions.

However, as the goods were not purchased by the importer from the exporter, export prices for indirect export sales from Zhejiang Xinan were established in accordance with s.269TAB(1)(c) of the Act, with reference to the invoice price from Wynca IE to the Australian customer less any part of that price that represents a charge in respect of the transport of the goods after exportation or in respect of any other matter arising after exportation.

Normal values

In the investigation period, Zhejiang Xinan made domestic sales of formulated glyphosate which were made in the OCET.

Normal values for formulated glyphosate³⁹ were established in accordance with s.269TAC(1) of the Act using Zhejiang Xinan's domestic selling prices of like goods sold in the ordinary course of trade.

To ensure the comparability of normal values to export prices the following adjustments were made:

- Specification adjustment – to ensure comparability of formulated glyphosate products sold domestically and exported to Australia;
- Negative adjustment – domestic packing;
- Negative adjustment – domestic inland freight;
- Negative adjustment – domestic credit terms;
- Positive adjustment – non-refundable VAT (calculated as a percentage);
- Positive adjustment – export packing;

³⁹ Customs and Border Protection considers that it is appropriate to compare industrial products exported to Australia with industrial products sold on the domestic market, according to the descriptions applied by Zhejiang Xinan. Furthermore, that the small volume of retail products exported to Australia should be compared with domestic selling prices of retail products, with appropriate adjustments for costs not incurred on the export market.

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- Positive adjustment – export inland transportation and handling charges; and
- Positive adjustment – export credit terms.

Dumping margins

The dumping margin for Zhejiang Xinan was established in accordance with s.269TACB(2)(a) of the Act, by comparing the weighted average of export prices over the whole of the investigation period with the weighted average of corresponding normal values over the whole of that period. The preliminary dumping margin for Zhejiang Xinan is -1.6%.

8.5.3 Rainbow

Export prices

Export prices were established in accordance with s.269TACB(1)(a) of the Act, by reference to the invoice from Rainbow to the Australian customs, less any part of that price that represents a charge in respect of the transport of the goods after exportation or in respect of any other matter arising after exportation.

Normal values

During the investigation period, Rainbow made no sales of like goods on the domestic market in China.

As highlighted in the *Shandong Weifang Rainbow Chemical Co., Ltd Visit report*⁴⁰, Rainbow supplied very low volumes of a formulated glyphosate product domestically that is different from the goods (as covered by the goods description). Rainbow advised that the formulated glyphosate it exported to Australia has different chemical and physical properties to the formulated glyphosate sold on the domestic market. The formulated glyphosate sold domestically is not registered in Australia and would be illegal to import into the Australian market. In the *Shandong Weifang Rainbow Chemical Co., Ltd Visit report* Customs and Border Protection found that these domestic sales also represented less than 5% of the volume of formulated glyphosate exported to Australia and are not considered large enough to permit proper comparison.

As discussed at section 5.4.2, formulated glyphosate which is not registered in Australia, is not covered by the goods description and they are not considered like goods to the goods the subject of the application.

As Rainbow made no sales of like goods which could be used for the purpose of establishing normal values, in accordance with s.269TAC(1) of the Act, the suitability of domestic sales information obtained from other sellers' for establishing normal values was considered.

⁴⁰ *Good Harvest Exporter Visit report dated May 2012*, is available on the public record.

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Customs and Border Protection identified one other Chinese seller⁴¹ of formulated glyphosate (Zhejiang Xinan) with verified information that had sufficient domestic sales made in the OCOT. However the other seller's information is deemed not suitable for establishing normal values for Rainbow due to insufficient volumes of like goods (by the other seller), which represented less than 5% when compared to export volumes (by Rainbow), the inability to ensure fair comparison of export prices and normal values and commercial confidentiality. These issues are discussed below.

Insufficient volumes

In establishing normal values based on other sellers information, Customs and Border Protection examines whether those sales are relevant and suitable for the purposes of determining a price under s. 269TAC(1) of the Act (subject to s.269TAC(2)(a)). Customs and Border Protection found that there was a low volume (less than 5%⁴²) of the other seller's like goods made in the OCOT when compared to the volume of the goods exported to Australia by Rainbow. The sales of the other seller are not considered large enough to permit proper comparison. The other seller's domestic sales information is not considered suitable for establishing normal values for Rainbow due to insufficient volumes of domestic sales by the other seller.

Fair comparison (confidentiality and adjustments)

Ensuring a fair comparison between export prices and normal values is a fundamental principle in determining dumping margins. The verified information provided by the other seller is considered to be highly commercially sensitive. Even if there were sufficient sales volumes of like goods by the other seller, due to the confidentiality of the other seller's information, Customs and Border Protection would be unable to ensure fair comparison. Rainbow would be unable to make any claims in respect of relevant adjustments, due to their limited access to the other seller's information.

As detailed in *Zhejiang Xinan Exporter Visit report*⁴³ to ensure fair comparison of export prices and normal values, a specification adjustment to account for cost differentials (i.e. surcharge) between formulated glyphosate sold domestically and other formulations exported to Australia was applied. This adjustment is based on Zhejiang Xinan's cost data. The specification adjustment determined for Zhejiang Xinan is not relevant to Rainbow, which exported different formulated glyphosate products to Australia. Due to data confidentiality, the relevant cost basis cannot be provided to Rainbow to determine an exporter specific specification adjustment to ensure fair comparison of normal values with their export sales. Therefore the other seller's information could not be used for establishing normal values.

⁴¹ That participated in the investigation.

⁴² s.269TAC(14)(c) of the Act.

⁴³ *Zhejiang Xinan Chemical Industrial Group Co., Ltd and Zhejiang Wynca Import And Export Co., Ltd Exporter Visit report dated May 2012*, is available on the public record.

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Commercial interests

If normal values were established using other sellers information Rainbow would have limited access to the information, inhibiting the exporter's ability to safeguard their commercial interests.

Constructed normal values

As normal values cannot be ascertained under s.269TAC(1) of the Act, they were established in accordance with s.269TAC(2)(c) of the Act using Rainbow's weighted average CTMS data, by each product formulation with an amount included for profit⁴⁴. As prescribed by s.269TAC(5)(B) of the Act, an appropriate amount of profit was determined in accordance with Regulation 181A. This profit amount was based on Rainbow's profitability for the sector including the GUS (under Regulation 181A(3)), as profit for this exporter cannot be determined under Regulation 181A(2), due to the absence of domestic sales of like goods.

To ensure the comparability of normal values to export prices the following adjustments were made:

- Positive adjustment – non-refundable VAT (calculated as a percentage);
- Positive adjustment – finance expenses related to foreign exchange losses incurred for export sales);
- Positive adjustment – export inland freight, handling, loading and auxiliary costs; and
- Positive adjustment – premiums for export credit.

Dumping margins

The dumping margin for Rainbow was established in accordance with s.269TACB(2)(a) of the Act, by comparing the weighted average of export prices over the whole of the investigation period with the weighted average of corresponding normal values over the whole of that period. The preliminary dumping margin for Rainbow was 8%.

8.6 Selected non-cooperating exporters

The total volume of the goods exported by selected non-cooperating exporters (all other Chinese exporters excluding the three selected exporters), in the investigation period represented less than 3% of the total Australian import volume and is therefore negligible.

The calculation of negligible import volumes is at **Confidential Appendix 2**.

⁴⁴ As section 269TAC(13) of the Act is not applicable.

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The negligible import volumes have not been investigated and export prices and normal values have not been determined for the selected non-cooperating exporters. These goods may be potentially dumped. Customs and Border Protection considers that if export prices and normal values for these exporters were required, they would be determined having regard to all relevant information.

8.7 Applicant's submission

On 19 June 2012, Nufarm, Accensi and Customs and Border Protection representatives met to discuss the exporter verification visit reports and preliminary findings. The applicants requested this meeting to provide their preliminary views in respect of these reports.

The applicants advised that they will be making submissions for each exporter visit report; however it was unlikely that these submissions would be made prior to the publication of the SEF.

Therefore, the views of the applicants have not been taken into account in forming the preliminary findings in respect of the selected cooperating exporters in this SEF. Any submissions lodged by the applicants will be taken into account in Customs and Border Protection's final findings.

9 ECONOMIC CONDITION OF THE INDUSTRY**9.1 Preliminary finding**

The Australian industry suffered injury in the form of:

- lost sales volume;
- reduced market share (for total sales);
- price depression;
- price suppression;
- reduced revenue;
- reduced profits and profitability;
- reduced production capacity utilisation;
- inadequate returns on investment;
- increased inventory levels (Nufarm only);
- reduced employee numbers (Nufarm only); and
- reduced total wages bill (for Nufarm only).

9.2 Applicants' 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 impact 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.

9.3 Injury analysis period**9.3.1 Injury period**

Customs and Border Protection examined the Australian market and the economic condition of the industry from 1 January 2008 for the purpose of injury analysis.

Nufarm's financial year is from 1 August to 31 July, whereas Accensi's financial year is 1 January to 31 December. As a result, Nufarm's and Accensi's quarters are misaligned by a month as illustrated in the table below:

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Month	Nufarm	Accensi
January	Qtr 2	Qtr 1
February	Qtr 3	
March		
April		Qtr 4
May		
June		
July	Qtr 1	
August		
September		
October	Qtr 2	
November		
December		

Figure 10: Financial year of applicants

Nufarm and Accensi's quarterly financial data contained in the application was presented in accordance with respective financial years. In presenting combined Nufarm and Accensi data, the application aggregated each applicant's most comparable quarters. For example, Accensi's March quarter data was combined with Nufarm's April quarter data. The application then aggregated four quarters and presented annual data.

As monthly data could not be extrapolated for the purposes of analysing and assessing injury data, the period February to January was utilised by Customs and Border Protection as the closest equivalent period to a calendar year. This approach was considered reasonable for the purpose of assessing injury trends over time.

9.4 Injury analysis approach

9.4.1 Products – own sales versus third party sales

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..."*⁴⁵.

For the purposes of this SEF to provide a comprehensive analysis of the applicants' performance in respect of total formulated glyphosate production and sales; third party sales (the applicants' toll sales) have been incorporated in the injury analysis.

⁴⁵ Application, page 29.

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9.4.2 Data amalgamation

As detailed in the Australian industry visit reports⁴⁶, Nufarm and Accensi toll manufacture different types of formulated glyphosate products. Accensi toll manufactures formulated glyphosate using glyphosate technical sourced by Accensi or their toll customers. Nufarm also toll manufacture different types of formulated glyphosate products, however consider the specific types to be commercial in confidence.

Customs and Border Protection found that the cost structures and prices for different formulated glyphosate products varied significantly. The CTMS third party formulated glyphosate products in respect of the applicants can significantly from the CTMS of their own products (for instance, if glyphosate technical is sourced by the third party customer). There is also significant variance between the cost structures and prices of the applicants. This reflects their different corporate direction and commercial functions, as Nufarm supplies branded propriety products while Accensi is purely a toll manufacturer. The proportion of total sales volume and market share represented by each applicant also varies significantly. Nufarm represents the significant majority of volume and market share. The amalgamation of Nufarm and Accensi data is impacted by the weighting of Nufarm's financial results.

Given these complexities, Customs and Border Protection has not amalgamated price and cost data of the applicants for the purpose of analysing injury (excluding sales volumes and market share). As the trends for each injury factor identified over the investigation period for Nufarm and Accensi for each product type were similar, Customs and Border Protection considered:

- the approach to analyse data separately is reasonable; and
- the approach to assess injury for each product type as being reflective of the Australian industry as a whole is reasonable.

The following subsections further examine the treatment of different formulated glyphosate products for each applicant in analysing and assessing injury.

Nufarm

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; and
- "Nufarm's third party" formulated glyphosate products (which it toll manufactured on behalf of third parties).

⁴⁶ "Visit Report Australian Industry Accensi Pty Limited (dated March 2012)" and "Visit Report Australian Industry Nufarm Limited (dated March 2012)" are available on the public record for investigation no 183.

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Nufarm's sales of imported formulated glyphosate 690 g/L have not been included in the analysis in this section (excluding market share analysis, where these import volumes have been included).

Accensi

To provide a comprehensive analysis of Accensi's performance in respect of total formulated glyphosate production and sales, the following section includes analysis for:

- "Accensi technical" products, where Accensi sources glyphosate technical; and
- "Accensi toll" products, where the toll customer supplies the glyphosate glyphosate.

Customs and Border Protection notes Accensi is principally a toll manufacturer of formulated glyphosate. The product types listed above both relate to third party sales.

Australian industry

As discussed at section 6.2, the Australian industry analysis is based on data provided by the applicants only and is not inclusive of sales or production data for other Australian formulators.

Aggregating different product concentrations

For the purposes of presenting market volumes and market shares, different product concentrations have been converted to 450 g/L equivalents.

Customs and Border Protection established that the injury experienced by the Australian industry (discussed in the section) predominately related to 450 g/L formulated glyphosate products.

Factors impacting on injury analysis - Nufarm

We note that the following factors affect Nufarm's financial data, which may impact analysis of injury factors:

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

The first two factors impact on Nufarm's financial data prior to the investigation period and for the purpose of this report, trends over time are being considered.

Presentation of data

As Accensi represents a significantly smaller proportion of the formulated glyphosate market, Accensi considers its injury analysis depicted graphically to be commercial in confidence. For consistency, graphs for Nufarm and Accensi have not been included in the SEF (excluding section 9.5 volume effects)⁴⁷.

9.5 Volume effects

Sales volume

Customs and Border Protection combined both applicants' formulated glyphosate sales volumes, converted into 450g/L equivalent litres, to examine trends in the Australian industry's sales volumes. Sales volumes were categorized as *Australian industry own sales* and *Australian industry third party sales*. The following graph (Figure 11) illustrates movements for each sale category for the Australian industry during the period 2008 to 2011.

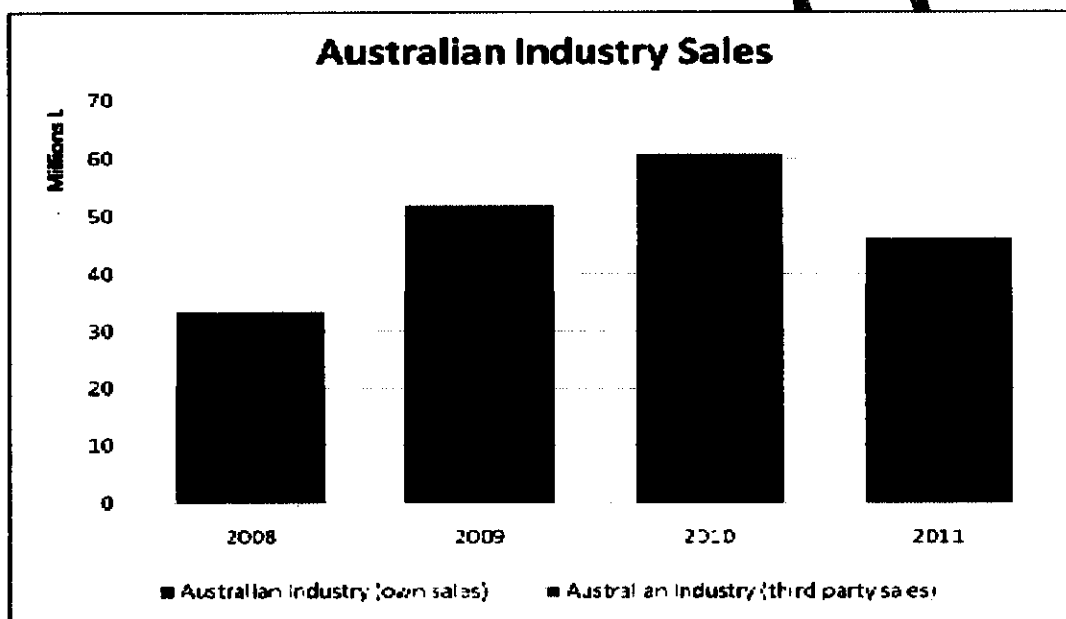


Figure 11: Australian Industry volumes

The graph shows that total sales volumes increased from 2008 to 2010 before decreasing in the investigation period (2011). *Australian industry's own sales* decreased from 2010 to 2011 while *Australian industry's third party sales* also decreased over the corresponding period.

It appears that the Australian industry (represented by Nufarm and Accensi) as a whole experienced injury in the form of lost sales volume.

⁴⁷ Graphs depicting injury analysis for Nufarm are contained in the public record version of "Visit Report Australian Industry Nufarm Limited (dated March 2012)".

Market share

The overall Australian market for formulated glyphosate increased from 2008 to 2010 before decreasing in 2011, as demonstrated in section 7.4.

The market share held by Australian Industry, as illustrated in Figure 12, reached 89% in 2009, before falling to 73% in 2010 and decreasing to 71% in 2011. During 2011, the Australian industry's share represented by *third party sales* decreased, however this was mostly offset by an increase in market share of its *own sales*, in a declining overall market.

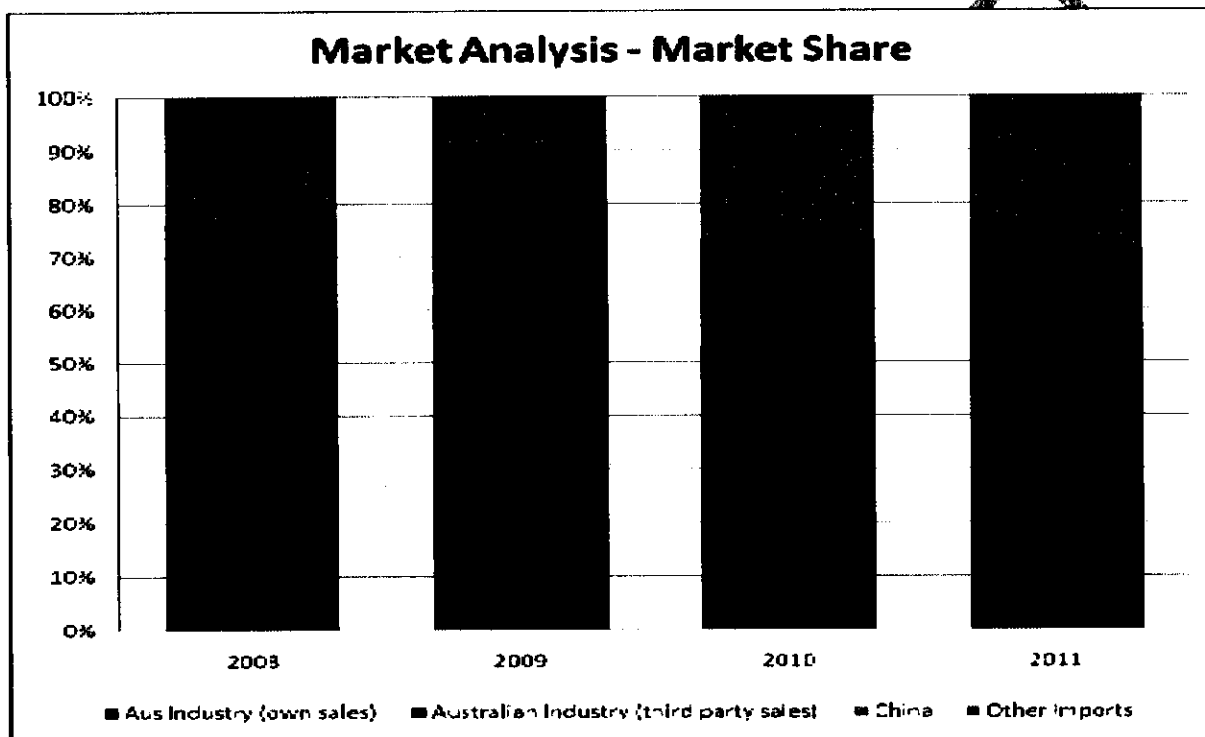


Figure 12: Market Share Analysis

Customs and Border Protection notes that the market share of Chinese imports decreased in 2009, increased in 2010 and decreased by 1.5% (in 2011), which is similar to the decrease experienced by the Australian industry. Imports from countries other than China accounted for the decrease in both Australian industry and China's market shares in 2011, with imports from other countries increasing by 3.5%.

⁴⁸ These imports included formulated glyphosate 690g/L imported by Nufarm.

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9.6 Revenue effects

Customs and Border Protection undertook an analysis of the verified data contained in the application (and provided subsequently) and found that:

Nufarm

- *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 experienced 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); and
- *Nufarm's overall* sales revenue (including *Nufarm's own* and *Nufarm's third party* sales decreased from 2010 to 2011).

Accensi

- *Accensi's* total sales revenue for all formulated glyphosate products and for *Accensi toll* formulated glyphosate decreased from 2008 to 2011; and
- sales revenue for *Accensi technical* formulated glyphosate decreased from 2008 to 2010 and increased from 2010 to 2011 (which partially reflects increased sales volume for these products).

Australian industry

Even though the analysis indicates that the total sales revenue of Accensi's technical formulated glyphosate recovered in 2011, the overall sales revenue for Accensi declined throughout the injury analysis period. Combined with Nufarm's overall decline in sales revenue over the injury analysis period, it appears that the Australian industry as a whole experienced injury in the form of reduced revenue.

9.7 Price depression and price suppression

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

Nufarm

Customs and Border Protection undertook an analysis of the verified data contained in the application (and provided subsequently) and found, in relation to *Nufarm's own* sales of formulated glyphosate, that:

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

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- 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 and in 2011, but was below unit revenue in 2010; and
- unit CTMS increased between 2010 and 2011 while unit revenue decreased, which indicates price suppression.

In relation to *Nufarm's third party* formulated glyphosate sales, Customs and Border Protection found that:

- since 2009, there has been a downward trend in unit revenue for *Nufarm's third party* formulated glyphosate products (which indicates price depression); and
- unit CTMS decreased from 2009 to 2010, then increased from 2010 to 2011, reflecting CTMS trends for *Nufarm's own* products; however CTMS has remained above unit revenue throughout the injury analysis period (indicating price suppression).

Accensi

In relation to sales of formulated glyphosate by *Accensi*, Customs and Border Protection found that:

- there has been a downward trend (with slight variances by quarter) in unit prices for *Accensi technical* and *toll* formulated glyphosate products throughout the injury analysis period which indicates price depression;
- there has been a downward trend (with slight variances by quarter) for unit CTMS for total *Accensi technical* and *toll* formulated glyphosate products;
- the relationship between unit prices and CTMS for *Accensi technical* has remained relatively constant, which indicates no price suppression; and
- the decrease in unit prices has been proportionately greater than the decrease in unit CTMS (showing reduced margins) for total *Accensi toll* formulated glyphosate products, which indicates price suppression.

Australian industry

Overall, the prices of all products sold by both *Nufarm* and *Accensi* declined during the injury analysis period. Therefore, it appears that the Australian industry as a whole experienced injury in the form of price depression.

Notwithstanding that the relationship between the prices and CTMS of *Accensi technical* formulated glyphosate remained relatively constant, the sales of *Accensi toll* and *Nufarm's own* and *third party* formulated glyphosate sales indicate price suppression. Therefore, it appears that the Australian industry as a whole also experienced injury in the form of price suppression.

9.8 Profit and profitability effects

Nufarm

Customs and Border Protection undertook an analysis of the verified data contained in the application (and provided subsequently) and found, in relation to *Nufarm's own* sales of formulated glyphosate, that

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- 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 to a level below the profits of 2008;
- 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) although below 2008 overall; and
- between 2010 and 2011, there has been a significant decline in both profit and profitability of *Nufarm's own* formulated glyphosate sales.

In relation to *Nufarm's third party* formulated glyphosate sales, Customs and Border Protection found that:

- profits for *Nufarm's third party sales* have been negative from 2008 to 2011, although have improved since 2009; and
- profitability for *Nufarm's third party sales* followed similar trends (which was also negative during this period).

Accensi

In relation to sales of formulated glyphosate by Accensi, Customs and Border Protection found that:

- profit for *Accensi technical* formulated glyphosate sales have decreased significantly since 2008, although marginally increased from 2010 to 2011;
- profitability for *Accensi technical* increased from 2008 to 2009; decreased from 2009 to 2010 and marginally increased from 2010 to 2011; and
- since 2009 there has been a significant decline in profit and profitability of *Accensi toll* formulated glyphosate sales.

Australian industry

Both Nufarm and Accensi experienced overall diminished (and in certain cases negative) profit and profitability results through the injury analysis period, particularly in 2011. Therefore, it appears that the Australian industry as a whole experienced injury in the form of lost profit and profitability.

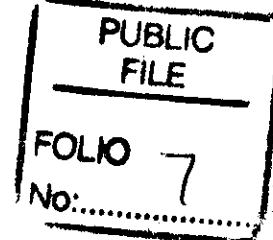
9.9 Other economic factors⁴⁹

The application contained data in respect of other injury factors for Nufarm and Accensi. The applicants provided additional data to support for other injury factors. The respective data (which was verified where applicable) indicates that trends for other injury factors vary between each company.

⁴⁹ Customs and Border Protection analysed other injury factors from 2008 to 2011. However depending on the format of the data set provided, analysis was only possible on financial years (as opposed to calendar years).

⁵⁰ The application did not provide contain consolidated data for the applicants in respect of other injury factors.

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9.9.1 Assets

The application makes no injury claims in respect of assets.

9.9.2 Capital Investment

Since 2008 Nufarm's capital investment in respect of formulated glyphosate production has been fairly constant. In the corresponding period Accensi has made a significant investment in formulated glyphosate production, including upgrading glyphosate production facilities (including installation of new production equipment and technologies, upgrading warehousing facilities and packaging equipment) and procuring a site specifically for MIPA storage. Verified data for the applicants support Accensi's claim that they have experienced injury in the form of reduced capital expenditure.

It appears that Accensi experienced injury in the form of reduced capital investments. Given the smaller proportion of the Australian industry producing formulated glyphosate represented by Accensi, the injury (in the form of reduced capital expenditure) experienced by Accensi may not be indicative of the injury experienced by the Australian industry, as a whole.

9.9.3 Research and development (R&D)

The application makes no injury claims in respect of R&D.

9.9.4 Return on Investment (ROI)

Nufarm and Accensi claim that their ROI in relation to formulated glyphosate decreased in 2011, which was supported by verified data. Therefore, it appears that the Australian industry as a whole experienced injury in the form of ROI.

9.9.5 Capacity

Data contained in the application (and verified) in respect of this indicator provided for Nufarm shows that during the investigation period, its three designated glyphosate manufacturing vessels were operating at below maximum capacity and less than practical capacity. 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. Data contained in the application (and verified) in respect of this indicator provided for Accensi shows that during the investigation period, its three designated glyphosate manufacturing vessels were operating at below operating at less than maximum capacity.

This reduced capacity utilisation predominately reflects declined volumes of formulated glyphosate produced. The applicants claim as the volume of goods manufactured by the Australian industry has declined (i.e. lower plant throughput) costs to manufacture have been higher for the Australian producers.

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Therefore, it appears that the Australian industry as a whole experienced injury in the form of reduced production capacity utilisation.

9.9.6 Employment

Data contained in the application (and verified) in respect of this indicator provided for Nufarm shows that since 2008 the average number of Full Time Employees (FTEs) fluctuated, with a significant increase from 2008-09 to 2009-10 and a decrease from 2009-10 to quarter two in 2011-12. The number of employees dedicated to production of formulated glyphosate decreased in 2010-11, although the number was still higher than in 2009-10. The hours (shifts) worked by FTEs also reduced for both formulated glyphosate plants in 2010-2011. However FTE levels (and number of hours worked) attributed to non like goods production increased in 2010-11.

Data contained in the application (and verified) in respect of this indicator provided for Accensi shows constant numbers of FTE (since 2008) however the hours (shifts) worked by FTEs has reduced. This is shown for glyphosate production in WA, where the plant is currently operating for one shift only.

Therefore, it appears that only Nufarm experienced injury in the form of reduced employees.

9.9.7 Productivity

The application makes no injury claims in respect of productivity.

9.9.8 Stocks

Data contained in the application (and verified) in respect of this indicator provided for Nufarm shows an increase in inventory of formulated glyphosate from 2009-10 to quarter two in 2011-12. Data contained in the application (and verified) in respect of this indicator for Accensi shows an increase in inventory of formulated glyphosate from 2010 to 2011 however it is not clear whether this relates to like goods only or other products.

Therefore, it appears that Nufarm only experienced injury in the form of increased inventory levels.

9.9.9 Cash flow measures

The application makes no injury claims in respect of cash flow measures.

9.9.10 Wages

Data contained in the application (and verified) in respect of this indicator provided for Nufarm data shows that the total wages bill associated with FTE in respect of formulated glyphosate reduced from 2009-10 to 2010-11. The average wage bill associated with these FTEs increased during the same period reflecting reduced

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FTE numbers. Data in respect of this indicator was not provided in respect of Accensi.

Therefore, it appears that Nufarm only experienced injury in the form of reduced total wages bill (which for Nufarm reflected the reduced FTE levels).

9.10 Conclusion – economic condition of the industry

Based on an analysis of the information contained in the application and verified during visit to the applicants, the Australian industry suffered injury in the form of:

- lost sales volume;
- reduced market share (for total sales);
- price depression;
- price suppression;
- reduced revenue;
- reduced profits and profitability;
- reduced production capacity utilisation;
- inadequate returns on investment;
- increased inventory levels (Nufarm only);
- reduced employee numbers (Nufarm only) and
- reduced total wages bill (for Nufarm only).

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10 HAS DUMPING CAUSED MATERIAL INJURY

10.1 Preliminary finding

Customs and Border Protection has established that formulated glyphosate exported from China was not dumped. Therefore, any injury (including price undercutting) experienced by the Australian industry cannot be attributable to dumping.

Causation factors, including those not related to dumping which were submitted by interested parties are not detailed in this SEF, given the proposal to recommend that the investigation be terminated.

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11 NON INJURIOUS PRICE

11.1 Preliminary finding

Non-injurious prices (NIPs) have not been calculated because provided that no new information is submitted to Customs and Border Protection that would establish that dumping has caused, or threatens to cause, material injury to the Australian industry, Customs and Border Protection proposes to terminate the investigation in relation to formulated glyphosate exported to Australia from China.

11.2 Introduction

Duties may be applied where it is established that dumped or subsidised imports have caused, or threatened to cause, material injury to the Australian industry producing like goods.

Under the *Customs Tariff (Anti-dumping) Act 1975*, the Minister must have regard to the desirability of ensuring that the amount of dumping duty and countervailing duty is not greater than is necessary to prevent injury, or a recurrence of injury.

S.269TACA of the Act identifies the NIP of the goods imported to Australia as the minimum price necessary to remove the injury caused by the dumping and/or subsidisation.

Anti-dumping and countervailing duties are based on FOB prices in the country of export. Therefore a NIP is calculated in FOB terms for the country of export.

Customs and Border Protection generally derives the NIP by first establishing a price at which the Australian industry might reasonably sell its product in a market unaffected by dumping. This price is referred to as the unsuppressed selling price (USP).

Having calculated the USP, Customs and Border Protection then calculates a NIP by deducting the costs incurred in getting the goods from the export FOB 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.

11.3 Preliminary assessment of NIP

The applicants have not made a submission in respect of the most appropriate approach for calculating USPs.

As Customs and Border Protection recommends that the investigation be terminated, on the basis of no dumping, NIPs have not been calculated.

In the event that USPs are required, Customs and Border Protection notes the following considerations and complexities:

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- Industry selling prices at a time unaffected by dumping (presuming dumping was established) may not be suitable for the purpose of establishing USPs.
 - Interested parties (including the applicants) submitted that formulated glyphosate prices in 2008 were significantly higher compared to 2011. This reflects the peak prices for glyphosate technical. Market prices are not expected to return to the levels experienced in 2008. Prices achieved in 2009-10 were still well above market prices which could be achieved in the current market.
- Considering the issue above, it is likely USPs would be determined using constructed industry prices based on industry costs to make and sell plus profit. However:
 - Nufarm and Accensi have significantly different costing structures and pricing;
 - The applicants source glyphosate technical from different suppliers, subject to varying contractual arrangements;
 - The proportion of formulated glyphosate sales and production volumes of the applicants in the domestic market varies significantly. Nufarm represents the significant majority of the combined applicants' sales volume and market share;
 - The level of profit for both applicants varies (reflecting significantly different cost structures and prices) which impacts on the ability to determine an appropriate level of profit indicative of both companies.

Further consideration would therefore be required in respect of:

- the most appropriate methodology to establish a USP for the Australian industry as a whole; and
- assuming USPs were based on the applicants' CTMS data, including appropriate profit amounts, the most appropriate calculation method.

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APPENDICES

Appendix No	Description
Confidential Appendix 1	Calculation of dumping margins - selected cooperating exporters
Confidential Appendix 2	Calculation of negligible import volumes

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