



AUSTRALIAN CUSTOMS DUMPING NOTICE NO.2012/54

Formulated Glyphosate

Exported from The People's Republic of China

Resumption of investigation into alleged dumping in respect of formulated glyphosate exported to Australia from the People's Republic of China

CUSTOMS ACT 1901 – PART XV B

Purpose

The purpose of this notice is to advise all interested parties that the dumping investigation in relation to formulated glyphosate (glyphosate) exported to Australia from the People's Republic of China (China) has resumed and to call for submissions to assist with the publication of a Statement of Essential Facts (SEF).

Background

On 2 August 2012, the Chief Executive Officer (CEO) of the Australian Customs and Border Protection Service (Customs and Border Protection) terminated the investigation into the alleged dumping of glyphosate exported to Australia from China.

The investigation was terminated because, during the investigation period, formulated glyphosate exported to Australia by Jiangsu Good Harvest Weien Agrochemical Co Ltd (Good Harvest), Shandong Weifang Rainbow Chemical Co., Ltd (Rainbow), and Zhejiang Xinan Chemical Industrial Group Co.,Ltd was not dumped. Customs and Border Protection also found the total volumes of goods exported to Australia by all other Chinese exporters that had been dumped represented less than 3 per cent of the total Australian import volume and was therefore negligible.

In accordance with s.269TDA(1) and 269TDA(3) of the *Customs Act 1901* (the Act), the delegate of the CEO decided to terminate the investigation. Australian Customs Dumping Notice No. 2012/37 provides further details of the termination.

Application to Trade Measures Review Officer (Review Officer)

On 28 August 2012, Nufarm Ltd, a representative of the Australian industry, lodged an application with the Review Officer for a review of the decision to terminate the investigation.

Pursuant to s.269ZZN(b) of the Act, the Review Officer is able to review the CEO's decision to terminate an investigation. The Review Officer can only affirm, or revoke the termination decision. Where a termination decision is revoked, the CEO is required to resume the investigation.

Review Officer's decision

On 23 October 2012, the Review Officer revoked the decision of the CEO to terminate the dumping investigation. This decision was published in *The Australian* newspaper on 25 October 2012.

The Review Officer's reasons for revoking the termination decision are available at <http://www.tmro.gov.au>.

The Review Officer's report recommended that, in resuming the investigation, the CEO should;

- consider the inclusion of 62 per cent IPA salt and the unregistered goods as like goods;
- consider further whether the low volume of domestic sales of unregistered goods by Rainbow, adjusted under s.269TAC(8) of the Act, was nevertheless sufficient to allow a proper comparison to be made for the purposes of determining a dumping margin; and
- give substantive consideration to whether Good Harvest's normal value should be assessed in accordance with s.269TAC(2)(d) of the Act.

Resumption of investigation

The Review Officer's decision to revoke the termination decision has the effect of resuming the investigation into glyphosate exported from China as of **25 October 2012**. In this case, the Review Officer has also included, in its report, a non-binding recommendation regarding the way in which the CEO should resume the investigation. While the CEO is not required to accept the recommendation, the CEO will consider seriously the Review Officer's recommendation.

Customs and Border Protection considers that the approach outlined in the Review Officer's report could result in a number of possible outcomes. These include:

- Expanding the definition of like goods to include 62 per cent IPA salt and unregistered goods as like goods; and/or
- Adjusting Rainbow's low volume of domestic sales of unregistered goods under s.269TAC(8) of the Act to allow a proper comparison to be made for the purposes of determining a dumping margin; and/or
- Determining Good Harvest's normal value in accordance with s.269TAC(2)(d) of the Act; or
- Confirming the CEO's original decision.

The resumed investigation will focus on addressing the issues identified by the Review Officer as requiring further consideration. This may involve requests for, and verification of, further information from interested parties.

Subsection 269ZZT(2) of the Act states that as soon as practicable after the reviewable decision has been revoked, a SEF must be published. Following the publication of the SEF, the normal investigation timeframes resume. Interested parties will have 20 days within which to make submissions in response to the SEF and Customs and Border Protection will then have a further 25 days to provide a report to the relevant Minister.

The date of the publication of the SEF will depend on the outcome of Customs and Border Protection's consideration of the Review Officer's recommendation and submissions from interested parties. However, Customs and Border Protection is aware that it is in the best interests of all parties for the resumption to be finalised as soon as practicably possible.

Submissions

The CEO **invites** interested parties to provide submissions in advance of the publication of the SEF.

To assist in the timely publication of the SEF, submissions by interested parties should preferably be lodged no later than **Friday 30 November 2012**, and addressed to:

Director, Operations 1
International Trade Remedies Branch
Australian Customs and Border Protection Service
Customs House
5 Constitution Avenue
CANBERRA ACT 2601

Or by email:
itrops1@customs.gov.au

Interested parties should note that the CEO is not obliged to have regard to a submission if to do so would, in the CEO's opinion, prevent the timely placement of the SEF on the public record.

Interested parties claiming that information contained in their submission is confidential, or that the publication of the information would adversely affect their business or commercial interests, must:

- provide a summary containing sufficient detail to allow a reasonable understanding of the substance of the information that does not breach that confidentiality or adversely affect those interests, or
- satisfy the CEO that there is no way such a summary can be given to allow a reasonable understanding of the substance of the information.

Submissions containing confidential information must be clearly marked "In-Confidence". Interested parties must lodge a non-confidential version or a summary of their submission in accordance with the requirement above. In either case, interested parties must provide two copies of each for the public record.

Public record

The public record used in the original investigation will be maintained for the resumed investigation. The public record contains, among other things, a copy of all submissions from interested parties. Letters and electronic mail are generally regarded as "submissions" if they contain information relevant to the inquiry.

Documents included in the public record are available at: <http://adpr.customs.gov.au/Customs/>. Alternatively, the public record may be examined at the office address below during business hours by contacting International Trade Remedies Branch on telephone number (02) 6274 4948, fax number (02) 6275 6888 or

International Trade Remedies Branch
Australian Customs and Border Protection Service
Customs House
5 Constitution Avenue
CANBERRA ACT 2601

Customs and Border Protection contact

Enquiries concerning this notice may be directed to the Case Manager on telephone number (02) 6274 4948, fax number (02) 6275 6990 or e-mail itrops1@customs.gov.au.

KIM FARRANT
National Manager
International Trade Remedies Branch
CANBERRA ACT

16 November 2012