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Ms Joanne Reid
Director, Operations 2
International Trade Remedies Branch
Australian Customs and Border Protection Service
Customs House
2 Constitution Avenue
CANBERRA ACT 2601

Public File

Dear Ms Reid

Re: Formulated Glyphosate exported from P R China – Jiangsu Good Harvest-Weien Agrochemical Co., Ltd Exporter Visit Report

I refer to the Exporter Visit Report ("the Report") for Jiangsu Good Harvest-Weien Agrochemical Co., Ltd ("Good Harvest") recently placed on the Public File.

The applicant companies Accensi Pty Ltd ("Accensi") and Nufarm Limited ("Nufarm") takes this opportunity to refute the preliminary dumping margins determined by Customs and Border Protection (Customs) for Good Harvest.

This submission aims to address a range of concerns and inconsistencies arising from the Report. These are addressed below (with relevant section of the Report identified).

1. Related Parties (Section 3.2)

Reference is made to a "company brochure" at Attachment GEN 1. It is assumed that this document was provided with Good Harvest's Exporter Questionnaire Response. It is noted that Good Harvest manufactures approximately 40,000 metric tonnes of glyphosate, and approximately 4,000 tonnes of other herbicides (refer website). The production volumes are relevant for cost allocation purposes (see further below).

It is further noted that Good Harvest purchases certain raw materials from its subsidiary company that includes a *"positive margin over the invoice price charged by an unrelated raw materials supplier"*. What does this "positive margin" reflect? What is its relevance? Why did Customs not simply state that the related party purchases are consistent with non-related purchases?

2. Commercial operations and production (Section 3.3)

Good Harvest claims that its IDA manufacturing process is the *"most efficient as it maximises yield"*. Is this correct? What did Customs do to confirm that this statement is accurate? Does this admission have any implications for cost of production purposes?

The Report indicates that product with a concentration of ammonium salts below 33 per cent is not permitted to be sold in China. How does this influence Good Harvest's cost of production?

All sales of glyphosate technical are internal transfers. Is the internal transfer price reflective of full cost recovery or consistent with a prevailing Chinese market price (which, apparently, appears to be a sale at a loss)?

3. Accounting (Section 3.4)

Good Harvest has an Enterprise Resource Planning ("ERP") accounting system. All material purchases are recorded on a metric tonne basis. Is the conversion methodology referenced by Good Harvest correct? Could this influence Good Harvest's costs to be lower than they should be?

An ERP system would have standard cost reports for each product manufactured by Good Harvest. Has C&BP requested standard cost reports for comparison and contrast with alleged actual cost data?

4. Domestic sales (Section 4.4)

Good Harvest claims that the only directly comparable domestic sales with the exported goods are glyphosate IPA salts. Good Harvest did not have any matching pack sizes for comparison with 1,000 litre export pack sizes. Sales of IPA and Formulated glyphosate are not comparable without a specification adjustment. How did Customs' determine the adjustment to be reasonable?

5. Export sales to Australia

All sales to Australia are to distributors. Commissions are paid on all export sales – except those to Australia. Why has C&BP not tested this claim? This anomaly should have been further investigated. Export sales to Australia would be no different to other export destinations.

Reference is made to handling expenses. In the adjustments area of the report (Section 10) it is stated that a downward adjustment to normal value is made for inland freight and handling expenses. Given the large 1000 and 1250 litre containers are for export, there should be an upward adjustment for handling expenses associated with the large containers? Refer P.26 where the largest domestic sale size pack is 30kg.

6. Domestic sales (Section 7)

It is claimed that all domestic sales are to distributors and end users. A reference is made to some advertising and promotion expenses as being "not significant". Did Customs verify the advertising and promotion expense account in the general ledger?

The report indicates that all of Good Harvest's domestic sales of glyphosate IPA salt were at a loss. The "General Comments" made by Good Harvest do not answer why the 2011 selling prices for glyphosate were at a loss. The comments do not sufficiently explain why Good Harvest's sales are at a loss – the reasons evident in the publication "Herbicides China News" are not mentioned (refer February 2012 newsletter). There is no reference to the industry operating at reduced production rates – Customs has made no mention of Good Harvest's operating rate.

More importantly, the finding that all domestic sales are at a loss is completely at odds with Good Harvest's response at Section D-3 of the exporter questionnaire. In the exporter questionnaire Good Harvest states that domestic prices are influenced by the cost of raw materials and negotiated for each sale. It is simply not credible that a company that is focused on production costs when negotiating sales would sell all products at the substantial losses identified in the visit report.

[Assertion re sales at loss] Reference to The applicants believe that Customs should not have simply accepted those assertions without further investigation.

Good Harvest's domestic prices should be benchmarked against the domestic prices of other sellers in order to test the veracity of the information provided by Good Harvest. This is particularly important given the admission at Section D-7 of the export questionnaire that customers maintain running balance accounts and that payments cannot be reconciled to invoices. In light of this, how then can Customs be sure that the invoices provided by Good Harvest are in fact the actual invoice for the sale and/or that they are the only invoice that relate to the sale of the goods?

7. CTM&S (Section 8)

It is stated that Good Harvest prepares costs on a "production stage basis". Given that the company operates an ERP system it is anticipated that Bill of Materials ("BOM") reports would be readily available. It does not appear as though Customs has had access to such reports.

References to material cost summaries raise concerns as to whether Customs has verified all costs in the manufacture of glyphosate IPA for Good Harvest. It would appear that Good Harvest has provided spreadsheet that set out the "actual cost" of producing the goods in a particular month. While it may be possible to verify that the cost of raw materials are consistent with the actual cost of materials, the applicants question how overhead and labour expenses were verified. The applicants do not believe that it is possible to actually cost labour and overhead expenses in a large manufacturing operation like Good Harvest. While an accrual of a labour and overhead expense may appear in the accounts for each batch of production, the actual labour and overhead expenses will differ from the amounts accrued. What steps were taken to ensure that labour and overhead expenses were not over-recovered? Over-recovery of such expenses would have the effect of increasing CTM&S and shift profits from sales to other areas of the company's accounts. Were the labour and overhead variance accounts identified, viewed and verified?

It is claimed by Good Harvest that *"it uses the same surfactants for production of both domestic and export IPA salt products"*. This is contrary to all market intelligence, including that of AIRR. This is important as the use of a more expensive surfactant in the exported goods would require an upward adjustment to normal value (and likely demonstrate greater than 2 per cent dumping margins).

The packing costs for the domestic versus exported goods requires closer scrutiny. Given that the larger pack sizes are only exported, it would be expected that an upward adjustment to normal value for the more expensive larger containers/drums would be required. This is not evident.

Also, the selling and general administration expenses have been allocated on the basis sales quantity. As there is no understanding as to the unit values of the "other" 4,000 tonnes of herbicides sold by Good Harvest, it is not known whether this is a reasonable basis for allocation. It may be that sales revenue is a better basis for allocation.

8. Adjustments (Section 10)

In addition to comments earlier re the failure to make adjustments associated with the higher costs for the exported goods (i.e. surfactants, packing costs, S,G&A expenses), adjustments have been made for inventory and credit terms, however, there is no discussion in the report concerning either costs. Why has this not been addressed?

9. Sales to Third Countries.

The Report indicates that 3rd Country sales data was not verified by the visit team on the basis that the team was satisfied that normal values could be determined on the basis of costs. The applicants question whether this approach is consistent with the role of the visit team and consistent with relevant provisions of the *Customs Act 1901*. The visit team is supposed to verify the data submitted

by the exporter in their questionnaire responses. The actions of the visit team in this case have usurped the powers of the Minister. It is the Minister, not the verification team, which determines how the normal value is determined.

Chinese export data (see Confidential Attachment "1") shows that [company] made significant sales of [grade] % IPA formulated glyphosate products to 3rd countries during 2011. The weighted average price of the [grade] % IPA material was \$US[price]. Adjusted for the higher load of Glyphosate in the [xx] g/l (xx% IPA) product exported to Australia this weighted average price of 3rd countries sales would be equivalent to \$US [price] per kg. Chinese export data shows that [company] weighted average export price of [grade] % IPA to Australia was \$US [price]. Use of 3rd country sales data is likely to result in significant dumping margins. The profitability of 3rd country sales also raises significant questions about the visit team's recommendation that no profit be added in the determination of normal values in respect of Good Harvest.

Noting that the weighted average export price to Australia during 2001 was \$US [price] and 3% negative margin identified by the visit team that applicants infer that the CTMS for xx% IPA is approximately \$US [price]. Good Harvest's weighted average export price to 3rd countries, therefore, indicates a profit margin on CTMS of approximately xxxx%.

10. Conclusions

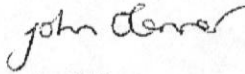
The Applicants do not consider that Good Harvest's normal values have been correctly determined in accordance with the provisions under s.269TAC. In particular the following matters were not adequately verified:

- whether related party purchases were consistent with market prices for the raw materials supplied;
- the impact of producing 33 per cent glyphosate, manufacturing via Good Harvest's IDA "efficient" process, and whether the transfer price for technical is at full cost or a loss;
- whether Customs was provided with standard cost reports for the GUC (by product grade) from Good Harvest's ERP system;
- Good Harvest did not have domestic and export pack sizes for identical goods – how was it possible for a fair comparison to be made?
- Export sales to Australia should have included a commission as per all other Good Harvest' export sales. Also, the handling charges for export sales should have required an upward adjustment to normal value;
- Good Harvest's sales at a loss are inconsistent with the response to the exporter questionnaire, in that the company indicates its selling prices are linked to its raw material costs. Customs has failed to adequately consider why Good Harvest would sell at a loss when this is inconsistent with market reports and Good Harvest's own assertions;
- Customs has not adequately verified the cost of surfactants consumed by Good harvest in domestic and export sales such that an upward adjustment to normal value is required;
- Good Harvest's attempts at allocating S,G&A expenses are inadequate and Customs should have required Good harvest to allocate on basis of sales revenues;
- Customs has not verified Good Harvest's export prices to third countries as is required under the normal value provisions. It is a requirement of the verification visit that permits the Minister to assess the appropriate basis for normal values (i.e. whether to use third country export prices or constructed CTM&S).

The applicants submit that the normal values determined for Good Harvest are deficient. The matters outlined above have not been adequately considered by Customs as part of the verification of Good Harvest's financial records. Normal values for Good harvest should have been determined on the basis of sales by another seller on the Chinese domestic market (i.e. by Xinan) or using the exporter's third country selling prices. On either of these bases, with the appropriate adjustments as identified, dumping margins above 2 per cent would have been derived.

If you have any questions concerning this submission please do not hesitate to contact me.

Yours sincerely



John O'Connor
Director

Cc Mr Bernard Lee, Manager – Industry and Government Affairs, Nufarm Limited
Mr Craig Ellis, Business Manager – Accensi Pty Ltd