



21st November 2012

Mr. Timothy Flor
Supervisor
International Trade Remedies Branch
Australian Customs and Border Protection Service
5 Constitution Avenue
Canberra 2601 ACT

Dear Tim,

Re: Investigation into Dumping of 2,4-D: Response to Nufarm Letter

We have had the opportunity to read the Nufarm letter dated 16th November 2012 and wish to respond as follows.

We again reiterate that if Australian Customs is experiencing difficulty in enlisting the cooperation of Chinese producers of 2,4-D, please advise us of these difficulties so that we can ask two of the major producers (Hubei Sanonda and Changzhou Wintafone) to cooperate. These two companies have a combined production capacity of 35,000 MT of 2,4-D (or MCPA) acid per annum, a figure comparable to Nufarm's global phenoxy production capacity.

Normal Values

Nufarm's letter focuses on the normal value of 2,4-D acid and if I may summarise the situation from their perspective the company is suggesting that the lowest price of Chinese 2,4-D acid in Australia is US\$3.28/kg and the average price is US\$4.06/kg. On the other hand the price of Chinese 2,4-D in the Chinese market in 2012 is in the range AUD3.77/kg to AUD4.16/kg. If this is the case then Chinese 2,4-D acid is being dumped in Australia, that is, sold at a lower price in Australia compared with the Chinese domestic market. However, Nufarm's prices are constructed to fit their case.

AGRONOMIQ does not import 2,4-D acid, but in the past year has imported around one million litres of 2,4-D 625. However, we are about to commence importing 2,4-D acid for formulation in Australia and as a result we have asked for quotations from all Chinese producers. The price range was US\$3.30 to US\$3.48/kg, consistent with the ACCENSI price of US\$3.45/kg. I have copied the quote from Changzhou Wintafone below and, if you require the same, I am prepared to send you the entire email. While this price range does not prove that 2,4-D acid is not being dumped in Australia, it sets the bench-mark for establishing whether or not dumping is occurring.

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1. Product: 2,4-D Acid,

Specification

ITEM	STANDARD
2,4-DICHLORO PEHNOXY ACETIC ACID (EFFECTIVE 2,4-D ACID)	96% MIN
TOTAL 2,4-D ACID	98% MIN
FREE PHENOL%	0.3% MAX
MOISTURE%	1.0%MAX
INSOLUBLES IN TRIETHANOLAMINE	0.5%MAX
APPERANCE	WHITE POWDER

Packing:600kg/bag, 18mt/20'fcl

Unit price: USD3.48/kg, FOB Shanghai, T/T 90 days

Price validity: 15days

On a separate occasion I polled all six 2,4-D producers with AC clearance (plus a seventh producer who will shortly hold AC clearance) in Australia to determine the domestic price for 2,4-D acid. Five of the producers responded with a price identical to the export price. Two of the companies (Sanonda and Rainbow) supply only the export market, but informed me that the export price is identical to the Chinese domestic price.

Nufarm, which has a representative in China, could also have contacted the six companies with AC clearance to ask for the domestic price of 2,4-D acid, but the answer would not have suited its purpose. Nufarm has elected instead to "construct" a price from a formulated product in China and it argues that this price "is the most reliable information for normal value purposes". Nufarm is essentially attempting to prove that one price is higher than another, but even though the information is readily available from the parties charging these prices, the company has elected on the one hand to use questionable import statistics, and on the other hand to calculate the price using another product. The Nufarm methodology is equivalent to visiting a Coles supermarket and using a 450-gram pack of butter to calculate the price of one litre of milk (even though there is milk available in the next refrigerator).

Threat of Material injury

With the greatest respect for Nufarm, the company has failed to demonstrate any threat of material injury should the Anti-dumping Duty (ADD) on Chinese 2,4-D be discontinued. We believe that both ACCENSI and AGRONOMIQ has countered the assertion by Nufarm that 300 2,4-D companies are ready to descend on Australia, but in the unlikely event of this occurring why would they bother to dump 2,4-D acid in Australia when they can command higher prices for the same product in other markets? Moreover, it is not commonly known in China that there is an ADD on Chinese 2,4-D acid in Australia. Material injury is also unlikely to occur because of the following factors:

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1. Nufarm has now benefited from an ADD on Chinese 2,4-D for almost 10 years. Surely this is sufficient time for Nufarm to have achieved a competitive position on locally-produced 2,4-D acid in a 50 year-old plant which by now should be completely depreciated. If Nufarm has not achieved a competitive position then it may be appropriate for the company to exit domestic production and import 2,4-D acid from either India or China.
2. In its letter dated 29th October 2012 Nufarm stated, "Nufarm exports 2,4-D to the US because the US market provides a better return to Nufarm." Nufarm 2,4-D acid production at Laverton North is relatively small compared with the US market for this product. Therefore, Nufarm's claim of material damage is completely unfounded when it is in a position to export all of its 2,4-D acid output to the US market to obtain "better returns" - and use imported Chinese 2,4-D to supply the Australian market.
3. Following its recent success in the AAT (29th August 2012) where Nufarm was able to establish that 2,4-D is a substitute for Trifluralin Technical, the company would be able to broaden the domestic market for 2,4-D acid by focusing on the pre-emergent herbicide market.
4. Nufarm is capable of offsetting the unlikely event of material injury with a reduction of costs.

Australian Customs should also take into account that higher 2,4-D acid prices are an impost on the important Australian farming sector.

Interim-ADD

Should Australian Customs in its wisdom decide that the ADD on 2,4-D acid should continue, we strenuously oppose a change from the current Interim-ADD which, under Customs' regulations enables Australian companies who buy 2,4-D acid from Chinese companies at market prices to obtain refund of the Interim ADD. This somewhat belated request from Nufarm highlights the fact that its application - while definitely in Nufarm's best interests - is not in the best interests of Nufarm's competitors (who control 65% of the Australian agricultural chemical market) nor the 132,000 farmers in Australia who would ultimately pay the cost of continuing the ADD.

Yours sincerely,



Myles Stewart-Hesketh
Director