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6 July 2012

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

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Dear Ms Reid

Re: Formulated Glyphosate exported from P R China – Shandong Weifang Rainbow Chemical Co., Ltd ("Rainbow") Exporter Visit Report

Reference is made to the Shandong Weifang Rainbow Chemical Co., Ltd ("Rainbow") Exporter Visit Report concerning formulated glyphosate exported from P R China ("China").

The applicant companies – Accensi Pty Ltd ("Accensi") and Nufarm Limited ("Nufarm") have reviewed the visit report. This submission addresses concerns with the determination of normal value and dumping margin assessed by Customs and Border Protection.

1. Rainbow's Accounting System

It is stated that Rainbow accounts for costs according to production process and that there are three cost processes involved in formulated glyphosate manufacture. However, at Section 6 of the Rainbow Visit Report, the verification of Rainbow's financial data does not reflect a verification of the three production process flows. Rainbow detailed at Section 3.3.1 the production process for formulated glyphosate, describing it as "a fairly straight forward process". It was further stated that the initial stage of production is the manufacture of glyphosate technical. However, at Section 6 of the Rainbow Visit Report, the initial commencement of the review of Rainbow's costs did not commence with glyphosate technical verification.

2. Verification of costs

Rainbow provided Customs with "cost calculation sheets and supporting documents". The documents allegedly support the expenses identified as raw material costs and various transfers for semi-finished goods. Reference is made to certain allocations. The basis of the allocation is not clear – for example, for auxiliary materials and production overheads, a statement that the costs "were appropriately allocated" was made. What is the basis for the allocation? How can it be proven that the allocation is reasonable and relates only to the goods under consideration?

It would be expected that production process costs as per Rainbow's accounting records should have been verified by Customs. This does not appear to have been the case. What is apparent is that Customs verified production costs for formulated glyphosate initially, and then verified the cost of glyphosate technical. This methodology does not follow the three accounting process flows referred to by Rainbow at Section 3.3.1 of the Report and does not provide any confidence that Rainbow's full

absorbed cost-to-make-and-sell formulated glyphosate via each production stage have been adequately verified by Customs.

3. Costs of formulated glyphosate exported to Australia

Customs has determined normal values for Rainbow on the basis of a constructed cost methodology. Rainbow does not sell domestically the same goods exported to Australia. Customs appears to have accepted Rainbow's cost spreadsheets prepared for each model (domestic and export sales) without testing the costs provided for each model/grade of formulated glyphosate.

For example, for 450 g/L formulated glyphosate exported to Australia, different surfactants, strength of surfactants, etc are used in the production of the goods. It is not apparent from Section 6 of the Report how Customs verified whether the costs verified were different (i.e. proportionally dissimilar) for 450 g/L formulated glyphosate to 360 g/L product. It appears that the costs provided by Rainbow have been accepted at face value without any forensic analysis as to the validation of the costs incurred.

The Geronol surfactant referred to in paragraph 6.4.1 appears to be a lower grade non tallow amine surfactant. A copy of a publication entitled "Glyphosate Adjuvents" obtained from the suppliers website has been attached (Non-Confidential Attachment 1). The publication sets out the various forms of Geronol and explains how they are used in Glyphosate formulation. The applicants understand that the formulation of products above the 360 grams per litre is not possible with all forms of Geronol (see publication). This publication provides information that might assist Customs understanding of the CTMS. The applicants nevertheless question whether Geronol is in fact used in the manufacture of products exported to Australia. The applicants believe that Australian customers would expect the exported goods to contain a tallow amine surfactant like Terwet.

4. Selling & General Administration expenses

Section 6.4.4 of the Report discusses the verification of selling, financial and non-operating expenses, and S,G&A expenses in the CTM&S.

Customs has indicated that the financial and non-operating expenses required further consideration. The applicants question how normal values and dumping margins for Rainbow can be determined when questions arise as to the validity of the identified expenses.

The S,G&A expenses have been allocated on a percentage basis. It is usual practice for S,G&A expenses to be allocated on the basis of sales revenue. Why did Customs not require Rainbow to allocate on this basis? There can be no confidence that a percentage basis is reasonable.

5. Domestic sales

It is noted that Rainbow is an export oriented company. Rainbow does sell some volumes of 360 g/L formulated glyphosate domestically to a distributor. Rainbow also made some domestic sales of 62% glyphosate during the POI. AS Rainbow exported 450 g/L formulated glyphosate to Australia during the POI it argued that its domestic sales were not the same as export sales to Australia.

Customs tested the volume of domestic sales compared with export sales and assessed that there was an insufficient volume of domestic sales for normal value purposes.

Customs therefore proposed to determine Rainbow's normal values under s.269TAC(2)(c).

The applicant's make the following observations regarding Customs' approach to domestic sales:

a) The applicant's remarks (pre-exporter visit meeting) regarding the liquid ammonia salt formulations were not directed at the issue of like goods. The remarks were provided to alert

Customs to the fact that cheaper forms of formulated glyphosate products (namely, those based on liquid ammonia salts) were available on the domestic market of China so that Customs could properly assess domestic sales and make the appropriate comparisons and adjustments. The reference to the fact that liquid ammonia salt based products were not registered in Australia was made to ensure that Customs was alert to the issue should any of exporters have claimed that their exports to Australia were the cheaper liquid ammonia salt based products.

b) Customs approach to the assessment of the sufficiency of domestic sales seems to be at odds with sub-s 269TAC(14). Customs has simply applied the 5% assessment without consideration of whether the volume of sales permits a proper basis for comparison.

c) The applicants understand that Customs is in possession of domestic selling prices by another Chinese exporter – Zhejiang Xinan Chemical Industrial group Co. Ltd ("Xinan"). Normal values for Rainbow, therefore could be determined under s.269TAC(1) on the basis of sales by other sellers on the Chinese domestic market. It is submitted that Customs can determine normal values for Rainbow under s.269TAC(1) using Xinan's domestic selling prices before considering the s.269TAC(2)(c) constructed cost methodology.

6. Adjustments

Section 4.3 of the Rainbow Report confirms that a different surfactant is used by Rainbow for glyphosate sold domestically versus what is included in export sales to Australia, and that a cost differential is apparent. C&BP can, as appropriate, adjust Chinese domestic selling prices to account for cost differences associated with different surfactants (and surfactant strengths) for the purpose of establishing Rainbow's normal value(s) under s.269TAC(1).

Further adjustments to s.269TAC(1) normal values for Rainbow will likely be required for packing costs, credit terms, domestic and inland freight.

7. Third Country Sales

The Report indicates that 3rd Country sales data was not verified by the visit team on the basis that the team was satisfied that normal values could be determined on the basis of costs. The applicants question whether this approach is consistent with the role of the visit team and consistent with relevant provisions of the *Customs Act* 1901. The visit team is required to verify the data submitted by the exporter in their questionnaire responses. The actions of the visit team in this case have usurped the powers of the Minister. It is the Minister, not the verification team, that determines how the normal value is determined.

Conclusions on Rainbow

The Rainbow Exporter Visit Report contains inconsistencies about the accounting system that reflects manufacturing processes yet Customs has not followed these methodologies in the verification process. Further, Rainbow's Report indicates that Customs was not satisfied with certain S,G&A costs at the time of the verification visit. The Report (nor SEF 183) confirms whether these costs have been adequately substantiated.

The applicants consider that normal values for Rainbow should be assessed using the domestic selling prices of another seller (i.e. Xinan) before consideration of s.269TAC(2)(c) costs. Adjustments to the selling prices can be made based upon verified information obtained from Rainbow.

It is further considered that Customs should have verified Rainbow's third country export sales data and considered these as a basis for normal values.

The applicants understand that Xinan's domestic selling prices will yield dumping margins that exceed the 2 per cent threshold. The dumping of formulated glyphosate by Rainbow (and Good Harvest) has caused material injury to the Australian industry producing like goods. Anti-dumping measures are required to remove material injury caused by the Chinese exports at dumped prices.

If you have any questions concerning this submission, please do not hesitate to contact me on (07) 3342 1921.

Yours sincerely

John O'Connor
Director

Cc **Mr Bernard Lee, Manager – Industry and Government Affairs, Nufarm Limited**
Mr Craig Ellis, Business Manager – Accensi Pty Ltd

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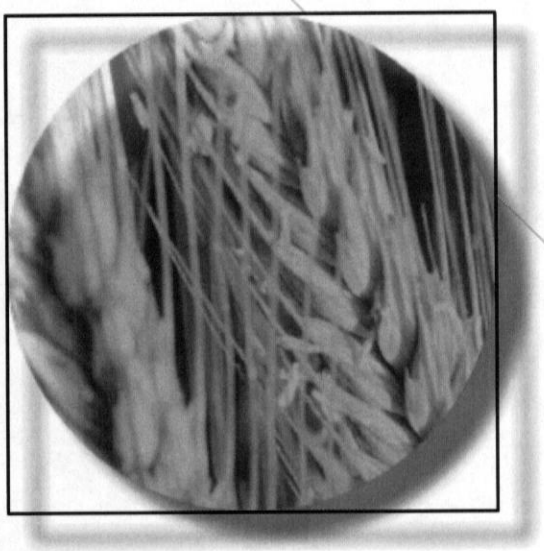

GLYPHOSATE ADJUVANTS

RHODIA PROPOSALS FOR GLYPHOSATE FORMULATIONS

V. Bramati / L. Tagliente

2011

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GLYPHOSATE ADJUVANTS

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GLYPHOSATE IPA SALT

STANDARD FORMULATION : 360 G/L SL

Rhodia has a very wide range of proposals of adjuvants to better suit the needs & expectations of the customers. Here you find the different proposals highlighting the main characteristics of the proposed solutions:

GERONOL CF/AS 30 : BETTER SOLUTION THAN ETHOXYLATED TALLOW AMINE

STARTING FROM GLYPHOSATE IPA SALT

Glyphosate isopropylamine salt (46 % ac.)	780	g/l
Water	260	
GERONOL CF/AS 30	140	

STARTING FROM GLYPHOSATE ACID FORM

Glyphosate acid tech. 98 %	368	g/l
Isopropylamine 99 %	125 [1]	
GERONOL CF/AS 30	140	

Application rate recommended is between 120 - 140 g/L according to the different local conditions (climatic/soil/weeds)

ADVANTAGES

- As efficient as Tallow Amine in Glyphosate formulas
- Easy to mix, no gel formation
- Low viscosity
- Low foam
- Cheaper than Tallow Amine
- Fully re-assessed for EPA
- APVMA frog friendly
- No tank-mix incompatibility known

[1] it might require additional quantity of IPA to compensate for some losses in the process. This depends on efficiency of the plant equipment.

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CLASSIFICATION OF GERONOL CF/AS 30:

Symbol:

 , IRRITANT

R Phrases:

R 38- 41: irritating to skin, risk of serious damage of eyes

Transport information: product not regulated

CLASSIFICATION OF GLYPHOSATE 360 SL WITH GERONOL CF/AS 30 :

handle with care, no symbol of danger

PRODUCTION SITE:

Rhodia UK (Leeds), Rhodia Wuxi SC (China), Rhodia Inc (Winder, USA)

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GERONOL CF/AR: FOR A FULL GREEN FORMULATION AT A REASONABLE COST

STARTING FROM GLYPHOSATE IPA SALT

Glyphosate isopropylamine salt (46 % ac.)	780	g/l
Water	280	
GERONOL CF/AR	120	

STARTING FROM GLYPHOSATE ACID FORM

Glyphosate acid tech.98%	370	g/l
IPA 99%	140	
RHODAFAC ARB/70	100	
Water	570	

ADVANTAGES

- Good biological enhancement of Glyphosate in various conditions and weed species
- Quantity required is about 2/3 of ethoxylated tallow amine
- Very favourable toxicological and ecotoxicological profile providing good safety margin so that can be used on / or adjacent to waterways
- Fully re-assessed for EPA
- Good compatibility with concentrated Glyphosate solutions
- 100 g/l (acid equivalent) with 250 g/l ammonium sulphate , 360 g/l, 450 g/l (acid equivalent) and even higher concentrations of active herbicide.
- No tank mix incompatibility known: it rather tends to solve existing incompatibility than to create them
- Greater efficacy, requiring lower levels of surfactant than those currently used (normally between 100 and 120 g/l Geronol CF/AR)
- Make possible "combo" formulations of Glyphosate with other herbicides such as Diuron, Simazine, Trifluralin, MCPA, 2,4D, Terbutylazine, etc

CLASSIFICATION OF GERONOL CF/AR :

Symbol:

none

R Phrases:

none

Transport information:

product not regulated

CLASSIFICATION OF GLYPHOSATE 360 SL GERONOL CF/AR:

not regulated

PRODUCTION SITE:

Rhodia Italia (Ospiate), Rhodia Brazil, (Sto André).

HIGH LOAD FORMULATION

AGRHO FKC 1000 : THE FUTURE IS HERE

HIGH LOAD FORMULATION : 510 G/L SL

STARTING FROM GLYPHOSATE IPA SALT: MAX CONCENTRATION ACHIEVABLE IS 510 G/L AS ACID EQUIVALENT.

Glyphosate IPA salt (46% acid)	1109 g/l
Agrho FKC 1000	111

HIGH LOAD FORMULATION : 540 G/L SL

STARTING FROM GLYPHOSATE ACID FORM: IT IS POSSIBLE TO REACH 540 G/L AS ACID EQUIVALENT

Glyphosate acid tech.95%	568 g/l
IPA (99%)	190 [2]
Agrho FKC 1000	140
Water	341

[2] it might require additional quantity of IPA to compensate for some losses in the process. This depends on the efficiency of the plant equipments

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ADVANTAGES

- Efficacious across and range of weed species.
- Non skin sensitization, low eye and skin irritation vs. market TAE benchmarks
- Fully re-assessed for EPA
- Available Globally
- Yields low viscosity Glyphosate concentrates in cold temperature conditions, better off-loading from reactor, tank trucks, rails cars, outside storage tanks, customer packaging vs. TAE and other glyphosate surfactants.
- Lower viscosity in cold conditions (O deg C) allows for higher loading of Gly-IPA, above 510 g/L. TAE formulations limits IPA loading due its poor solubility in concentrated formulations.
- Lower surface tension (32 dynes/cm at 20 deg C) vs. TAE (39.5 dynes/cm at 20 deg C) Super wetting performance
- Colourless low viscosity liquid, able to add dyes if desired.
- No Warning or Danger labels needed with Agrho FKC 1000

MANUFACTURING METHOD

Charge all of the water into the mixing tanks.

Add 50% of the Acid Tech., stir to form a slurry

Aminate with 50% of the IPA gradually maintaining the batch temperature less than 40C

Add the remaining 50% of the Acid Tech.

Complete to aminate with the remain 50% IPA, gradually maintaining the batch temperature less than 40C

Check pH of 7% w/w solution.

If this pH is less than 4.5, then add extra IPA to bring this pH between 4.5 to 4.7

Allow the batch temperature to drop below 35C before adding Agrho FKC 1000 .

Blend batch for approx. 1 hour.

NB. Cooling down the Isopropylamine below 10C, will prevent excessive loss during amination

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HIGH LOAD FORMULATION : 500 G/L SL

RHODAFAC ARB/ 70: FOR A FULL GREEN HIGH LOAD FORMULATION

STARTING FROM GLYPHOSATE ACID FORM: IT IS POSSIBLE TO REACH 500 G/L AS ACID EQUIVALENT

Glyphosate acid tech.95%	568 g/l
IPA (99%)	230 [3]
RHODAFAC ARB/70	120
Water	360

ADVANTAGES

- Good biological enhancement of Glyphosate in various conditions and weed species
- Quantity required is about 2/3 of ethoxylated tallow amine
- Very favourable toxicological and ecotoxicological profile providing good safety margin so that can be used on / or adjacent to waterways
- Good compatibility with concentrated Glyphosate solutions
- No tank mix incompatibility known: it rather tends to solve existing incompatibility than to create them
- Greater efficacy, requiring lower levels of surfactant than those currently used (normally between 100 and 120 g/l Geronol CF/AR)

[3] it might require additional quantity of IPA to compensate for some losses in the process. This depends on the efficiency of the plant equipment.

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GLYPHOSATE POTASSIUM SALT

GERONOL CF/82 CC

STANDARD FORMULATION : 360 G/L SL

Glyphosate acid tech.98%	368	g/l
Water	432	
KOH 50%	320	
GERONOL CF/82 CC	120	

HIGH LOAD FORMULATION : 450 G/L SL

Glyphosate acid tech. 96%	469	g/l
KOH 50 %	352	
Water	379	
GERONOL CF/82 CC	130	

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HIGH LOAD FORMULATION : 540 G/L SL

Glyphosate acid tech.96%	563	g/l
KOH 50%	422	
GERONOL CF/82 CC	160	
Water	215	

ADVANTAGES

- **LOWER COST :**
  - ***Neutralisation cost***
    I. Raw Material
    II. KOH is Cheaper than IPA
    III. K_2CO_3 easy to use
  - ***Processing***
    I. No Loss due to High Volatility of IPA
    II. Less Temperature constrains
  - ***Higher Concentration/Density***
    I. Less packaging Cost
    II. Less Transport Cost
- **EFFICACY**
  - ***No advantage Vs IPA salt***

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IMPORTANT :

the above reported compositions are GUIDE RECIPES developed according to our best experience . Before any industrial scale up we recommend to check the a.m. recipes in the own lab using the own raw materials (AI/ Solvents/inerts) . Depending on the variability of the characteristics of different sources of technical materials used, a slight re-arrangement of the composition might be necessary.