

2. Paragraph 7.1: The Flood of 300 Chinese 2,4-D Producers

Nufarm has neglected to mention that APVMA requires an ICAMA certificate from a Chinese producer of active material should that producer seek to register its Active (more accurately known as Active Constituent Clearance) in Australia. An ICAMA certificate takes around two years to obtain and requires an investment of around US\$200,000 – a figure beyond the reach of most Chinese companies for a relatively small volume product in a market already saturated by supply.

The overwhelming majority of the 182 label registrations since 2008 have been the result of applications from Australian companies and not Chinese companies. While it is relatively easy to obtain a label registration in Australia, it is extremely difficult to sell the product without market access. There are five national distributors in Australia (Landmark, Elders, AIRR, CRT and IHD) and as a general rule they limit their exposure to no more than three brands of each product and one of these brands in invariably Nufarm.

3. Paragraph 7.6: Exports to the US

It appears that Nufarm has quite a sound business model for its Australian 2,4-D business:

- Export the high-cost 2,4-D acid produced at Laverton North to the US where it can achieve superior returns. The US has unrealistically high quality standards for 2,4-D acid (notably dioxin levels) which Nufarm is able to meet from its Laverton North production.
- Import 2,4-D acid from unknown countries (but presumably not China to avoid the Interim ADD) for formulation in Australia for the Australian domestic market. The 2,4-D acid produced by reputable plants in China and India meets the Australian standard established by APVMA so there are no quality issues.²

However, the business model begs the question of why Nufarm requires the protection of an ADD unless it is to give the company an unfair advantage with imports of 2,4-D from countries other than China.

Nufarm claims that “if the Australian market were more attractive” (a euphemism for continuing the ADD at higher levels) it would introduce efficiencies by investing in its 2,4-D plant to concentrate solely on the Australian market. This claim lacks credibility. Nufarm has enjoyed the protection of an Interim ADD for the past 10 years and, by its own admission, has ignored the local market except for special customers who were obviously prepared to pay a premium. Why would Nufarm forego the opportunity of superior returns in the US (which would be even greater if it became a more efficient producer)? Nufarm has also had the opportunity to invest in improved efficiencies during this period of protection, but did not. If indeed Nufarm does invest it will only be because of competition which it now seeks to stifle.

² On page 15 of the report it is suggested that imported 2,4-D is formulated in Kwinana where Nufarm has glass-lined reactors to compensate for the lower quality. We believe this is a mistake in reporting because glass-lined reactors are generally used to formulate 2,4-D ester products and have nothing to do with quality. If this is not the case then Australian Customs should seriously question whether or not Australian customs is considering “like goods” as defined in Section 2.6.

Therefore it is clear that Nufarm has not suffered any material damage from imports of Chinese 2,4-D because it claims superior returns from the sale of its domestically produced 2,4-D in the US market. This action enables Nufarm to import 2,4-D acid for the Australian market. If, contrary to the evidence, Nufarm genuinely believes that Chinese 2,4-D acid is dumped in Australia it could achieve competitive advantage by also using Chinese 2,4-D for the domestic market. On the above grounds alone, Australian Customs should discontinue the Interim ADD on 2,4-D Imports from China.

4. Nufarm's Request for an ADD instead of an Interim ADD

If Australian Customs decides to introduce an ADD (as opposed to continuing an Interim ADD) - as sought by Nufarm - then the major beneficiary of this action will be formulators in New Zealand, including Nufarm, who already import 2,4-D acid duty free because of a Free Trade Agreement with China. The New Zealand formulators will transform the product to the extent it will become New Zealand product and then export the same to Australia where it may enter duty free. The import duty on 2,4-D acid matches the duty on fully-formulated 2,4-D and, therefore, is already a disincentive to use Australian formulators; an ADD would only worsen this situation.

Yours sincerely,



Myles Stewart-Hesketh
Director