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16 OCT 2006
BY: *[Signature]*

THE HON WARREN TRUSS MP

Minister for Trade

Deputy Leader of The Nationals

16 OCT 2006

Dr Andrew Southcott MP
Chair
Joint Standing Committee on Treaties
Parliament House
CANBERRA ACT 2600

Submission 10
TT 28 March 2006

Dear Dr Southcott

Andrew,

I refer to your letter of 16 August 2006, addressed to the former Minister for Trade, the Hon Mark Vaile MP, concerning the Exchange of Letters constituting an Agreement between the Government of Australia and the Government of New Zealand to amend Article 3 of the Australia New Zealand Closer Economic Relations Trade Agreement (ANZCERTA) of 28 March 1983.

I note that Mr Vaile provided you with an interim response on 13 September 2006 in which he advised that he would seek the views of the Minister for Industry, Tourism and Resources, the Hon Ian Macfarlane MP, on the representations made to the JSCOT by Albright and Wilson (Australia) Ltd requesting that the current ANZCERTA regional value content (RVC) rule of origin (ROO) be applied exclusively to tariff category 3402.20 during the 5-year grandfathering period proposed under the new ANZCERTA ROO. Since then, Mr Vaile has also written to the New Zealand Minister of Trade, the Hon Phil Goff MP, seeking New Zealand's views on the company's request. Consultations have also been undertaken with industry associations on the company's request.

As you are aware, the Minister for Industry, Tourism and Resources, Mr Macfarlane, and the former Minister for Trade, Mr Vaile, announced on 3 February 2006 that agreement had been reached with New Zealand to adopt new Rules of Origin (ROO) under the Australia New Zealand Closer Economic Relations Trade Agreement (ANZCERTA) based on a change of tariff classification (CTC) approach. The proposed new ANZCERTA ROO is the result of a rigorous process, including a study by the Productivity Commission, extensive consultations within the Australian Government and with Australian industry, and lengthy negotiations with the New Zealand Government. Any further changes to the proposed new ROO would require agreement by the NZ Government and Australian industry.

The Productivity Commission's research report on ANZCERTA ROO, released on 28 May 2004, concluded that the ROO were outdated and acted as a constraint on further trans-Tasman trade. The report found that the current ROO had not kept pace with changes in technology and the organisation of production, which had the effect of reducing efficiency and imposing economic costs on both sides of the Tasman. In addition, the current ROO were seen as time-consuming and administratively burdensome as industry had to make special calculations to confirm products met the ROO. The Commission also noted that compliance costs incurred by firms in meeting the ROO requirements could be significant. For example, some firms needed supplementary accounting procedures to meet information requirements and monitor compliance with origin rules. The ROO also created uncertainty about whether a firm satisfied the threshold requirements which are sensitive to the price of materials and exchange rates.

Extensive industry consultations conducted throughout the period of bilateral negotiations on the new ANZCERTA ROO confirmed broad industry support for the CTC-based ROO arrangements. Industry recognised that the proposed new ANZCERTA ROO arrangements would simplify the rules for trans-Tasman duty free trade, reduce compliance costs for business, enhance transparency and efficiency in the administration of the ROO and contribute to increased trans-Tasman trade. Adopting a CTC-based approach would also bring ANZCERTA ROO into line with Australia's more recent free trade agreements.

My department and the Department of Industry, Tourism and Resources and the Department of Agriculture, Fisheries and Forestry undertook industry-wide and individual company consultations. Industry groups consulted during the development of the proposed new ROO included the Distilled Spirits Industry Council of Australia (DSICA), Confectionery Manufacturers of Australasia (CMA), Dairy Australia, Wine and Brandy Corporation and Wine Makers' Federation, the Australian Industry Group (AIG), Australian Seafood Industry Council, National Association for Forest Industries, Australian Plantation Products and Paper Industry Council (A3P), Australian Pork, Queensland Sugar, Horticulture Australia, National Farmers' Federation, the Australian Food and Grocery Council (AFGC), the Plastics and Chemicals Industry Association (PACIA), Australian Electrical and Electronic Manufacturers Association (AEEMA) and the Federation of Automotive Products Manufacturers (FAPM).

I have been advised that the Australian Industry Group informed all its members, including Albright and Wilson, of potential changes to ANZCERTA ROO in its newsletter in December 2004. The proposal was also promoted on the DFAT and the Department of Agriculture, Fisheries and Forestry websites and in newspaper advertisements in *The Australian* and the *Australian Financial Review* on 16 and 22 July 2005 respectively.

Following the representations received by Mr Vaile from Albright and Wilson, my department and the Department of Industry, Tourism and Resources consulted further with the company and Unilever Australasia (Albright and Wilson's customer for sodium tripolyphosphate), as well as with industry associations, ACCORD Australasia and the Australian Industry Group (AIG). The companies involved are members of these two associations.

During those consultations no clear Australian industry view emerged on the specific issue of whether to retain exclusively the current ROO for tariff item 3402.20. As you know, Albright and Wilson believes that if the proposed change of tariff classification (CTC)-based ROO for tariff item 3402.20 is introduced, this may lead to a factory closure and the loss of 65 jobs in Yarraville, Victoria.

On the other hand, Unilever Australasia supports the new CTC-based ANZCERTA ROO for tariff item 3402.20 and argues that under the existing ROO it will struggle to remain price competitive in the Australian market. This could cost the company its role in supplying the Australia-New Zealand market, threatening jobs on both sides of the Tasman. I understand these points were outlined in Unilever's submission to JSCOT dated 8 September 2006.

Albright and Wilson's request was also discussed by Australian and New Zealand Ministers at the 2006 CER Ministerial Forum on 20 September 2006. Following the Forum, Mr Vaile wrote to New Zealand Trade Minister Phil Goff seeking views on whether New Zealand would entertain the proposal by Albright and Wilson to defer adoption of the new ANZCERTA rule for tariff item 3402.20 for up to five years.

Mr Goff replied that New Zealand was not in a position to accept the suggestion that the CER ROO for tariff item 3402.20 be renegotiated at this stage. Mr Goff highlighted that the negotiations on the new ANZCERTA ROO had been long, complicated and at times sensitive, and had included wide consultations with industry. New Zealand was not fully satisfied with every aspect of the final agreement, but accepted it as a package because the CTC ROO conferred significant benefits on both economies. He noted that one of the key reasons for adopting a CTC-based ROO was to allow manufacturers of finished export products more flexibility to source inputs globally, thus making them more internationally competitive.

Mr Goff also noted that the request had implications which went beyond the case of the particular company. He noted that the proposed implementation date of 1 January 2007 had been signalled to firms on both sides of the Tasman. Any delay would, therefore, have a detrimental impact on firms which had made business decisions, such as investment and purchasing, on the basis of the proposed new ROO.

In view of the strong overall benefits of adopting new CTC-based ANZCERTA rules of origin, the advice from the New Zealand Government, and the fact that there is no clear industry view on the request from Albright and Wilson, I believe it is not possible to respond positively to the company's request to retain exclusively the existing ANZCERTA RVC ROO for tariff item 3402.20. My colleague, the Minister for Industry, Tourism and Resources agrees with this position.

I am not aware of any other Australian companies with trade contacts in New Zealand that could potentially be negatively affected by the issues raised by Albright and Wilson. As I have said, Australian industry was consulted extensively during the development of the proposed new ANZCERTA ROO. It is, however, not possible to know the individual circumstances of every company in Australia which trades across the Tasman.

Yours sincerely



WARREN TRUSS