



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

R E P O R T

**TRADE MEASURES BRANCH
STATEMENT OF ESSENTIAL FACTS NO.164**

**INQUIRY INTO THE CONTINUATION OF
ANTI-DUMPING MEASURES**

**PRESERVED MUSHROOMS EXPORTED FROM
THE PEOPLE'S REPUBLIC OF CHINA**

12 OCTOBER 2010

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1 SUMMARY AND RECOMMENDATIONS

This continuation inquiry is in response to an application by Windsor Farm Foods Pty Ltd (Windsor Farm Foods) seeking the continuation of the anti-dumping measures applying to preserved mushrooms¹ exported to Australia from the People's Republic of China (China).

This statement of essential facts sets out the facts on which the delegate of the Chief Executive Officer of the Australian Customs and Border Protection Service (Customs and Border Protection) proposes to base his recommendation to the Minister for Home Affairs (Minister).

1.1 Proposed recommendation

The delegate proposes to recommend that the Minister take steps to secure the continuation of anti-dumping measures applying to preserved mushrooms exported from China to Australia from the expiry date 12 January 2011. This would result in anti-dumping measures being in place for another five years.

1.2 Preliminary findings and conclusions

The delegate considers that the expiration of measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the anti-dumping measure is intended to prevent.

This preliminary finding is based on the following:

- Imports from China during the inquiry period from 1 July 2009 to 30 June 2010 were at dumped prices with an average dumping margin of 77 percent;
- China continues to be the major supplier of preserved mushrooms to the Australian market;
- Windsor Farm Foods lost sales volume in 2008-09 and 2009-10 and experienced price suppression in 2008-09;
- Imported preserved mushrooms from China undercut Windsor Farm Foods prices. For the 220 gram can size, Customs and Border Protection found price undercutting ranging from 21 to 29 percent. For the 410 gram can size, Customs and Border Protection found price undercutting ranging from 34 to 43 percent;
- The expiration of measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, dumping; and
- The expiration of measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, material injury.

Based on these preliminary findings and conclusions, the delegate proposes to recommend that the Minister take steps to secure the continuation of anti-dumping measures applying to preserved mushrooms exported from China to Australia.

¹ A full description of the goods is at section 3.2.

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1.3 Final report

The delegate's final report and recommendation must be provided to the Minister by **30 November 2010**.

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2 INTRODUCTION

2.1 Continuation inquiry process

Dumping duty notices that have not been revoked automatically expire five years after the date on which they were published, unless the Minister decides to continue them².

Not later than nine months before a dumping duty notice expires, Customs and Border Protection must publicly announce that the measures are due to expire and invite certain interested parties to apply within 60 days for continuation of measures³. If no application for continuation of the measures is received by Customs and Border Protection within the period allowed, the measures expire on the specified date.

If an application for continuation of anti-dumping measures is received, and not rejected, Customs and Border Protection has up to 155 days to inquire and report to the Minister on whether continuation of the measures is justified. Within 110 days of the initiation notice, Customs and Border Protection must place on the public record a statement of essential facts on which it proposes to base its recommendation to the Minister concerning the continuation of those measures.

Before recommending the continuation of the measures, Customs and Border Protection must be satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the anti-dumping measure is intended to prevent.

Where the Minister decides to continue anti-dumping measures, the dumping duty notice will remain in force after the specified date for a further period of five years, unless the relevant notice is revoked before the end of that period.

In making recommendations in its final report to the Minister, Customs and Border Protection must have regard to:

- the application for continuation of the anti-dumping measures;
- any submission relating generally to the continuation 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 being placed on the public record.

Customs and Border Protection may also have regard to any other matter that it considers to be relevant to the inquiry.

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

² Under section 269TM of the Customs Act 1901.

³ Under section 269ZHB of the Customs Act 1901.

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2.2 Notification and participation

The current anti-dumping measures applying to preserved mushrooms from China are due to expire on 12 January 2011.

On 9 April 2010 Customs and Border Protection published a notice inviting certain persons to apply to Customs and Border Protection for continuation of the anti-dumping measures applying to preserved mushrooms from China.

On 8 June 2010, Windsor Farm Foods, the sole manufacturer of preserved mushrooms in Australia, lodged an application for the continuation of measures on preserved mushrooms exported from China. Customs and Border Protection examined the application from Windsor Farm Foods and decided not to reject it.

Public notification of initiation of the continuation inquiry was made on 28 June 2010 in *The Australian* newspaper. Australian Customs Dumping Notice (ACDN) No. 2010/24 was also published.

Customs and Border Protection is required to place the statement of essential facts on the public record on or before 16 October 2010. Interested parties are invited to lodge submissions in response to the statement of essential facts not later than 8 November 2010.

The final report to the Minister which outlines Customs and Border Protection's findings and recommendations is due on or before 30 November 2010.

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 **8 November 2010** 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 also be faxed to (02) 6275 6990 or emailed to 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 record⁴. 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

⁴ In preparing a non-confidential version interested parties should take account of the requirements set out in ACDN 2006/54.

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statement of essential facts. The public record may be accessed on the internet at www.customs.gov.au by following the prompts for “anti-dumping”. Alternatively, the public record may be viewed at Customs House Canberra by contacting Trade Measures Branch administration on (02) 6275 6547.

2.4 History of anti-dumping measures on preserved mushrooms

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

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 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.

On 13 September 2010, Customs and Border Protection initiated a review of measures following the consideration of an application by Xiamen Fortune Import & Export Co., Ltd. Customs and Border Protection is required to place the statement of essential facts for the review on the public record on or before 1 January 2011. A report and recommendation to the Minister will then be made on or before 15 February 2011.

2.5 Co-operation with inquiry

The applicant, Windsor Farm Foods, and the importers visited, Coles Group Ltd, Riviana Foods Pty Ltd and Woolworths Ltd, co-operated fully during the inquiry making relevant staff available during visits to the companies and providing copies of all requested documents.

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3 GOODS SUBJECT TO THE CONTINUATION INQUIRY

3.1 Preliminary finding

Customs and Border Protection is satisfied that the preserved mushrooms produced in Australia are like goods to the goods produced in China and exported to Australia⁵.

3.2 The goods and like goods

The goods subject to anti-dumping measures, in the form of a dumping duty notice, 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 Like goods

Windsor Farm Foods is the sole producer of preserved mushrooms in Australia at its production facility at Cowra, NSW. Windsor Farm Foods preserves sliced mushrooms in a variety of sauce mediums including butter, peppercorn, lite, no added salt, gravy and gluten free. Windsor Farm Foods also produces small quantities of mushrooms in brine.

Windsor Farm Foods sells preserved mushrooms in can sizes ranging from 130 grams, 220 grams, 410 grams, 500 grams, to 2.8 kilograms and in 200 kilogram barrels.

In the original investigation in 2005⁶ Customs and Border Protection found that preserved mushrooms exported from China were young mushrooms, generally known as champignons, and all imports were preserved in brine. The mushrooms were either processed as whole, sliced or pieces and stems.

In contrast Windsor Farm Foods' products were older mushrooms, only processed in the sliced form and preserved in a variety of mediums principally butter sauce.

⁵ In terms of s.269T of the Customs Act 1901.

⁶ Trade Measures Report No 98.

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Notwithstanding the physical differences such as age of the mushrooms and the fact that the imported goods are prepared as whole, sliced and in pieces and stems, Customs and Border Protection found that the physical characteristics and use of the products were essentially the same.

It was accepted that Windsor Farm' Foods' mushrooms in sauce products and the imported mushrooms in brine products differed in appearance and taste because of the different preserving mediums, the preparation of the mushroom and the ages of the mushrooms used in the respective products.

However Customs and Border Protection held the view that the essential physical characteristics of the products are the same i.e. they come in containers of similar size and weight and comprise the same key ingredient, a preserved form of the mushroom genus *Agaricus*, had similar manufacturing processes, were sold to the same market sectors (retail and food services) and were distributed through similar channels.

Based on information provided by Windsor Farm Foods and importers, Customs and Border Protection was satisfied that preserved mushrooms manufactured by Windsor Farm Foods 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.

Claims made by interested parties

The following claims about like goods were made by importers during verification visits:

- the market for imported goods (mushrooms in brine) is not the same as the market for the goods manufactured by Windsor Farm Foods (mushrooms in butter sauce);
- mushrooms in sauce are purchased from Windsor Farm Foods, as it is the only supplier of that product and mushrooms in brine are imported as it is not produced by Windsor Farm Foods;
- The two products do not compete with each other as the mushrooms in sauce is more of a convenience product whereas the mushrooms in brine is more of an ingredient product and is more likely to be used when mushrooms are an ingredient in a recipe regardless of any price difference. Consumers wanting a mushroom sauce, on the other hand, are split between the two products; and
- mushrooms in sauce and mushrooms in brine are stocked to offer customers the full range of products.

A submission on like goods was received from the Food & Beverage Importers Association (FBIA) during the inquiry. The FBIA submitted: that mushrooms in sauce is not a like good to mushrooms in brine because;

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- the goods are not physically identical: young mushrooms in brine versus older mushrooms in sauce; and
- the sauce in the local product is for consumption whereas the the brine in the imported product is a preserving medium and not for consumption. Because it is in a sauce, the local product has a limited end use compared to the imported product which may be used in a variety of foods.

Customs and Border Protection found that there was no information submitted during this inquiry that would cause Customs and Border Protection to deviate from the original finding.

3.3 The Australian mushroom industry

The Australian mushroom market is supplied by domestic and imported common or button mushrooms (*Agaricus* genus), domestic and imported exotic mushrooms (e.g. shiitake and oyster) and value added products such as dried and preserved mushrooms. The total Australian mushroom market in 2005-06 is summarised in the following table⁷.

Table 1: Total Australian mushroom market in 2005-06

	2005-06 (tonnes)	%
Total market	61,620	
Australian production of <i>Agaricus</i>	55,480	90% of total market
Australian <i>Agaricus</i> supply to processors	1,110	2% of Australian production of <i>Agaricus</i>

This is the most recent information available on the Australian mushroom market. The market is reasonable stable with a very low growth rate. Therefore it is expected that the above data reasonably reflects the current situation.

The table indicates that the Australian mushroom industry is dominated by the domestic production of *Agaricus* mushrooms. There are 92 commercial growers of *Agaricus* in Australia but three companies produce more than 50 percent of total production and 15 companies produce 75 percent of total production. The table also indicates that 98 percent of domestic production is sold to the fresh vegetable market with only small quantities going to processing.

⁷ Source: 'State of the Australian Mushroom Industry' AMGA – 2006 Statistics

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4 4. AUSTRALIAN INDUSTRY

4.1 Preliminary findings

There is an Australian industry producing like goods, comprising Windsor Farm Foods as the sole manufacturer in Australia.

4.2 Produced in Australia

For goods to be taken as produced in Australia:

- they must be wholly or partly manufactured in Australia; and
- for the goods to be partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia⁸.

The application was made by Windsor Farm Foods which is wholly owned by the Windsor Farm Foods Group Limited (Windsor Farm Foods Group). Windsor Farm Foods Group acquired Cowra Export Packers Limited (CEP) in November 2000. After acquisition of CEP Windsor Farm Foods closed its Windsor facility and moved its operation to CEP's facility at Cowra.

Windsor Farm Foods Group is an Australian unlisted public company established originally as the Mushroom Growers' (Co-op) Society in 1975. Since then the operation has changed significantly with the acquisition of five business operations that now combine to form the Windsor Farm Foods Group. Windsor Farm Foods Group has three distinct divisions or business units one of which is the Cowra cannery.

Windsor Farm Foods states that it is the sole manufacturer of preserved mushrooms in Australia. No other interested party has claimed to be an Australian producer of preserved mushrooms.

Based on a previous finding, Customs and Border Protection is satisfied that at least one substantial process in the manufacture of preserved mushrooms is carried out in Australia, and that preserved mushrooms are manufactured in Australia.

⁸ Subsections 269T(2) and 269T(3).

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5 AUSTRALIAN MARKET

5.1 Market structure

Customs and Border Protection found in the original investigation that there are three market sectors which can be differentiated by end-use and container size:

Market sector	End-use	Container size
Retail: <ul style="list-style-type: none">supplied by Windsor Farm Foods & imports	<ul style="list-style-type: none">Main customers are supermarket chains and independent grocery stores;Sales are made through distributors	130g to 425g (Typically in 220g and 410g cans)
Food services outlets: <ul style="list-style-type: none">Supplied by Windsor Farm Foods & imports	<ul style="list-style-type: none">Customers who purchase the products for restaurants, take-away outlets, bakeries and caterers;Sales are made through distributors	1.5kg to 3kg (Typically 2.8kg cans)
Industrial food processors: <ul style="list-style-type: none">supplied by Windsor Farm Foods only	<ul style="list-style-type: none">Purchasers of large bulk quantities generally purchased as intermediate inputs for packaged products;Sales are made direct	10kg + (Typically in barrels)

Customs and Border Protection found in the original investigation that:

- sales of 220g, 410g and 2.8kg cans accounted for 90 percent of Windsor Farm Foods' sales volume in 2004; and
- Retail is the largest market segment and is dominated by the two major retailers: Woolworths and Coles. Their market dominance allowed them to put pricing pressure on suppliers.

Customs and Border Protection found in this inquiry that in 2009-10 sales of 220 gram and 410 gram can sizes accounted for about 83 percent of total sales and sales of 2.8 to 2.95 kilogram can sizes accounted for about 15 percent of total sales. Therefore the retail sector continues to dominate followed by the food services sector with only a small volume going to the industrial food processors sector.

5.2 Market size

The following data was used to calculate the size of the Australian preserved mushrooms market over the last decade:

- verified sales data provided by Windsor Farm Foods and import and sales data provided by importers during the original investigation;

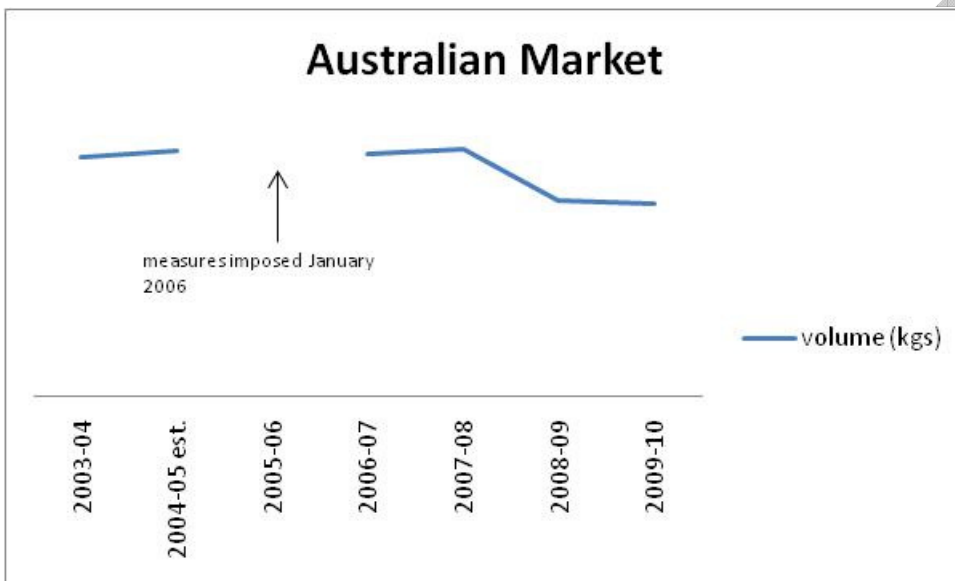
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- verified sales data provided by Windsor Farm Foods and import and sales data provided by importers during this continuation inquiry; and
- data sourced from Customs and Border Protection's import database.

The importers visited during the continuation inquiry collectively accounted for more than 60 percent of total imports from China during 2009-10.

The size of the Australian market for preserved mushrooms from 2003-04 (the period before measures were imposed) to 2009-10 is shown in the following chart.

Note: data was not available for the second half of 2004-05 and for 2005-06. Data for 2004-05 is estimated based on verified data for the first half of the year.



The chart indicates that the Australian market for preserved mushrooms was relatively stable before declining in 2008-09 and 2009-10.

The decline in 2008-09 and 2009-10 coincided with the onset and aftermath of the global financial crisis.

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6 IMPORTS FROM CHINA

6.1 Preliminary findings

Imports from China during the inquiry period from 1 July 2009 to 30 June 2010 were at dumped prices with an average dumping margin of 77 percent.

China continues to be the major supplier of preserved mushrooms to the Australian market.

6.2 Dumping during the inquiry period

At the commencement of this inquiry, Customs and Border Protection sent an exporter questionnaire to all known exporters of preserved mushrooms from China subject to anti-dumping measures requesting domestic sales, costs and export information relating to the inquiry period: 1 July 2009 to 30 June 2010. No exporters responded.

The normal value, export price and dumping margins for exporters from China during the inquiry period were determined using information supplied by Windsor Farm Foods and importers⁹ and from Customs and Border Protection's import database.

6.2.1 Normal Value

In its application for the continuation of measures Windsor Farm Foods provided information on recent Chinese domestic selling prices for canned mushrooms sold in China. Windsor Farm Foods quoted a market report for Chinese mushrooms for the December 2007 to March 2008 crop¹⁰. 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
12x8oz whole EOE	6.80	8.20	7.50	2.76
12x313ml slice 30%	5.10	6.10		
6x68oz pieces & stems	20	26		

Windsor Farm Foods stated the report indicated that tin prices and utility charges continued to increase in 2008 and claimed that prior to the onset of the global financial crisis input costs, particularly steel, had increased by up to 30 percent. Windsor Farm Foods claimed it is therefore reasonable to conclude that the contracted selling prices in the 2007-08 season are indicative of domestic selling prices in 2008 harvest and most likely into 2009.

⁹ During the inquiry Customs and Border Protection visited Woolworths, Coles and Riviana. The visit reports for these companies are available on the public record.

¹⁰ *Market Report for Chinese Mushrooms (2007/2008 crop)*, Xiamen Kingstar Imp & Exp Co., Ltd, 31 August 2007

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Windsor Farm Foods claimed that it is reasonable to compare the contracted price for the 8 ounce can (227 gram can) in China with export prices to Australia as in the original investigation Customs and Border Protection found that more than 80 percent of sales in Australia of preserved mushrooms were in containers up to 425 grams in size. Windsor Farm Foods calculated a midpoint price per tray and converted the price to US dollars per kilogram.

Windsor Farm Foods claimed that the identified selling price information represents the best available information upon which to assess whether export prices to Australia in 2009-10 have been at dumped prices.

Windsor Farm Foods claimed that a comparison of pricing for contracted sales in China with recent export prices to Australia (from ABS statistics) indicates that dumping margins of between 8 and 20 percent are evident. Customs and Border Protection noted that Windsor Farm Foods calculation of normal value, based on the midpoint price for 8oz cans, was incorrect. Customs and Border Protection's calculation of normal was based on an 8 ounce can being equivalent to a 227 gram can.

For the purpose of this inquiry, the Chinese contract price for 8 ounce cans of whole preserved mushrooms provided by Windsor Farm Foods is considered the best available information to base an assessment of normal value for all exporters subject to anti-dumping measures.

6.2.2 Export price

Import information (including the value and volume of the goods) verified through visits to importers¹¹ provides a reasonable basis for determining the export price for all exporters subject to anti-dumping measures.

The preserved mushrooms imported by one of the importers visited were sourced during the inquiry period from exempt exporters (except one shipment). Weighted average export price is therefore based on the free-on-board export price paid by the two importers who purchased preserved mushrooms from exporters subject to measures during the inquiry period.

6.2.3 Dumping Margins

Preserved mushrooms were exported to Australia during the inquiry period at dumped prices with an average dumping margin of 77 percent.

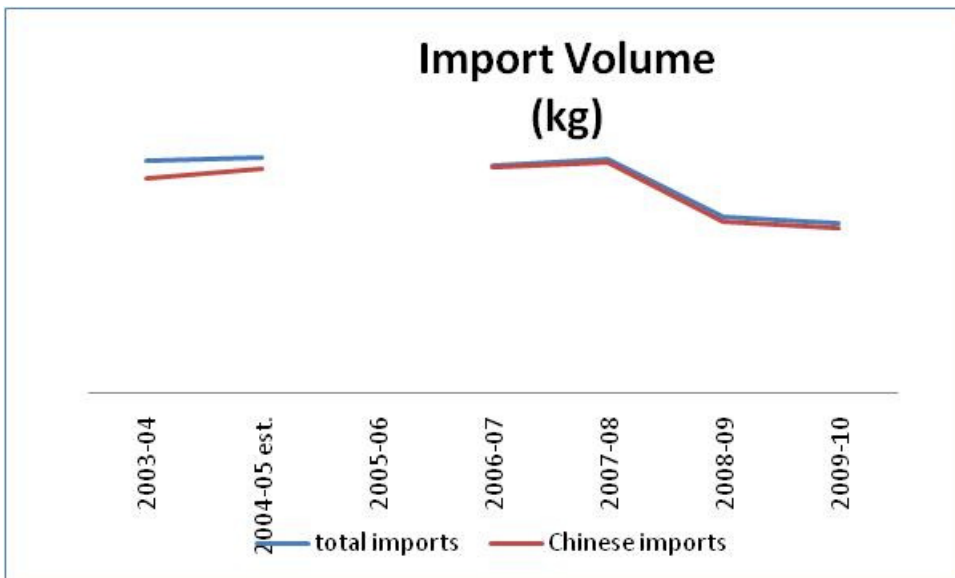
6.3 Volume Trends

The following charts are based on information from Customs and Border Protection's import database.

The volume of imports since the period immediately before measures were imposed to 2990-10 is charted below.

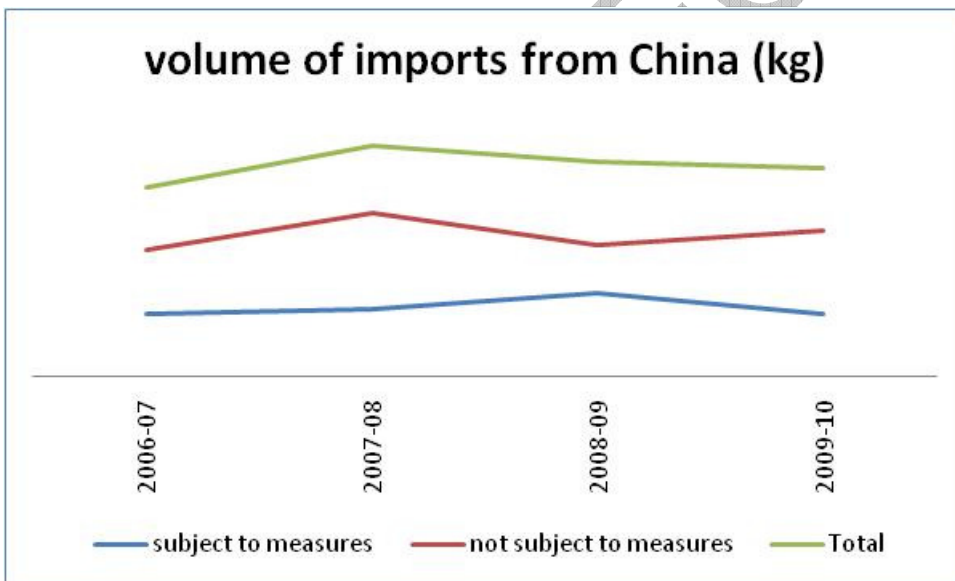
¹¹ During the inquiry Customs and Border Protection visited Woolworths, Coles and Riviana. The visit reports for these companies are available on the public record.

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This chart indicates that import volume from China trended upwards before declining in 2008-09 and 2009-10.

The average half yearly volume of preserved mushrooms subject to measures and not subject to measures since anti-dumping measures were imposed in January 2006 is charted below.



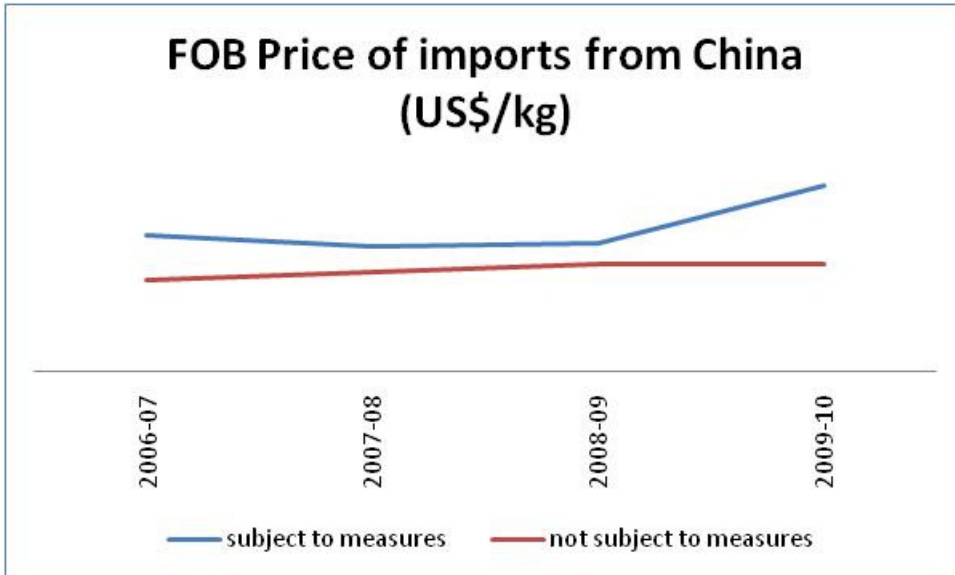
The chart shows that the total volume of imports from China increased in 2007-08 and then declined in 2008-09 and 2009-10 but still remained at a higher level than in 2006-07. The chart also shows that the volume of imports from exporters not subject to measures declined in 2008-09 and increased in 2009-10 whereas imports from exporters subject to measures increased in 2008-09 and declined in 2009-10. Overall, however, imports from exporters not subject to measures has remained significantly higher than the volume of imports from exporters subject to measures since anti-dumping measures were imposed.

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6.4 Price Trends

The following chart is based on information from Customs and Border Protection's import database

The average half yearly free-on-board price per kilogram of imports from Chinese exporters subject to measures and not subject to measures since measures were imposed in January 2006 is charted below.



The chart indicates that export prices for preserved mushrooms sold by exporters subject to measures declined after anti-dumping measures were imposed before increasing in 2008-09. The chart also indicates that export prices for preserved mushrooms sold by exporters not subject to measures have remained significantly below the export price of exporters subject to measures throughout the period since anti-dumping measures were imposed particularly in 2009-10.

7 ECONOMIC CONDITION OF THE INDUSTRY

7.1 Preliminary findings

Windsor Farm Foods lost sales volume in 2008-09 and 2009-10 and experienced price suppression in 2006-07 and 2008-09.

Imported preserved mushrooms from China undercut Windsor Farm Foods prices. Price undercutting was found ranging from 21 to 29 percent (for the 220 gram can size) and 34 to 43 percent (for the 410 gram can size).

7.2 Assessment - methodology

To assess the economic condition of Windsor Farm Foods, Customs and Border Protection examined:

- verified data provided by Windsor Farm Foods in the original investigation and the continuation inquiry;
- verified import and sales data provided by importers visited during the continuation inquiry; and
- import data from Customs and Border Protection's import database.

Note: Windsor Farm Food and import data was not available for the second half of 2004-05. Data for 2004-05 is therefore estimated based on verified data for the first half of 2004-05. Import data was not available for the whole of 2005-06.

The following assessment examines the economic performance of Windsor Farm Foods as a whole (i.e. not by market sector) and focuses on the performance of the highest selling products by volume (i.e. 220 gram, 410 gram and 2.8 kilogram can size in butter sauce).

7.3 Windsor Farm Foods' claims

Windsor Farm Foods claimed in its application¹² for continuation of anti-dumping measures that:

- it has experienced cost increases since 2007-08 particularly in tin plate, carton board as well as raw materials;
- The increased cost of production has resulted in increasing selling prices (the anti-dumping measures have ensured a floor price was maintained since imposition);
- The continuation of the anti-dumping measures at levels which reflect contemporary prices and costs would enable it to operate profitably and expand its supply to the Australian market; and
- it is vulnerable to reduced prices in the absence of anti-dumping measures. In the absence of anti-dumping measures Chinese export prices would reduce resulting in price undercutting leading to price depression and reduced profits and profitability.

Windsor Farm Foods submitted on 7 September 2010¹³ that:

¹² Copy of Windsor Farm's application is available on the public record

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- There has been a continued presence of imported preserved mushrooms from China in the market since measures were imposed in early 2006;
- The Australian retail food sector is dominated by two major retailers who have 75-80 percent market share which provides the companies with significant purchasing power that is detrimental to local suppliers;
- it has been experiencing pricing pressure from imports of preserved mushrooms from China and provided the following examples:
 - One major retailer requested a price reduction for a reason it claimed was good for its strategic partners. The special offer was not made or requested from suppliers of imported Chinese preserved mushrooms. Shortly after the special offer, the retailer deleted a number of product lines from its range, namely, 220 gram in lite sauce, 220 gram in gluten free gravy and 410 gram mushrooms;
 - During a recent annual tender negotiation, a retailer requested a 10-15 percent price reduction so that it could maintain its margins. The retailer cited cheaper imported preserved mushrooms as an alternative;
- Over the past two years Windsor Farm Foods has had product lines deleted from retailers and has lost sales of preserved mushrooms to Chinese imports. These include:
 - July 2010 – 410 gram mushrooms in butter sauce was deleted by a customer and replaced by imported Chinese preserved mushrooms;
 - March 2009 – 130 gram mushrooms in butter sauce was deleted whereas imported Chinese preserved mushrooms in same can size remain;
 - Windsor Farm Foods supplied mushrooms in brine to a customer from July 2008 but due to lower prices for imported Chinese mushrooms Windsor Farm Foods is struggling to make target sales and is presently running down its stocks;
 - In a recent October 2009 tender, Windsor Farm Foods requested a 4 percent price increase to cover increases in wages, power and can costs. The request was refused with the threat that the product would be replaced by imports if Windsor Farm Foods increased its prices;
 - Windsor Farm Foods was unsuccessful with another customer with the customer saying that Windsor Farm Foods' prices were up to 60 percent uncompetitive;
 - Windsor Farm Foods has lost sales of \$350,000 per annum to the Food Service sector over the past 3 to 4 years to imported product; and

¹³ Copy of submission is available on the public record

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- Windsor Farm Foods has lost all sales to Master Foods who is understood to be now sourcing preserved mushrooms solely from China.

The Chairman of Windsor Farm Foods Group reported in the 2009 annual report that the company again incurred a loss for the 2009 financial year of \$1.4 million compared to a loss of \$2.2 million for the 2008 financial year. The chairman also reported that the cannery continues to remain the greatest challenge due to:

- changing consumer demands in packaging; and
- the continuing trend of import substitution for local canned product due to cost advantage due to:
 - the high exchange rate of the Australian dollar; and
 - large share of the retail market controlled by a few.

It was noted that Windsor Farm Foods' broad claims of injury are based on ABS data which does not differentiate between imports from exporters subject to measures and those not subject to measures.

7.4 Volume effects

7.4.1 Sales volume

Windsor Farm Foods' total sales volume and sales volumes for its three leading container sizes since the period immediately before measures were imposed to 2009-10 are shown in the chart below.



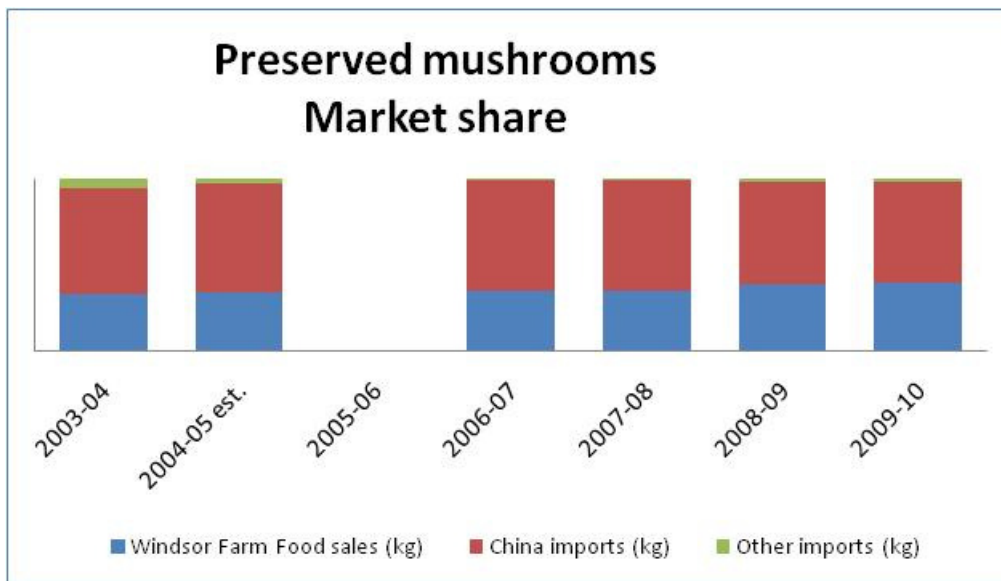
The chart indicates that Windsor Farm Food's total sales since measures were imposed trended upwards before declining in 2008-09 and remaining at that level in 2009-10.

The total volume of imports from China declined in 2008-09 and 2009-10. Lost sales volume by Windsor Farm cannot be attributed to imports from China (see section 7.4.2).

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7.4.2 Market Share

The share of the Australian market held by Windsor Farm Foods, imports from China and other imports since the period immediately before measures were imposed to 2009-10 is charted below.

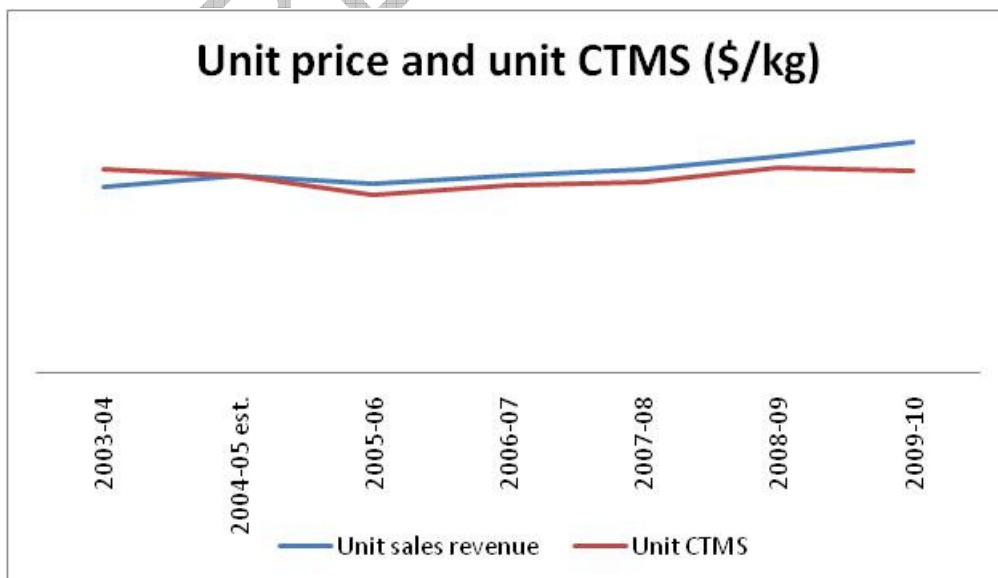


The chart indicates that the market share held by Windsor Farm Foods has increased slightly since 2003-04. The market share held by Chinese imports during this period has therefore decreased slightly. Market share held by imports from other sources has fallen to insignificant levels.

7.5 Price effects

7.5.1 Price suppression

Movements in Windsor Farm Foods' weighted average unit price and cost to make and sell (CTMS), since the period immediately before measures were imposed to 2009-10, are charted below.



The chart indicates that unit price and unit CTMS followed a similar increasing trend between 2005-06 to 2008-09. In 2009-10 prices continued to increase

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while unit CTMS decreased. Windsor Farm Foods explained that the cost of tin cans decreased in 2009-10 which is reflected in a reduced CTMS in that year.

There is no evidence of price suppression since anti-dumping measures were imposed.

7.5.2 Price depression

Price movements in Windsor Farm Foods' weighted average prices for preserved mushrooms are shown in the chart above.

The chart indicates that the average unit selling prices have increased since the imposition of measures.

There is no evidence of price depression since measures were imposed.

7.5.3 Price undercutting

Windsor Farm Foods did not claim that its prices were being undercut by imported preserved mushrooms from China in its application. Windsor Farm Foods did however claim in a later submission that:

- all supply contract negotiations are undertaken on the basis that each retailer can readily switch to supply 100 percent sourcing of Chinese preserved mushrooms;
- the market pricing is transparent leaving little room to manoeuvre against prices for imported Chinese preserved mushrooms; and
- a retailer does not provide written advice concerning price negotiations or lost sales, however during a recent annual tender negotiation a retailer requested a 10 to 15 percent price reduction for Windsor Farm Foods to win the business. The retailer cited imported preserved mushrooms as an alternative where the price is lower.

Price information provided by Windsor Farm Foods and importers was examined to assess whether price undercutting was evident in the market since measures were imposed. Information at the wholesale/ distributor level was assessed as it was considered to be the level at which Windsor Farm Foods operates in competition with imports.

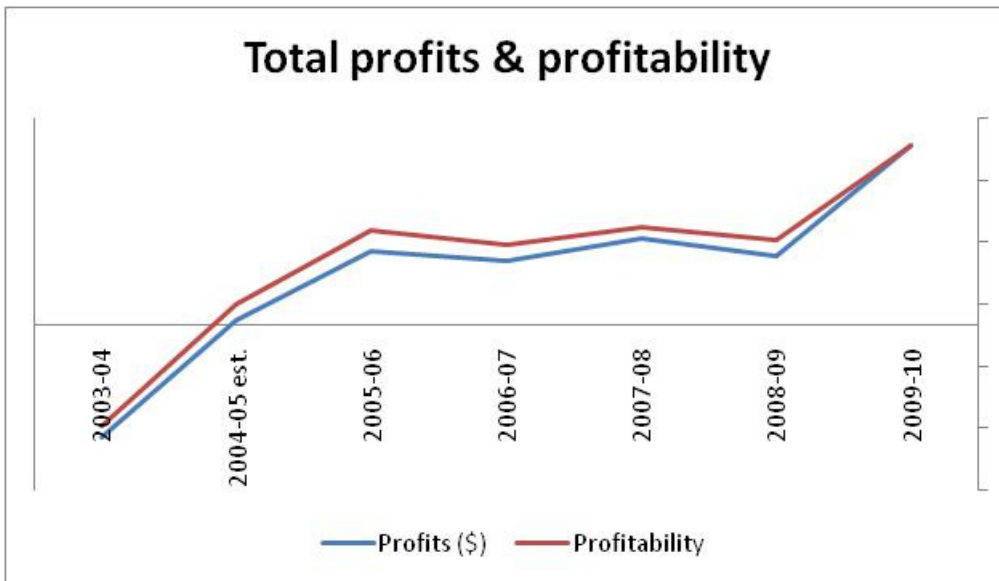
Windsor Farm Foods' quarterly weighted average selling prices to the retail sector (i.e. 220 gram and 410gram can sizes) was compared with the landed duty paid into-store price of Chinese preserved mushrooms imported by the two largest importers of preserved mushrooms subject to measures in the inquiry period. It was noted that neither of the importers sold the same size cans as Windsor Farm Foods. The most comparable sized cans were therefore used in the analysis (i.e. sales of 220 gram cans were compared to imports of 190 gram and 184 gram can sizes and sales of 410 gram cans were compared to imports of 400 gram and 425 gram can sizes).

Imported preserved mushrooms from exporters subject to measures were found to undercut Windsor Farm Foods prices. Price undercutting was found ranging from 21 to 29 percent for the 220 gram can size and 34 to 43 percent for the 410 gram can size.

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7.6 Profits and profitability

Movements in Windsor Farm Foods' total profits and profitability since the period immediately before measures were imposed to 2009-10 are charted below.



The chart indicates that Windsor Farm Foods' total profits and profitability increased significantly in 2005-06 (around the time anti-dumping measures were imposed) then fluctuated with the changes in the price of tin cans before increasing significantly in 2009-10.

The increase in total profits and profitability in 2009-10 resulted from an increase in price and a decrease in unit CTMS and reduced competition from Chinese imports.

There is no evidence of lost profits and profitability

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8 LIKELIHOOD OF DUMPING RECURRING OR CONTINUING

8.1 Preliminary finding

The expiration of measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, dumping.

8.2 The global preserved mushroom market

Customs and Border Protection examined public source information to obtain an understanding of the global mushroom market.

The US International Trade Commission reported in June 2010¹⁴ that:

- the global mushroom production was an estimated 3.4 million metric tonnes in 2007 with China holding a 47 percent share of production. World canned mushroom exports were an estimated 458,137 metric tonnes in 2008 up by 25 percent from 2004 with China accounting for 87 percent of total export volume in 2008 and for nearly all of the rise in global exports since 2003-04;
- China's dominance has occurred even though most Chinese growers are using growing methods considered low technology relative to other major producing countries;
- China, India and Indonesia have become major suppliers of canned mushrooms since 2003-04. All three countries have mushroom canning industries that are export oriented; and.
- In spite of rising consumption of many processed foods in China as well as increases in the cost of processing raw materials, Chinese food processors are expected to continue processing greater amounts of canned mushrooms each year.

8.3 Applicant's Claims

In its application for the continuation of measures Windsor Farm Foods claimed that as the variable factors applicable to preserved mushrooms exported from China have not been revised since imposition in 2006, it is considered likely that recent exports to Australia (since 2008) have been at dumped prices due to raw material increases in China and globally. Windsor Farm Foods claimed that in the absence of anti-dumping measures reflecting contemporary prices, Chinese export prices for preserved mushrooms are likely to be at dumped prices during 2010.

8.4 Imports of Preserved mushrooms from China

As outlined in previous sections of the report:

- China is the largest supplier of preserved mushrooms to the Australian market (section 7.4.2);

¹⁴ *Mushrooms Industry & Trade summary*, US International Trade Commission, June 2010

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- The continuing volume of imports from China indicates that Chinese exporters have maintained distribution channels into the Australian preserved mushroom market since anti-dumping measures were imposed in January 2006;
- Chinese food processors are expected to continue processing greater amounts of canned mushrooms each year (section 8.2); and
- preserved mushrooms from China were exported at dumped prices from exporters subject to measures during the inquiry period of July 2009 to June 2010 with an average dumping margin of 77 percent (section 6.2).

8.5 Capacity of Manufacturers in China

Public source information indicates that China accounts for 87 percent of world canned mushroom exports and for nearly all of the increase in global exports of canned mushrooms since 2003-04 (section 8.2). China therefore has the capacity to increase its exports to Australia in the absence of anti-dumping measures.

8.6 Anti-Dumping Measures by Other Countries

The United States conducted a sunset review inquiry into preserved mushrooms in 2009 and decided to continue anti-dumping measures applicable to exports of preserved mushrooms from Chile, China, India and Indonesia.

Imports of processed vegetable products (including certain preserved mushrooms) into the European Union are subject to a tariff-rate quota system that commenced in 1995. In 2006 the European Union modified the annual quota assigning an annual quota of 63.8 million pounds to imports of preserved mushrooms from China and 11.1 million pounds from all other countries (other than Bulgaria and Romania). The out of quota tariff rate is 23 percent for HTS subheadings 2003.10.20 and 2003.10.30.

Customs and Border Protection examined semi-annual returns to the World Trade Organisation and conducted internet based research to see if other countries have anti-dumping measures in place for preserved mushrooms from China. Mexico imposed an antidumping duty order on imports of preserved mushrooms from Chile and China in May 2006.

8.7 Customs and Border Protection's Assessment

Preserved mushrooms from China have been exported at dumped prices from exporters subject to measures with an average dumping margin of 77 percent since anti-dumping measures were imposed.

China continues to be the major supplier of preserved mushrooms to the Australian market.

Dumping is therefore likely to continue should the anti-dumping measures on preserved mushrooms from China expire.

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9 LIKELIHOOD OF INJURY RECURRING OR CONTINUING

9.1 Preliminary finding

The expiration of measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, material injury.

9.2 Applicant's Claims

In its application, Windsor Farm Foods claimed that:

- Chinese exports of preserved mushrooms account for between 60 and 66 percent of the Australian market. Chinese exporters have maintained well established distribution channels into the Australian market and continue to hold a significant proportion of total sales;
- the anti-dumping measures imposed have ensured that the Australian industry has not been subjected to injurious prices that would have resulted in significant lost sales volumes (and reduced market share);
- the measures established a floor price based upon ascertained export prices across the original investigation's "investigation period". As exports from China represent the dominant alternative source for preserved mushrooms (with clearly established distribution channels into the Australian market) it is considered highly probable that in the absence of measures, Chinese preserved mushroom exports to Australia would have increased and displaced Australian industry sales;
- it has compared Chinese export prices to New Zealand and Australia over the period from January 2009 to April 2010. The data indicates that the average free-on-board price to New Zealand, a market where anti-dumping measures do not apply, is significantly lower than the average free-on-board export price to Australia when compared on a month by month basis by between 13.8 and 55.7 percent. Windsor Farm Foods considers that the pricing differentials to be substantial and demonstrative of the effectiveness of the current anti-dumping measures; and
- China is the world's largest exporter of preserved mushrooms, with the ability to displace the production of the Australian industry swiftly. In the periods following the imposition of measures China has continued as the main source of supply of preserved mushrooms to the Australian market. Since 2007-08 China has supplied approximately 95 percent of the total import volume into Australia. It is apparent that importers have continued to source preserved mushrooms from China and will continue to do so over the longer term.

The chairman of the Windsor Farm Foods Group claimed in the 2009 annual report that the cannery continues to remain the greatest challenge due to changing consumer demands in packaging and the continuing trend of import substitution for local canned product due to cost advantage due to the high Australian dollar exchange rate and the large share of the retail market controlled by a few.

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9.3 Claims by Other Interested Parties

The Food and Beverage Importers Association claimed in a submission dated 6 August 2010 that:

- the preserved mushroom market is a declining market because of changing consumer preferences for fresh and exotic mushrooms; and
- there are other factors influencing import activity and the Australian preserved mushroom market as evidenced by:
 - the contraction in the market in 2008-09 and 2009-10 which started 18 months after the imposition of anti-dumping measures;
 - there was a significant decrease in imports during this period which was not taken up by Windsor Farm Foods.

9.4 Customs and Border Protection's Assessment

Windsor Farm Foods was unable to provide direct evidence to support its claims that retailers referred to import prices during supply contract negotiations in an attempt to negotiate better terms and prices for the purchase of domestically produced preserved mushrooms. However in the absence of contrary views, Customs and Border Protection has given some weight to these claims.

Windsor Farm Foods lost sales volume in 2008-09 and 2009-10 and experienced price suppression in 2006-07 and 2008-09. Windsor Farm Foods' selling prices were undercut in 2009-10.

The export price of preserved mushrooms sold by exporters not subject to measures remained significantly below the export price of sales by exporters subject to measures.

In the absence of measures the export price of preserved mushrooms exported by exporters not subject to measures is likely to decline to the same level as the export price of preserved mushrooms exported by exporters subject to measures.

Given the likely reduction in export prices following the expiration of anti-dumping measures, it is reasonable to believe that Windsor Farm Foods would face further price pressures during negotiations for supply contracts with major retailers and/ or lead to reduced or lost sales volumes.

Material injury is therefore likely to recur should the anti-dumping measures on preserved mushrooms from China expire.

10 SUMMARY

10.1 Continuation test

Customs and Border Protection must not recommend that the Minister take steps to secure the continuation of the anti-dumping measures unless satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the anti-dumping measures are intended to prevent.

10.2 Customs and Border Protection's assessment

It is considered that the expiration of measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the anti-dumping measure is intended to prevent.

Customs and Border Protection intends to recommend that the Minister take steps to secure the continuation of the anti-dumping measures on preserved mushrooms.