



**R E P O R T**

**Customs Act 1901 – Part XVB**

**TRADE MEASURES BRANCH REPORT NO. 99**

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

**27 September 2005**

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<b>ABBREVIATIONS</b>
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ACDN	Australian Customs Dumping Notice
AUD	Australian dollar
A10	can net weight between 2.8kg and 3.0kg
CEO	Chief Executive Officer of Customs
CEP	Cowra Export Packers Limited
COFCO	Fujian Provincial Cereals, Oils & Foodstuffs Imp/Exp Corporation Xiamen Company
CTMS	cost to make and sell
Customs	Australian Customs Service
China	The People's Republic of China
FOB	free on board
Fujian Zishan	Fujian Zishan Group Co Ltd
GUC	goods under consideration
Jiangsu COF	Jiangsu Cereals, Oils & Foodstuffs Import/Export Group Corp
model	a container size/content style combination of preserved mushrooms
NIP	non-injurious price
SEF	statement of essential facts
the Act	the <i>Customs Act 1901</i>
the Manual	Customs Dumping & Subsidy Manual (Volume 22)
the Minister	Minister for Justice and Customs
USD	United States dollar
USP	unsuppressed selling price
WFF	Windsor Farm Foods Pty Ltd
Windsor	Windsor Farm Foods Group Limited
WTO	World Trade Organization
Xiamen Fortune	Xiamen Fortune Import & Export Co Ltd
Xiamen Gulong	Xiamen Gulong Import & Export Co Ltd

## 1 SUMMARY

On 10 March 2005 Windsor Farm Foods Pty Ltd (WFF), the sole Australian producer of preserved mushrooms, lodged an application with the Australian Customs Service (Customs) 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 People's Republic of China (China).

The application alleged that preserved mushrooms were exported to Australia from China at prices less than their normal values and that the dumping caused material injury to the Australian industry.

The application was accepted and an investigation commenced on 5 April 2005. Initiation of the investigation was notified in *The Australian* newspaper, Australian Customs Dumping Notice (ACDN) No. 2005/20 and on the Internet.

On 15 August 2005 Customs placed a statement of essential facts (SEF) on the public record.

On 26 September 2005 Customs made a preliminary affirmative determination (PAD).

Customs was satisfied that:

- preserved mushrooms exported to Australia by Jiangsu Cereals, Oils & Foodstuffs Import/Export Group Corp (Jiangsu COF) were not dumped;
- preserved mushrooms exported to Australia by all other exporters from China were dumped with dumping margins ranging from 4.2 per cent to 23.3 per cent;
- the dumped exports from China caused material injury to the Australian industry in the form of:
  - price undercutting;
  - price depression;
  - price suppression;
  - reduced profits and profitability; and
  - capacity under-utilisation; and
- future exports of preserved mushrooms from China are likely to be dumped and continue to cause material injury to Australian industry.

Customs recommends that measures be imposed against preserved mushrooms exported to Australia from China, except those exported by Jiangsu COF.

## **2 INTRODUCTION**

### **2.1 Purpose of investigation**

Part XVB of the *Customs Act 1901* and the *Customs Tariff Anti-Dumping Act 1975* contain Australia's anti-dumping and countervailing legislation. Remedies are available where dumping (or subsidy) causes or threatens to cause material injury to an Australian industry.

### **2.2 Procedures**

Customs is required to conduct an investigation and report to the Minister within 155 days (or such longer period as the Minister allows) after initiating an investigation. On the basis of this report the Minister will make a decision as to whether measures should be imposed.

Customs must clearly state the material findings of fact on which any recommendation in this report is based and provide particulars of the evidence relied on to support those findings.

Customs' recommendations in this investigation are based on:

- the application;
- submissions to which the CEO had regard when formulating the SEF;
- the SEF;
- any submission made in response to the SEF that was received within 20 days of the SEF being placed by Customs on the public record;
- submissions made in response to the SEF after 20 days of the SEF being placed on the public record except where to do so would have prevented the timely preparation of this report; and
- any other matter the Chief Executive Officer considered to be relevant.

Interested parties have 30 days after the publication of the Minister's decision in which to ask the Trade Measures Review Officer to review the decision. The contact details are:

Trade Measures Review Officer  
Robert Garran Offices  
National Cct  
BARTON ACT 2601  
Phone: 61 2 62506046  
Facsimile: 61 2 62505914

### **2.3 Background to the investigation**

On 10 March 2005 WFF lodged an application with Customs requesting that the Minister publish a dumping duty notice in respect of certain preserved mushrooms

exported to Australia from China. During the 20 day screening period of WFF's application, WFF lodged additional information extending the original 20 day screening period.

WFF alleged that preserved mushrooms were exported to Australia from China at prices less than their normal values and that the dumping 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-utilisation of capacity
- reduced employment numbers.

The application was accepted and an investigation undertaken.

The period of investigation for the purposes of determining the dumping margins was 1 January 2004 to 31 December 2004. Customs examined details of the Australian market commencing 1 July 1999 for injury analysis.

#### Public notifications

Initiation of the investigation was announced in *The Australian* newspaper on 5 April 2005. The investigation was also notified in ACDN No. 2005/20 and on the Internet at <http://www.customs.gov.au>.

Customs maintained a public file throughout the investigation. Non-confidential versions of:

- the application;
- submissions received from interested parties; and
- Customs reports dealing with normal values, export prices and material injury;

were placed on the public file.

The date for placing the SEF on the public record was extended by the Minister, as notified in ACDN 2005/37 on 19 July 2005. Customs placed an SEF on the public record on 15 August 2005.

Customs made a PAD on 26 September 2005, which was notified in *the Australian* on that day and also by ACDN 2005/52. The PAD was placed on the public record.

## 3 GOODS UNDER CONSIDERATION

### 3.1 Description

The goods under consideration (GUC) were described in the application as 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.

The application stated that all other species of mushrooms, including straw mushrooms, shiitake mushrooms, and oyster mushrooms were not covered.

The GUC are classified to item 2003.10.00, statistical codes 81 and 82, in Schedule 3 of the *Customs Tariff Act 1995*. The rate of duty was five per cent.

Customs found that all imports of preserved mushrooms that it examined during the investigation period were classed as champignons. Interested parties described these as the young form of the genus *Agaricus*. Customs found that the champignons were imported whole, sliced and as pieces and stems, and all were packed in a preserving medium of brine. That is, there were no imports of mushrooms in sauce. They were imported mostly in cans, however some imports were in glass jars. Net weights of the containers ranged from 180 grams (g) to 2,870g. Customs did not find that any preserved mushrooms were imported in bags, pails, or barrels.

Customs concluded that the description provided in the industry's application satisfactorily describes the GUC.

### 3.2 Production process

Chinese producers provided descriptions of their respective production processes to Customs. Generally, the process may be summarised as follows.

- Checking and acceptance of mushroom supply
- Washing
- Hydrating
- Blanching
- Sorting and grading
- Trimming
- Slicing
- Testing for alien objects
- Filling into container
- Brining
- Sealing
- Sterilisation
- Cooling and can drying

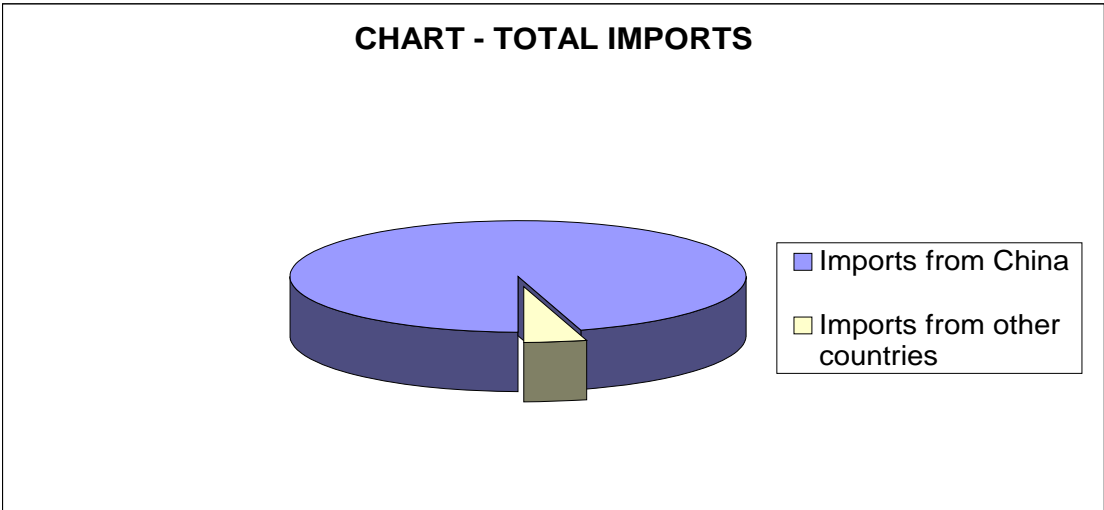
- Storing

### 3.3 Import volumes

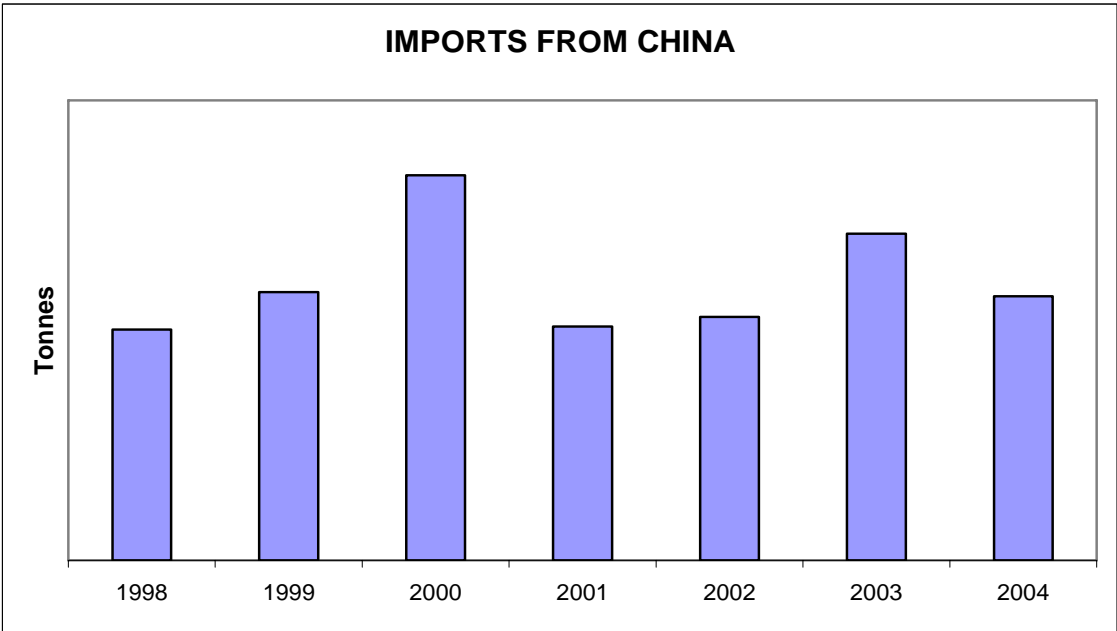
Using its commercial database and information provided by importers Customs calculated import for preserved mushrooms as shown in the table below.

	2001	2002	2003	2004
China	86 per cent	89 per cent	92 per cent	96 per cent
Other countries	14 per cent	11 per cent	8 per cent	4 per cent

The table shows that Chinese imports have gained an increasing proportion of total imports since 2001. Imports from countries other than China have almost been eliminated from the market. The following chart illustrates the dominance of imports from China compared with other countries over the investigation period (2004).



The trend in the volume of imports from China is shown in the following chart.



## 4 AUSTRALIAN INDUSTRY

### 4.1 Produced in Australia

The Act requires that for goods to be regarded as produced in Australia:

- they must be wholly or partly manufactured in Australia; and
- where the goods have been partly manufactured in Australia then at least one substantial process in the manufacture of the goods must be carried out in Australia.

WFF produces preserved mushrooms at its canning facility at Cowra, NSW. Customs visited this facility and observed WFF's facilities and production of preserved mushrooms.

Customs is satisfied that preserved mushrooms are wholly produced in Australia by WFF.

### 4.2 Like goods

#### 4.2.1 Introduction

WFF stated in its application that the preserved mushrooms in containers that it produced at Cowra were like goods to the GUC. The company said that it produced sliced mushrooms in a range of preserving mediums, including butter sauce, garlic sauce, peppercorn sauce, 'lite' sauce and brine. The products were sold in containers comprising:

- cans ranging in size from 130g to 2.8 kilograms (kg);
- bags in 2.5kg and 10kg sizes; and
- pails and barrels in 10kg, 20kg, and 200kg sizes

WFF sold mushrooms in brine only in containers of 2.8kg (generally referred to as A10 size) and above – they did not sell them in the smaller container sizes. Mushrooms in sauce were not sold in containers greater than A10 size.

WFF stated that its mushroom products competed with preserved mushrooms imported from China in containers of similar types and sizes to its own. However Customs did not find any evidence that the GUC were imported in containers greater than the A10 size. In a response to the SEF WFF claimed that a certain industrial food processor imported preserved mushrooms in containers greater than A10 size. Customs contacted this user and was informed that the imported mushrooms were not of the genus *Agaricus*.

During the investigation Customs visited four Chinese exporters, one Chinese exporter/producer, two Chinese producers, and twelve Australian importers. As well, Customs observed preserved mushroom products on sale in a number of large retail supermarkets and Asian grocery stores. From Customs' observations, all the genus *Agaricus* mushrooms in containers that were exported to Australia from China were young mushrooms, known generally as champignons. With the exception of a few containers of champignons preserved in a marinade sauce that Customs found in some

grocery stores, all the imports of mushrooms were preserved in brine. They were either whole mushrooms, sliced mushrooms, or pieces and stems.

In contrast to the imported preserved mushrooms, the industry's products use older mushrooms of the genus *Agaricus*. The mushrooms come only in a sliced form and, as noted above, are preserved in a variety of preserving mediums, principally butter sauce.

Customs observed that the imported products and the Australian industry's mushrooms in sauce products were quite different in appearance and taste. From early in the investigation interested parties and consumers expressed strong opinions that the industry's mushrooms in sauce products were not like goods to the imported products because of these physical differences, and also because the respective products had different uses.

In view of the contentious nature of this issue Customs placed an issues paper on its website inviting submissions. As well, Customs canvassed the issue during its visits to interested parties. Customs also sought comment from users in the food service and industrial food processing market sectors.

#### 4.2.2 Australian industry's claims

In its application, WFF gave a detailed explanation in support of its claim that the preserved mushrooms it produced were like goods to the imported preserved mushrooms from China. WFF acknowledged that its goods were not identical to the imported goods, but cited past dumping investigations where Customs had decided that locally produced goods, although not identical to the imported goods, were like goods because they possessed characteristics that closely resembled the imported goods. In a response to the SEF, industry submitted:

*"... locally produced preserved mushrooms have essentially the same characteristics as imported preserved mushrooms as:*

- they are of the same genus Agaricus;*
- they have similar physical and performance characteristics;*
- are substitutable in end-use applications;*
- compete on pricing in the Australian market;*
- are produced by similar manufacturing processes; and*
- possess the same distribution channels to market."*

To support its claim regarding like goods, WFF commissioned a study from the School of Economics, Faculty of Economics and Business Law at the University of New England. The statistical study examined sales data of a major Australian retailer spanning a two-year period to April 2004. The sales data covered WFF's mushrooms in butter sauce (220g and 410g sizes) and comparable sizes of imported mushrooms in brine (both whole and pieces and stems). The study concluded that there were:

- "significant negative own-price elasticities of demand – there was strong evidence ..... that a product's own price was strongly related to the quantity of product sold – a higher price results in less product sales;*
- significant cross-price elasticities of demand between imported and locally produced canned mushrooms – (there was) strong evidence ..... that local and*

*imported canned mushrooms are related in the domestic market with a decline in the quantity of local canned product sold as the price of the imported product was reduced; and*

- *significant cross-price elasticities of demand among individual products – highly significant changes in demand across product types were shown as price differentials changed (that is, a decrease in price of imported 400g cans had a highly significant effect on decreasing sales of industry 220g cans)".*

WFF stated that:

*"the (University of New England) findings highlight the significant level of interchangeability between locally produced mushrooms in sauce and imported mushrooms in brine. The data irrefutably supports a finding that the market for preserved mushrooms is not divided into segments at the retail level. If the market were segmented, WFF would be able to sell its canned mushrooms in butter sauce at prices which would have little or no impact on the price and/or volume of imported mushrooms in brine."*

WFF provided evidence that the suggested servings on labels of containers of imported preserved mushrooms included the same suggestions as on labels of locally produced preserved mushrooms in sauce, such as in soups, casseroles, stews, sauces and gravies. WFF asserted that this demonstrated the substitutability in end-use between imports and locally produced goods. WFF claimed that while there were uses that consumers may consider were better suited to either one or the other product, there was also significant overlap in applications (WFF estimated 75 per cent) between the imported product and the locally produced product.

Finally, WFF commented that the large retailers place its products on supermarket shelves alongside those of the imported products, further evidencing the substitutability of the products.

#### **4.2.3 Claims by other parties**

Customs received a number of submissions from interested parties, including importers and exporters, addressing the like goods issue in response to the issues paper and the SEF. In addition, Customs received feedback during its verification visits to Australian importers and Chinese exporters/producers. Non-confidential versions of submissions and Customs' visits reports were placed on the public record.

Customs also contacted end users in the food services and industrial food processing sectors of the market. Customs noted that the industrial food-processing sector generally only used mushrooms in brine, but nevertheless Customs was interested in their views regarding mushrooms in sauce.

Most importers and exporters conceded that the locally produced mushrooms in brine product, which was sold only to the food services and industrial food-processing market sectors, was probably a like good to the imported mushrooms in brine. Importers claimed that they did not supply containers greater than A10 size and did not supply the industrial food-processing sector. Customs did not find any evidence to the contrary. In a submission responding to the SEF, WFF named an industrial food processor that it claimed used imported preserved mushrooms. Customs contacted this user and was

informed that it did use imported preserved mushrooms, but they were not of the genus *Agaricus*.

Importers and exporters were unanimous in claiming that the locally produced mushrooms in sauce products were not like goods to the imported goods. Claims made were that the respective products:

- had different physical characteristics;
- had different end uses;
- did not compete with each other in the market;
- involved different production processes;
- had different price structures; and
- each had their own market – the mushrooms in brine market and the mushrooms in sauce market.

Food services and industrial food processing end users were less certain. While most expressed a preference for using either the brined or the sauce product (depending on the use) a number of respondents indicated that if the preferred product was not available, they would likely use the other.

No evidence was presented to Customs to support the claims of other parties.

#### **4.2.4 Customs' assessment**

Customs' approach to determining like goods is addressed in Division 2, Section 2.1.1, paragraphs 9 to 21 of Customs' Dumping and Subsidy Manual (the Manual). In particular, paragraph 13 states:

*Although no one factor is in itself sufficient to ascertain if goods are like goods, Customs takes into consideration:*

- *Physical characteristics such as size, weight, shape, appearance:*
  - *Are they identical?*
  - *Do they have characteristics closely resembling the imported goods under consideration*
  - *Are they in the same tariff classification?*
  - *How significant are the differences?*
- *End-use/substitutability*

Customs based its assessment of whether locally produced preserved mushrooms were like goods to the imported preserved mushrooms on the above approach. Customs considered all submissions it received before making its decision.

WFF preserves its sliced mushrooms in a variety of sauce mediums, and brine. The GUC are preserved in brine.

Interested parties did not make any strong submissions to the effect that the locally produced mushrooms in brine were not like goods to imported mushrooms in brine. From information examined during the investigation Customs is satisfied that the locally

produced mushrooms in brine products, although not identical to the imported goods, have characteristics closely resembling them and are like goods. WFF's product is made from the same type of mushroom (genus *Agaricus*) as the imported product (albeit from older mushrooms); it is preserved in the same type of medium; has similar production processes; falls within the same tariff classification; and generally may be substituted for the imported goods. There are physical differences, such as the age of the mushrooms, and the fact that the imported goods include whole mushrooms and pieces and stems, as well as sliced mushrooms, but Customs considers the physical characteristics and use of the products are essentially the same.

As mentioned earlier, in addition to its mushrooms in brine product WFF produces containers of mushrooms in a variety of sauces. These mushrooms in sauce products come in a much wider range of container sizes than the brine product. Apart from container size, the only other difference between WFF's mushrooms in sauce and mushrooms in brine products is the preserving medium.

WFF's mushrooms in sauce products and the imported mushrooms in brine products differ in appearance and taste, because of the different preserving mediums, the style of mushroom (imports may be whole, sliced or pieces and stems whereas industry's are only sliced) and the ages of mushrooms used in the respective products. Customs considers, however, 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 species genus *Agaricus*.

Interested parties asserted that WFF's sauce products had different end-uses, operated in different market segments, and were not substitutable. No evidence was provided to Customs to support these assertions.

Industry expressed the opposite view, and supported its claim with a study commissioned from the University of New England which examined demand/pricing relationships between locally produced and imported preserved mushrooms over a two-year period. Among other things, the study concluded that there was strong evidence that the price of imported product directly impacted on the volume sold of locally produced product. This conclusion is consistent with an observation Customs made during its examination of injury and causal link (refer discussion in chapters 7 and 8): during calendar year 2000 FOB import prices fell significantly resulting in a substantial increase in import sales volumes and a significant loss of sales volumes for WFF; during 2001 industry reduced its prices to compete with the cheaper imports and regained the lost sales volumes.

Both the imported preserved mushrooms and the locally produced preserved mushrooms are used in food preparation. WFF demonstrated its claim that the products had similar end-uses to, and were substitutable for, imported products by providing container labels showing the same serving suggestions. Customs agrees with other parties that there are likely to be some applications that are better suited to locally produced preserved mushrooms and some better suited to imported preserved mushrooms. However, Customs considers on the information available, including from discussions with end-users, that there is also a degree of overlap in end-use. One importer of mushrooms from China submitted that *"the imported goods then have an advantage as they have a fuller range of application by draining the brine"*, implying that there were at least some applications where either could be used. The same importer

commented that locally produced canned mushrooms were not sold in the same markets as imported preserved mushrooms, "*except when demand outstrips the availability*" (of mushrooms in brine), indicating industry's product could be used instead of the imported product. WFF stated that there was as much as 75 per cent overlap in applications, but did not provide any evidence to verify its claim. Nevertheless Customs considered that on the evidence available the overlap would be significant.

Finally, Customs verified that WFF's and imported products had similar manufacturing processes, were sold to the same market sectors (retail and food services), and were distributed through similar channels.

After considering the evidence, Customs concluded that locally produced preserved mushrooms

- had physical characteristics closely resembling the imported goods; and
- had similar end uses to the imported goods and were substitutable for them in many applications.

Customs is satisfied that the preserved mushrooms produced in Australia are like goods to the goods under consideration.

### **4.3 Australian industry**

WFF, the applicant, is wholly owned by Windsor Farm Foods Group Limited (Windsor), an Australian public company not listed on the stock exchange. WFF stated that it was the only producer of preserved mushrooms in Australia and, as such, comprised the Australian industry. Customs was informed that prior to November 2000 there was a second participant to the Australian industry, Cowra Export Packers Limited (CEP). However, Windsor acquired CEP in November 2000.

Until the purchase of CEP, WFF carried out its preserved mushrooms operation at its cannery located at Windsor in NSW. After CEP was acquired WFF closed the Windsor canning facility and moved those operations to CEP's production site at Cowra, NSW.

During the investigation, Customs did not find evidence of any other Australian manufacturer of preserved mushrooms.

Customs is satisfied that WFF is the Australian industry producing like goods.

## **5 AUSTRALIAN MARKET**

### **5.1 Market structure**

The Australian market for preserved mushrooms is supplied by:

- production by Australian industry
- imports from China
- imports from other countries.

As noted in section 3.3, imports from other countries represent a very small proportion of the Australian market. Imports from China have the dominant share of the total market.

There are three market sectors - retail, food services, and industrial food processing. The market sectors can be differentiated by the container sizes sold in the respective markets – in the retail sector, container sizes ranging from around 130g up to 425g; in the food services sector, the A10 container size; while bags and barrels (over 10kg in size) are typically sold to the industrial food processing sector.

The retail sector comprises the supermarket chains and independent grocery stores that sell to the general public. Sales to this sector are made through distributors, typically owned in-house by the particular supermarket chain.

The food service sector includes restaurants, take-away outlets, bakeries and caterers. Sales to this sector are also generally made through distributors, although some larger customers may buy direct.

Industrial food processors purchase large quantities of preserved mushrooms to be used in packaged foods. Sales to this sector are usually made direct.

Containers between 425g and 1.5kg, and 3kg and 10kg, are not generally sold.

Customs analysed the sales information provided by Australian industry, importers and exporters of preserved mushrooms from China (cooperating exporters accounted for about half of the imports from China in 2004). The results, depicted in the table on the following page, indicated that the Australian industry products (mushrooms in butter sauce) and imports from China (mushrooms in brine) were both sold to the retail sector. They were also both sold to the food services sector (the Australian industry sold mushrooms in brine as well as mushrooms in sauce). Only the Australian industry's mushrooms in brine product was sold to the industrial food processing sector.

Sales of containers up to 425g (i.e. to the retail sector) accounted for more than 80 per cent of Australian industry's sales volume in 2004, with most of the balance of sales being container sizes 1.5kg to 3.0kg (i.e. to the food services sector). Within the retail sector, sales of the 220g and 410g sizes accounted for the majority of sales volume. Sales to the industrial food-processing sector, which doesn't appear to use imported Chinese product, are a small proportion of the Australian industry's total sales.

For the cooperating exporters, over 80 per cent of their sales were of containers up to 425g. Size A10 containers accounted for the balance. Importer data indicated that this percentage would be likely to be maintained across all imports from China.

<b>Market Segments</b>			
		<b>Brine</b>	<b>Sauce</b>
<b>RETAIL</b>	<b>Up to 425 grams</b>	Imports	Australian Industry
<b>FOOD SERVICE</b>	<b>1.5 kg to 3 kg</b>	Imports/ Australian Industry	Australian Industry
<b>INDUSTRIAL</b>	<b>10 kg and over</b> Bags / Barrels / Pails	Australian Industry	

**5.2 Market size**

Customs estimated the market size for the GUC using verified sales data from Australian industry and importers, and Customs' commercial database.

From the data available, Customs estimated the total Australian market in 2004 to be about 7,100 tonnes.

## **6 THE DUMPING INVESTIGATION**

Dumping occurs when the export price of a product is less than its normal value. This chapter details Customs' investigations into whether preserved mushrooms were exported from China to Australia at dumped prices during the investigation period.

### **6.1 Domestic market situation**

China was granted market economy status for anti-dumping purposes commencing on 13 May 2005 (ACDNs 2005/26 and 2005/28 refer). When this investigation was initiated, however, China was still regarded as an economy in transition and subject to the relevant provisions under the Act. These requirements included that the exporters complete a supplementary exporter questionnaire addressing matters relevant to that status. The Chinese exporters and producers that Customs visited completed the questionnaire, and non-confidential versions of the questionnaires were placed on the public record.

Customs examined, for purposes of s 269TAC(2)(a)(ii), information submitted in the questionnaires and made the following findings.

- Some exporters had state ownership. However, there was no evidence that any national or provincial government officials occupied executive or senior management positions in these or the other exporters and producers visited by Customs. Customs was given an extract from the Company Law of the People's Republic of China that prohibits government officials from holding such positions. An English language version of Chinese company law may be found on the Internet at [www.fdi.gov.cn](http://www.fdi.gov.cn).
- Companies are required to obtain from the relevant registration body a business license that establishes the scope of its business. The license imposes a condition that the licensee must not operate outside its scope, otherwise the license may be revoked and the company no longer able to conduct business. Except for the obligation to conduct business in accordance with the company law of China and other laws, there are no other government influences over how the business is run, including the production, marketing or pricing of products.
- All companies visited by Customs provided financial statements for 2004 that were audited. All were reported to maintain accounting records in accordance with Chinese generally accepted accounting principles.
- Producers claimed that there was no government control of major inputs, particularly mushrooms and containers (80 per cent of the production cost). Documentation viewed by Customs did not reveal any such control, Customs noting that producers generally had different cost structures and sourced inputs from different suppliers. An exception was salt, which was said to be controlled by a state monopoly. However, salt is a minor cost in the production of preserved mushrooms. Chinese producers also said that some utility costs like electricity and water may also be supplied by state owned enterprises, but once again the cost of these inputs is minor.

In summary, Customs did not find any evidence that indicated that pricing of the inputs used in making preserved mushrooms or the domestic sales prices of preserved mushrooms was influenced by a factor other than market conditions.

## 6.2 Cooperation

In its application, WFF stated that it did not have information that identified exporters of the GUC to Australia. The Australian Bureau of Statistics data it had obtained revealed the quantity of imports from China, but not the names of the exporters. From its own research the Australian industry nominated China Foods, Cereal & Oil Company as a major exporter, and also suggested that exporters that had been identified in the recent U.S. Administration's review of normal values would be likely exporters to Australia. The applicant nominated four importers.

Customs' researched its commercial database to identify importers and exporters of the GUC during the investigation period.

Customs identified 25 exporters and/or manufacturers of the GUC and sent exporter questionnaires to each of them. Completed submissions were received from seven companies, and all were visited.

Customs identified a large number of importers (more than 30) of the GUC, but many imported very small volumes. Importer questionnaires were sent to all identified importers. Because of the large number of importers Customs only visited the largest 13 importers, which accounted for more than 90 per cent of imports from China.

## 6.3 Calculation of normal value

Customs' approach to determining the normal value for goods exported to Australia is to use the price paid or payable for domestic sales of like goods (s. 269TAC(1)) whenever possible. Sometimes, however, this may not be possible because of the absence, or low volume, of sales of like goods that would be relevant for the purpose of determining a price under s. 269TAC(1) or because the situation in the market of the country of export is such that sales in that market are not suitable. The legislation provides alternative methods for calculating normal value where it is not appropriate to use the price paid or payable of domestic sales.

In this dumping investigation, Customs found that the exporters to Australia did not sell on the domestic market. There were, however, sales on the domestic market by a producer of preserved mushrooms. This producer did not export preserved mushrooms, but sold to traders who Customs decided were the exporters of the goods.

Customs' initial approach to determining normal value in this investigation was to use the domestic sales of this producer under the 'other sellers' provision of s. 269TAC(1). Customs found that there were sufficient domestic sales that were arms length transactions in the ordinary course of trade that could be used for this purpose.

Preserved mushrooms are sold in a variety of container sizes (measured by net weight) and styles of mushroom content (whole, sliced, or pieces and stems). Customs will refer

to different size/content style combinations as models. The number of possible models is large.

In the domestic market five model types were sold. The exporters visited by Customs collectively sold 21 different models to Australia. In most instances, exported models did not have a matching model sold on the domestic market.

Exporters to Australia sourced the product they exported from a number of different producers in China. Customs visited three producers and found that the cost to manufacture the various models differed significantly between the producers. These differences were reflected in the varying prices paid by the exporters to those producers. Customs also noted that prices paid by exporters to other producers (ones that Customs did not visit) varied; Customs considered that the prices paid would reflect manufacturing costs of the other producers.

After examining all of the available information Customs considered that selling prices in the domestic and export markets were influenced by many factors, including:

- the producer from whom the goods were sourced and its cost structure;
- the grade of mushrooms used by the producer;
- the type of container (glass jars and cans);
- the size of the container;
- the style (whole, sliced or pieces and stems) of the mushroom in the container;
- the manufacturing process;
- whether the container was purchased, or manufactured, by the producer;
- whether the container was pre-labelled or labelled just prior to sale;
- the delivery and payment terms relating to the purchase of the goods by the exporter;
- the delivery and payment terms relating to the sale of the goods by the exporter;
- the delivery and payment terms relating to domestic sales;
- the volume of preserved mushrooms purchased by: domestic customer from the domestic seller; exporter from producer; and Australian customer from the exporter;
- the volume of other goods purchased by: domestic customer from domestic seller; exporter from supplier; and Australian customer from exporter;
- loyalty relationships between the respective parties;
- packing costs (eg packs of 12 versus packs of 24);
- selling costs in the domestic and export markets;
- exhibition/promotional costs in the domestic and export markets;
- different VAT implications in the domestic and export markets; and
- level of trade.

In addition, Customs was informed by interested parties that the label on the container may not accurately state the actual net weight of the product. For example, a container labelled as 400g may actually contain 425g, as may a container labelled 415g.

Customs examined the other sellers sales and sought at length to use those sales with appropriate adjustments under the provisions of s. 269TAC(1) and s. 269TAC(8). However, the results generated appeared to Customs to be significantly inaccurate or unreasonable because of the difficulties experienced in making the adjustments for fair comparison. The more important of these adjustments were listed above.

Having regard to the guidance in Section 2.5.2, paragraphs 71 and 72 of the Manual, Customs decided that the sales by other sellers would not permit fair comparison in relation to certain models because of the numerous and complex differences between domestic and export sales, which could affect the accuracy of the dumping calculations, arising from the following circumstances:

- there was only one producer/seller in the domestic market;
- there were a large number of models exported compared to the number sold domestically;
- most exported models did not have a directly comparable model sold in the domestic market;
- there were physical differences between models sold by the various producers;
- exported models were sourced from a number of producers with different cost structures;
- the terms and circumstances of purchases from the different producers varied; and
- the terms and circumstances of the export sales varied,

Customs considered the sales by the other seller to be not relevant pursuant to s. 269TAC(2)(a) of the Act. Customs therefore determined normal value as follows.

Where there was an identical model sold domestically to that exported (i.e. both were produced by the domestic seller), normal value for that model was determined pursuant to s. 269TAC(1) using the price paid or payable for the relevant domestic sales.

Where there was not an identical model sold on the domestic market to that exported, but the exported model was sourced from the domestic seller, Customs used the price paid or payable for a domestically sold model that was most similar to the exported model, adjusted for the physical differences (and other pricing differences) between the two models. For the physical difference adjustment, Customs adopted the method described at section 2.5.8, paragraph 263 in the Manual.

For models exported to Australia by exporters who sourced their product from a producer other than the domestic seller, Customs was satisfied there were no domestic sales of like goods that would be relevant for determining a price under s. 269TAC(1). Where the producer's costs were verified, Customs determined normal value under s. 269TAC(2)(c) of the Act using the cost to make of the particular producer of the exported goods. Where the producer's costs were not verified, Customs determined normal value under s. 269TAC(6), using the best available information.

## 6.4 Interested parties' submissions

Australian consultants Roger D Simpson & Associates Pty Ltd and AADG Pty Ltd, representing the Chinese exporters, made submissions disagreeing with the way Customs' calculated normal values. The submissions also disagreed with Customs' views regarding certain adjustments pursuant to s. 269TAC(8) and (9) of the Act, among them the positive adjustment made for trader costs and profit and Customs' failure to make a level of trade adjustment.

Customs held discussions with the consultants and considered all submissions, before finalising its position on 14 September 2005.

## 6.5 Xiamen Gulong Import & Export Co Ltd

### 6.5.1 Export price

Xiamen Gulong Import & Export Co Ltd (Xiamen Gulong), a Chinese trading company, sold preserved mushrooms to three customers in Australia during the investigation period. Customs visited Xiamen Gulong, two of its Chinese suppliers and two of the Australian customers.

Having regard to all of the circumstances surrounding Xiamen Gulong's sales of preserved mushrooms to each of the Australian customers, Customs considers that Xiamen Gulong retained control of the export transactions and management of the goods to the point of export, and made the necessary arrangements to ensure that the goods were exported to Australia. Bills of lading applicable to the export transactions identified Xiamen Gulong as the 'exporter'. Customs was satisfied that:

- Xiamen Gulong was the exporter in all cases; and
- the Australian customers were the importers.

Customs concluded that:

- the goods were exported to Australia other than by the importers;
- the goods were purchased by the importers from the exporter; and
- the purchases of the goods were arms length transactions (in terms of s. 269TAA).

Therefore, Customs established export prices under s. 269TAB(1)(a) using the price paid by the importers, less any charges arising after exportation of the goods.

### 6.5.2 Normal value

Xiamen Gulong did not sell preserved mushrooms in China. Customs established, however, that another company, a producer of preserved mushrooms in China, did sell in the domestic market. Customs visited this company and verified the domestic sales and cost information it had provided to the investigation.

For models exported to Australia for which there were sufficient relevant domestic sales of comparable models, normal values were determined under s. 269TAC(1) of the Act based on prices paid in respect of those domestic sales.

For models exported to Australia for which there were no relevant domestic sales of comparable models, but costs of the exported models had been verified, normal values were determined under s. 269TAC(2)(c), using cost to produce of the supplier of the exported models and selling general and administrative costs and profit of the domestic seller.

For models exported to Australia for which there were no relevant domestic sales of comparable models, but costs had not been verified, normal values were determined under s. 269TAC(6).

Certain adjustments pursuant to s. 269TAC(8) and (9) of the Act, as appropriate, were made in the normal value calculations to ensure fair comparisons with export prices. Negative adjustments were made in relation to domestic inland transport, domestic sales expenses, exhibitions and advertising, and compensation (certain sales). Positive adjustments were made in relation to export inland freight (certain sales), export charges to FOB (certain sales), credit terms, VAT price effect, and trader costs and profit. Adjustments were also made for physical differences, where applicable.

## **6.6 Jiangsu Cereals, Oils and Foodstuffs Import Export Group Corp**

### **6.6.1 Export price**

During the investigation period, Jiangsu Cereals, Oils and Foodstuffs Import Export Group Corp. (Jiangsu COF), a Chinese trading company, sold preserved mushrooms to a buyer located in a country other than Australia or China, who on-sold the goods to an Australian customer. Customs visited Jiangsu COF, the Chinese producers who supplied the preserved mushrooms to Jiangsu COF, and the Australian customer.

Having regard to all the circumstances, Customs considers that Jiangsu COF had control of the export transactions to the point of export and made the necessary arrangements to ensure that the goods were exported to Australia. Bills of lading applicable to the transactions identified Jiangsu COF as the 'shipper'. Customs was satisfied that:

- Jiangsu COF was the exporter of the goods to Australia; and
- the Australian customer was the importer.

Customs concluded that:

- the goods were exported to Australia other than by the importer;
- the goods were not purchased by the importer from the exporter; and
- the purchases of the goods were arms length transactions (in terms of s. 269TAA).

Therefore, export prices for these sales could not be established under s. 269TAB(1)(a) or s. 269TAB(1)(b) of the Act. As Customs was aware of all the circumstances of the exportations Customs established export prices under s. 269TAB(1)(c) using Jiangsu COF invoiced export prices, less any charges arising after exportation of the goods.

## 6.6.2 Normal value

Jiangsu COF did not sell preserved mushrooms in China. Customs established, however, that another company, a producer of preserved mushrooms in China, did sell in the domestic market. Customs visited this company and verified domestic sales and cost information it provided to the investigation.

For models Jiangsu COF exported to Australia for which there were sufficient relevant domestic sales of comparable models, normal values were determined under s. 269TAC(1) of the Act based on prices paid in respect of those domestic sales.

For models exported to Australia for which where there were no relevant domestic sales of comparable models normal values were determined under s. 269TAC(2)(c), using verified costs of the producer of the particular exported model and selling general and administrative costs and profit of the domestic seller.

Certain adjustments were made in the normal value calculations under ss. 269TAC(8) and (9) of the Act, as appropriate, to ensure fair comparisons with export prices. Negative adjustments were made in relation to domestic inland transport, domestic sales expenses, and exhibitions and advertising. Positive adjustments were made in relation to export inland freight (certain sales), export charges to FOB (certain sales), credit terms, VAT price effect, trader costs and profit. Adjustments were also made for physical differences, where applicable.

## 6.7 Fujian Zishan Group Co Ltd

### 6.7.1 Export price

Fujian Zishan Group Co Ltd (Fujian Zishan), a Chinese producer and exporter of preserved mushrooms, sold the GUC to an Australian trading company, who sold the goods to customers in Australia. Two of these customers entered the goods they had purchased. Customs visited Fujian Zishan, the Australian trader, and the two customers (of the trader) who had entered the goods.

Having regard to all of the circumstances surrounding Fujian Zishan's sales of preserved mushrooms Customs considers that Fujian Zishan retained control of the export transactions and management of the goods to the point of export, and made the necessary arrangements to ensure that the goods were exported to Australia. Bills of lading applicable to the export transactions identified Fujian Zishan as the 'exporter'. Customs was satisfied that:

- Fujian Zishan was the exporter in all cases, and
- in some circumstances the Australian trader was the importer, and in other circumstances the relevant Australian customer who entered the goods was the importer.

Customs concluded that, for goods imported by the trader:

- the goods were exported to Australia other than by the importer;
- the goods were purchased by the importer from the exporter; and

- the purchases of the goods were arms length transactions (in terms of s. 269TAA).

Therefore, Customs established export prices for these transactions under s. 269TAB(1)(a) using the price paid by the importer, less any charges arising after exportation of the goods.

For goods imported by the customers of the Australian trader Customs concluded:

- the goods were exported to Australia other than by the importer;
- the goods were not purchased by the importer from the exporter; and
- the purchases of the goods were arms length transactions (in terms of s. 269TAA).

Therefore, export price for these sales cannot be established under s. 269TAB(1)(a) or 269TAB(1)(b) of the Act. As Customs is aware of all the circumstances of the exportations, Customs established export prices under s. 269TAB(1)(c) using Fujian Zishan's invoiced export prices, less any charges arising after exportation of the goods.

### **6.7.2 Normal value**

Fujian Zishan did not sell preserved mushrooms in China's domestic market during the investigation period. Customs established, however, that another company, a producer of preserved mushrooms in China, did sell in the domestic market. Customs visited this company and verified domestic sales and cost information it provided to the investigation.

Customs was satisfied that there were no relevant domestic sales of models that were comparable to the models exported to Australia. Customs determined normal values under s. 269TAC(2)(c) of the Act, using verified production costs of Fujian Zishan and selling, general and administrative costs and profit of the domestic seller.

Certain adjustments were made in the normal value calculations under s. 269TAC(9) of the Act to ensure fair comparisons with export prices. Negative adjustments were made for domestic inland transport, exhibition and advertising, and domestic sales expenses. Positive adjustments were made for export inland freight, terminal handling charges, and VAT price effect.

## **6.8 Fujian Provincial Cereals, Oils & Foodstuffs Import/Export Corporation Xiamen Company**

### **6.8.1 Export price**

Fujian Provincial Cereals, Oils & Foodstuffs Import/Export Corporation Xiamen Company (COFCO), a Chinese trading company, sold preserved mushrooms to a trader in Australia during the investigation period. The Australian trader sold the goods to customers in Australia. One of these customers entered the goods that it had bought from the trader. Customs visited COFCO, COFCO's Chinese supplier, the Australian trader and the trader's customer who had entered the goods.

Having regard to all of the circumstances surrounding COFCO's sales of preserved mushrooms to Australia, Customs considers that COFCO retained control of the export transactions and management of the goods to the point of export, and made the necessary arrangements to ensure that the goods were exported to Australia. Bill of lading documents applicable to the export transactions identified COFCO as the 'exporter'. Customs was satisfied that:

- COFCO was the exporter in all cases, and
- in some circumstances the Australian trader was the importer, and in other circumstances the customer who entered the goods was the importer.

Customs concluded that, for goods imported by the Australian trader:

- the goods were exported to Australia other than by the importer;
- the goods were purchased by the importer from the exporter; and
- the purchases of the goods were arms length transactions (in terms of s. 269TAA).

Therefore Customs established export prices for these transactions under s. 269TAB(1)(a) using the price paid by the importer, less any charges arising after exportation of the goods.

For goods imported by the Australian trader's customer:

- the goods were exported to Australia other than by the importer;
- the goods were not purchased by the importer from the exporter; and
- the purchases of the goods were arms length transactions (in terms of s. 269TAA).

Therefore, export price for these sales cannot be established under s. 269TAB(1)(a) or 269TAB(1)(b) of the Act. As Customs is aware of all the circumstances of the exportations, Customs established export prices under s. 269TAB(1)(c) using COFCO's invoiced prices, less any charges arising after exportation of the goods.

### **6.8.2 Normal value**

COFCO did not sell preserved mushrooms in China. Customs established, however, that another company, a producer of preserved mushrooms in China, did sell in the Chinese market. Customs visited this company and verified domestic sales and cost information it provided to the investigation.

Customs was satisfied that there were no relevant domestic sales of models that were comparable to the models exported to Australia. Customs determined normal values under s. 269TAC(2)(c) of the Act, using verified production costs of the supplier of the goods exported to Australia and the selling, general and administrative costs and profit of the domestic seller.

Certain adjustments were made in the normal value calculations under s. 269TAC(9) of the Act, to ensure fair comparisons with export prices. Negative adjustments were made in relation to domestic inland transport, domestic sales expenses, and exhibitions and advertising. Positive adjustments were made in relation to export inland freight, export charges to FOB, credit terms, VAT price effect, and trader costs and profit.

## 6.9 Xiamen Fortune Import & Export Co Ltd

### 6.9.1 Export price

Xiamen Fortune Import & Export Co Ltd (Xiamen Fortune), a Chinese trading company, sold preserved mushrooms to a trader in Australia during the investigation period. This trader sold to customers in Australia, two of which entered the goods that they had purchased. Customs visited Xiamen Fortune, Xiamen Fortune's supplier in China, the Australian trader, and the two Australian customers who had entered the goods purchased.

Having regard to all of the circumstances surrounding Xiamen Fortune's sales of preserved mushrooms to each of the Australian buyers, Customs considers that Xiamen Fortune retained control of the export transactions and management of the goods to the point of export, and made the necessary arrangements to ensure that the goods were exported to Australia. Bills of lading applicable to the export transactions identified Xiamen Fortune as the 'exporter'. Customs was satisfied that:

- Xiamen Fortune was the exporter in all cases; and
- in some circumstances the Australian trader was the importer, and in other circumstances the relevant customer who had entered the goods was the importer.

Customs concluded that, for goods imported by the trader:

- the goods were exported to Australia other than by the importer;
- the goods were purchased by the importer from the exporter; and
- the purchases of the goods were arms length transactions (in terms of s. 269TAA).

Therefore, Customs established export prices for these transactions under s. 269TAB(1)(a) using the price paid by the importer, less any charges arising after exportation of the goods.

For goods imported by the trader's customers Customs concluded:

- the goods were exported to Australia other than by the importer;
- the goods were not purchased by the importer from the exporter; and
- the purchases of the goods were arms length transactions (in terms of s. 269TAA).

Therefore, export price for these sales cannot be established under s. 269TAB(1)(a) or 269TAB(1)(b) of the Act. As Customs is aware of all the circumstances of the exportations, Customs established export prices under s. 269TAB(1)(c) using Xiamen Fortune's invoiced export prices, less any charges arising after exportation of the goods

### 6.9.2 Normal value

Xiamen Fortune did not sell preserved mushrooms in China. Customs established, however, that another company, a producer of preserved mushrooms in China, did sell in the Chinese market. Customs visited this company and verified the domestic sale and cost information it provided to the investigation.

Customs was satisfied that there were no relevant domestic sales of models that were comparable to the models exported to Australia. Customs determined normal values under s. 269TAC(2)(c) of the Act, using verified production costs of the supplier of the goods exported to Australia and the selling, general and administrative costs and profit of the domestic seller.

Certain adjustments were made in the normal value calculations under s. 269TAC(9) of the Act, to ensure fair comparisons with export prices. Negative adjustments were made in relation to domestic inland transport, domestic sales expenses, and exhibitions and advertising. Positive adjustments were made in relation to export inland freight, export charges to FOB, credit terms, VAT price effect, and trader costs and profit.

## **6.10 All other exporters**

Only the exporters discussed above cooperated with the investigation. For exporters other than the cooperating exporters, Customs assessed dumping in the following manner.

### **6.10.1 Export price**

Customs was satisfied that sufficient information had not been furnished, or was not available, to enable the export price of goods to be ascertained under s. 269TAB(1). Therefore Customs determined export price for other exporters under s. 269TAB(3) of the Act having regard to all relevant information.

In this regard, Customs was satisfied that import information (including the value and volume of goods entered) contained on its commercial database, which it had verified through visits to importers, provided a reasonable basis for determining the export price for other exporters.

Customs noted that most entries in its commercial database provided limited descriptions as to the model(s) of the GUC being entered. Therefore Customs did not calculate export price by model.

Instead, Customs used the export prices of imports relevant to other exporters (that is, excluding the cooperating exporters) from its commercial database to determine the FOB export price for other exporters.

### **6.10.2 Normal Value**

During the investigation Customs visited three producers of preserved mushrooms in China and verified their production and sales costs. Customs established that one of these producers sold like goods in the domestic market.

Customs determined normal value for exporters, other than the exporters who cooperated, under s. 269TAC(6) of the Act using verified manufacturing costs of the exported goods (weighted average of all models) of one of the producers, plus the weighted average selling, general and administrative costs, and profit, of the producer who sold in the domestic market.

In the absence of any evidence, Customs did not make adjustments to the normal value.

### 6.11 Dumping margins

Customs calculated dumping margins under s. TACB(2) of the Act by comparing the weighted average of export prices over the whole of the investigation period with the weighted average of corresponding normal values over the whole of that period.

Customs found the following dumping margins:

Xiamen Gulong	4.2 per cent
Jiangsu COF	-4.5 per cent
Fujian Zishan	4.8 per cent
COFCO	20.6 per cent
Xiamen Fortune	17.4 per cent
All other exporters	23.2 per cent

### 6.12 Termination – Jiangsu COF

Section 269TDA(1) of the Act requires that the CEO must terminate an investigation so far as it relates to an exporter if Customs is satisfied that the dumping margin for that exporter is less than 2 per cent.

On 9 August 2005 Customs placed its non-confidential normal value visit report for Jiangsu COF on the public file, disclosing that Customs had calculated a negative dumping margin for Jiangsu COF.

On 15 August 2005 Customs placed the SEF, which stated that dumping margins in the range -5% to 25% had been found, on the public file. Interested parties were given 20 days to respond to the SEF.

Following consideration of submissions from interested parties, and meetings and discussions with exporter representatives Customs finalised its position regarding calculations of normal value. Customs was satisfied that the dumping margin for Jiangsu COF was less than 2%, and terminated the investigation so far as it related to Jiangsu COF in accordance with s. 269TDA(1) of the Act.

Public notification of termination was given in *The Australian* on 21 September 2005 and by ACDN 2005/50.

## **7 ECONOMIC CONDITION OF THE INDUSTRY**

### **7.1 Applicant's injury claims**

WFF claimed that dumping caused material injury in the form of:

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

### **7.2 Customs' assessment**

The Australian industry claimed that material injury from dumped imports from China began in the second half of 1999, and the injury assessment period commenced 1 July 1999. Customs' usual approach is to analyse each injury factor over this common period. However, for some injury factors, for example market share, the data was not available for the whole period. Customs reported on the full period wherever possible.

The following assessment is based on verified data from Australian industry and other interested parties. Except where noted, data is based on calendar years. The analysis examines the economic performance of the industry as a whole and by market sector, focussing on the performance of the largest selling products by volume (the 220g, 410g and A10 mushrooms in butter sauce products, which collectively account for about 90 per cent of industry's total sales volume).

#### **7.2.1 Price effects**

##### Price undercutting

Price undercutting occurs when imported product is sold at a price below that of the Australian product.

Australian industry claimed that its prices were being undercut by dumped imports of Chinese mushrooms. Customs examined price information provided by the Australian industry and importers in considering this claim. Customs assessed information at the distributor/wholesale level as this is the level at which the applicant, WFF, sold its goods in competition with imports.

WFF sold preserved mushrooms in a variety of sauces in different can sizes (refer section 4.2.1). The company claimed that price undercutting was particularly prevalent in the retail market sector, specifically the 220g and 410g can sizes, its largest selling varieties.

Customs compared quarterly selling prices per kilogram of the five largest importers with the Australian industry's quarterly selling prices to their respective customers during the investigation period. Customs observed that most imported product was not an identical size to that sold by the Australian industry. For example, the locally produced 220g can was compared with the imported 184g and 190g can sizes, whilst the locally produced 410g can was compared with the imported 400g, 415g, and 425g can sizes. None of the importers imported all sizes.

For the 220g container, only three of the five importers sold comparable sized products. Customs found that one importer undercut the Australian industry's prices by between 15 to 37 per cent over the investigation period, while another importer's prices undercut the industry's prices by between 7 per cent and 19 per cent over the period. The third importer's prices were slightly higher than those of the Australian industry.

For the 410g can, all five importers examined imported preserved mushrooms in a similar sized container. Prices for two of the importers were above those of the Australian industry, however three of the importers had prices that were well below the prices of the Australian industry – one by up to 34 per cent, another by up to 27 per cent and the third by up to 24 per cent over the investigation period.

For other sized containers, Customs found significant price undercutting when comparing prices of the imported A10 (2.8kg to 2.9kg) size product to those of the Australian industry (for both its mushrooms in brine and mushrooms in butter sauce products), but no undercutting for the 310g product.

The 220g and 410g containers in the retail market sector, and A10 containers in the food services market sector are the Australian industry's largest selling products. Customs is satisfied that price undercutting has occurred.

### Price depression

Price depression occurs when prices are reduced for some reason.

The price suppression chart on the following page shows the Australian industry's unit average selling prices (and costs) from the second half of 1999 to 2004 inclusive.

Customs notes that the sales volumes of the various products as a proportion of total sales has not changed significantly throughout the period.

Unit average sales revenue declined significantly in 2001. It further declined marginally for the next two years before increasing in 2004 to slightly above the level in 2001 (but still well below the levels achieved in 1999 and 2000). The unit average revenue depression between 1999 and 2004 was approximately 16 per cent.

On a size basis, the 220g can (the largest selling product by volume) and the A10 size mushrooms in butter sauce (third largest selling product by volume) followed the same unit sales revenue pattern as for the industry as a whole, with unit average revenue declines over the period of approximately 5 per cent and 20 per cent respectively. For the 410g size (the second largest selling product by volume), however, the unit average sales revenue, after declining in 2000 and 2001, increased in each of the following three years so that over the period unit average revenue rose by almost 7 per cent. The industry explained that a major customer had requested that WFF increase the quantity of mushroom in the 410g container, leading to an increase in cost and price. Although

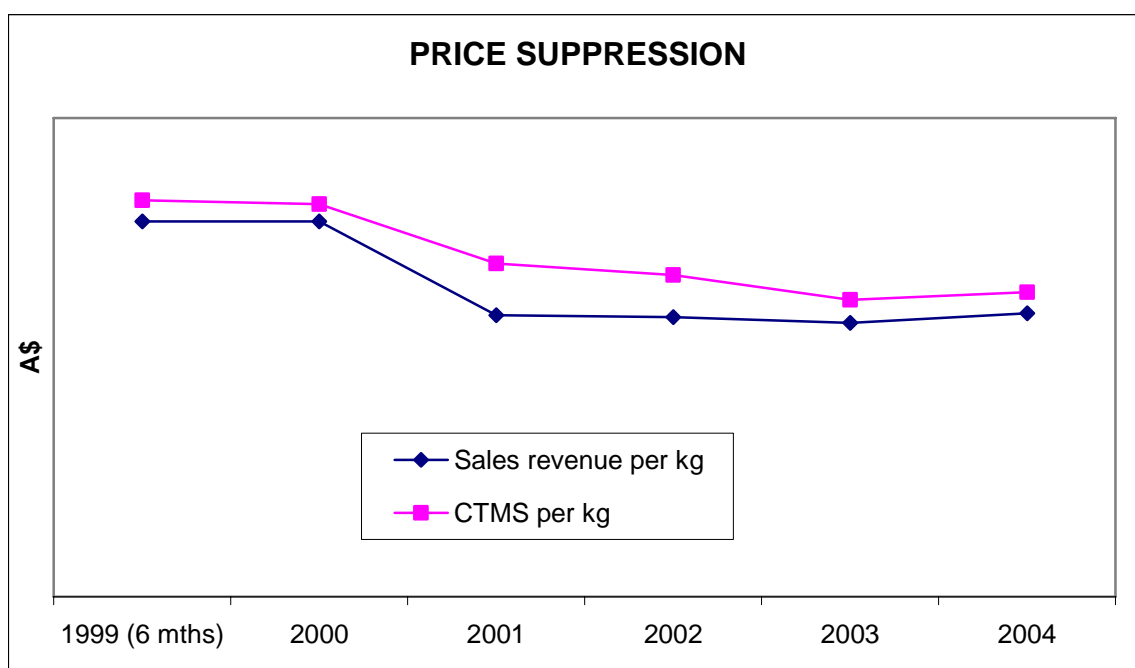
the unit annual average revenue for the 410g can trended upward, the CTMS for this product remained above the unit annual average revenue line.

Customs is satisfied that Australian industry suffered injury from price depression.

### Price suppression

Price suppression occurs when price increases for the Australian industry's product, which otherwise would be expected to occur, have not occurred, or have been less than expected.

The following chart illustrates that in 2001 the average CTMS per kilogram of preserved mushrooms fell significantly following WFF's purchase of CEP in late 2000. The CTMS continued to decline slightly for the next two years before marginally increasing in 2004.



Although the unit CTMS was above the unit sales revenue for the whole period, the gap widened considerably in 2001. The gap declined slightly in each of the next three years and by 2004 was almost back to the level of 2000. Australian industry commented that in 2004 this reduction in the gap between cost and price was misleading as there were significant cost increases in that year, especially in can prices, which ordinarily would have increased the unit cost and led to Australian industry raising its prices to compensate. However it said that because of pricing pressure from Chinese imports it was unable to do this (increase prices) and instead negotiated a considerable 'temporary' reduction in mushroom prices with its suppliers to offset the other cost pressures.

For the 220g product, unit annual average CTMS was above unit annual average revenue for the whole period. However, the gap between unit CTMS and unit sales revenue declined continuously across the period, primarily because unit CTMS declined significantly (by just over 10 per cent between 1999 and 2004).

Although the unit annual average CTMS and sales revenue pattern for the 410g product was different to other products, and the business as a whole (for reasons outlined earlier), unit CTMS was above unit sales revenue for the whole period. The gap between unit CTMS and unit sales revenue was slightly higher in 2004 than it was in 1999, although the difference had been considerably wider at times during the period.

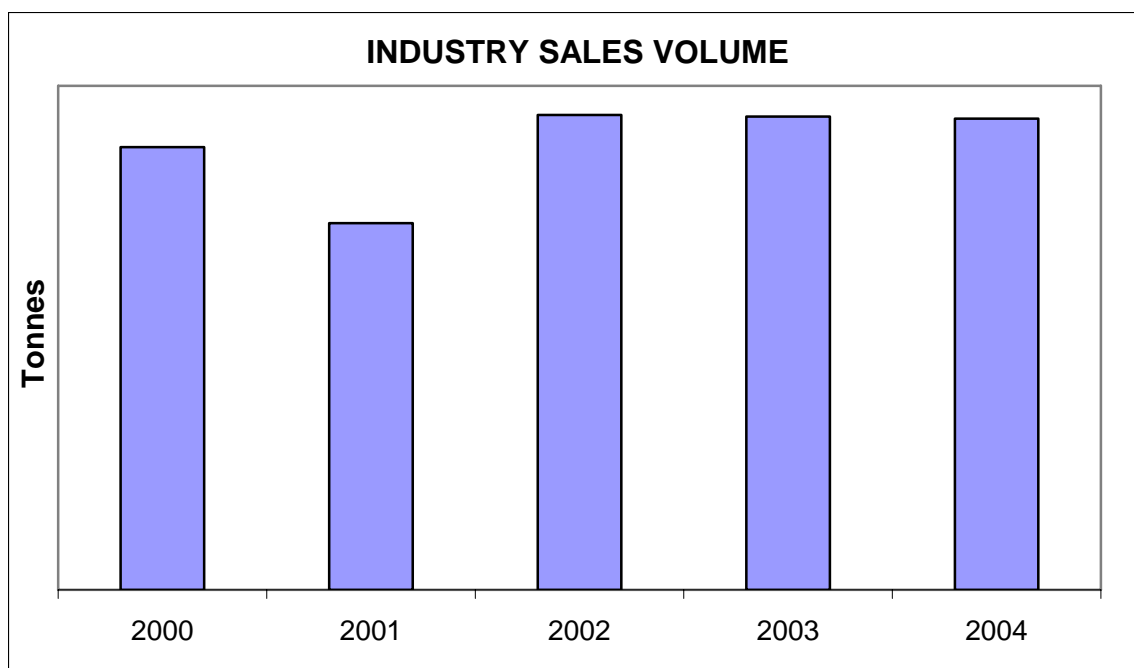
For the A10 mushrooms in butter sauce product, unit annual average CTMS declined continuously across the period, except for 2004 when the unit CTMS rose slightly. In 1999 and 2000 unit annual average sales revenue was above the corresponding unit CTMS, before falling slightly below it in 2001 and then further below it in 2002. This gap has remained at a similar level since.

Customs is satisfied the Australian industry suffered injury from price suppression during the period.

### 7.2.2 Volume effects

#### Sales volume

The industry's sales volumes are depicted in the chart below. Note that figures for 2000 include an estimate by Customs for CEP's production based on information provided by WFF.



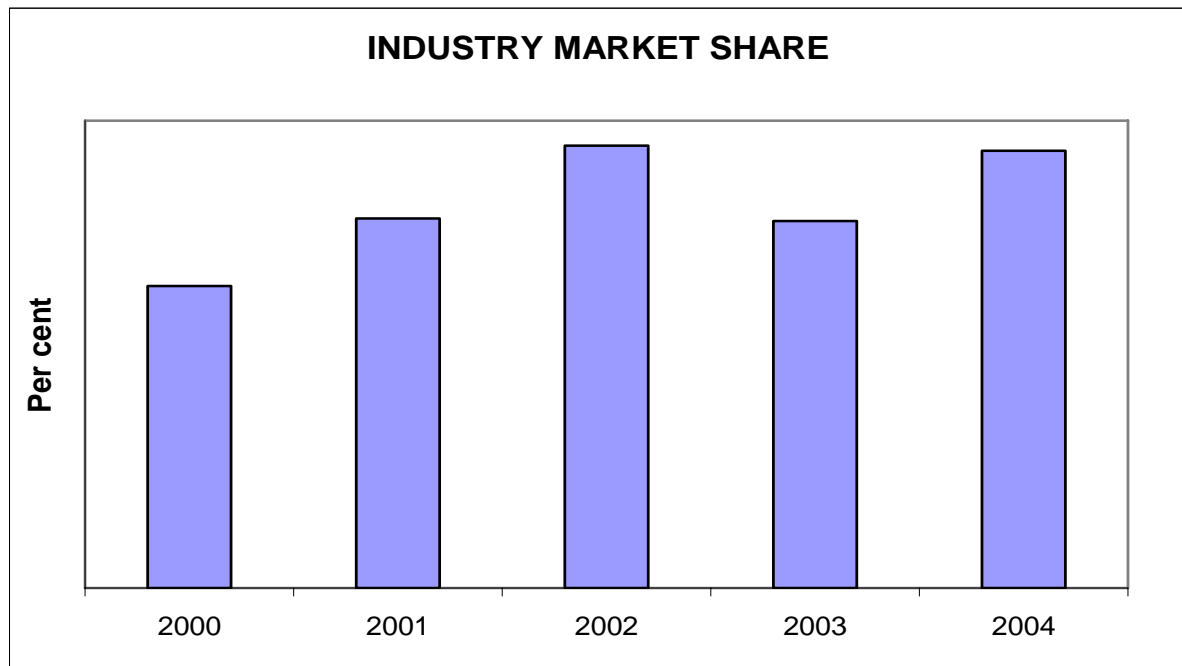
The Australian industry's sales volumes dipped sharply in 2001; otherwise its sales volumes remained relatively steady across the period.

Customs examined the sales volume pattern for the three highest volume selling product lines (220g, 410g and A10) and found that the sales pattern for each followed a similar pattern to that for the combined business.

Customs is not satisfied the Australian industry suffered injury from loss of sales volume.

### Market share

Australian industry's market share for the period 2000 to 2004 inclusive is shown in the chart below.



The chart shows that the Australian industry's market share climbed in 2001 and 2002. It reduced considerably in 2003, back to the levels of 2001. However the lost market share was recovered in 2004.

Australian Industry stated that using 2000 as a base year for market share comparison gives a misleading picture as the industry was already losing sales to imports, and the total market in 2000 was abnormal to the extent that buyers were taking advantage of the substantial reduction in prices of exports from China to stock up. The chart in section 2.3 showing the volume of imports from China supports this claim. Hence, Australian industry claimed, its market share in 2000 was not truly representative of its market share before the dumping of goods from China. As Australian industry comprised two participants at that time, and verifiable data is unavailable for one of them, Customs does not consider it can accurately quantify an Australian industry market share for 1999. However based on Customs' findings in respect of market size (relatively stable), import volumes in 1999 (see section 2.3), WFF's sales figures in 1999, plus the same sales estimate for CEP as in 2000, it would be unlikely that the Australian industry's market share in 1999 would be significantly different to an average of 2001 and 2002.

Whether the Australian industry suffered loss of market share in 2000 is inconclusive; but it did suffer loss of market share in 2003, which it regained in 2004. Across the period for which Customs has verified information (i.e. from 2000 to 2004) the Australian

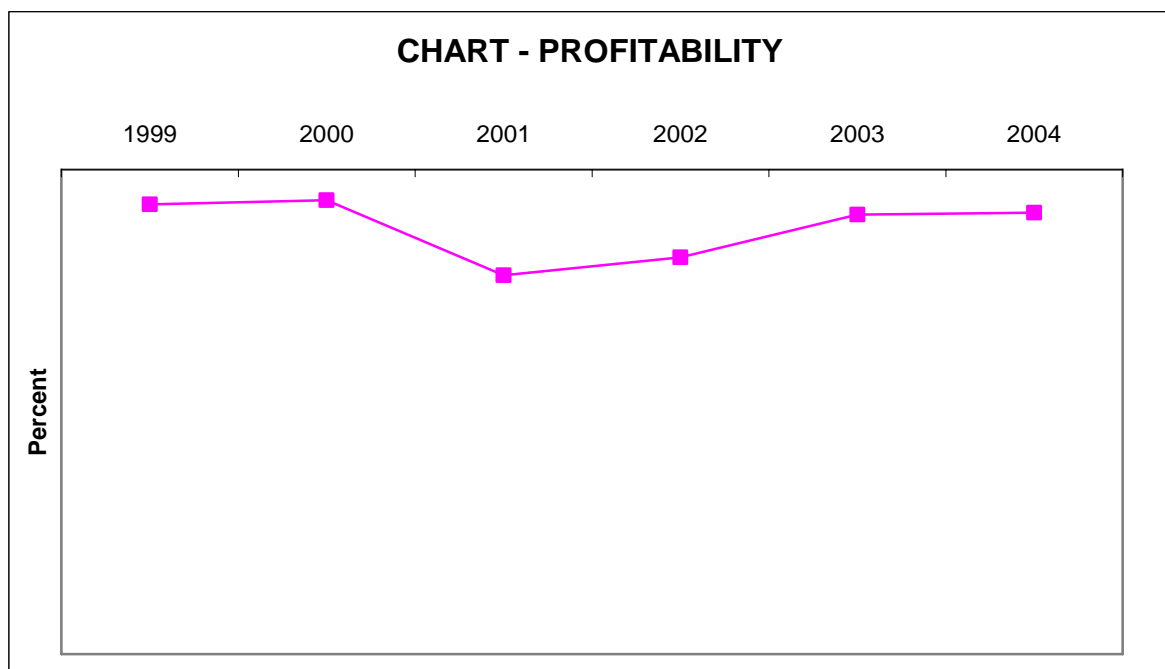
industry's market share rose. Customs is not satisfied that the Australian industry suffered injury from loss of market share.

### 7.2.3 Profit and profitability

Profitability relates to net profit as a percentage of sales revenue.

WFF provided financial statements for the 1998 and 1999 financial years that showed that its preserved mushroom business was profitable in those years (although it was unprofitable in the second half of 1999).

The following profitability chart is based on data provided by WFF. For 1999, the profitability is based on the last six months data. The data in 1999 and 2000 does not include financial information from CEP, and therefore the profitability shown for those years is based on WFF's results. Note that WFF was a much larger producer of preserved mushrooms than CEP, accounting for around 70 per cent of Australian industry output.



The chart demonstrates that WFF's preserved mushrooms business has been unprofitable for the five and a half years depicted (the X-axis represents zero profitability). WFF commented that the anticipated improvement in profit and profitability that was expected following the industry rationalisation in 2000 did not occur because imported goods from China were sold at dumped prices.

In terms of profits, WFF last recorded a profit in the financial year to 30 June 1999 (note that no profit figure was available for CEP). In the six months to December 1999 WFF recorded a loss, and its net earnings have remained that way since. In calendar year 2000, earnings fell substantially over what they had been in the 12 months to June 1999, and a significant loss was recorded by WFF. The amount of that loss has been exceeded every year since. There was a moderate recovery in losses in 2004

compared with previous years, but the amount was still significantly higher than the loss in 2000.

In terms of individual products, profitability of the 220g product improved in 2004 compared with what it had been in 1999 and 2000, although it was negative throughout. Profitability of both the 410g and A10 (mushrooms in butter sauce) products was worse in 2004 than in 1999. The A10 was profitable in 1999 and 2000 but became unprofitable after then, while the 410g was unprofitable for the entire period.

Customs noted that profitability of bags and barrels sold to the industrial food processing sector (a small proportion of total turnover) was also negative across the period, despite no evidence of imports from China being sold to that sector. Industry explained that this was primarily due to the method of cost allocation that assigned these products a relatively greater proportion of allocated costs.

Customs considers the Australian industry suffered injury from reduced profits and profitability.

#### **7.2.4 Other relevant economic factors**

##### Capacity utilisation

WFF transferred its preserved mushroom production facilities to Cowra following the industry rationalisation at the end of 2000. Since then the company has been operating at about 25 per cent of capacity. This percentage is based on total operational capacity of the plant, which exceeds the current size of the Australian market.

Customs is satisfied the industry suffered injury from capacity under-utilisation.

##### Employment and wages

Australian industry provided information that showed that its workforce declined by about 20 per cent between 2002 and 2004. WFF does not have a dedicated workforce on preserved mushrooms. Employees work interchangeably on preserved mushrooms and other areas, depending on workflows and priorities. Therefore the company was unable to identify job losses that could be directly associated with the mushrooms business.

WFF indicated, however, that should it be forced to cease production of preserved mushrooms there would be a loss of 20-25 full time jobs because the remaining businesses could not support all of the present workforce. The company would also incur significant redundancy costs.

While Customs considers that the number of employees declined at WFF between 2002 and 2004, Customs was not satisfied that this affected the preserved mushrooms industry.

##### Other factors

In Appendix A7 in the application and later during the verification visit Customs sought information from the Australian industry in respect of injury factors, other than those identified above. WFF stated that due to its business mix it could not accurately

determine measurements that would reliably quantify other injury factors specifically for the preserved mushroom business.

### **7.3 Conclusion**

Customs is satisfied on the basis of verified information that the Australian preserved mushroom industry has suffered injury from:

- price undercutting;
- price depression;
- price suppression;
- reduced profits and profitability; and
- under-utilisation of capacity.

## **8 HAS DUMPING CAUSED MATERIAL INJURY**

### **8.1 Applicant's claim**

WFF claimed that the cause of its injury since 1999 was preserved mushrooms being exported from China to Australia at dumped prices. WFF considered that Chinese exports to Australia prior to 1999 were also likely to have been dumped, depressing local prices below what they may otherwise have been. However the industry was still able to operate profitably, albeit with small margins. From 1999, WFF claimed, Chinese pricing became more injurious.

WFF stated that in 2000 the Australian preserved mushrooms industry, comprising WFF and CEP, agreed to rationalise their operations in order to more effectively compete with Chinese imports. The parent company of WFF, Windsor, purchased CEP and subsequently re-located WFF's preserved mushrooms operations to Cowra, intending to achieve economies of scale and improved profits.

However the expected improvements in profitability did not occur because of the significant decline in prices of imports from China which WFF claimed occurred from 1999. WFF stated that it began to lose business, as reflected by the loss in sales volumes in 2001, and had to lower its prices to match the price of Chinese imports to retain sales. Consequently, the expected improvement in profitability from the industry rationalisation never materialised.

### **8.2 Customs' assessment of applicant's claims**

In chapter 6 Customs concluded that exports of preserved mushrooms from China during the investigation period were dumped (except those by Jiangsu COF), while in chapter 7 Customs concluded that the Australian industry suffered injury. Customs must examine whether the dumping caused material injury to the Australian industry.

Customs' investigation of the market revealed that the Australian industry and imports from China supply about 98 per cent of the preserved mushrooms market, with imports from China holding the largest market share.

There are three market sectors - retail, food services and industrial food processing (refer to section 5.1 of this report for more information). The industrial food-processing sector is relatively small and is supplied by the Australian industry. The retail and food processing sectors are supplied by both the Australian industry and imports from China. Economic performance in the retail sector is particularly important in terms of the economic condition of the Australian preserved mushrooms industry as this market sector accounts for more than 80 per cent of industry turnover.

As discussed in section 5.1, the market sectors can be differentiated by the container sizes typically sold in the respective markets. Industry data showed that the 220g and 410g can sizes, sold to the retail sector, were its largest selling products (more than 75 per cent of total sales volume). Industry stated that the primary cause of its material injury was the intense price competition by imports from China competing against these two products, supplemented by similar price competition against its A10 product sold to the food services sector.

Information provided by Australian industry demonstrated that it had been profitable in 1998 and 1999, albeit with relatively small margins. Industry stated that from the second half of 1999 prices of imports from China began to significantly decline (a claim supported by data from Customs' commercial database as shown in the chart at section 8.3.4), threatening its profitability and viability. Australian industry underwent rationalisation in 2000 (reducing participants from two to one), the stated intent being to obtain economies of scale and enabling the industry to be more competitive with imports from China. Australian industry's verified data demonstrated that the anticipated cost efficiencies occurred with a significant reduction in unit average per kilogram CTMS in 2001 (the first full calendar year of operation of the merged business) compared with the previous year, and a further reduction in subsequent years before a slight increase in 2004 (refer also to the chart in section 7.2.1). Australian Industry stated that given market prices existing at the time it expected the cost efficiencies to result in significantly improved profitability. However, the verified data showed that Australian industry's unit annual average revenue across the period declined by an even greater percentage than the decline in CTMS. The consequence of this was that despite the Australian industry achieving significant cost improvements from the rationalisation, it has never returned to profitability.

Australian industry claimed that the price depression and suppression it suffered across the period commenced from the latter half of 1999 as a result of exports from China being sold to Australia at substantially reduced (dumped) prices. Some interested parties proposed that import prices declined over the period because of appreciation of the AUD (export sales to Australia from China are usually negotiated in USD) – this is discussed in section 8.3.4. Customs' data disclosed that in 2000 the unit average AUD FOB export price declined by around 12 per cent, despite the AUD having depreciated against the USD by a similar percentage.

Australian industry contended that because of the pricing competition from Chinese imports, it was forced to lower its prices from the latter part of 2000 in order to compete – refer to the price effects chart in section 7.2.1. Verified information showed that price falls occurred for each of the industry's largest selling products (the 220g, 410g and A10 containers) and negatively affected its economic performance in both the retail and food processing sectors of the market. Each product sold by Australian industry to the retail and food services market sectors suffered a reduction in unit average sales revenue in 2001.

Customs found that since 2001 the Australian industry's unit average sales revenue has remained relatively steady, both at the individual product level (except for 410g container – see comments under 'Price depression' in section 7.2.1) and at the industry level. It appears to have been helped in this respect by a further depreciation of the AUD in 2001, which increased the average FOB price of imports in AUD by about 14 per cent in 2001. The AUD FOB export price remained at the same level in 2002 and the Australian industry regained the sales volume it had lost earlier.

In 2003 average export prices in USD from China declined by about 9 per cent. In addition, the AUD appreciated by about 18 per cent. The dual impact of these occurrences was that the average FOB price of imports in AUD terms dropped by about 25 per cent in 2003. The evidence shows that the industry maintained sales volumes, however its market share fell.

In 2004 (the investigation period) the unit average AUD price for imports from China fell again, due to further appreciation of the AUD against the USD (the unit average FOB export price in USD was steady). As discussed in section 7.2.1, Customs found that the industry suffered injury from price undercutting in 2004. The investigation revealed that sellers who undercut the Australian industry's prices for the 220g, 410g and A10 products in that year had sourced their products from exporters whose exports were assessed by Customs to be dumped. Customs considers the dumping margins were a key factor in enabling the sellers of Chinese exports of preserved mushrooms to undercut the Australian industry's prices.

Despite Australian industry's success in significantly reducing its costs following industry rationalisation in 2000, the data shows that industry failed to report a profit for its preserved mushrooms business in that year, or in any year thereafter. The 220g and 410g containers (retail sector), have been unprofitable each year since 1999. For the A10 size containers (food services sector), the mushrooms in butter sauce product was slightly profitable in 2000 but unprofitable since, while the mushrooms in brine product was unprofitable for the whole period.

Customs estimates that had the unit average USD FOB export price stabilised at the 1999 level across the injury period (i.e. approximating an unsuppressed selling price), and other relevant factors (eg currency movements, industry costs and sales volumes) remained as occurred, Australian industry would have recorded profits every year after 1999 with the possible exception of 2004 (because of the strong appreciation of the AUD in 2003 and 2004). It is probable that in these circumstances the industry's competitive position would have improved, with the likely consequence that it would have increased sales volumes and therefore capacity utilisation. This could be expected to have resulted in further reductions in unit costs, making Australian industry more able to withstand the disadvantages experienced due to appreciation of the AUD in 2004.

### **8.3 Other causes of injury**

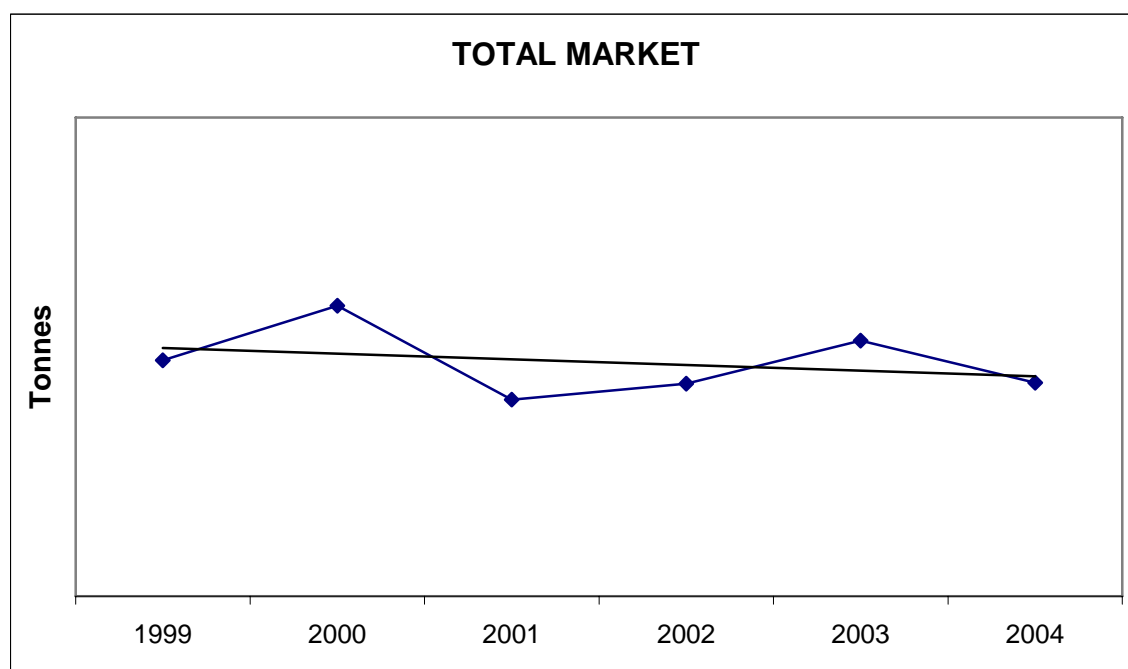
During the investigation, interested parties claimed that there were other causes of injury to the Australian industry. These are discussed below.

#### **8.3.1 Mature and declining market**

Some interested parties suggested that a reason for the Australian industry's poor performance was that the Australian market for preserved mushrooms, particularly mushrooms in sauce, was mature and declining. It was said that tastes had changed, and middle-aged and younger consumers were not seen as buyers of preserved mushrooms in sauce. Consumers who continued to purchase them were seen as generally older people who were raised in times when mushrooms in containers were often the only way to obtain mushrooms and dishes such as buttered mushrooms on toast and buttered mushrooms on steak were popular. Nowadays there were many alternative garnishes and snack foods preferred by consumers. In addition, interested parties noted, competition from fresh mushrooms had increased (see section 8.3.2)

Most interested parties were of the view that the market for mushrooms in sauce would continue to decline.

Using data provided by the Australian industry, importers and Customs' commercial database, Customs estimated the market from 1999. The result is depicted in the following chart.



The chart shows that across the period from 1999 to 2004 the Australian market was trending slowly downward. Between the limits of the period, however, the market varied widely. In 2000 there was a substantial increase, followed in 2001 by an even greater decline. A moderate increase in the market in 2002 was followed by a stronger increase in 2003, which was not sustained in 2004. The Australian industry's sales (refer the chart in section 7.2.2) followed a similar pattern, except that they remained steady in 2003 rather than increasing.

Customs agrees the evidence indicates that the market for preserved mushrooms is in a mature phase, and may be slowly declining. This may restrict the Australian industry's ability to grow profitability and profits. Customs considers that the market decline would have contributed to Australian industry's inability to maintain prices in 2001, and to the price depression and price suppression injury suffered in that year and since. However that contribution would have been relatively marginal and does not, itself, explain the substantial price depression and suppression that Australian industry suffered from 2000 onwards.

### 8.3.2 Fresh mushrooms

It was said by some interested parties that the ready supply and availability of fresh mushrooms was significantly impacting on Australian industry's economic performance in preserved mushroom market. To retain consumer preferences for preserved mushrooms, the Australian industry has had to competitively price its products to encourage customers not to switch to fresh mushrooms. An interested party, responding to the SEF, said in its submission:

*"In addition, the price depression and consequent suppression experienced by Windsor Farms during the period prior to the (investigation period) was largely due to the increased price pressure brought by increased competition from fresh mushrooms."*

In its application, Australian industry acknowledged that fresh mushrooms were a market substitute for its preserved mushrooms. It noted, however, that fresh mushrooms sell at a considerable premium to preserved mushrooms, and the consumer's decision to buy fresh mushrooms is not price driven but based upon a preference for fresh mushrooms.

Pricing evidence supports Australian industry's view. Customs does not consider that competition from fresh mushrooms was a significant factor in the price depression and suppression that affected the industry from 2000.

### **8.3.3 Retailer concentration**

It was claimed by some interested parties that grocery retailer concentration was the cause of much of Australian industry's problem. Retailing in Australia was said by these parties to be dominated by a small number of large supermarket chains that exert substantial pressure on suppliers to keep selling prices low. The supplier, if it wanted to sell to these large chains, was often forced to be a price-taker. If the supplier did not cooperate the retailer would simply source the goods from another supplier, or substitute similar goods.

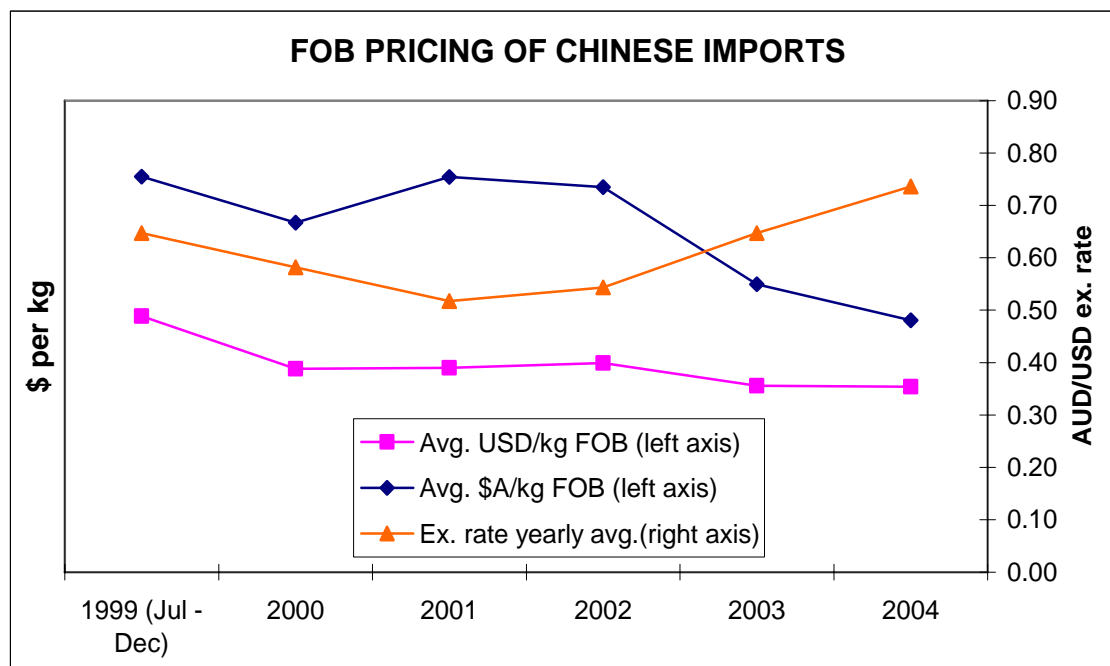
Although no evidence was provided in support of this claim Customs does not disagree. The Australian grocery retailing industry is dominated by a small number of large, competitive, supermarket chains, including Woolworths, Coles and IGA who seek to obtain competitive advantage through lower prices from suppliers. Australian industry agreed with this point during discussions with Customs.

Given that 80 per cent of Australian industry's business is in the retail sector Customs considers that the purchasing power of retailers is likely to have contributed to the industry's injury. As interested parties stated above, retailers' negotiations with Australian industry would be strongly influenced by prices on offer in the market for competitive goods. In the case of preserved mushrooms, Customs found that price leaders in the retailer market (refer section 7.2.1) were suppliers who purchased their goods from China at dumped prices. Customs considers that availability of dumped alternatives, rather than the negotiations themselves, would be the major contributing factor to injury from retailer concentration.

### **8.3.4 Exchange rate movements**

Most sales from China are conducted in USD and in recent years the Australian dollar has appreciated significantly against the USD. Some interested parties claimed that it was this exchange rate movement that has resulted in cheaper priced imports, not dumping.

Using its commercial database, Customs examined the relationship between unit average AUD FOB prices from 1999 (half year) to 2004 and movements in the exchange rate. The results are shown in the following chart.



Sales of preserved mushrooms to Australia were negotiated in USD. The AUD appreciated against the USD by about 13 per cent between 1999 and 2004. However, the decline in the unit average AUD FOB export price across this period was about 36 per cent, indicating other influences apart from the exchange rate movement. The chart shows that there was also a significant decline in the unit average USD FOB export price across the period (by about 27 per cent), particularly in 2000 and 2003.

Customs agrees that the AUD appreciation against the USD across the period would have increased the competitiveness of imports and may have contributed to Australian industry's price depression and suppression. However Customs considers that the 27 per cent decline in the unit average USD export price across the period would have had an even greater influence, particularly in 2000 when, despite the AUD depreciating against the USD, the unit average AUD FOB export price declined by about 12 per cent.

### 8.3.5 Competition from undumped goods

Imports from countries other than China hold a very minor market share (see section 3.3) and would not, by themselves, have contributed significantly to Australian industry's injury.

However, Customs calculated that exports by Jiangsu COF were not dumped. As these exports comprised a substantial proportion of Chinese imports, it is possible that these imports could have contributed significantly to the injury suffered by Australian industry.

Customs examined sales prices by the importer of Jiangsu COF's exports. The data showed that imports from Jiangsu COF competed with industry's 220g, 310g, 410g cans (retail sector) and A10 products (food services sector). Customs found that prices of the imported product were well above Australian industry's prices for 220g, 310g and 410g sizes, but undercut industry's A10 size. However, Customs also noted that the importer's price for its A10 containers was undercut by dumped prices from China.

Customs is of the view that undumped exports did not cause significant injury to industry in the retail sector. While undumped goods may have contributed to Australian industry's injury in the food services sector, it is also likely that the prices of the importer's A10 container was influenced by prices of the dumped A10 products from China.

#### **8.4 Conclusion - injury causation**

Customs recognises that during the injury period the Australian preserved mushroom market dynamics were such that Australian industry pricing and profitability would have been influenced by such factors as maturity of the market, retailer market dominance, undumped import competition and exchange rate movements.

Notwithstanding these challenges, Customs considers that in the normal ebb and flow of business Australian industry would have had a reasonable opportunity to address these factors and retain profitability, especially taking into account the cost efficiencies achieved following the industry rationalisation in 2000. What the industry's profitability was unable to withstand was the sudden and substantial reduction in prices of Chinese imports in 1999 and 2000 (which occurred despite depreciation of the AUD). Australian industry, already operating at well below capacity, lost sales volume. To recover sales and maintain existing capacity utilisation the Australian industry lowered prices to compete with the Chinese imports, suffered price depression and price suppression. As a consequence the Australian industry became unprofitable. A further substantial reduction in USD prices of Chinese imports occurred in 2003, and although Australian industry managed to retain pricing and sales volumes, it continued to be unprofitable and its viability remaining under threat. Based on the dumping findings during the investigation period (2004), the size of some of the dumping margins, and the relatively steady unit USD average FOB export price since 1999 (the USD price declined 7% over the period) Customs considers that exports from China between 1999 and 2003 may also have been dumped.

Dumped goods from China comprise the largest share (around 50 per cent) of the Australian market. Customs considers it reasonable to link the dumping with the price undercutting, price depression and price suppression that resulted in loss of profits and profitability and the under-utilisation of capacity experienced by Australian industry.

Notwithstanding that there are various market factors that may have negatively impacted industry's pricing, Customs is satisfied that the dumped imports from China have, of themselves, caused material injury to the Australian industry.

**9 IS DUMPING LIKELY TO CONTINUE TO CAUSE MATERIAL INJURY**

When the Minister is satisfied that material injury to an Australian industry has been caused by dumping, anti-dumping measures may be imposed on future exports of like goods if the Minister is satisfied that the future exports of like goods may be dumped and material injury to the Australian industry producing like goods may continue.

China is a large producer and exporter of preserved mushrooms. Historically, the US was a substantial market for Chinese exports. However, late in 1998 the US imposed substantial dumping measures on exports from China (the measures were subject to a sunset review in 2003 and subsequently continued). Chinese exporters had to find alternate export markets for their preserved mushrooms, which Customs considers is a likely explanation for the increase in export volumes, at substantially reduced prices, from China to Australia in 1999/2000 (see the chart in section 3.3). During Customs' investigation there was no evidence to suggest that Chinese exporters would change their approach. Customs believes Chinese exporters are likely to continue to seek to increase export volumes to Australia, using price to gain a competitive edge over Australian industry and imports from other countries. Customs is satisfied that the dumping is likely to continue.

The Australian industry is currently making losses, and has been since 1999. This is because it has been unable to achieve prices for its products that cover costs, despite a significant reduction in these costs since 1999. Customs considers that the main reason for this has been pricing competition from dumped Chinese imports – pricing that has all but forced imports from other countries out of the Australian market (see table in section 3.3) and is threatening the viability of the Australian industry. As mentioned earlier, dumped imports from China comprised about 50 per cent of the market in 2004.

Based on the available evidence, Customs is satisfied that exports of preserved mushrooms from China in the future may be at dumped prices and that continued dumping may cause further material injury to the Australian industry.

## **10 NON-INJURIOUS PRICE**

Dumping duties may be applied where it is established that dumped imports have caused or threaten to cause injury to the Australian industry producing like goods. The level of dumping duty cannot exceed the margin of dumping, but a lesser duty may be applied if it is sufficient to remove the injury. This lesser duty provision is reflected in the World Trade Organisation Anti-Dumping agreement and s. 8(5A) of the *Customs Tariff (Anti-Dumping) Act 1975*.

The non-injurious price (NIP) provides the mechanism whereby this lesser duty provision is given effect; it is the price that would be sufficient to remove the injury caused to the Australian industry by the dumping. The NIP is defined in s. 269TACA.

Anti-dumping is generally based on FOB prices in the country of export. Therefore a NIP is calculated by deducting the costs incurred in getting the goods from the export FOB point (or another point if appropriate) to the relevant level of trade in Australia.

### **10.1 Unsuppressed selling price**

Customs generally derives the NIP by first establishing a price at which the local industry might reasonably sell its product in a market unaffected by dumping. This price is referred to as the unsuppressed selling price (USP).

Customs' preferred approach to establishing USPs observes the following hierarchy:

1. industry selling prices at a time unaffected by dumping;
2. constructed industry prices – industry CTMS plus profit; or
3. selling prices of un-dumped imports.

Having calculated the USP, Customs then calculates a NIP by deducting the costs incurred in getting the goods from the export FOB point (or another point if appropriate) to the relevant level of trade in Australia. The deductions normally include overseas freight, insurance, into store costs and amounts for importer expenses and profit.

### **10.2 Customs consideration of USP & NIP**

The Australian industry submitted that the industry's selling prices at a time unaffected by dumping would be an appropriate basis for the calculation of the USP. The industry suggested that 1999/2000 prices could be used as the price base year, with the prices adjusted each year to reflect annual inflationary trends in the market (using the Consumer Price Index).

The industry's proposal was notified in the SEF and Customs did not receive any submissions objecting to this approach or proposing an alternative. Customs considered this a reasonable manner to establish the USP as prices in 1999/2000 would have reflected pressures from market factors other than dumping (refer section 8.3 of this report).

As the price-base, Customs used the average revenue per kilogram for each model for the 2000 calendar year. Where a new model was developed during the injury period,

Customs used the average revenue per kilogram for the calendar year in which the model was first sold as the price-base. Customs considered that the prices of products launched during the injury period were likely to be effected by dumping, however, the overall effect to the USP would be minimal due to the volume sold relative to the total industry sales volume.

Customs sourced consumer price index data relevant to the food sector from the Reserve Bank of Australia's web site. This data was used to adjust the average revenue per kilogram to a December 2004 value for each model. From this data, a weighted average product USP was calculated.

To calculate the NIP, the USP was adjusted to an FOB price by deducting all relevant post exportation costs, such as ocean freight, marine insurance, duty, port charges, cartage to store, and importers selling costs and an amount for importer profit. Customs uses the most efficient representative importer for this purpose (refer section 2.8.2, paragraph 12 of the Manual).

## 11 RECOMMENDATIONS

Customs recommends the Minister impose anti-dumping measures in respect of preserved mushrooms and like goods exported from China.

Section 8(5) of the Customs Tariff (Anti-Dumping) Act 1975 provides that the Minister must direct that the interim dumping duty referred to in paragraph 4(a) of s. 8 be ascertained as a proportion of the export price, by reference to a measure of the quantity or by a combination of these. In this case, Customs recommends the Minister direct that the interim duty be ascertained by reference to a measure of the quantity.

All references to legislation in this section, unless otherwise specified, are to the *Customs Act 1901*.

### **Customs recommends the Minister be satisfied:**

- in accordance with s. 269TAB(3), sufficient information has not been furnished, or is not available, to enable the export price of preserved mushrooms exported to Australia from China by exporters other than Xiamen Gulong Import & Export Co Ltd, Fujian Zishan Group Co Ltd, Fujian Provincial Cereals, Oils & Foodstuffs Import/Export Corporation Xiamen Company, Xiamen Fortune Import & Export Co Ltd and Jiangsu Cereals, Oils & Foodstuffs Import Export Group Corp to be ascertained under the preceding subsections of s. 269TAB;
- in accordance with s. 269TAC(2)(a), because of the absence of sales of like goods that would be relevant for the purpose of determining a price under subsection (1) the normal value of certain preserved mushrooms exported from China by Xiamen Gulong Import & Export Co Ltd, and preserved mushrooms exported from China by Fujian Zishan Group Co Ltd, Fujian Provincial Cereals, Oils & Foodstuffs Import/Export Corporation Xiamen Company and Xiamen Fortune Import & Export Company Ltd cannot be ascertained under s. 269TAC(1);
- in accordance with s. 269TAC(6), sufficient information has not been furnished or is not available to enable the normal value of certain preserved mushrooms that were manufactured by a producer in China who did not cooperate with the investigation and were exported to Australia from China by Xiamen Gulong Import & Export Co Ltd to be ascertained under the preceding subsections of s. 269TAC;
- in accordance with s. 269TACB(4), the weighted average of export prices of preserved mushrooms over the investigation period is less than the weighted average of corresponding normal values over that period in respect of exports from China by all exporters except for Jiangsu Cereals, Oils & Foodstuffs Import Export Group Corp;
- in accordance with s. 269TG(1), the export prices of preserved mushrooms that have been exported to Australia from China is less than the normal values and because of that material injury to the Australian industry producing like goods has been caused;

- in accordance with s. 269TG(2), the export prices of preserved mushrooms already exported to Australia from China is less than the normal values of those goods and the export prices of preserved mushrooms that may be exported to Australia from China may be less than the normal values of the goods and because of that, material injury to the Australian industry producing like goods has been, is being and may continue to be caused.

**Customs recommends the Minister declare:**

- in accordance with s. 269TG(1), by public notice that s. 8 of the *Customs Tariff (Anti-Dumping) Act 1975* applies to preserved mushrooms already exported to Australia from China and entered for home consumption after 30 September 2005; and
- in accordance with s. 269TG(2), by public notice that s. 8 of the *Customs Tariff (Anti-Dumping) Act 1975* applies to preserved mushrooms that are exported to Australia from China after the date of publication of the notice or such later date as is specified in the notice.

**Customs recommends the Minister determine:**

- in accordance with s. 269TAAD(4), the cost of goods is worked out by adding the cost of production or manufacture of like goods in China, and the administrative, selling and general costs associated with the sale of those goods;
- in accordance with s. 269TAB(1)(c), having regard to all the circumstances of the exportation the export price of preserved mushrooms exported from China by Fujian Zishan Group Co Ltd, Fujian Provincial Cereals, Oils & Foodstuffs Import/Export Corporation Xiamen Company and Xiamen Fortune Import & Export Company Ltd other than export prices established for those exporters under s. 269TAB(1)(a);
- in accordance with s. 269TAB(3), having regard to all relevant information, the export prices of preserved mushrooms exported to Australia from China by exporters other than Xiamen Gulong Import & Export Co Ltd, Fujian Zishan Group Co Ltd, Fujian Provincial Cereals, Oils & Foodstuffs Import/Export Corporation Xiamen Company, Xiamen Fortune Import & Export Co Ltd and Jiangsu Cereals, Oils & Foodstuffs Import Export Group Corp;
- in accordance with s. 269TAC(2)(c), such amounts that are the costs of production or manufacture and the administrative, selling and general costs associated with the sale and the profit on that sale of certain preserved mushrooms exported from China by Xiamen Gulong Import & Export Co Ltd and exported from China by Fujian Zishan Group Co Ltd, Fujian Provincial Cereals, Oils & Foodstuffs Import/Export Corporation Xiamen Company and Xiamen Fortune Import & Export Company Ltd;
- in accordance with s. 269TAC(6), having regard to all relevant information, the normal value of certain preserved mushrooms exported from China by Xiamen Gulong Import & Export Co Ltd;

- in accordance with s. 269TAC(6), having regard to all relevant information, the normal value of certain preserved mushrooms exported from China by exporters other than Fujian Zishan Group Co Ltd, Fujian Provincial Cereals, Oils & Foodstuffs Imp/Exp Corporation Xiamen Company, Xiamen Fortune Import & Export Co Ltd and Jiangsu Cereals, Oils & Foodstuffs Import Export Group Corp, and certain preserved mushrooms exported from China by Xiamen Gulong Import & Export Company Ltd; and
- in accordance with s. 269TACB(1), by comparison of the weighted average of export prices and the weighted average of corresponding normal values over the whole of the investigation period, that dumping of exports of preserved mushrooms from China, except those by Jiangsu Cereals, Oils & Foodstuffs Import Export Group Corp, has occurred.

**Customs recommends the Minister direct:**

- in accordance with s. 269TAC(8), the price paid for certain like goods sold by Xiamen Gulong Import & Export Co Ltd be taken to be such a price adjusted for differences between domestic and export sales in domestic sales expenses, exhibitions and advertising, compensation (certain sales), export inland freight (certain sales), export charges to FOB (certain sales), credit terms, VAT price effect, trader costs and profit, and physical differences (where applicable);
- in accordance with s. 8(5) of the *Customs Tariff (Anti-Dumping) Act 1975*, that the element of interim dumping duty payable on preserved mushrooms the subject of a notice under s. 269TG(1) and s. 269TG(2) be ascertained by reference to a measure of the quantity of those particular goods.

## 12 STATEMENT OF FACTS & EVIDENCE RELIED UPON

In formulating the recommendations in this report, Customs had regard to:

SECTION OF REPORT	TOPIC	MATERIAL FINDINGS OF FACT	EVIDENCE RELIED UPON TO SUPPORT THOSE FINDINGS
3	Goods under consideration	The goods under consideration are preserved mushrooms exported to Australia from the People's Republic of China.	Information provided by: Australian industry; importers; exporters; and Customs' commercial database
4.1, 4.3	Australian industry	There is an Australian industry producing preserved mushrooms. The Australian industry comprises Windsor Farm Foods Pty Ltd.	Information provided by industry; inspection of production facilities.
4.2	Like goods	Preserved mushrooms produced by Australian industry are like goods to the goods under consideration.	Information, including responses to SEF, provided by the industry; other interested parties; and other parties.
5	Australian market	<p>The size of the Australian market in 2004 was about 7,100 tonnes.</p> <p>The market comprises three sectors – retail, food services and industrial food processing.</p> <p>The market was supplied by Australian industry, imports from China and imports from countries other than China. Imports from China have a market share of more than 50%.</p> <p>Australian industry supplied all three market sectors; imports from China supplied the retail and food services sectors.</p>	Information provided by Australian industry; importers; exporters; other parties; and Customs' commercial database.
6	The dumping investigation	Exports of preserved mushrooms from China during the investigation period were dumped, except exports by Jiangsu Cereals, Oils & Foodstuffs Import Export Group Corp	Information, including responses to the SEF, provided by: importers; exporters; Chinese producers; and Customs' commercial database.
7	Economic condition of the industry	<p>The Australian industry suffered injury in the form of:</p> <ul style="list-style-type: none"> <li>• price undercutting;</li> <li>• price suppression;</li> <li>• price depression;</li> <li>• reduced profits and</li> </ul>	Information, including responses to the SEF, provided by: Australian industry; importers; exporters; other parties; Australian Bureau of Statistics data and

		profitability;and <ul style="list-style-type: none"> <li>• under-utilisation of capacity.</li> </ul>	Customs' commercial database.
8	Has dumping caused material injury	Preserved mushrooms exported from the People's Republic of China at dumped prices caused material injury to the Australian industry.	Information, including responses to the SEF, provided by: Australian industry; exporters; importers; other parties; and Customs' commercial database.
9	Will dumping and material injury continue	Exports of preserved mushrooms from China in the future may be at dumped prices and the continued dumping may cause further material injury to the Australian industry	Information, including responses to the SEF, provided by: Australian industry; exporters; importers; other parties; and Customs' commercial database.

**13 LIST OF APPENDICES**

Confidential Appendix 1	Domestic CTMS
Confidential Appendix 2	Weighted average export prices and weighted average normal values.
Confidential Appendix 3	Ascertained export prices
Confidential Appendix 4	Comparison of ascertained normal values, and non-injurious price
Confidential Appendix 5	Calculation of non-injurious price
Confidential Appendix 6	Calculation of unsuppressed selling price