



31st January 2012

Mr. Tom O'Connor
Manager
International Trade Remedies Branch
Australian Customs and Border Protection Service
5 Constitution Avenue
Canberra 2601 ACT

Dear Tom,

Re: Investigation into Dumping of Fully-Formulated Glyphosate
Review of the Trade Measures Review

Thank you kindly for sending me the above-mentioned document.

We welcome Customs finding that:

- Glyphosate 62% w/w manufacturing concentrate is not a fully-formulated product and therefore should not be included in the investigation. This finding is not only common sense, but a fact recognised by the majority of participants in the global crop protection industry.
- Unregistered products are like products to registered products, a finding which is also common sense when assessing the cost of the same.

As far as Good Harvest's normal value is concerned we note that Customs has not yet formed an opinion on the use of S 269TAC(2)(D) to calculate the same. However, we stand by our previous assertion that Glyphosate exported to countries other than Australia is different to the product exported to Australia.

We refer to the paragraph on page 8 of your Review which states:

"Approximately ten days after the release of SEF183. Nufarm Limited provided a submission to Customs and Border Protection which included, inter alia, Good Harvest's third country export pricing information. This information was gathered from a third party information source."

We would like to address the reliability of the data in the "third party information source".

1. Good Harvest is an extremely confidential company and does not disclose marketing or financial information about its operations to any third party source.
2. In SEF 189A and SEF 189 B concerning Nufarm's application to continue an interim anti-dumping duty on Chinese 2,4-D, Customs disclosed Nufarm's third party information source as CCM.

3. There is a Chinese market research company known as Guangzho CCM which provides information on the Chinese agricultural chemical industry to its clients. This company is known to have at least two Australian clients. Thus we can conclude that Nufarm is one of the clients of Guangzho CCM.
4. In Nufarm's application to continue the interim anti-dumping duty on Chinese 2,4-D they showed that in 2011 Australia imported 952,230 kg of 2,4-D acid from China. The source was ABS. In the same application Nufarm stated that its information source in China (name redacted) disclosed that in 2011, Chinese companies exported 2,759,000 kg of 2,4-D acid to Australia (an error of around 200%).
5. Customs response to the conflict between ABS and CCM was, "This suggests that the Chinese export data may not be reliable Therefore, Customs has not placed any weight on the Chinese export data and associated claims. Nufarm has not addressed these concerns. Customs and Border Protection has ... placed no weight on the CCM data figures."¹
6. Nufarm has included extracts from Good Harvest's alleged export data for 2011 presumably compiled by CCM (or an equally unreliable source) in its letter to Customs dated 30th November 2012. The extracts follow a similar trend to 2,4-D - untrue and highly exaggerated, for example, the claim that Good Harvest exported 20,000 MT (16,700,000 litres) of Glyphosate 450 to Australia in 2011 is ridiculous in the extreme. Based on Nufarm's own assessment of the Australian Glyphosate 450 market in 2011 (55 million litres) this would give both Good Harvest and AIRR a 30% market share which we know to be untrue. Should this information be correct then it means that Good Harvest/AIRR is a market leader by a significant margin in the Australian Glyphosate segment against the Nufarm premium brand of Roundup®. As flattering as this may appear it is also untrue.
7. Good Harvest has shown me a typical CCM report on the Chinese Glyphosate industry. As mentioned above, Good Harvest does not provide information to CCM (and believes that no other Glyphosate producer provides information) which means that CCM must resort to guesstimating. The CCM report was replete with the most basic errors and may be best described as bogus and therefore worthless. Customs was certainly correct in discarding CCM data in the 2,4-D investigation and we respectfully suggest that you do the same for the fully-formulated Glyphosate investigation.
8. If the CCM market information was considered to be of high value why did Nufarm wait until after publication of the SEF to disclose the same?

I have been shown a copy of Good Harvest's submission (prepared by their lawyers, Beijing B & H Associates) in connection with the above and would like to paraphrase some of their comments to reinforce the above:

- A. Aside from the veracity of the claims, Customs should not consider new material at this very late stage of the investigation. This action prevented Customs from confirming the actual data during its visit to Good Harvest.
- B. Good Harvest treats all of its information in a highly confidential manner and did not disclose to Nufarm the data used in its allegation.
- C. If the new information supplied by Nufarm is genuinely confidential, how could Nufarm have obtained the confidential information in a legal manner?

¹ SEF 189 Section 7.3.3 Page 32.

- D. Alternatively, if the data was obtained by a third party, how could the information be treated as confidential?
- E. Alternatively, if the information was obtained from an alleged official source how could it have been provided to Nufarm?
- F. Good Harvest reserves the right to take legal action against Nufarm should the information be misrepresented.
- G. For the record, AGRONOMIQ is absolutely certain that the limited information supplied by Nufarm (notably Good Harvest sales to Australia in 2011) is not factual which Customs can confirm from its own records.
- H. If Customs is unable to reject the new information you should carefully verify the same before relying on this information to construct a normal value from Good Harvest exports to third countries.

In view of the above we urge you to reinstate the original decision of the CEO of Customs to terminate the investigation into the alleged dumping of fully-formulated Glyphosate from China.

Yours sincerely,



Myles Stewart-Hesketh
Director