



中倫律師事務所  
ZHONG LUN LAW FIRM

PUBLIC FILE

3

中国北京市建国门外大街甲6号SK大厦36-37层 邮政编码:100022  
36-37/F, SK Tower, 6A Jianguomenwai Avenue, Beijing 100022, People's Republic of China  
电话/Tel: (8610) 5957-2288 传真/Fax: (8610) 65681022/1838  
网址: <http://www.zhonglun.com>

July 17, 2012

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

Public file

Dear Ms Reid

**Re: Response to the submission filed by the applicants - Accensi Pty Ltd and Nufarm Limited, regarding the on-the-spot verification report (visit report) for Shangdong Welfang Rainbow Chemical Co., Ltd ("Rainbow")**

The Customs put on the public file at July 6, 2012 the submission by the applicant companies in regard to their opinions towards the Rainbow visit report concerning the formulated glyphosate produced and exported by Rainbow. We found there was significant misunderstanding for the applicants both on the AD regulations and on the factual circumstances. Thus we take this opportunity to file our comments as follows, to address the applicants' concerns as well as any potential divergence of views.

**1. The verification team has reviewed the company's cost accounting system thoroughly**

The verification team verified the comprehensive and integrated production cost system of Rainbow. As for the doubt raised by the petitioner concerning the coverage and consequences of the three major production stages, it is without doubt that the verification team has consumed substantial part of their time on cost verification and they definitely went deeply into the company's cost accounting system concerning both the glyphosate technical as well as fully formulated glyphosate. On the other hand the Company has fully cooperated with the verification team by providing a lot of information. We also recall the verification team did request several sets of the cost records concerning both glyphosate technical and fully formulated glyphosate. As regards the petitioner's question on the consequences of the cost account verification, we see no reason why a cost verification must be conducted following the steps of the production flows and we cannot agree with the idea

that only independent cost verification for each and all of the production processes can secure the objectivity of the final results, as we believe the Customs has comprehensively taken into consideration the connection between production stages during the verification.

## 2. Allocation of expenses

The applicant questions the reasonableness of the company's cost allocation. As we understand the criterion for an antidumping investigation authority to judge on such kind of issue is that whether the method used by the respondent is in accordance with the GAAP of the country and whether the reported figure ties with the company's existing records, and obviously this is not what the petitioner required here. Rainbow recalls that during the on-the-spot verification, the verification team check carefully all cost related issues including the SG&A, they did ask questions concerning the allocation methods and the basis, and accordingly, the company fully cooperated by illustrating in detail the company's practice in this regards and provided relevant supporting documents.

Rainbow understood that the verification report should reflect the result of the verification team's work but are not supposed to reproduce all facts that the verification team has went through, neither the verification team is required to illustrate on what factual basis they reached their conclusion, e.g. the conclusion that the company's the costs were appropriately allocated based on the team's on-the-spot judgment during the verification. Unlike the preliminary or final determination of the AD measures, the visit report is in no position to articulate the reasoning regarding how the dumping rate is reached, including how the allocation is conducted, since the main purpose of the on-the-spot investigation is to verify information provided by the respondent in the questionnaire. In addition, due to the confidentiality requirement and its limit in terms of coverage scope, the visit report would not be able to explain in detail all the issues.

## 3. Cost of formulated glyphosate exported to Australia

The applicant raises concern on whether the Customs has tested the cost of products for each grade. More specifically, the applicant suspected that Rainbow might not reflect in its reported CTMS the exact type or grade of raw materials, e.g. the surfactants used in its products exported to Australia. Rainbow clarified that it calculated each product's cost based on the actual usage of the Surfactant, which not only included the consumption volume, but also covered the type and grade of the exact Surfactant used, thus the applicants' claims were unfounded.

## 4. Selling & General Administration expenses

The applicant questions the justification of the normal value and dumping margin determined by the Customs, given the reason that they thought the Customs were not satisfied with the records of financial and non-operating expenses. It is confirmed that Rainbow's accounting record, including the financial and non-operating expenses, is accurately formulated, completely reflective of the matter of fact, and strictly in compliance with GAAP in China. Meanwhile, we believe the allocation of the SG&A expenses on a

percentage basis is reasonable and consistent with the common practice in such investigations.

5. Domestic sales

The applicant consider that the normal values for Rainbow should be assessed using the domestic selling prices of another seller (i.e. Zhejiang Xinan). We believe that Customs has articulated its reasoning clearly in the visit report why it decided to apply a constructed normal value under the s. 269TAC (2), rather than adopt the data of sales by Zhejiang Xinan on the Chinese domestic market. We agree with Customs on this issue.

6. Adjustments

The Customs, complying with the constructed cost methodology provided in s. 269TAC (2), proposed to adopted the constructed normal value, calculated based on Rainbow's actual cost structure of the subject merchandise production. Thus Rainbow's domestic selling price is of no relevance, so are the cost differences due to whatever reasons. Thus we could not see any necessity, as the Customs rightly disregarded, to make adjustment to the domestic selling price.

7. Third Country Sales

To cooperate with the verification, Rainbow has fully prepared the relevant third-Country sales data supporting the corresponding materials it submitted in the questionnaire response. We fully accept the Customs' judgment on whether these data needs to be verified and to what extent these data need to be verified during the on-the-spot verification and understand that there is certain discretion vested in the Customs.

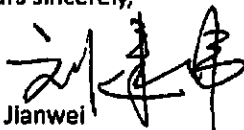
8. Conclusion

The applicant's comment contains some misunderstandings, yet a deliberate analysis will show their claims are unfounded, and should be disregarded. As verified, the on-the-spot investigation performed a scrutinous review of Rainbow's overall cost system covering each grade of products. Regarding the applicant's question of the justification of the normal value, we believe the Customs has illustrated the basis for establishing it clearly in the visit report.

As a result, we earnestly request the authority to take full account of our comments for the final determination.

Please let us know if there are any other questions.

Yours sincerely,

  
Liu Jianwei