National Interest Analysis [2010] ATNIA 26

with attachment on consultation

Exchange of Letters Constituting an Agreement to Amend Annex 4-A (Textile or Apparel Specific Rules of Origin) of the Australia-United States Free Trade Agreement, done at Washington on 18 May 2004

[2010] ATNIF 23

NATIONAL INTEREST ANALYSIS: CATEGORY 1 TREATY

SUMMARY PAGE

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Nature and timing of the proposed treaty action

1. The *Australia-United States Free Trade Agreement* (AUSFTA) entered into force on 1 January 2005. AUSFTA is a bilateral agreement designed to increase trade liberalisation and facilitate investment between Australia and the United States.

2. The proposed amendment changes the Product Specific Rule (PSR) for tariff classifications 5501.00–5510.30, 5510.90 and 5511 (concerning yarns made of mixed synthetic staple fibres) contained in Annex 4-A of AUSFTA.

3. Subject to Joint Standing Committee on Treaties (JSCOT) approval, the proposed amendment will enter into force with an exchange of letters confirming completion of the Parties' respective internal procedures and on such a date as the Parties may agree.

Overview and national interest summary

4. The proposed amendment is consistent with the objective of the AUSFTA to "Establish clear and mutually advantageous rules governing [the Parties'] trade and reduce the barriers to trade that exist between them" (Preamble to the Agreement).

5. The proposed amendment will deliver benefits to Australian manufacturers by allowing them to access the preferential rate of duty when exporting certain yarns to the United States, regardless of the origin of the viscose rayon staple fibres used to produce that yarn. This will result in savings for manufacturers and will likely lead to reduced prices for consumers.

Reasons for Australia to take the proposed treaty action

6. The need for this proposed amendment to the Agreement arose from the changing nature of the textile industry in Australia and the United States. Inquiries in both countries have shown that products are not able to achieve status as originating goods under the current rule, thereby denying them the potential benefits of the Agreement. Following industry consultation, the Department of Innovation, Industry, Science and Research (DIISR) concluded that the amendment would assist Australian manufacturers of yarn using viscose rayon staple fibre by allowing them to access the preferential rate of duty.

Obligations

7. Under the revised PSR proposed by the amendments, Australia will be obliged to provide US manufacturers with the access to the preferential rate of duty when exporting certain yarns to Australia, regardless of the origin of the viscose rayon fibres used to produce that yarn.

Implementation

8. The *Customs (Australia–US Free Trade Agreement) Regulations* 2004 will be amended to incorporate the amendment.

Costs

9. The present PSR precludes the claiming of originating goods status when the fibres used in the manufacture of yarns are not manufactured in the United States or Australia.

10. When the present PSR was created in 2004 there was a United States manufacturer of the viscose rayon staple fibres used to manufacture yarn. This manufacturer has ceased operation, causing the Australian yarn manufacturer to source viscose rayon from Asian suppliers.

11. The proposed amendment will allow those yarns to be claimed as originating goods.

12. There will be cost savings to Australian businesses that will be able to manufacture yarn using viscose rayon staple fibre produced outside Australia and the US. These savings will also enable the Australian yarn manufacturer to provide such yarn to United States fabric manufacturers at a price cheaper than can presently be achieved. Additionally, the Australian manufactured yarn will be able to be imported into the United States at the preferential rate of duty provided under AUSFTA for such goods.

Regulation Impact Statement

13. The Office of Best Practice Regulation has been consulted and confirms that a Regulation Impact Statement is not required.

Future treaty action

14. Article 23.3 of Chapter Twenty Three (Final Provisions) provides for amendment by agreement in writing by the Parties following completion of respective necessary internal requirements. This would extend to amendment of Annexes to AUSFTA, as the Annexes constitute an integral part of the Agreement (Article 23.2 of AUSFTA).

15. Any proposals for amendment of the Agreement (including, for example, proposals to amend or remove reservations or exceptions) would be considered by the Joint Committee established under Article 21.1 of Chapter Twenty One (Institutional Arrangements and Dispute Settlement). The Joint Committee is composed of government officials of Australia and the United States and is co-chaired by the United States Trade Representative and the Minister for Trade for Australia, or their respective designees. The Joint Committee meets every year to, inter alia, review the operation of the Agreement; facilitate the avoidance of disputes; and consider ways to further enhance trade relations.

16. Any future treaty action would be subject to Australia's domestic treaty process, including tabling and consideration by JSCOT.

Withdrawal or denunciation

17. Under Article 23.4 of Chapter Twenty Three (Final Provisions), either Party may terminate the Agreement by giving the other Party six months notice in writing. Termination of the Agreement would be subject to the Australian treaty process.

Contact Details

US Trade Section
Americas and Africa Division
Department of Foreign Affairs and Trade

ATTACHMENT ON CONSULTATION

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CONSULTATIONS

18. Article 4.2 of Chapter Four (Textiles and Apparel) makes provision for Parties to consult to consider whether the rule of origin applicable to a particular textile or apparel should be revised to address issues of availability of supply of fibres, yarns, or fabrics in the territories of the Parties.

19. DIISR published a notice inviting public comment in the *Tariff Concessions Gazette*, No. TC08/14 on 9 April 2008, enquiring whether viscose rayon staple fibre, classified within subheading 5504.10 of the *Customs Tariff Act 1995*, is manufactured in Australia and can be supplied in commercial quantities in a timely manner.

20. No comment was received in response to this notice, leading DIISR to conclude that there is no substantial production of viscose rayon staple fibre in Australia. Similar enquiries were made in the United States which also led to the conclusion by relevant authorities that viscose rayon staple fibre was not manufactured in the United States.

21. The Attorney-General, the Minister for Innovation, Industry, Science and Research and the Minister for Home Affairs have approved the text of the proposed amendment. The Prime Minister has also been informed.

22. The State and Territory Governments have been consulted through notification to the Commonwealth-State/Territory Committee on Treaties. Information on the negotiation of this treaty has been included in the six-monthly schedules of treaties to State and Territory representatives.