



**Australian Government**  
**Australian Customs and  
Border Protection Service**

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R E P O R T

**TRADE MEASURES BRANCH**  
**STATEMENT OF ESSENTIAL FACTS NO.166**  
**REVIEW OF ANTI-DUMPING MEASURES**  
**PRESERVED MUSHROOMS EXPORTED FROM**  
**THE PEOPLE'S REPUBLIC OF CHINA**

4 January 2011

**PUBLIC RECORD**

# PUBLIC RECORD

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## ABBREVIATIONS

ACDN	Australian Customs Dumping Notice
Customs and Border Protection	Australian Customs and Border Protection Service
delegate	The delegate of the Chief Executive Officer of Customs and Border Protection
Fujian Zishan	Fujian Zishan Group Co., Ltd
Jiangsu COF	Jiangsu Cereals, Oils & Foodstuff Import Export Group
China	The Peoples' Republic of China
AS&G	Administrative, selling and general expenses
Shenzhen Grandness	Shenzhen Grandness Industry Group
the goods	the goods subject to measures
the Minister	The Minister for Home Affairs
Xiamen Fortune	Xiamen Fortune Imp & Exp Co., Ltd
Xiamen Gulong	Xiamen Gulong Import & Export Co., Ltd
Windsor Farm	Windsor Farm Foods Pty Ltd

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## 1. SUMMARY AND RECOMMENDATIONS

This review is in response to a request from Xiamen Fortune Imp & Exp Co., Ltd (Xiamen Fortune) to review the anti-dumping measures as they affect exports by Xiamen Fortune and its supplier Fujian Zishan Group Co., Ltd (Fujian Zishan) of preserved mushrooms<sup>1</sup> from the People's Republic of China (China) to Australia.

Following the decision by the Australian Customs and Border Protection Service (Customs and Border Protection) not to reject the application, the Minister for Home Affairs (the Minister) decided to extend the review to include all exporters subject to measures from China.

This statement of essential facts sets out the facts on which the delegate of the Chief Executive Officer of Customs and Border Protection (delegate) proposes to base his recommendations to the Minister.

### 1.1 Proposed recommendation

The delegate proposes to recommend to the Minister that the dumping duty notice have effect in relation to exporters subject to measures generally as if different variable factors had been ascertained.

The result would be that the ascertained export price, normal value and non-injurious price for all exporters subject to measures would increase.

### 1.2 Application of law to facts

#### 1.2.1 Authority to make a decision

Division 5 of Part XVB<sup>2</sup> sets out, amongst other matters, the procedures to be followed and the matters to be considered by the delegate in conducting a review of anti-dumping measures.

#### 1.2.2 Variable factors

Variable factors of goods the subject of a dumping duty notice are defined<sup>3</sup> as normal value; export price; and non-injurious price as ascertained by the Minister.

Non-injurious price of goods exported to Australia is defined<sup>4</sup> as the minimum price necessary to prevent the injury or a recurrence of the injury.

The Minister must have regard to fixing a lesser amount of duty such that the sum of the export price and that lesser amount of duty does not exceed the non-injurious price.

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<sup>1</sup> A full description of the goods is at section 3.2.

<sup>2</sup> A reference to a division, section or subsection in this report is a reference to a provision of the Customs Act 1901, unless otherwise specified.

<sup>3</sup> s. 269T(AE)

<sup>4</sup> s. 269TACA

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## 1.2.3 Application

On 16 August 2010, Xiamen Fortune lodged an application requesting a review of anti-dumping measures applying to preserved mushrooms exported to Australia from China.

The delegate was satisfied that the application was made in the prescribed manner by a person entitled to make the application<sup>5</sup>.

## 1.2.4 Initiation of investigation

After examining the application, the delegate was satisfied that:

- the application complied with requirements<sup>6</sup>; and
- having regard to the matters contained in the application and to other matters considered relevant, there appeared to be reasonable grounds for asserting that the variable factors relevant to the taking of anti-dumping measures had changed.

The delegate decided not to reject the application and the Minister decided to extend the review to include all exporters subject to measures from China. A notice advising initiation of this review was published in *The Australian* newspaper on 13 September 2010. ACDN 2010/33 was also issued containing additional information about the review.

## 1.2.5 Statement of essential facts

The delegate is required to place a statement of essential facts<sup>7</sup> on which the delegate proposes to base a recommendation to the Minister on the public record on or before 4 January 2011.

In formulating the statement of essential facts, the delegate must have regard to the application or request; any submissions relating generally to the review that are received by Customs and Border Protection within 40 days after publication of the initiation notice; and any other matters the delegate considers relevant.

Interested parties are invited to lodge submissions in response to the statement of essential facts not later than 24 January 2011.

## 1.2.6 Final report

Within 155 days after initiation of a review, or such longer period as the Minister allows<sup>8</sup>, the delegate must give the Minister a report recommending that:

- the notice remain unaltered; or
- the notice be revoked in its application to a particular exporter or to a particular kind of goods or revoked generally; or

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5 s.269ZA

6 s.269ZB(1)

7 s.269ZD

8 s.269ZC(7)

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- the notice have effect in relation to a particular exporter or to exporters generally as if different variable factors had been ascertained.

The final report to the Minister which outlines the delegate's findings and recommendations is due on or before 15 February 2011.

## 1.3 Preliminary findings and conclusions

The proposed recommendation contained in Section 1.1 is based on the following preliminary findings and conclusions.

### 1.3.1 Australian industry (section 3 of this report)

- there is an Australian industry producing like goods.

### 1.3.2 Variable factors (sections 4 and 5)

- revised export prices for the goods exported by Shenzhen Grandness Industry Group (Shenzhen Grandness) have been established<sup>9</sup> having regard to the price paid by the importer other than any part of that price representing overseas freight or any other charges after exportation;
- revised export prices for the goods exported by all other exporters subject to measures have been established<sup>10</sup> having regard to all relevant information<sup>11</sup>
- revised normal values for Shenzhen Grandness have been established by constructing domestic selling prices and having regard to all relevant information;
- revised normal values for all other exporters subject to measures have been established having regard to all relevant information; and
- the non-injurious price can be established by using the Australian industry's selling prices during 2009/10 less any charges to the free-on-board level.

### 1.3.3 Dumping (section 6)

- the goods exported by Shenzhen Grandness from China to Australia during the review period were dumped with a dumping margin that was not negligible; and
- the goods exported by all other exporters subject to measures during the review period were dumped with a dumping margin that was not negligible.

### 1.3.4 Revocation (section 7)

- there is no evidence to support revocation of the measures:
  - the goods would have been dumped in the absence of measures; and

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9 s. 269TAB(1)(a)

10 s.269TAB(2)(c)

11 S.269TAB(3)

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- those dumped goods would have caused material injury to the Australian industry producing like goods.

## 1.4 Proposed recommendation

Based on these preliminary findings, and subject to any submissions received in response to this statement of essential facts, the delegate proposes to recommend to the Minister that the measures be varied generally.

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## 2. BACKGROUND

### 2.1 Review process

If anti-dumping measures have been taken in respect of certain goods, and an affected party considers that it may be appropriate to review those measures as they affect a particular exporter or exporters generally, the affected party may by application request that the delegate initiate a review.

An affected party considers that it may be appropriate to review anti-dumping measures because:

- one or more of the variable factors relevant to the taking of the measures has changed; or
- if those measures had not been taken – the Minister would not be entitled to take any such measures.

The Minister may also request that the delegate conduct a review of those measures if one or more of the variable factors has changed. The Minister may initiate a review at any time, however, no other interested party may apply for a review to take place earlier than 12 months since the publication of the dumping duty notice or the publication of a notice declaring the outcome of the last review of the notice.

If an application for a review of anti-dumping measures is received and not rejected, the delegate has up to 155 days to inquire and report to the Minister on the review of the measures. Within 110 days of the initiation, the delegate must place on the public record a statement of essential facts on which he or she proposes to base their recommendation to the Minister concerning the review of the measures.

In making recommendations in the final report to the Minister, the delegate must have regard to:

- the application for a review of the anti-dumping measures;
- any submission relating generally to the review of the measures to which the delegate has had regard for the purpose of formulating the statement of essential facts;
- this statement of essential facts; and
- any submission made in response to this statement of essential facts that is received by Customs and Border Protection within 20 days of the statement being placed on the public record.

The delegate may also have regard to any other matter that it considers to be relevant to the inquiry.

In respect of a dumping duty notice, the delegate must provide a proposed recommendation to the Minister that the dumping duty notice<sup>12</sup>:

- remain unaltered; or
- be revoked in its application to a particular exporter or to a particular kind of goods or revoked generally; or

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<sup>12</sup> s. 269ZDA(1)(a) of the *Customs Act 1901* (the Act)

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- have effect in relation to a particular exporter or to exporters generally as if different variable factors had been ascertained.

Following the Minister's decision, a notice will be published advising interested parties of the decision.

## 2.2 Notification and participation

On 16 August 2010, Xiamen Fortune (a trading company) on behalf of itself and its supplier, Fujian Zishan, lodged an application requesting a review of anti-dumping measures applying to preserved mushrooms exported to Australia from China.

The delegate examined the application and decided not to reject it. The Minister decided to extend the review to include all exporters subject to measures from China. A notice advising initiation of a review of the measures was published in *'the Australian'* newspaper on 13 September 2010. ACDN 2010/33 was also published containing additional information about the review. The delegate advised that the review period was from 1 July 2009 to 30 June 2010. All interested parties were extended an opportunity to make submissions.

Customs and Border Protection sent exporter packs, including an exporter questionnaire, to all known suppliers on 21 September 2010.

A completed exporter questionnaire response was received from Shenzhen Grandness. A non-confidential version of the response was also provided and was placed on the public record. The response was considered to be complete and a verification visit was conducted from 24-26 November 2010. Shenzhen Grandness co-operated fully during the visit.

After on-going attempts to obtain the required information from Fujian Zishan, an exporter questionnaire response was received on 3 December 2010. The questionnaire response was considered to be incomplete and contained a number of inconsistencies. Customs and Border Protection therefore decided not to conduct a verification visit. Fujian Zishan did not provide a non-confidential version of its exporter questionnaire response.

An exporter questionnaire response was received from Xiamen Fortune on 2 December 2010. A non-confidential version of exporter questionnaire response was also received from Xiamen Fortune and was placed on the public record. As Xiamen Fortune does not manufacture the goods and did not supply the goods to Australia during the review period it was not visited.

No other exporter questionnaire responses were received.

The Australian industry and importers were not visited during this inquiry as they were visited during the recent continuation inquiry<sup>13</sup>. As the review period for the Review is the same as the inquiry period for the continuation inquiry (i.e. 1 July 2009 to 30 June 2010), data verified in the continuation inquiry was considered relevant to this review.

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<sup>13</sup> Report no. 164

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## 2.3 Responding to the statement of essential facts

Interested parties may wish to make submissions in response to this statement of essential facts. However Customs and Border Protection is not obliged to have regard to any submissions received after **24 January 2011** if to do so would prevent the timely preparation of the report to the Minister.

Submissions should be sent to:

The Director  
Trade Measures Operations 1  
Australian Customs and Border Protection Service  
5 Constitution Avenue  
CANBERRA ACT 2601  
AUSTRALIA

Submissions can be faxed to (02) 6275 6990 or emailed to [tmops1@customs.gov.au](mailto:tmops1@customs.gov.au).

Interested parties intending to respond to the statement of essential facts must include a non-confidential version of their submission for placement on the public record<sup>14</sup>. Submissions provided in confidence must be clearly marked “**IN-CONFIDENCE**”.

The public record contains non-confidential submissions already received from interested parties, this statement of essential facts, non-confidential versions of Customs and Border Protection’s visit reports and other publicly available documents such as Customs and Border Protection’s initiation report, notices and other information. These documents should be read in conjunction with this statement of essential facts. The public record may be viewed at Customs House Canberra by contacting Trade Measures Branch administration on (02) 6275 6547.

All documents on the public record are available on Customs and Border Protection’s electronic public record which may be accessed on the internet at [www.customs.gov.au](http://www.customs.gov.au) by following the prompts for “anti-dumping”.

## 2.4 History of anti-dumping measures

On 5 April 2005, Customs and Border Protection initiated an investigation into preserved mushrooms exported from China, following an application by Windsor Farm Foods Pty Ltd (Windsor Farm).

The Minister accepted Customs and Border Protection’s recommendation in Trade Measures Report No. 99 that anti-dumping measures be imposed on the goods exported from China other than by Jiangsu Cereals, Oils & Foodstuff Import Export Group (Jiangsu COF). The Minister published a dumping duty notice, on 12 January 2006, for preserved mushrooms exported to Australia from China other than by Jiangsu COF.

The Minister’s decision was the subject of a reinvestigation following an appeal to the Trade Measures Review Officer. On 9 November 2006 the Minister accepted Customs and Border Protection’s recommendation in Trade Measures Report 99A that anti-dumping measures be imposed on the goods exported from China other

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<sup>14</sup> In preparing a non-confidential version interested parties should take account of the requirements set out in ACDN 2006/54.

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than by Jiangsu COF and Xiamen Gulong Import & Export Co., Ltd (Xiamen Gulong). The Minister published a dumping duty notice, on 21 November 2006, for preserved mushrooms exported to Australia from China other than by Jiangsu COF and Xiamen Gulong.

The anti-dumping measures are due to expire on 12 January 2011.

On 28 June 2010, Customs and Border Protection initiated a continuation inquiry following the consideration of an application by Windsor Farm. The Minister decided to continue the measures on 21 December 2010.

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## 3. AUSTRALIAN INDUSTRY

### 3.1 Preliminary findings

There is an Australian industry producing like goods.

### 3.2 The goods

The goods subject to anti-dumping measures (the goods) are:

*'preserved mushrooms or champignons of the genus Agaricus, whole, sliced or as pieces and stems, in brine, sauce or some other preserving medium, packed in containers, including bottles, cans, bags, pails and barrels.*

*Preserved mushrooms refer to fresh mushrooms that have been washed, blanched, prepared (e.g. sliced or diced), packed into containers in a suitable liquid medium, heated and cooled.*

*All other species of mushrooms, including straw, shiitake, and oyster, are not covered.'*

#### 3.2.1 Tariff classification

The goods are classified under tariff subheading 2003.10.00; statistical codes 81 and 82 in Schedule 3 to the *Customs Tariff Act 1995*. The rate of customs duty on imports of preserved mushrooms from China is five percent.

#### 3.2.2 The goods exported from China

The goods exported to Australia from China are champignons whole, sliced or in pieces and stems, packed in brine in cans ranging from 184 grams to 2.84 kilograms.

The goods were exported to Australia during the review period from exporters subject to measures in can sizes ranging from 184 grams to 425 grams with 190 gram and 400 gram can sizes imported in the greatest volumes.

### 3.3 Like goods

Windsor Farm is the sole producer of preserved mushrooms in Australia at its production facility located at Cowra, NSW.

Windsor Farm produces sliced mature mushrooms packed in a variety of sauces (including butter, peppercorn, lite, no added salt, gravy and gluten free) in can sizes ranging from 130 grams to 2.8 kilograms and in 200 kilogram barrels. Windsor Farm has also produced small quantities of mushrooms in brine in 2.8 kilogram cans.

#### 3.3.1 Original finding

In the original investigation in 2005<sup>15</sup>, the Minister found that, notwithstanding the physical differences such as age and form of the processed mushrooms, the physical characteristics and use of the products were essentially the same. The

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<sup>15</sup> Trade Measures Report No 98.

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Minister was satisfied that preserved mushrooms manufactured by Windsor Farm were like goods to the preserved mushrooms imported from China because they were:

- physically similar: the goods are produced in a similar grade, purity, appearance and standard;
- commercially interchangeable: the goods directly compete with Australian produced goods; and
- functionally interchangeable: the goods are used to perform the same function and have the same end-use.

### 3.3.2 The continuation and review inquiries

The delegate found that there was no information submitted during the continuation and review inquiries that would cause the delegate to deviate from the original finding that preserved mushrooms manufactured by Windsor Farm are like goods to preserved mushrooms imported from China because they are physically similar and functionally and commercially interchangeable.

## 4. REVIEW OF NORMAL VALUE AND EXPORT PRICE

### 4.1 Preliminary findings

#### Export price

- determined export prices for the goods exported by Shenzhen Grandness under s.269TAB(1)(a) having regard to the price paid by the importer other than any part of that price representing overseas freight or any other charges after exportation; and
- determined export prices for the goods exported by all other exporters subject to measures having regard to all relevant information<sup>16</sup>.

#### Normal value

- determined normal values for Shenzhen Grandness under s.269TAB(2)(c) by constructing a domestic selling price using the sum of the cost of production of the exported goods; and the administrative, selling and general expenses associated with the sale of the goods in the ordinary course of trade in the country of export; and an amount for profit on that sale, with adjustments to ensure fair comparison with export prices; and
- determined normal values for all other exporters subject to measures having regard to all relevant information<sup>17</sup>, with adjustments to ensure fair comparison with export prices.

### 4.2 Introduction

#### 4.2.1 The application

This review was initiated after Xiamen Fortune lodged an application claiming that one of the variable factors had changed<sup>18</sup>. Xiamen Fortune claimed that there appeared to be reasonable grounds for asserting that the normal value had changed as:

*“The cost of mushrooms has increased considerably since the original review was undertaken.”*

In support of this claim, Xiamen Fortune provided cost to make data supplied by Fujian Zishan for the periods 2005, 2006, 2009 and 2010 for each model type and for each month of the processing season i.e. January to April.

#### 4.2.2 Australian industry claims

Windsor Farm claimed in a submission dated 25 October 2010, which is available on the public record, that it had provided information as part of its application to support claims of increases in domestic selling prices and costs in China for preserved mushrooms. Windsor Farm claimed that the information provided indicated that tin

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<sup>16</sup> s.269TAB(3)

<sup>17</sup> s. 269TAC(6) of the Act.

<sup>18</sup> s.269ZC(2)

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prices and utility charges had increased during 2008 and that the cost increases had caused increases in selling prices for preserved mushrooms in 2008 and 2009.

Windsor Farm claimed that by seeking a review of normal value only, Xiamen Fortune is asserting that the normal value has declined since the last review. Windsor Farm challenged the validity of the claim by Xiamen Fortune that a reduction in its normal value is possible. Windsor Farm expressed concern that a manufacturer is unlikely to disclose its true cost position on preserved mushrooms and that the intention of both parties is to secure an outcome for Xiamen Fortune to secure access to the Australian market with minimal interim duties payable.

Windsor Farm claimed that preserved mushrooms are not sold domestically in China in significant volumes. The majority of preserved mushrooms are exported and hence it is possible for costs to be incorrectly allocated. Windsor Farm considers that Chinese manufacturers will have incurred cost increases since the original investigation period of 2004-05. Windsor Farm therefore anticipates that normal values have increased since 2004-05.

## 4.2.3 Importers

Customs and Border Protection did not visit any importers during the review inquiry.

During the continuation inquiry, Customs and Border Protection visited three importers who accounted for over 60 percent of imports from Chinese exporters subject to measures in 2009/10. The importers visited were:

- Grocery Holdings Pty Ltd (a subsidiary of Coles Group Ltd);
- Woolworths Ltd; and
- Riviana Foods Pty Ltd.

The above three companies cooperated with the continuation inquiry and visit reports for these companies are available on the public record for that inquiry<sup>19</sup>.

## 4.2.4 Exporters

An exporter questionnaire was sent on 21 September 2010 to all known suppliers in China who exported the goods to Australia in the review period, as identified in Customs and Border Protection's import database.

A completed exporter questionnaire response was received from Shenzhen Grandness. A non-confidential version of the response was also provided and was placed on the public record. The response was considered complete and a verification visit was conducted from 24-26 November 2010. Shenzhen Grandness co-operated fully during the visit.

After on-going attempts to obtain the required information from Fujian Zishan, an exporter questionnaire response was received on 3 December 2010. The questionnaire response was considered to be incomplete and contained a number of inconsistencies. Customs and Border Protection therefore decided not to conduct a verification visit. Fujian Zishan did not provide a non-confidential version of its exporter questionnaire response.

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<sup>19</sup> Preserved Mushrooms – Continuation Inquiry TM Report No. 164

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An exporter questionnaire response was received from Xiamen Fortune on 2 December 2010. A non-confidential version of exporter questionnaire response was also received from Xiamen Fortune and was placed on the public record. As Xiamen Fortune does not manufacture the goods and did not supply the goods to Australia during the review period it was not visited.

No other exporter questionnaire responses were received.

## 4.3 Export price

### 4.3.1 Shenzhen Grandness

Shenzhen Grandness was found to be the trader and supplier of the goods exported to Australia on behalf of its related manufacturing entities, Grandness Sichuan and Grandness Shanxian. Given the relationship of the parties, it is determined that the related group of companies be treated as the 'exporter'.

Exports by Shenzhen Grandness during the review period were to Australian customers reflecting arms length transactions.

Export prices have been determined in accordance with s.269TAB(1)(a) based on the free-on-board price paid for the goods by the importer<sup>20</sup>.

### 4.3.2 All Other exporters

Sufficient information has not been furnished to enable export prices of preserved mushrooms exported to Australia to be determined under section 269TAB(1)(a), (b) or (c).

Therefore export prices have been determined<sup>21</sup> having regard to all relevant information, being estimated free-on-board export prices of imports (excluding exports from exempt suppliers and from Shenzhen Grandness) from the Customs and Border Protection import database.

## 4.4 Normal value

### 4.4.1 Shenzhen Grandness

Shenzhen Grandness did not sell like goods on the domestic market; however one of its related manufacturing entities did have a small volume of domestic sales that was found to not be in sufficient volumes when compared to the equivalent export volume.

Therefore Customs and Border Protection considered it appropriate to construct normal values<sup>22</sup> using verified cost to make information for the exported goods provided by both of the manufacturing entities, plus (on the assumption that the goods instead of being exported are sold for home consumption in the ordinary course of trade in the country of export) the cost to sell on domestic market plus and appropriate amount of profit.

In determining an appropriate amount for profit, the verification team concluded that

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<sup>20</sup> s.269TAB(1)(a)

<sup>21</sup> in accordance with s.269TAB(3)

<sup>22</sup> under s.269TAC(2)(c)

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the profit from the small volume of domestic sales of like goods was not appropriate given that those sales were considered unsuitable for determining normal values.

In accordance with Regulation 181(A), the team then examined whether the actual profit achieved on domestic sales of a similar general category of goods such as canned peaches and canned apples was suitable. It was found that domestic sales of these similar goods were unprofitable when comparing the simple average cost to make and sell to prices over the review period.

Therefore, the verification team recommended that no profit be added to the constructed normal values.

However, after reviewing the domestic selling information in relation to these similar goods and their equivalent costs, Customs and Border Protection considers that the actual profit achieved on domestic sales of 425g canned peaches that were found to be in the ordinary course of trade is suitable. Therefore, we have used this profit to construct normal values for both 425g and 190g canned mushrooms in pieces and stems.

However this profit is not considered suitable for construction of normal values of whole canned mushrooms. An examination of export prices to Australia shows that prices varied significantly within each of the can sizes depending on whether the mushrooms were whole or pieces and stems. Given that costs do not differ greatly between the types of mushrooms, it is reasonable to conclude that consumer preferences at the retail level are the key driver for the evident price disparity.

Information provided during the original investigation was also examined to determine whether a reasonable profit on domestic sales of whole canned mushrooms by other exporters may be appropriate. The information by an 'other seller' was rejected as fair comparison could not be achieved without properly taking account of differences in characteristics such as raw materials, costs and production methods.

Therefore normal value for 425g and 190g whole canned mushrooms has been determined<sup>23</sup> having regard to all relevant information. Customs and Border Protection has calculated the percentage differences between the export prices of pieces and stems and the whole mushrooms during the review period and applied this to the normal values established for pieces and stems.

## 4.4.2 All Other exporters

Sufficient information is not available to enable normal value of preserved mushrooms exported to Australia to be determined under s.269TAC(1) or (2). Therefore, normal values have been determined<sup>24</sup> having regard to all relevant information.

Information provided by Shenzhen Grandness was not considered suitable for establishing normal values for these other exporters. The original investigation found that large variations in costs existed between the various Chinese producers of preserved mushrooms and therefore substitution of costs across exporters was not appropriate.

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<sup>23</sup> under s.269TAC(6)

<sup>24</sup> Under s.269TAC(6)

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For the purpose of this review, Customs and Border Protection considers that information provided by the Australian industry in its application for continuation of measures<sup>25</sup> is both relevant and reliable.

The Australian industry quoted a market report for Chinese mushrooms for the December 2007 to March 2008 crop<sup>26</sup>. The report contained Chinese contracted prices for canned mushrooms at the beginning and end of the 2007 season. These prices are shown in the following table.

Table: Chinese contracted prices – canned mushrooms 2007-08 crop

Item	Price1 FOB US\$/ tray	Price2 FOB US\$/ tray	Midpoint price FOB US\$/ tray	Midpoint price FOB \$US/kg	Midpoint p FOB RMB/1
<b>12x8oz whole EOE</b>	<b>6.80</b>	<b>8.20</b>	<b>7.50</b>	<b>2.76</b>	<b>16.5818</b>
12x313ml slice 30%	5.10	6.10			
6x68oz pieces & stems	20	26			

Note: \*1 USD:RMB exchange rate of 6.0225 is the average RBA rate for 2009/10

The Australian industry claimed it is reasonable to conclude that the contracted selling prices in the 2007-08 season, which they consider to be a conservative estimate of domestic selling prices, are suitable as an estimate of more recent domestic selling prices due to increasing costs.

The Australian industry also claimed that it was reasonable to compare the contracted price for the 8 ounce can (227 gram can) in China with export prices to Australia.

Customs and Border Protection considered it was reasonable to use the above contracted prices for 8 ounce (227 gram) cans of whole mushrooms in 2007/08 as the basis for calculating normal values for all other exporters of the goods in 2009/10 as information provided by Chinese manufacturers indicates that cost of production of canned mushrooms has increased since 2007/08.

Therefore, Customs and Border protection calculated normal values for all other exporters of the goods using information contained in the published market report for Chinese mushrooms.

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<sup>25</sup> Trade Measures Report No. 164

<sup>26</sup> Market Report for Chinese Mushrooms (2007/2008 crop), Xiamen Kingstar Imp & Exp Co., Ltd, 31 August 2007

## 5. REVIEW OF NON-INJURIOUS PRICE

### 5.1 Preliminary findings

The non-injurious price can be established by using the Australian industry's selling prices during 2009/10 (the most recent period unaffected by dumping) less any charges to the free-on-board level.

### 5.2 Previous methodology

In the original investigation, unsuppressed selling price was calculated using the average revenue per kilogram for each model sold by the industry in 2000. The consumer price index data relevant to the food sector from the Reserve Bank of Australia was then used to adjust the average revenue per kilogram to a December 2004 value for each model. From this data a weighted average product unsuppressed selling price was calculated.

The non-injurious price was calculated by adjusting the unsuppressed selling price to a free-on-board price by deducting all relevant post exportation costs such as: ocean freight and insurance; duty; port charges; cartage to store; importer's selling costs and importer's profit.

### 5.3 Australian industry's claims

The Australian industry proposed during the continuation inquiry that its selling prices in 2009/10 be used as the basis for determining the unsuppressed selling price and then deduct all relevant post exportation charges to calculate the non-injurious price.

### 5.4 Customs and Border Protection's assessment

Customs and Border Protection considers that Windsor Farm's selling prices in 2009/10 are suitable for establishing an unsuppressed selling price. Whilst the recent continuation inquiry into preserved mushrooms (REP 164) found that there was evidence indicating that dumped imports from China continued to cause injury to the Australian industry, the profits achieved on those sales are considered reasonable.

The 220 gram and 410 gram can sizes were the most comparable models sold on the Australian market by the Australian industry to the 190 gram and 400 gram can sizes imported from China in 2009/10.

The average revenue per kilogram for 220 gram and 410 gram can sizes for 2009/10 were used to calculate unsuppressed selling prices.

Windsor Farm's sales of 220 gram and 410 gram cans were free-into-store and at both the distributor and retailer levels.

Non-injurious prices were calculated by adjusting the unsuppressed selling price to a free-on-board price by deducting an average of all relevant post exportation costs incurred by representative importers.

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Three importers were visited during the continuation inquiry and had their post exportation costs verified. Two of the three importers visited operate at the retail level and the third operates at the distributor level. Customs and Border Protection used an average of post exportation costs for all three importers as Windsor Farm operates at both levels. Post exportation costs deducted included cartage to store, into-store costs, ocean freight and marine insurance.

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## 6. DUMPING MARGIN

### 6.1 Preliminary findings

The goods exported by Shenzhen Grandness from China to Australia during the review period were dumped with a dumping margin that was not negligible.

The goods exported by all other exporters subject to measures during the review period were dumped with a dumping margin that was not negligible.

### 6.2 Assessment

Measurement of a dumping margin is not required for the purposes of revising the variable factors, however, it may be relevant to the consideration of whether measures should be revoked (refer section 6).

Customs and Border Protection calculated a dumping margin for all exporters subject to measures for the review period by comparing the weighted average of export prices for each model type and combined over the whole of the review period with the weighted average of corresponding normal values over the whole of that period<sup>27</sup>.

Customs and Border Protection found that all exports of preserved mushrooms that are subject to anti-dumping measures were exported during the review period at dumped prices.

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<sup>27</sup> Subsection 269TACB(2)(a).

## 7. SHOULD THE MEASURES BE REVOKED?

### 7.1 Preliminary finding

There is evidence to support a finding that in the absence of measures:

- the goods would continue to be dumped; and
- those dumped goods would have caused material injury to the Australian industry producing like goods.

### 7.2 Introduction

After reviewing the variable factors, the delegate considered whether a recommendation to the Minister should be made to revoke the dumping duty notice<sup>28</sup> as it applies to a particular exporter or to exporters generally.

The matter to be considered is if the measures were not in place, would the delegate be positively satisfied that they could now be imposed consistently with s.269TG(2). In other words, would injurious dumping exist if there were no measures applying to the goods.

### 7.3 Assessment

#### 7.3.1 Dumping

The review has determined that all exports of preserved mushrooms by exporters subject to measures were exported during the review period at dumped prices that were not negligible.

Therefore there is evidence that in the absence of measures the goods would have continued to be exported at dumped prices.

#### 7.3.2 Material injury

In examining whether dumping would have caused material injury to the Australian industry in the absence of measures, Customs and Border Protection has had regard to information provided to the recently completed continuation inquiry into preserved mushrooms from China.

Customs and Border Protection made the following findings in that investigation that are relevant to the issue of revocation.

Customs and Border Protection found that material injury was continuing and likely to recur as a result of dumping from China on the basis of:

- the significant level of price undercutting by the imported preserved mushrooms when compared to the Australian industry's equivalent selling prices;
- evidence that retailers were using dumped import prices as a benchmark in negotiations with the Australian industry for supply contracts. The benchmark

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<sup>28</sup> s.269TG(1) and (2)

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prices were being used to obtain reduced and competitive price offers from Windsor Farms; and

- the price pressure being exerted on the Australian industry by reference to dumped import prices would be likely to lead to price depression and price suppression in the absence of measures. This impact on price would ultimately result in reduced profits and profitability for the Australian industry.

Therefore Customs and Border Protection is satisfied that in the absence of measures, the Minister would be entitled to take such measures because preserved mushrooms exported from China would continue to be dumped, and this dumping would cause material injury to the Australian industry producing like goods.

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