

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

Background

The Harmonised Commodity Description and Coding System

- 5.1 The Harmonized Commodity Description and Coding System (HS) is an international system for classifying goods traded internationally. The World Customs Organization¹ (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.²
- 5.2 The most recent changes to HS will come into effect on 1 January 2007 (HS2007). HS2007 creates new HS tariff line numbers to reflect a new

1 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 August 2006, <www.wcoomd.org>.

2 National Interest Analysis (NIA), paras 1-3.

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.³

5.3 As HS2007 comes into effect on 1 January 2007, the Australian Government has proposed that the Amending Agreements⁴ also come into force on 1 January 2007.⁵

5.4 The Department of Foreign Affairs and Trade (DFAT) informed the Committee of the reason for HS2007:

The key point we would like emphasise in this statement is that the negotiations undertaken with our FTA partners ensured that the harmonised system changes – the 2007 changes – would not substantively change in any way Australia's or our FTA partners' obligations under the respective FTAs.⁶

Purpose of the Amending Agreements

5.5 The Singapore-Australia Free Trade Agreement (SAFTA) and the Australia-United States Free Trade Agreement (AUSFTA) include annexes that detail the treatment of specific goods traded between Australia and Singapore and Australia and the United States of America (US) respectively. The HS number assigned to a good or commodity is its identifier. Amendment to SAFTA and AUSFTA seek to avoid possible confusion and subsequent delays in processing of goods by customs authorities.⁷

3 NIA, para. 3.

4 The full titles of the treaty actions are: *Exchange of Notes constituting an Agreement between the Government of Australia and the Government of Singapore to Amend Annex 2C and Annex 2D of the Singapore-Australia Free Trade Agreement (SAFTA) to ensure compliance with changes to the Harmonized Commodity Description and Coding System to come into effect on 1 January 2007* and the *Exchange of Notes constituting an Agreement between the Government of Australia and the Government of the United States of America to Amend Annex 4-A and Annex 5-A of the Australia-United States Free Trade Agreement (AUSFTA) to ensure compliance with changes to the Harmonised Commodity Description and Coding System to come into effect on 1 January 2007*.

5 NIA, para. 7.

6 Ms Prudence Gordon, *Transcript of Evidence*, 14 August 2006, p. 25.

7 NIA, para. 5.

5.6 Specifically, the Amending Agreements replace the following SAFTA and AUSFTA annexes with annexes that have tariff line numbers that comply with HS2007. These are:

- **SAFTA Annex 2C** (List of Goods Which Must be Subject to the Last Process of Manufacture Within the Territory of a Party)
- **SAFTA Annex 2D** (List of Goods Subject to 30% threshold)
- **AUSFTA Annex 4-A** (Textile and Apparel Specific Rules of Origin for Chapters 42, 50 – 63, 70 and 94) and
- **AUSFTA Annex 5-A** (Specific Rules of Origin).⁸

5.7 The Amending Agreements will ensure SAFTA and AUSFTA continue to reflect internationally agreed HS as amended by HS2007.⁹

5.8 In relation to the scenario of a manufacturer objecting to the harmonisation of its product, the Australian Customs Service stated:

It depends on the country that they are trading with, but many customs administrations have an advance ruling mechanism under which you can apply to that country for an advanced ruling on that classification. That gives you certainty about how your goods will be treated. I do not know every country's policy on that. The World Customs Organisation has guidelines for all customs administrations to use that mechanism. Then it is up to the individual country whether or not they want to put that in legislation or leave it as an administrative procedure. But it is laid down to provide that certainty for exporters and importers.¹⁰

5.9 DFAT added:

Originally the descriptions are not agreed by the manufacturers, as I understand it; they are agreed by the World Customs Organisation. So it is simply a description given to a good. I do not think there has been any instance of a manufacturer objecting to a particular description for a good, but they would object to a tariff change. This exercise

8 NIA, para. 1.

9 NIA, para. 5.

10 Mr Matthew Bannon, *Transcript of Evidence*, 14 August 2006, p. 26.

does not involve changes to the tariffs; it simply relates to changes to the description of a good.¹¹

Consultation

- 5.10 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.
- 5.11 No specific consultation took place with State and Territory Governments because the impact of changes is expected to be negligible.
- 5.12 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.¹²

Costs

- 5.13 The costs associated with implementation of the Amending Agreements are expected to be negligible.¹³

Implementation

- 5.14 The Australian Customs Service will formally notify affected parties of the changes to SAFTA and AUSFTA before the Agreements come into force. Those importers and exporters who have sought formal advance rulings as to the correct tariff line number in respect to their

11 Ms Prudence Gordon, *Transcript of Evidence*, 14 August 2006, p. 27.

12 NIA, Consultation Annex, paras 1-3.

13 NIA, paras 11 and 12.

particular good will be advised of relevant amended tariff line numbers that will apply after 1 January 2007.¹⁴

Entry into force and withdrawal

5.15 The Amending Agreements will enter into force on 1 January 2007 through an exchange of diplomatic notes. Withdrawal from SAFTA and AUSFTA is provided for in the treaty text of each free trade agreement.¹⁵

Conclusion and recommendation

5.16 The Committee understands the importance of complying with changes to the International Harmonized Commodity Description and Coding System and believes the amendments to the free trade agreements will help to avoid confusion and delays for importers, exporters and customs authorities.

Recommendation 4

The Committee supports the *Exchange of Notes constituting an Agreement between the Government of Australia and the Government of Singapore to amend Annex 2C and Annex 2D of the Singapore-Australia Free Trade Agreement (SAFTA) to ensure compliance with changes to the Harmonized Commodity Description and Coding System to come into effect on 1 January 2007* and recommends that binding treaty action be taken.

14 NIA, para. 10.

15 NIA, paras 1 and 16.

Recommendation 5

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 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 to come into effect on 1 January 2007* and recommends that binding treaty action be taken.