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**Beijing B&H Associates**  
**P.R.C Lawyers**

Rm 1205, Beiguang Plaza, No.23,Huangsi Street,  
Xicheng District,Beijing 100120, P.R.China  
Telephone: +8610-8223-0591/2/3/4  
Facsimile: +8610-8223-0598  
www.bohenglaw.com

**Please reply to Mr. LAN, Xiong**  
**Direct: +8610-8223-0597**  
**Fascimile: +8610-8223-0598**  
**Email: lx@bohenglaw.com**

**July 11, 2012**

The Director  
Operations 2, International Trade Remedies Branch,  
Australian Customs and Border Protection Service  
Customs House  
2 Constitution Avenue  
CANNERRA ACT 2601

**Public file**

Dear Ms. Reid,

**Re: Response to the submission filed by the applicants in relation with the visit report of Jiangsu Good Harvest Weien Agrochemical Co.LTD (Good Harvest)**

The Customs put on the public file at July 10, 2012 the submission by the applicants re: Good Harvest visit report. We take this opportunity to file response as below, as the applicants' submission were meritless, and contained misleading points and therefore should be disregarded at its entirety.

In general, we submitted that the applicants' submission were filed purportedly too late in this proceeding, and the Customs should disregard this submission into consideration, since the referenced visit report was already put on record as early at June 4, 2012, more than twenty days before the SEF as published, and the applicants speculated and elected not to file submission until July 6, 2012 (and put on public record at July 10), which was several days before the SEF response due<sup>1</sup>. Allowing this submission would, by procedure, take away the respondents' rights to file rebuttal comments or response in the detailed and substantive manner and/or supplement any other documentation if the case required on the record for the final determination.

1. Related parties

We confirmed that Good Harvest produced certain other herbicides in few months in POI, as verified. See visit report at 30. And its production volume may be relevant for cost allocation, however Good Harvest captured the costs of materials at each production stage and specify each material issuance at each stage at daily operations in the computerised ERP systems, as witnessed by the case verification team, either on the site or on the computer screen, and its costs were captured as specific and accurate in its normal business operation. And we could not see any relevance by the applicants' argument for this "other products" production.

And it is noted that certain materials purchased were through related subsidiary company, but as particularly verified by the case team, those related subsidiary companies was NOT producers of those materials by themselves, rather worked as pure "paper traders", that is, the materials were physically purchased by Good Harvest from un-related suppliers, but the unrelated suppliers invoiced the said related company who then invoiced Good Harvest. It would be reasonably interpreted by the case team

<sup>1</sup> It could not say burdensome (i.e. take more than thirty days) to draft such 5-page submission re: Good Harvest visit report, if this was not speculated by the applicants.

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as "the materials were purchased from unrelated producers" (invoicing via related subsidiary companies). See visit report at 9.

And we understand that those related invoicing may bring certain impact on the materials costs as consumed in the GUC production, as the case team take in mind in the verification meeting. Then the case team verified this issue very carefully and requested significant documentation in this matter. See visit report at 8 and confidential attachment GEN 4.

And the case team eventually found that the invoiced prices by those related companies were at certain margin higher than the prices by the un-related suppliers, in other words, the raw materials costs were slightly inflated at certain percent, compared with direct invoicing by the un-related suppliers ("market prices"). That is as indicated by the case team as "positive margin". And these impacts (if any) would have been unfavorable to Good Harvest in this investigation, and the cost should be adjusted lower in reflection of actual costs as purchased from unrelated parties, however, Good Harvest did not claim the actual market purchase prices adjustment in the cost to make in this proceeding.

## 2. Commercial operations and operations

As verified, the costs were captured as specifically and accurately in the daily operations at each production stage in consistent with relevance accounting principle in the GAAP. And the auditors audited those methods and overall financial accounting records and then provided clean or unqualified opinions in the audited report. And therefore it was sufficiently demonstrated that Good Harvest captured costs in a accurate manner. And the applicants' implication or any similar bad faith statement were bareless and should be disregarded.

And it is noted that glyphosate technical was partially (not "all" as applicants asserted) internal transfer. See visit report at 10. However, as the case team verified, the transfer was based on full recovery costs as transferred in the upstream production, rather than standard cost or pricing, therefore the reported CTMS captured the full costs recovery at each production stage, and those internal transfer should not have any impact at any circumstance. And the reported CTM were actual costs. See visit report costing section.

## 3. Accounting

Good Harvest employed integrated computerised ERP systems, including the daily operation and accounting, as the case team witnessed. And we confirmed that materials purchased were recorded on a metric ton basis, and there were no such conversion in the daily business in that they were purchased and invoiced directly on metric ton basis. And we did not see the relevance for the argument by the applicant in this issue.

And the finished goods were recorded on metric tons as well in its financial records, as the case team verified, and though certain products may be produced and sold at litre basis, they would have been converted by the gravity into Metric tons in the daily operation. For this issue, the case team particularly verified the gravity sample documents as maintained by the company, and linked into the financial records. See visit report at 11.

Further the applicants alleged that Good Harvest should have standard costs reports. It was wrong. Good Harvest provided response in the exporter questionnaire that they applied actual cost method, rather than standard cost in the daily operation and business accounting. See exporter questionnaire response by Good harvest at 32.

And the 2011 financial statement was completely audited by the CPA firm, and we provided such audited reports in the early June 2012 on the record, as requested. And it was confirmed that the accounting and cost/sales were captured or recorded by Good Harvest as accurate in consistent with GAAP in China.

## 4. Domestic sales (section 3.4)

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We submitted that in general the directly comparable goods were glyphosate IPA salts in both markets, in contrary to ammonium salt. And we understand their difference in IPA salt, in particular at packing sizes for both markets.

In this case there were no sufficient domestic sales in the ordinary course of trade, and the normal value was constructed directly from its specific specification (i.e. product code) CTMS, it was not further required to underly the specification adjustment in any circumstance, since each specification in a given packing size was assigned a particular CTMS, which reflective of different costs from one specification to the other. See visit report at 33.

## 5. Exports sales to Australia

The case team verify details on the commission issue, and requested the commission sub-ledger and specify those commission payments and confirmed that all commission were not related with Australia sales. See visit reports at 22. And the applicants' argument is bareless anyway.

And it is noted that different packing size for exports or domestic sales, there maybe certain different handling costs, as was captured by Good Harvest and recorded in the cost to make in the daily operations. And the applicants' assumption that upwards costs in handling expenses for larger sizes may not be right, since the small size required more labor in packing in the reality, as the case team verified from the financial records. In addition, the normal value was not based on domestic selling prices, but from its specific product code CTMS, no such adjustment was required in this respect. And therefore the applicants' claim would be moot.

## 6. Domestic sales (section 7)

As for the advertising and promotion expenses, we understand that the case team verify and request subledgers to confirm that it was related with domestic sales, but this amount was not significant.

Since those advertise and promotion expenses were only related with domestic sales, it may be the case that the normal value should have been further downward adjusted for this purpose. However, since it was not significant, as witnessed by the case team, Good Harvest conservatively did not claim such adjustment.

The applicants attempted to say that the domestic sales should NOT be sold at a loss, since the domestic prices was influenced by the cost of materials. It was not logic in any circumstance. And the cost of materials definitely would have influenced the selling prices, but the final selling prices as realized have taken the market situation into consideration as well in a more business sense, and Good Harvest would not believe that a business company would have withhold the inventory or even stop production if the prices were sold below its cost, otherwise "shut down" costs would be much higher, and less economic efficient to the company.

In terms of domestic sales, we understand the case team verify the complete sales listing and confirmed those figures were reported in a accuracy manner, and the OCOT test were performed in consistent with the practice by the Customs and confirmed the situation of domestic sales of like goods in the POI. And the records were collaborated. And the figures tell everything! And there were no indication that the case team simply accepted the respondent's assertions without further investigation.

In addition, since it was a popular practice in China that the payment were maintained as running balance and would not linked to invoice to invoice for domestic sales. However, in the verification meeting, the case team verify each and complete invoices into the financial records, and confirmed their accuracy as reported, and additionally confirmed those in the accounts receivables ledgers (at running balance), and then into the financial reports. And therefore it was verified and confirmed that the domestic selling prices as reported were the actual paid or payable by the customer.

## 7. CTM&amp;S (section 8)

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Yes, Good Harvest employed a computerised integrated ERP system and captured the costs as specific as possible to the products produced in the daily operations at each production stage, and the company calculated the cost by the production stage. And we understand whether Bill of Materials reports maintained was not linked to ERP system itself, but subject to the requirement in the production cycle for management purpose.

As for the cost verification, we understand the case team verify the CTMS as reported on a spot check purpose, rather than a full audit of all company records for the whole POI in a three day visit.

And those cost figures would link or go through into the year end financial statement, and then the 2011 audited financial statement, which in part confirmed that the figures as reported by the respondent were accurate. In addition, the case team verify in details in a selected month, including the materials, labor and overhead for each production stage, and confirmed the figures as reported by the respondent. And therefore it was fully verified and confirmed that the cost as reported by the respondents were complete and accurate.

It appears that the applicants disputed the labor or overhead expenses, we again understand the case team already verify and confirm that labor and overhead were calculated on production stage basis, and those costs were captured on actual basis. See Visit report at 35 n5.

As for the surfactant, it was evident on the record, including the verification exhibits, to confirm the statement and its cost as reported. And since the normal value was constructed from each exported product model, rather than the domestic selling prices of domestic sold model, there were no need for a further adjustment in this issue, since the surfactant costs would have included into its cost to make for those exported model as reported.

Packing costs adjustment is the same moot, since the normal value was constructed from each exported product model, and its particular packing cost were already incorporated into its cost to make as reported.

As for the SG&A expenses allocation, the applicants' assertion is wrong. And Good Harvest allocated the overall SG&A by sales revenue first for such proportional SG&A expenses the GUC or like goods, and then further allocated those proportion by sales quantity of GUC or like goods to derive a unit SG&A on MT. See Visit report at 47-48. And we understand this allocation was consistent with previous practice and only feasible to derive a unit on MT basis, as the Customs required in the Exporter Questionnaire.

## 8. Adjustment (section 10)

As indicated earlier, those surfactant or packing adjustment was not required, since the normal value was constructed from its specific exported model. It would be more favorable to Good Harvest if the SG&A (i.e. advertise and promotion expenses) adjustment was made in relation with the normal value.

As for the inventory carrying cost, it was understood a kind of opportunity cost, rather than actual cost incurred. Since all export sales were production to order (see visit report at 21) and there were no inventory in the normal business of operation, but the domestic sales may be sold from inventory (see visit report at 26), as verified. And therefore Good Harvest calculated the inventory carrying costs for domestic sales, in consideration the inventory turnover days and short term interest rate. And we submitted that it was warranted in consistent with customs previous practice in other similar proceedings. But as indicated in the visit report, this adjustment was very minor.

As for the credit terms, it was less favorable adjustment to Good Harvest anyway. And the case team specifically discussed the credit terms for both markets, see visit report at 22, (and the Australian sales credit terms was reported in the database), and then compared the averaged credit days on both markets, and calculated the credit costs for both, taking into consideration the prevailing short term interest rate.

## 9. Sale to Third countries

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As we understand that the general third country sales information were requested in the exporter questionnaire, and it would be very difficult to rely on that information to calculate a normal value. And it would be by default the secondary alternative for normal value purpose in the normal dumping investigation by the Customs, in particular for those cases as involved complexity of products, as like in this case, there were diversified concentration and great complexity in physical characteristic for different product models, like goods, and different cost structure, etc as maybe for those sales to third countries, and therefore it would not be feasible to calculate normal value directly from those general third country sales information as originally requested in the Exporter Questionnaire.

And we understand that the case team did verify the third country sales information as reported in the Exporter questionnaire. But we are in the position that this general third country sales information was not sufficiently enough in calculating normal value as accurate as possible in this investigation

And furthermore it was the first time by the applicants, as late as several days before SEF response due, to raise the concern to assert normal value based on sales to third countries, And we submitted that the applicant should have made such assertion earlier, i.e. at least before the verification visits, if that is the case, and the respondents would have been requested to supplemental its transaction basis for sales to third countries for the potential use in the normal value calculation. Otherwise, its assertion should be disregarded.

In particular, in this case, there were sufficient and reliable costing information to construct normal values, it is the parallel method for normal value purpose under WTO framework. And the applicants' argument was meritless.

## 10. Conclusion

The applicants' comments or assertions were meritless, and should be disregarded at its entirety. And it would be not practicable for the Customs to calculate normal value as accurate as possible based on other sellers in the Chinese markets, or third country selling prices, since it would involve great complexity in the comparability and fair comparison purpose.

As verified, there were sufficient and reliable information on the record for normal value construction and calculating dumping margins in consistent with the Act and previous practice in similar other proceedings. And the case should be terminated immediately in relation with Good Harvest, since its resulted dumping margin as published in SEF was negative, though to some extent conservatively as below points.

- 1) the materials invoiced prices did not be downward adjusted to reflect unrelated market prices, and the CTMS should have been lower for this purpose;
- 2) Advertisement and promotion expenses in relation with domestic sales, the normal value should have been lower in this respect;
- 3) The profit was added in the CTMS as in the SEF, though this profit was not representative in that only for extremely low volume of domestic sales. And we submitted that profits should not be added in for normal value purpose, as the visit report indicated. See Visit report at 52.

Please let us know if there were other questions.

Yours sincerely,

Lan Xiong /s/

Consultant to Good Harvest