



Australian Government
Australian Customs Service

CUSTOMS ACT 1901 - PART XVB

**TRADE MEASURES INITIATION
REPORT NO.99**

ALLEGED DUMPING OF

**PRESERVED MUSHROOMS
EXPORTED FROM
THE PEOPLES REPUBLIC OF CHINA**

30 March 2005

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INTRODUCTION

On 10 March 2005, Windsor Farm Foods Pty Ltd (Windsor) lodged an application requesting that the Minister for Justice and Customs (the Minister) publish a dumping duty notice in respect of preserved mushrooms exported to Australia from the Peoples Republic of China (China).

Windsor is wholly owned by Windsor Farm Foods Limited and is the sole Australian producer of preserved mushrooms.

The application stated that preserved mushrooms have been exported to Australia at prices lower than their normal values, and that the dumping has caused material injury to the Australian industry through:

- lost market share;
- lost sales volume;
- price undercutting;
- price depression;
- price suppression;
- reduced profits and profitability;
- under-utilization of capacity; and
- reduced employment numbers.

Windsor stated in its application that injury to the Australian industry commenced during 1999 when Chinese imports dramatically increased in volume as a result of anti-dumping duties being imposed in that year on preserved mushrooms exported from China to the USA.

Pursuant to sub-section 269TC(1) of the *Customs Act 1901* (the Act), the Chief Executive Officer of Customs (CEO) must reject the application unless satisfied that:

- (1) the application complies with subsection 269TB(4) of the Act; and
- (2) there is, or is likely to be established, an Australian industry in respect of like goods; and
- (3) there appear to be reasonable grounds:
 - for the publication of a dumping duty notice in respect of the goods the subject of the application; or
 - for the publication of such a notice upon the importation into Australia of such goods.

This report addresses the above criteria. The decision whether to reject the application must be made no later than 30 March 2005.

CUSTOMS ANALYSIS OF THE APPLICATION

PART A – AUSTRALIAN INDUSTRY

A-1 & A-2 Company information

Windsor is wholly owned by Windsor Farm Foods Group Limited, an unlisted Australian public company. The cannery, Cowra Export Packers Pty Ltd, is also wholly owned by Windsor Farm Foods Group Limited.

A-3 The imported and locally produced goods

The goods

The goods nominated by the applicant are preserved mushrooms or champignons of the genus *Agaricus*, whole, sliced or as stems and pieces, in brine, sauce or some other similar preserving medium, packed in containers, including bottles, cans, bags, pails and barrels (the goods).

The application does not cover other species of mushrooms including straw mushrooms, shiitake mushrooms, and oyster mushrooms.

The applicant identifies the goods as classified in 2003 10 00, statistical codes 81 and 82 of the *Customs Tariff Act 1995*. The rate of duty is five per cent.

The applicant also stated that some goods may be incorrectly classified to statistical codes 83 and 84. Customs did not find any indications of major misclassifications.

Customs' commercial database confirms that preserved mushrooms have been, and continue to be, exported to Australia from China. It is not possible to identify container size of the imports due to the absence of size categories in the Australian Bureau of Statistics (ABS) data and Customs' commercial database.

Like goods

An application for publication of a dumping duty notice must be rejected unless goods produced in Australia are like goods to the goods under consideration (GUC).

Subsection 269T(1) of the Act defines like goods to be:

"... goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration."

Windsor stated that it produces sliced mushrooms in a range of preserving mediums, including butter sauce, garlic sauce, peppercorn sauce, lite sauce and brine.

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The products come in cans ranging in size from 130 grams (gm) to 2.8 kilograms (kg). As well as cans, Windsor manufactures pails of sliced mushrooms in butter sauce (in 10 kg and 20 kg sizes) and bags of preserved sliced mushrooms (in 2.5 kg and 10 kg sizes). Windsor said that its mushroom products compete with mushrooms in containers of similar types and sizes imported from China.

Windsor claimed that their preserved mushrooms are like goods to the mushrooms imported from China for the following reasons:

- imported and locally processed mushrooms are classified to the same tariff item 2003.10.00;
- they directly compete and are interchangeable;
- they are sold in similar sized containers;
- they are sold in the same markets – retail customers, food service industry and industrial users; and
- they have the same distribution channels.

When addressing the issue of like goods Customs considers their physical characteristics and their substitutability/end use.

On the information available to Customs the imported and locally produced goods are not identical. There are differences in the types of containers (bottles versus cans), in container size, the mushroom content in the containers, the appearance of mushrooms in the containers, the type of preserving medium, and taste of the products.

Although the imported and locally produced goods are not identical in physical appearance the mushrooms in both the imported and locally produced products are of the same species – the genus *Agaricus*, (the imported mushrooms are generally younger in age (champignons) while the locally produced mushrooms tend to be older mushrooms).

The local and imported mushrooms are claimed to be sold in similar sized containers, are preserved in a packing medium, and fall to the same tariff classification.

Customs also examined substitutability/end-use of the imported and locally produced products. Both the imported and local products appear to be purchased for their mushroom content. An examination of various product labels, and other research, indicated that while there are uses that are seemingly better suited to one or other of the local or the imported product, both products appear to be marketed as having many common usages – in soups, sauces, stir-fries, fillings, and casseroles. The applicant claimed that while imported mushrooms were preferred for certain uses this had not always been the case historically, and if imported mushrooms were sold at undumped prices consumers would possibly switch to a more keenly priced local product. The applicant claimed that the substitutability of the local and imported products was also demonstrated by their side-by-side positioning on supermarket shelves.

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The applicant provided some evidence regarding the substitutability of the local and imported products. The applicant had obtained a statistical pricing analysis carried out by an associate professor at the Faculty of Economics and Business Law at the University of New England. This study was based on weekly total sales value and price per item of certain imported and locally produced canned mushrooms over a two-year period between 2002 and 2004. It examined cross-price elasticities of demand between imported and local product, and within a range of product. The study concluded that *"the canned mushroom market was very competitive and volatile with fickle consumer preference as price differentials encouraged brand and product swapping."*

The industry's application stated that locally produced and imported mushroom products have the same distribution channels, and are sold into the same markets (industrial users, the food service industry, and retail consumers).

Based on the information in the application Customs considers that Windsor has established that there are reasonable grounds to believe that the locally produced mushrooms are like goods to the imported mushrooms. It will be necessary, however, to further examine this issue in the course of the investigation.

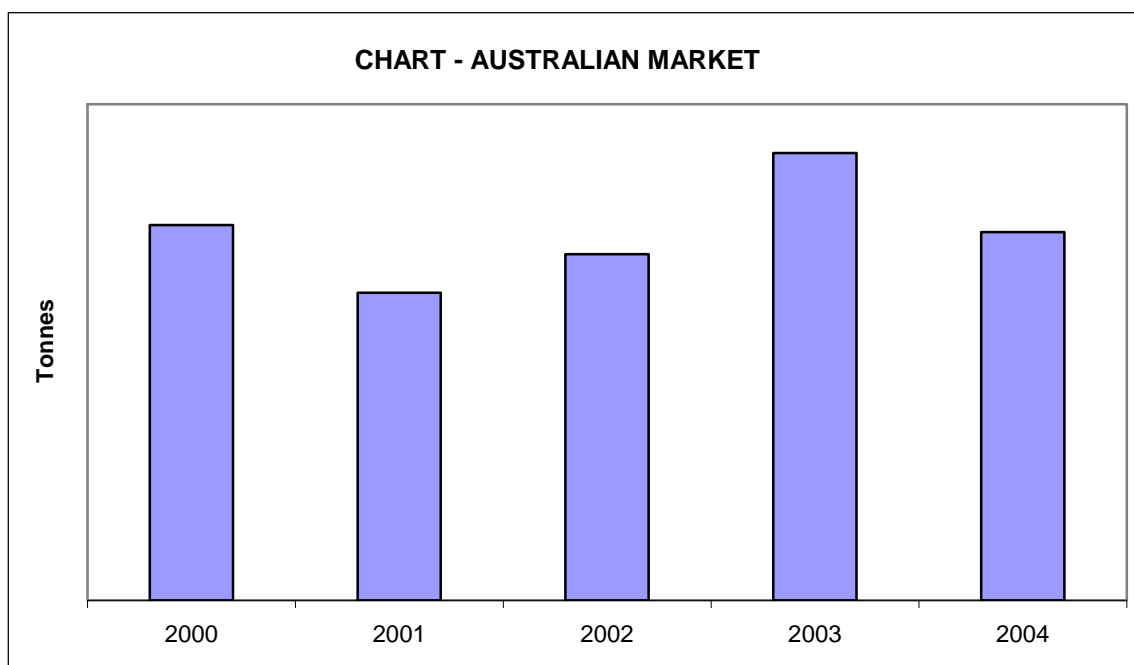
A-4 Australian market

The Australian market is currently supplied by:

- Windsor
- imports from China
- imports from other countries

Chinese imports are the biggest source of preserved mushrooms. These, together with preserved mushrooms manufactured by Windsor, account for more than 90% of the market.

Data provided by Windsor indicated that in 2004 the Australian market was between 7,000 and 8,000 tonnes. The application estimated the market for each year between 2000 and 2004.



In 2000, another Australian producer, Cowra Export Packers Limited, also supplied the market. This company was taken over by Windsor in November 2000. In the application Windsor's market data had included an estimated sales figure for Cowra Export Packers Limited for the year 2000.

Windsor used ABS statistics for its estimates of imports. Customs compared Windsor's data with its commercial database and was able to refine the data to a small degree. The refined data has been used to estimate the market.

The application stated that the major end-uses for preserved mushrooms are the industrial, food service and retails sectors. Industrial users purchase large quantities of preserved mushrooms to be used in packaged foods. Food service customers include restaurants, take-away outlets and other corporate customers. Retail customers include the supermarket chains and independent grocery stores.

It is claimed that the Australian industry and Chinese imports compete for sales in each of these markets.

A-5 Applicant's sales

Windsor provided the information required by the application, including a summary of its domestic sales volumes and net revenue since 1999.

A-6 General accounting/administration information

Windsor's financial year ends June 30. To substantiate the financial data, the applicant provided audited financial reports for 2002, 2003 and 2004. It also provided management reports for December 2003, March 2004, June 2004, and September 2004.

Windsor provided a description of its accounting methodology at section A-6.6 of the application.

A-7 Cost information

Windsor completed cost data for each container size. An additional appendix A6.1 provided data for all products. Each A6.1 includes production volumes, manufacturing costs, selling, distribution and administrative expenses and sales volumes from 1999 to 2004.

In addition, Windsor provided profitability information for financial years 1998 and 1999. The company was unable to provide this information in an A6.1 format as it does not have records for these with sufficient level of detail. However, Customs was informed that the company is able to reconcile the data to audited financial statements for the respective years.

As Windsor does not export like goods it did not have to supply any A6.2 appendices.

A-8 Material injury

Windsor alleges that the Australian industry is being materially injured by imports of the goods at dumped prices. The applicant's injury claims are summarised by Customs below.

- Injury to the Australian industry from dumped Chinese imports reached a material level during 1999. Although Chinese imports had been in the Australian market prior to 1999, and probably dumped, the Australian industry, comprising Windsor and Cowra Export Packers Limited, was operating profitably, albeit at low levels.
- In 1998 US authorities began a dumping investigation that subsequently led to anti-dumping measures being imposed on mushrooms from China. Windsor stated that this action caused Chinese exporters to seek other markets and in 1999 Chinese exports to Australia rose about 20%. Imports were said to have increased further in 2000. In order to compete and retain sales volumes the Australian industry was forced to lower prices. Realising that the industry could not be profitable in these circumstances the industry underwent rationalisation in an attempt to reduce costs. Windsor

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purchased Cowra Export Packers Limited and moved its canning operations there, closing its operations at Windsor, NSW.

- The industry's manoeuvres managed to arrest the flow of goods coming to Australia from China in 2001 and 2002. However, this came at a cost – the reduced prices, plus costs associated with the rationalisation, resulted in substantial losses for Windsor in both those years.
- In 2003 prices of Chinese goods were lowered significantly, and imports of these goods increased by about 50%. Windsor managed to maintain sales volumes but its market share fell. A substantial loss was again recorded.
- In 2004 the Australian market contracted after the large increase in the previous year (on the back of low priced Chinese imports). Windsor was able to persuade mushroom suppliers to reduce their prices in order for Windsor to remain price competitive. As a result Windsor managed to maintain sales volumes, but its market share continued to be below the level of 2002 and earlier years. Losses were again recorded, although the quantum, because of the price concessions obtained from mushroom suppliers, was reduced.
- Windsor claims that it has never been able to achieve the benefits intended by the rationalisation because price reductions have eroded any cost efficiencies. It also claims that it has been unable to fully utilise the Cowra facilities (it operates at about 25% capacity) because dumped Chinese imports prevent it from growing its sales, and therefore production, volumes.

The applicant's particular injury claims, as summarised above, are examined in more detail below.

Volume effects

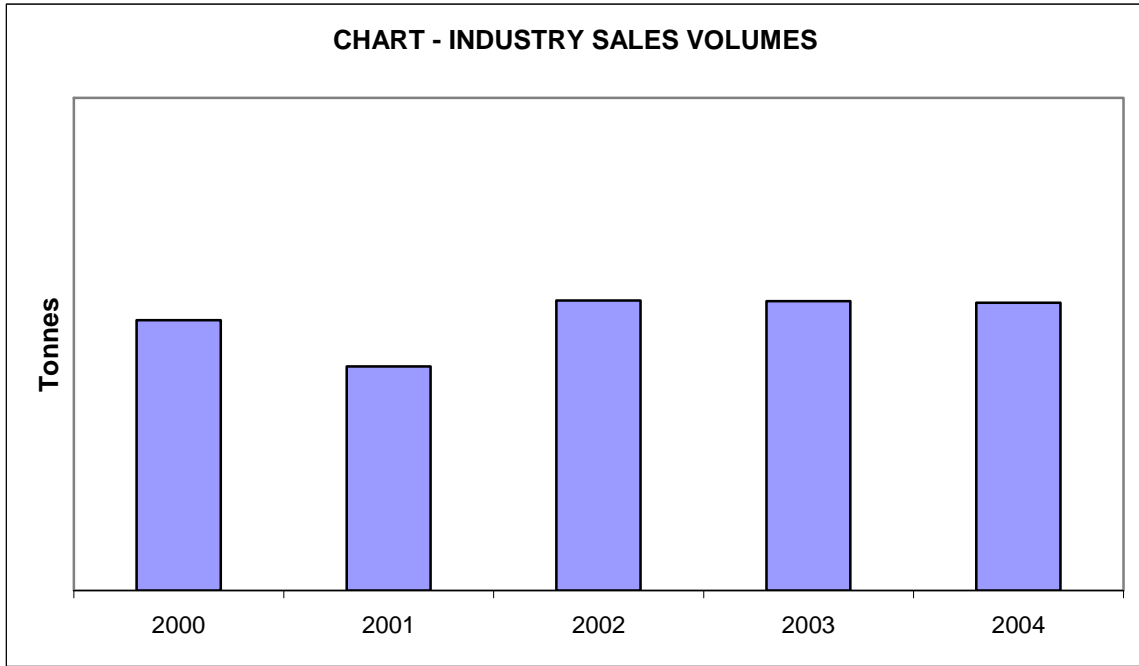
Lost sales volume

The industry's sales volumes are depicted in the chart on the following page.

The chart indicates that except for a decline in 2001, the industry's sales volumes have been relatively static across the period.

Windsor claims that although its sales volumes have remained relatively steady this needs to be examined in the context of an increasing market, particularly in 2003. The company said it should have been able to increase sales volumes in 2003 because of the market expansion in that year, but it was unable to record any increase because almost the entire market increase went to dumped imports from China.

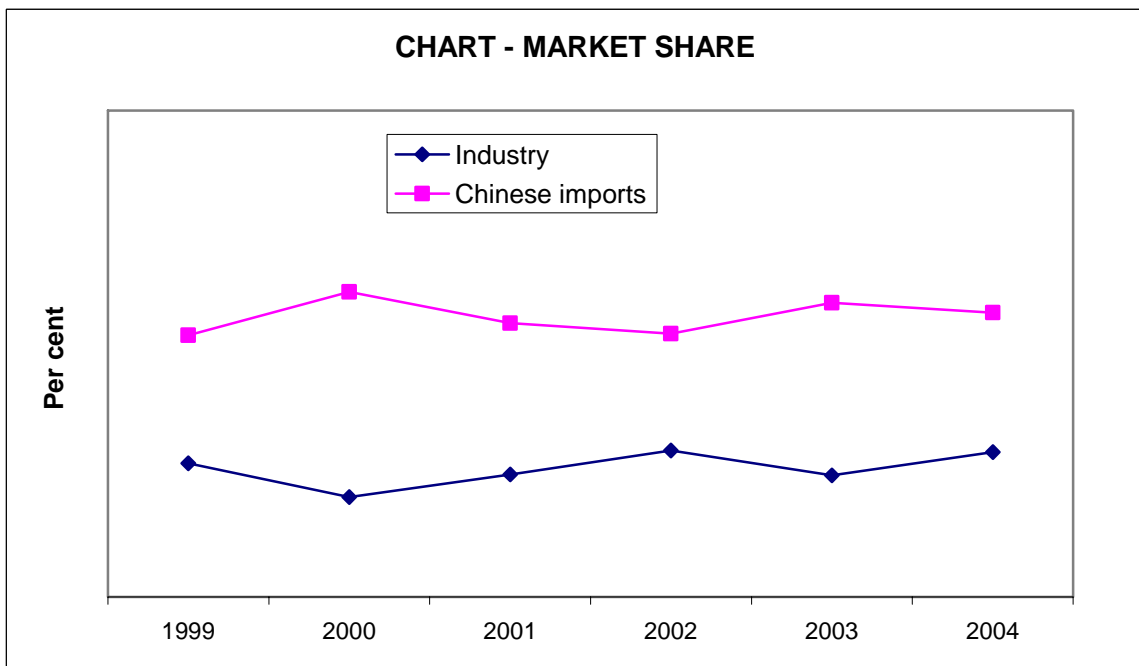
Customs notes that the market increase that occurred in 2003 was not sustained in 2004.



Lost market share

The industry claimed that its inability to increase sales volumes arose because of competition from dumped imports, as reflected in its loss of market share.

The trend in market share between the Australian industry and imports from China is depicted in the following chart (the chart has been prepared by Customs using information in the application and other information available to Customs).



The data available to Customs indicates that the industry's market share declined in 2000 while the share of Chinese imports rose by a similar margin.

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The industry gradually increased its market share during 2001 and 2002. In 2003 its market share fell while China's share increased.

The industry's market share had peaked in 2002. In 2004 its market share recovered and was only marginally lower than the level it had reached in 2002 (and higher than each of the other years).

Across the whole period, the data does not indicate that the industry suffered significant loss of market share.

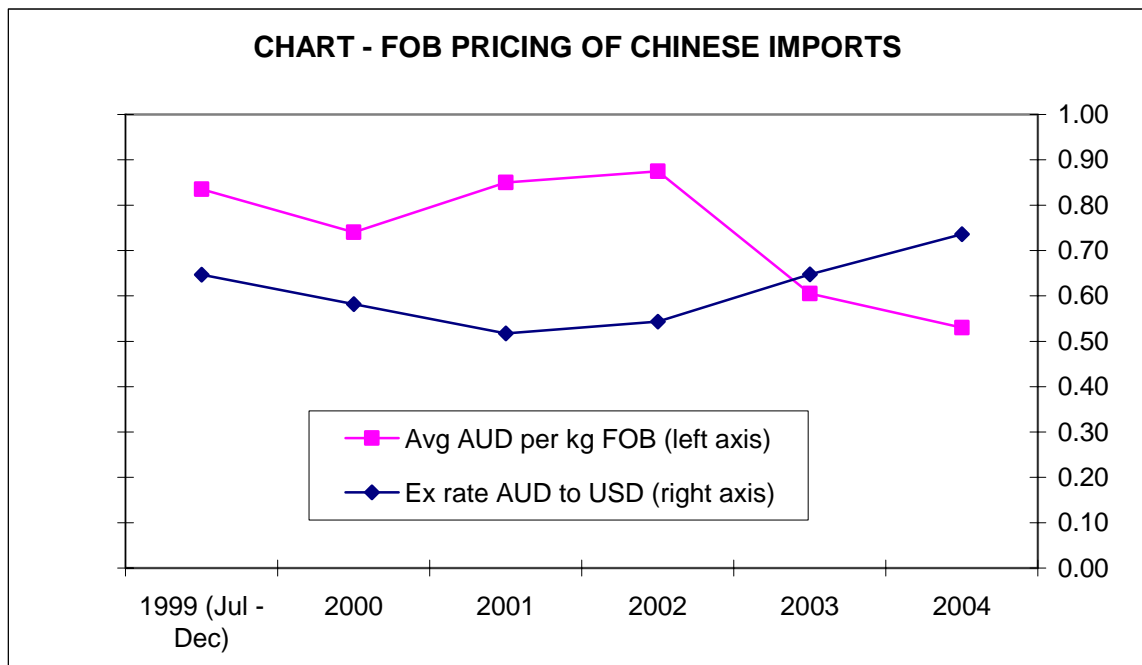
Conclusion

Customs is not satisfied that the industry appears to have suffered volume injury.

Price effects

Windsor provided a table at page 24 of its application showing Chinese preserved mushroom import prices expressed as average AUD FOB unit prices from 1999 (half year) to 2004. This data was sourced from the ABS. Customs compared the prices used by the industry to its database and found that they were consistent.

The price movements, compared with movements in the AUD, are shown in the chart below.



The chart shows that in 2000 the AUD depreciated by about 10% and it would have been expected that FOB import prices should have increased by about the same percentage. However they fell by a similar percentage. This coincided with a decline in the industry's market share (see market share chart). The AUD continued to decline throughout 2001 and, as would be expected, import prices rose. Prices rose again slightly in 2002. As the market

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share chart demonstrates, these price rises in 2001 and 2002 (reflecting depreciation of the AUD) allowed the Australian industry to recover the market share it lost in 2000.

In 2003 the AUD appreciated by around 18%; however FOB import prices from China decreased by about 30%. This resulted in a large increase in demand for Chinese imports, and the industry's market share again fell.

In 2004 the AUD further appreciated 13% and prices decreased similarly.

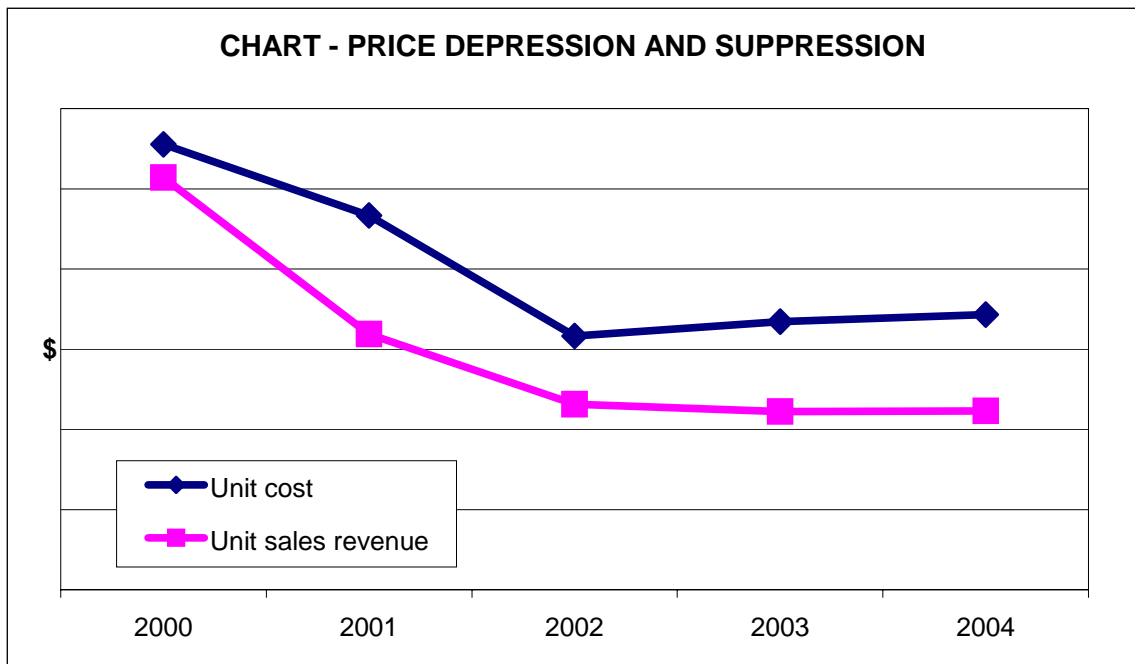
In summary, the calculations indicated that the AUD FOB unit price declined by 36% between 1999 and 2004. This compares with an appreciation of the yearly average AUD of about 13% across this period. The industry argues that while some of the price decrease may be attributable to the exchange rate fluctuations, most of the price decrease is due to dumping.

Price undercutting

Although the applicant claimed injury from price undercutting, specific information demonstrating this was not presented to Customs. This claim may be examined further during the course of the investigation.

Price depression and suppression

The A6 information provided by the applicant has been charted below.



Windsor claimed that in order to retain sales volume and market share the industry has had to consistently reduce its unit-selling price.

The chart also shows that since the rationalisation in 2000 Windsor has made significant unit cost improvements. However it has been unable to derive any benefits from this because prices have declined at an even faster rate.

Conclusion

Customs is satisfied that the application appears to have established grounds to believe that it has suffered injury from price depression and price suppression.

Profits and profitability

The consequences on the industry of the price depression and price suppression are reflected in the industry's profit and profitability.

The Australian industry provided A6 data for the period 2000 to 2004 and an income statement for 1998 and 1999.

The data shows that Windsor made modest profits in 1998 and 1999 but since then the industry has been unprofitable. As mentioned before, Windsor has made significant unit cost improvements since 2000, however the profit benefits that these improvements could have produced for the industry have been lost on the back of price depression.

There has been a modest improvement in the industry's profitability in the period since June 2004. This is a function of slightly improving unit sales revenue combined with a significant price reduction in the price of mushrooms. Windsor explained that although mushroom prices charged by the growers have not increased in many years, the mushroom growers agreed to a temporary price reduction to assist survival of the preserved mushroom industry.

Conclusion

Customs is satisfied that the application has established grounds to believe that it has suffered injury from loss of profits and profitability.

Other injury claims

Under-utilization of capacity

The applicant claimed that the industry operates at between 20-25% of capacity. It has been unable to increase production because competition from dumped Chinese product has prevented the industry from increasing sales volumes.

Reduced employment numbers

Windsor stated in its application that at the Cowra canning and packaging facility staff numbers have been decreased by approximately 20%. It is unclear how many of these staff were involved with production and sale of preserved mushrooms.

Conclusion

Customs examined the accuracy and adequacy of the evidence in the application, including appendix A1 through to A7 and other relevant information and found that there are reasonable grounds to conclude that the Australian industry has been injured.

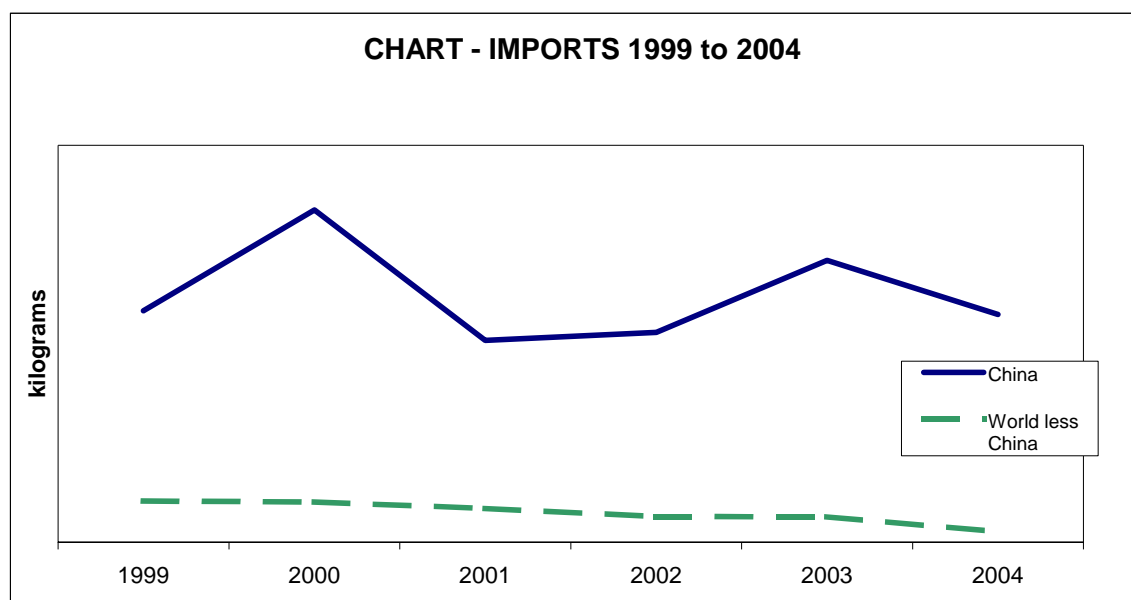
PART B DUMPING

B-1 Source of exports

The source of preserved mushrooms the subject of the application is China.

The Australian industry claimed to have tried to identify the major exporters of the GUC, but was unsuccessful. At B-3.4 of the application the industry indicated that it was aware of certain exporters of preserved mushrooms that exported to the USA being identified in the US 1998 anti-dumping investigation. Windsor indicated it was likely that these same exporters exported to Australia. An examination of Customs' commercial database confirmed that some of the exporters identified in the 1988 US anti-dumping investigation have been exporting to Australia.

The Australian market is supplied by imports from many countries. China is the largest source of exports to Australia, as is demonstrated in the chart below.



B-2 Export Price

Export prices were determined by the applicant using ABS import data and by deduction from retail prices.

ABS data

In its application, the Australian industry indicated that this information was compiled and reported as monthly weighted average FOB prices. Thus it did not identify the type or size of container or the container's contents (whole or sliced mushrooms or stems and pieces).

Furthermore, the Australian industry considers that imported mushrooms that are sold in Australia as generic brands are causing the most injury and the data does not allow these products to be identified. The manner in which the ABS data has been presented to the applicant does not allow a refined perspective of the exporters with the lowest prices.

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The industry claimed that these data limitations did not permit calculation of reliable export prices for the imported products.

Deductive export price

As an alternative method, at Confidential Appendix B1 of the application, Windsor calculated deductive export prices for a selection of branded and generic products. Windsor used retail prices from a survey of major supermarkets in October 2004. Importation costs were based on a quote from a shipping agency, while selling general and administrative expenses, and rates of profits, were based on Windsor's business experience and market intelligence (supporting documents supplied).

Customs compared the figures used by Windsor with actual figures from past investigations involving similar circumstances and, with the exception of the retailer's margin, concluded that Windsor's figures were reasonable. Customs adjusted the retailer's margin.

For the purpose of screening, Customs considers that sufficient evidence has been provided in respect of the export price of the goods using deductive methodology.

B-3 & B-4 Normal Value

The applicant attempted to obtain domestic pricing information. For this purpose, the applicant commissioned a trade consultant to visit food stores and a number of canned mushroom producers in China.

Seven producers of preserved mushroom in China were visited by the consultant. The consultant found that producers in China are focused on the export market, with minimal sales into the domestic market – most mushrooms in China for domestic and foodservices consumption are purchased fresh. The consultant confirmed this by visiting food stores where it was found that very few of stores stocked mushrooms of any type in containers and, if so, a very small range. The consultant did manage to obtain some domestic ex-factory prices from some of the producers visited; however the pricing information was very limited and only comprised current pricing. The applicant considered the information inadequate to establish normal values based on domestic selling prices.

Customs agreed that the pricing information was too limited to use as a basis for determining normal values. Customs noted that the domestic prices found by the consultant were generally well below the deductive export price that the industry had calculated at B-2.

B-4 Estimate using another method

The applicant stated that it had examined various alternative methods of calculating normal values including the possibility of constructing normal values.

To this end the company had sought cost and other information from a variety of sources, including trade consultants, industry journals and Austrade. Windsor stated, however, it had been unable to obtain meaningful information. Windsor said that, of the materials used to produce canned mushrooms, it could only reliably estimate the cost of the containers as this cost is reasonably universal. For the other materials, Windsor could not reliably estimate these costs in China.

As an alternative to domestic selling prices the applicant provided US import statistics on preserved mushrooms exported from China. The data provides FOB export values and covers a period from January 2003 to August 2004 with the following categories:

- Whole/button mushrooms not over 225 gm container size
- Sliced mushrooms not over 225 gm container size
- Other mushrooms not over 225 gm container size *
- Whole/button mushrooms over 225 gm container size
- Sliced mushrooms over 225 gm container size
- Other mushrooms over 225 gm container size *

*These types are reported to be pieces and stems.

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Customs notes that mushrooms exported to the US from China became subject to dumping duties late in 1999, which, in 2003, were reviewed and continued.

Conclusion

Customs was satisfied that the applicant has made reasonable efforts to obtain domestic pricing and costing information relating to sales of preserved mushrooms in China, but was unable to obtain the information. In these circumstances Customs considers the calculation of normal value based on export sales to a third country is reasonable.

B-5 Adjustments

Windsor claimed no adjustments as the deductive export price and the normal value as determined above are both calculated at an FOB level (in USD).

B-6 Dumping Margin

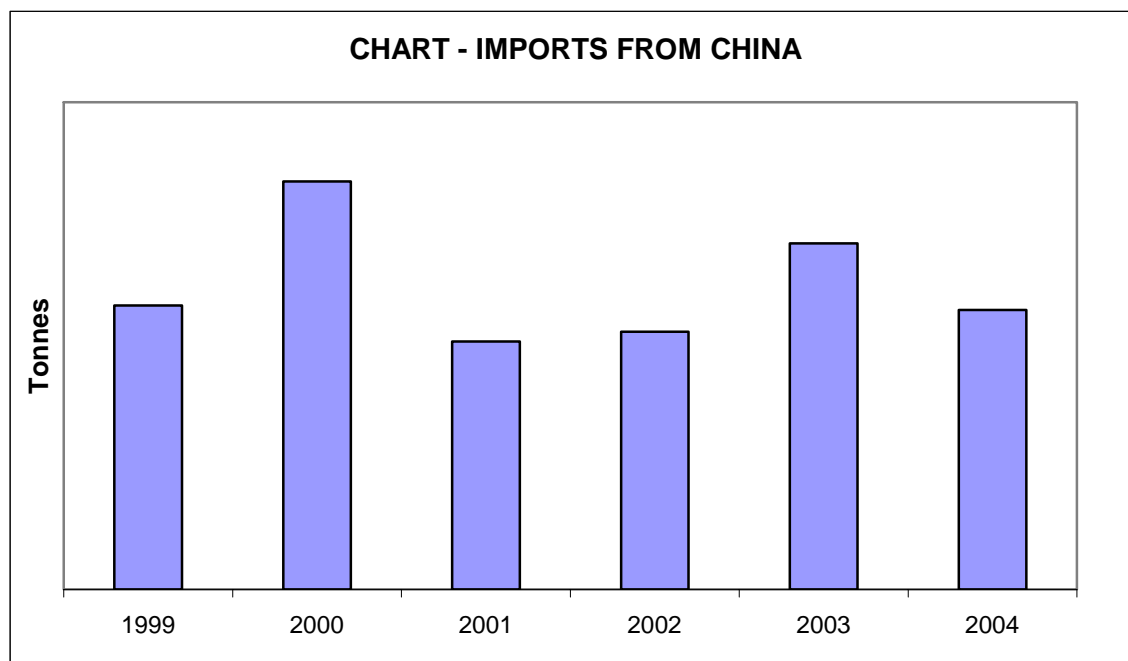
Using the deductive export prices Windsor calculated normal values based on export prices from China to another country and calculated dumping margins, by type, ranging from 23% to 143%. The margins are highest for the generic brands, which is from where the industry claims injury is the most severe.

Customs also calculated a weighted average FOB export price (all product types) to Australia during the 12 month period September 2003 to August 2004 from Customs' commercial database and compared this with the weighted average US FOB export price for the same period. This comparison indicated that Windsor's estimates of the dumping margin were reasonable.

Based on the above, Customs was satisfied (for the purposes of s269TC(1)) that there are reasonable grounds to conclude that the goods from China have been sold to Australia at dumped prices.

Link between injury and dumped imports

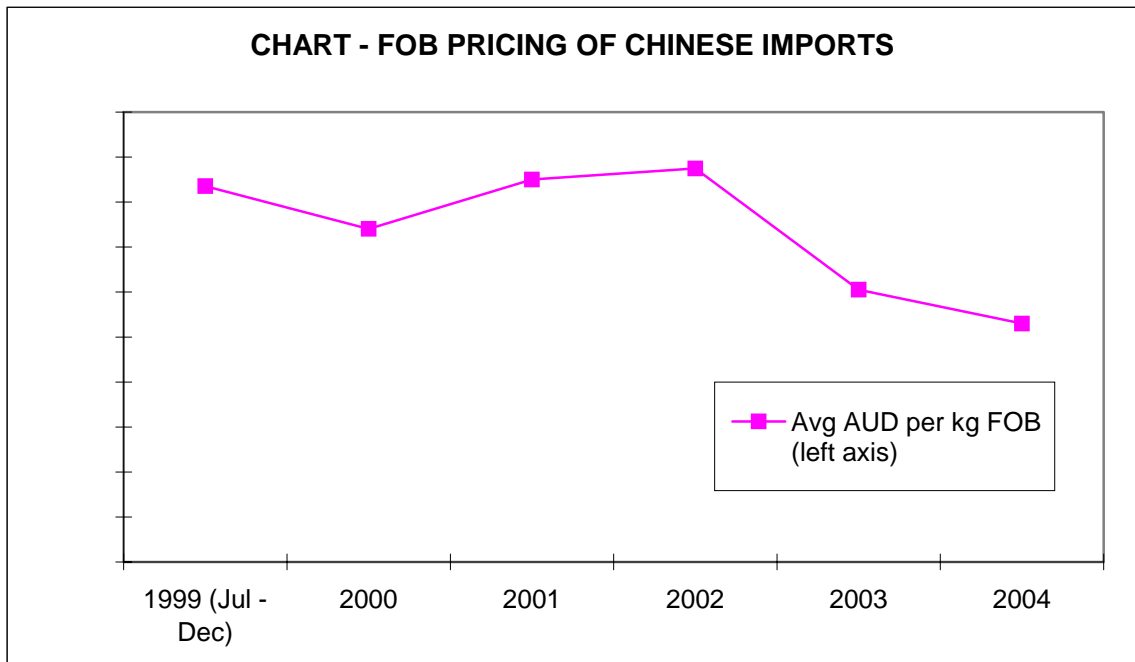
The trend in imports from China can be seen from the following chart.



The applicant argues that although there was price competition from Chinese imports before 1999 the industry was able to record modest profits. However, from the end of 1999 prices of Chinese imports were said to have declined significantly resulting in large increases in volumes of Chinese imports, particularly in 2000.

The industry claimed that the only way it could maintain sales was to drop its prices. It said that the industry tried to offset this with cost efficiencies brought about by industry rationalisation, but despite lowering unit costs the industry incurred losses. In 2003, the FOB price of Chinese imports again decreased, increasing the volume of sales of Chinese imports and lowering the industry's market share. The price depression and price suppression caused by the Chinese imports resulted in the industry recording losses every year since 1999.

The chart below shows the falling Chinese FOB unit prices since 1999 which, after exchange rate movements, fell 36% for the period whilst the AUD only appreciated 13%. The falling prices in 2000 and 2002 to 2004 reflect the increase in Chinese import volumes as identified in the chart above.



Customs examined the adequacy and accuracy of the information the applicant used in calculating export prices and normal values (see Part B). Customs concluded that those calculations were based on information reasonably available to the applicant and supported the allegation of dumping.

Conclusion

Based on information in the application, and other relevant information, Customs is satisfied that the application presents reasonable grounds for concluding that the injury suffered by the Australian industry has been caused by dumped goods from China.

Compliance

Section 269TC(1)(a) requires that the application complies with s. 269TB(4). Section 269TB(4) requires that the application:

- be in writing;
- be in an approved form;
- contain such information as the form requires;
- be signed in the manner indicated in the form; and
- be supported by a sufficient part of the domestic industry.

The application is in writing, is in an approved form, contains such information as the form requires, is signed in the manner indicated in the form and is supported by a sufficient part of the Australian industry. The applicant has provided both commercial-in-confidence and non-confidential versions of the application.

Customs is satisfied that the application complies with s. 269TB(4).

Section 269TC(1)(b) requires that there is, or is likely to be established, an Australian industry producing like goods.

Customs concluded that there is an Australian industry producing like goods (see 'Australian Industry' earlier in this report)

Section 269TC(1)(c) requires that there are reasonable grounds for publication of a dumping duty notice.

As discussed in this report, Customs is satisfied that there are reasonable grounds.

Conclusion

Customs is satisfied the application complies with s. 269TC(1).

Support for the application

Subsection 269T(4) of the Act specifies that the Australian industry consists of the producer or producers of like goods in Australia.

Windsor claimed that it is the only producer of preserved mushrooms in Australia and, as such, comprises the Australian industry. Prior to November 2000, there was a second and much smaller participant to the Australian industry. This participant, Cowra Export Packers Limited, was acquired by Windsor Farm Foods Limited in November 2000. Windsor moved its canning facility from Windsor NSW to the new Cowra site and expanded the Cowra capacity.

Customs found no information that contradicted this claim.

At confidential attachment A-3.6 to the application, Windsor provided a description of its production process.

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Having had regard to matters contained in the application and other information Customs is satisfied for purposes of s. 269TC(1) that there is an Australian industry producing like goods.

Conclusion

Customs is also satisfied that the application is supported by a sufficient part of the Australian industry.

PART C – SUPPLEMENTARY SECTIONS

C-1 Subsidy

Windsor did not lodge an application asking Customs to publish a countervailing notice.

C-2 Threat

The application does not identify any threat. Its claim is that it has been suffering an injury from imports from China at dumped prices.

C-3 Close processed agricultural goods

N/A

C-4 Exports from a non market economy

N/A

C-5 Exports from an economy in transition

Windsor stated in its application that China is an economy in transition and considers the preserved mushroom industry of China to have some or all of the elements that determine such status. It noted that China is not among the countries listed in Schedule 1B to Customs Regulation 182 to which subsection 269TAC(5D) does not apply.

Anecdotal evidence gathered by Windsor includes State controlled entities within the industry. It cited COFCO as one of the largest food exporting/importing organisations in China that is State controlled. During its investigation of 1998, the US noted that the eight largest State owned enterprises (SOE) controlled approximately 20 % of the total production capacity. It also noted there are a number of companies identified as 'Shareholding' enterprises, which the investigators discovered, were formerly SOEs now with private shareholders. These shareholders enterprises, however, effectively functioned as SOEs. Other evidence is based on the 1998 US anti-dumping investigation that reported that the preserved mushroom industry is subject to certain other influences from various levels of government.

C-6 Aggregation of volumes of dumped goods

N/A