

Amendments to the Australia-United States Free Trade Agreement to ensure compliance with changes to the Harmonized Commodity Description and Coding System

Introduction

- 9.1 In its Report 77, the Committee reviewed two treaty actions that incorporate changes to the Singapore-Australia Free Trade Agreement (SAFTA) and the Australia-United States of America Free Trade Agreement (AUSFTA) resulting from changes to the Harmonized Commodity Description and Coding System that will come into effect on 1 January 2007 (HS2007).¹
- 9.2 The *Exchange of Notes constituting an Agreement between the Government of Australia and the Government of the United States of America to amend Annex 2-B (Tariff Schedule of Australia), Annex 4-A and Annex 5-A of the Australia-United States Free Trade Agreement (AUSFTA) to ensure compliance with changes to the Harmonized Commodity Description and Coding System (Amending Agreement)* incorporates further changes to AUSFTA resulting from HS2007.²

1 Mr Allaster Cox, *Transcript of Evidence*, 11 September 2006, p. 36.

2 National Interest Analysis (NIA), para. 1.

Background

The Harmonised Commodity Description and Coding System

- 9.3 The Harmonized Commodity Description and Coding System (HS) is an international system for classifying goods traded internationally. The World Customs Organization³ (WCO) of which Australia and its free trade partners are members, oversees HS. Revision and amendment to HS occurs every five years to reflect changes in commodities traded.⁴
- 9.4 The most recent changes to HS will come into effect on 1 January 2007 (HS2007). HS2007 create new HS tariff line numbers to reflect a new product entering the market; the deletion of a tariff line number where a commodity is no longer traded; or the movement of a tariff line number from one sub-heading (or category of goods) to another to account for changes in the use of the good.⁵
- 9.5 As HS2007 comes into effect on 1 January 2007, the Australian Government has proposed that the Amending Agreement also come into force on 1 January 2007.⁶

Purpose of the Amending Agreement

- 9.6 The Australia-United States Free Trade Agreement (AUSFTA) includes annexes that detail the treatment of specific goods traded between Australia and the United States of America (US). The HS number assigned to a good or commodity is its identifier. Amendments to AUSFTA seek to avoid possible confusion and subsequent delays in processing by customs authorities.⁷
- 9.7 Specifically, the Amending Agreement replaces AUSFTA annexes with annexes that have tariff line numbers that comply with HS2007.

3 The WCO was established in 1952 as the Customs Cooperation Council and consists of 169 member countries. The WCO is an independent intergovernmental body whose mission is to enhance the effectiveness and the efficiency of customs administrations. World Customs Organization, viewed 15 September 2006, <www.wcoomd.org>.

4 National Interest Analysis (NIA), para. 3.

5 NIA, para. 2.

6 NIA, para. 7.

7 NIA, paras 4 and 5.

The Amendments are administrative or technical and do not change the existing duty rates.⁸ These are:

- **Annex 2B** (Tariff Schedule of Australia)
- **Annex 5-A** (Further HS2007 changes).⁹

9.8 Amendments to AUSFTA included in a previous treaty action resulting from HS2007 include:

- **Annex 4-A** (Textile and Apparel Specific Rules of Origin for Chapters 42, 50 – 63, 70 and 94) and
- **Annex 5-A** (Specific Rules of Origin).

9.9 The Amending Agreement will ensure AUSFTA continues to reflect internationally agreed HS as amended by HS2007.¹⁰

9.10 A representative of the Department of Foreign Affairs and Trade (DFAT) informed the Committee of the reason for separate treaty actions in relation to AUSFTA and SAFTA.

We were hoping to submit them all at once. What has happened is that Thailand and the US are both on different schedules to the schedule we are on. They are also looking at these amendments in light of all their other FTAs as we are looking at them in terms of our FTAs. So it is just the differences in schedules. They have not had the same sort of time pressures we have had here. We have been unable to submit them all to you at the one time because we have not reached agreement at the same time.¹¹

9.11 DFAT also informed the Committee that a treaty action incorporating the Thailand-Australia Free Trade Agreement will come before the Committee for review, and is currently being negotiated.¹² In addition, there will be further amendments to SAFTA and AUSFTA.¹³

8 Mr Allaster Cox, *Transcript of Evidence*, 11 September 2006, p. 37.

9 NIA, para. 1.

10 NIA, para. 4.

11 Ms Prudence Gordon, *Transcript of Evidence*, 11 September 2006, p. 38.

12 Mr Allaster Cox, *Transcript of Evidence*, 11 September 2006, p. 37.

13 Ms Prudence Gordon and Mr Allaster Cox, *Transcript of Evidence*, 11 September 2006, p. 38.

Consultation

- 9.12 The changes contained in HS2007 have been under discussion by the WCO since 2002. In this period, the Australian Government consulted with the Department of Industry, Tourism and Resources, and other relevant government agencies when members of the WCO have raised issues pertaining to particular industries for consideration. Outcomes from these consultations then contributed to Australia's input into decisions taken in the WCO regarding HS changes.¹⁴
- 9.13 No specific consultation took place with State and Territory Governments because the impact of changes is expected to be negligible.¹⁵
- 9.14 The Australian Government consulted Australian industry early in the evaluation processes for changes to the annexes. In particular, consultation was undertaken with the chemicals and automotive parts industries, to ensure the required changes to the relevant tariff line numbers remained practical. No negative responses were received during consultations.¹⁶

Costs

- 9.15 The costs associated with implementation of the Amending Agreement are expected to be negligible.¹⁷

Implementation

- 9.16 The Australian Customs Service will formally notify affected parties of the changes to AUSFTA before the Amending Agreement comes into force. Those importers and exporters who have sought formal advance rulings as to the correct tariff line number in respect to their particular good will be advised of relevant amended tariff line numbers that will apply after 1 January 2007.¹⁸

14 NIA, Consultation Annex, para. 1.

15 NIA, Consultation Annex, para. 2.

16 NIA, Consultation Annex, para. 3.

17 NIA, paras 12 and 13.

18 NIA, para. 10.

- 9.17 The *Customs Tariff Act 1995* will be amended to give effect to Australia's obligations under the treaty action.

Entry into force and withdrawal

- 9.18 The Amending Agreement will enter into force on 1 January 2007 through an exchange of diplomatic notes. Withdrawal from AUSFTA is provided for in its treaty text.¹⁹

Conclusion and recommendation

- 9.19 The Committee understands the importance of complying with changes to the International Harmonized Commodity Description and Coding System and believes the Amendments to AUSFTA continue to avoid confusion and delays for importers, exporters and customs authorities.
- 9.20 In addition, the Committee would have appreciated the opportunity to consider the amendments to AUSFTA, SAFTA and any further existing free trade agreements simultaneously to aid in the efficiency of inquiry.

Recommendation 10

The Committee supports the *Exchange of Notes constituting an Agreement between the Government of Australia and the Government of the United States of America to amend Annex 2-B (Tariff Schedule of Australia), Annex 4-A and Annex 5-A of the Australia-United States Free Trade Agreement (AUSFTA) to ensure compliance with changes to the Harmonized Commodity Description and Coding System and recommends that binding treaty action be taken.*

19 NIA, paras 2 and 17.

Dr Andrew Southcott MP

Committee Chair