



ISSUES PAPER – LIKE GOODS 2005/99

Investigation into alleged dumping of preserved mushrooms exported to Australia from the People's Republic of China

PURPOSE

Issues papers are provided to interested parties to afford them the opportunity to comment on the issues raised in the papers. By providing issues papers, Customs aims to consider significant issues, in detail, before publishing the statement of essential facts (SEF) (on which its recommendations to the Minister will be based). Customs will take into account all interested parties' comments, whether provided previously or in response to this paper, before issuing the SEF.

In considering an application from Windsor Farm Foods Pty Ltd (Windsor) alleging that preserved mushrooms imported from the People's Republic of China (China) were dumped, Customs decided that preserved mushrooms produced by the applicant were like goods to the imported preserved mushrooms. Customs' decision was based on information contained in the application and other sources available at the time. Customs does not contact interested parties unless an application is initiated. Now that an investigation has been initiated, Customs seeks input from interested parties on like goods.

THE ISSUES

- Do imported preserved mushrooms and the Australian manufactured preserved mushrooms both use mushrooms from the same genus, (*genus Agaricus*)?
- Do imported preserved mushrooms compete directly with locally processed canned mushrooms?
- Are imported processed mushrooms interchangeable with locally produced canned mushrooms?
- Are imported preserved mushrooms sold in the same markets as the locally produced canned mushrooms?
- Do imported and locally produced preserved or processed mushrooms have the same distribution channels?
- Is there significant price elasticity of demand between imported and locally produced canned mushrooms?
- Is there significant cross-price elasticity of demand among individual products?

BACKGROUND

Australia can take anti-dumping action when goods are exported to Australia at dumped prices and, because of that, injury is caused (or threatened) to an Australian industry producing like goods. Like goods means goods that are identical to the allegedly dumped goods or in the absence of identical goods, goods that, although not identical, have characteristics closely resembling those of the allegedly dumped goods.

THE APPLICATION

On 10 March 2005, Windsor lodged an application for dumping duties in respect of preserved mushrooms exported to Australia from the People's Republic of China (China). The application alleged preserved mushrooms had been exported to Australia from China at dumped prices and, because of that, the Australian industry producing like goods had suffered material injury in various forms.

THE GOODS

The imported goods (the goods) were described in the application as "preserved mushrooms or champignons (of genus *Agaricus sp*), whole, sliced, or as stems and pieces, in brine, sauce or other similar preserving medium, packed in containers or bags". The application advised that other species of mushrooms including shiitake, straw and oyster mushrooms were not the goods. The goods are classified to 2003.10.00 statistical codes 81 and 82 in Schedule 3 to the *Customs Tariff (Anti-Dumping) Act 1975*.

The goods were further described in the application as:

- mushrooms (whole) preserved in liquid in cans or glass jars;
- mushrooms (sliced) preserved in liquid in cans;
- mushrooms (stems and pieces) preserved in liquid in cans;
- champignons (whole) preserved in cans or glass jars;
- champignons (sliced) preserved in cans or glass jars;
- champignons (stems and pieces) preserved in cans; and
- preserved or processed mushrooms in bags.

The application indicated that the majority of imported preserved mushrooms were in cans (approximately 225g, 425g, and 2.8 or 3.0kg sizes) and jars (generally 190g size). The application also indicated that some imported preserved mushrooms may be in larger pack sizes – in pails or drums.

LIKE GOODS

The applicant, Windsor, advised that it makes a range of products in various container sizes and container types from a 130 gram can to a 200 kilogram barrel. All products made consist of sliced mushrooms with either one of the following mediums:

- butter sauce;
- garlic sauce;
- peppercorn sauce;
- lite sauce;
- brine; or
- preservative.

CUSTOMS APPROACH TO LIKE GOODS

Customs approach is set out in the Australian Customs Service Manual Vol.22, Division 2, para 2.1.1(13) which 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. *End-use/substitutability is an important characteristic. Goods having the same end uses and which are substitutes may be found to be like goods.'*

CLAIMS MADE BY THE APPLICANT

Windsor claimed the goods it produces are like goods to the imported goods because:

- Imported preserved mushrooms and the Australian manufactured preserved mushrooms both use mushrooms from the same genus, (genus *Agaricus*);
- Imported preserved mushrooms compete directly with locally processed canned mushrooms. Imported processed mushrooms are interchangeable with locally produced canned mushrooms;
- Imported preserved mushrooms are sold in the same markets as the locally produced canned mushrooms; and
- Preserved or processed mushrooms (whether imported or locally produced) have the same distribution channels and are sold to industrial users, food service customers and retail customers. Industrial and food service customers, which are usually restaurants, and corporate customers, typically purchase preserved mushrooms in 10 or 20kg pails, or in 2.8 (and sometimes 3.0kg) cans. Retail customers are generally the supermarkets, with purchases predominantly of 130g, 220g or 425g (or sizes approximating these quantities) cans (or glass jars).

To determine whether there was any pricing relationship between the locally produced goods and the imported goods, Windsor engaged Professor Euan Fleming of the School of Economics, Faculty of Economics and Business Law at the University of New England, an expert in statistical analysis.

His findings, as stated in Windsor's application, are that:

- There exists strong evidence which suggests that "a product's own price is strongly related to the quantity of product sold";
- There are "significant price elasticities of demand between imported and locally produced canned mushrooms"; and
- There are "significant cross-price elasticities of demand among individual products" (ie a decrease in price for an imported can of mushrooms has a highly significant affect on the sales volume of the locally produced canned mushrooms).

"The overall conclusion reached by Dr Fleming is that 'the canned mushroom market appears very competitive and volatile, with fickle consumer preference as price differentials encourage brand and product swapping'".

INTERESTED PARTIES' CONSIDERATION

Customs seeks the views of interested parties on this issue of like goods having regard to Customs' approach as stated above.

Your response may include examples or analysis to support the Australian industry view or refute it. Should your response be confidential, a non confidential version should also be provided, to be placed on the public file for this investigation.

RESPONSES TO THIS PAPER

Responses to this paper should be lodged no later than 24 June 2005 and addressed to:

Case Manager
Operations Group (3)
Trade Measures Branch
Customs House
5 Constitution Avenue
CANBERRA ACT 2601

or sent by facsimile to: (02) 6275 6990
or emailed to: tmops3@customs.gov.au