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30 April 2004

Dr Rod Crawford  
ACIP Secretariat  
P.O. Box 200  
WODEN ACT 2606

Dear Dr Crawford

**ACIP Issues Paper – Patents and Experimental Use – Nufarm Ltd Submission**

Nufarm Ltd (Nufarm) is an Australian multinational chemical company with its global headquarters at Laverton North in Victoria. Nufarm manufactures and supplies a range of products used by farmers to protect crops from damage caused by weeds, pests and disease. The company has production and marketing operations throughout the world and sells products in more than 100 countries. Nufarm's crop protection products enjoy a reputation for high quality and reliability derived from our commitment to innovation. Nufarm also produces a range of other chemicals used in various manufacturing industries, including construction, explosives and fertilizers, as well as intermediates for pharmaceuticals.

Nufarm operates in a sector of the crop protection industry referred to as "non-patented propriety". The majority of Nufarm's intellectual property relates to know-how used in the manufacture, formulation and application of crop protection products.

The global crop protection industry manufactures and supplies agricultural chemicals and undertakes research aimed at developing new and improved systems for crop protection. The industry is highly regulated, with all products subjected to a rigorous registration system. This requires substantial data to be generated on human health implications and safety, efficacy and environmental impacts.

For its part, Nufarm undertakes a significant amount of its research and development activities in Australia. However, due to restrictions on the importation and use of materials subject to patent in Australia, Nufarm is forced to undertake many research projects in India and New Zealand - countries that permit the use of patented materials for the purposes of generating information for regulatory approval. The New Zealand position is discussed at page 6 of the *Issues Paper*.

Nufarm submits that Australia should adopt a "regulatory review exception" on the same basis as that presently operating in New Zealand. Adoption of a "regulatory review exception" will have the following benefits for Australia:

- It will place Australian researchers on an equal footing with many of their overseas counterparts and allow them to undertake work that is presently prohibited by Australian patent laws;



- It will encourage companies, like Nufarm, to undertake research and development projects in Australia. These projects would otherwise have gone to other countries.

In terms of the crop protection industry, a "regulatory review exception" will:

- Result in a significant increase in the number of research and development projects undertaken in Australia due to the size and diversity of Australia's agriculture and its similarity to a number other important markets;
- Encourage the development of new products targeted for particular new uses in Australian agriculture. Such product innovation will directly benefit Australian farmers.
- Enable smaller companies or farmer groups to undertake research and development projects to identify potential new uses of patented materials in the treatment of minor crops where such projects are not economically viable for patent holders.

If you wish to discuss any aspects of this submission, please contact me on (03) 9282 1444. Nufarm would be interested in taking part in any consultations in relation to the matters raised in this submission.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Bernard Lee', with a long horizontal line extending to the right.

Bernard Lee  
Manager  
Industry and Government Affairs