



14th February 2013

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

We have had the opportunity to study Nufarm's submission to Australian Customs and Border Protection Service dated 31st January 2013 and wish to respond as follows.

1. Glyphosate 62% w/w Manufacturing Concentrate

Australian Customs made the correct decision by excluding Glyphosate 62% w/w from the definition of formulated Glyphosate products because it is neither a functional product nor registered for use by an end-user in any country globally, much less Australia. We have had extensive experience in the global Glyphosate market and do not know of a single farmer who would even contemplate buying Glyphosate 62% w/w and add water and wetter to the same for use in any situation. In Australia any company which offered Glyphosate 62% w/w for this purpose would be in breach of APVMA regulations and subject to a significant fine.

██████████ Nufarm I can assure you that its professional staff would be appalled at the very thought of this use occurring. However, this illegal and dubious use of Glyphosate 62% w/w is a convenient argument for a company plumbing the depths for any concocted argument that a dumping duty is warranted on imported fully-formulated Glyphosate from China.

Nufarm, of course, omitted Glyphosate 62% w/w from the original list of products to be covered by an anti-dumping duty on fully formulated Glyphosate imported from China. It is obvious that Nufarm realised very late in the piece that its arguments as to why Glyphosate should be formulated in Australia applied equally to formulation plants which imported Glyphosate 62% w/w for formulation in Australia. It is both safer and far more economic to start from Glyphosate 62% w/w rather than Glyphosate Technical that requires the risky process of amination. (For example, aminated Glyphosate takes approximately two days to cool without the high cost of refrigeration before wetter may be added). However, Nufarm is committed to amination and therefore would lose market share to formulators starting from Glyphosate 62% w/w. While it is understandable that Nufarm would like to see an anti-dumping duty on Chinese Glyphosate 62% w/w, it highlights the glib nature of its claims that it serves the national interest through investment and the creation of employment. Nufarm's competitors can also serve the national interest in a similar manner, but without penalising Australian farmers.

If we may specifically address Nufarm's misleading claims on page 2 of their letter dated 31st January 2013 in the order of the five dot points given:

- Glyphosate 62% w/w is not substitutable. Apart from the fact that the product may not be registered and therefore sold, it is packaged in a 1,000-L IBC and would require the end-user to obtain a second 1,000 IBC as well as the wetter required (usually packaged in a 200-kg drum and not available to the public) and to know the formulation recipe. Therefore, the process would require heavy lifting equipment and obviously the end result would not be conducive to a farmer who was seeking only a 20-L drum of Glyphosate 450.
- We are a distributor and I can assure you Glyphosate 62% w/w cannot be sold via the same distribution channels as a registered product. To confirm this point, may I suggest that Australian Customs asks [REDACTED] (Nufarm's major distributor) how much Glyphosate 62% w/w they sell for Nufarm each year.
- Incorrect! Glyphosate 62% w/w attracts increased sales only at the expense of Glyphosate Technical and this is what Nufarm fears more (refer above).
- Incorrect! Labels are indeed an influencing factor because under APVMA regulations it is the label that is registered and Glyphosate 62% w/w is not a registered product.
- The end-use of Glyphosate 62% w/w is formulation into various Glyphosate IPA salts which, unlike the precursor, must be registered for use. Nufarm's argument is the same as suggesting that flour has the same end-use as bread. However, flour must be processed (mixed and baked) before it may be consumed. Simply because a product has an intermediate use does not mean that use may be conveniently ascribed to a product further down the value chain.

2. Good Harvest

AGRONOMIQ/AIRR imported approximately [REDACTED] litres of Glyphosate 450 into Australia from Good Harvest in 2011 at an average price of US\$ [REDACTED]/Litre (FOB Shanghai). In 2011 AGRONOMIQ/AIRR accounted for [REDACTED] % of Good Harvests imports of Glyphosate 450 into Australia. Therefore, we are absolutely certain that Nufarm's claim, "Good Harvest's average export price to Australia during 2011 for grade 450 formulated glyphosate was US\$2.16/Litre (sic - no unit given) - for approximately 20,000 tonnes in volume (sic - "weight" is obviously intended) is a complete fabrication. We are not suggesting that Nufarm fabricated these figures, but the company that provided Nufarm with the data did fabricate the information because Good Harvest does not supply market information to the public domain. However, Nufarm is to be condemned for peddling dubious data supplied by CCM. I covered this point in my previous letter when I suggested that sales of 20,000 MT of Glyphosate 450 in 2011 would have positioned Good Harvest as market leader against the Nufarm-Monsanto premium brand of Roundup.

The fact that Nufarm relies entirely upon fabricated rather than actual data renders Section 4 of its letter ineffectual and no further comment is warranted. However, should you not agree with this conclusion then we wish to raise an objection to this material being introduced at a very late stage and well after Australian Customs visit to the Good Harvest plant. Thus, regardless of its veracity - which, in our opinion is zero - this material should not be considered under any circumstances.

In view of the above we once again 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.

Above all it would appear that Nufarm is now experiencing considerable difficulty in assembling coherent arguments to justify what is essentially a tax on Australian farming.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Myles Stewart-Hesketh', written in a cursive style.

Myles Stewart-Hesketh
Director