AUSTRALIAN CUSTOMS NOTICE NO. 2006/65

AUSTRALIA-UNITED STATES FREE TRADE AGREEMENT: PREFERENTIAL RATES OF CUSTOMS DUTY ELIGIBILITY

This Australian Customs Notice (ACN) replaces the information relating to the Australia-United States Free Trade Agreement (the AUSFTA) contained in ACN 2004/47 of 25 November 2004.

The AUSFTA commenced on 1 January 2005. It introduced preferential treatment for some ‘US originating goods’ (*ie* goods within the meaning of Division 1C of Part VIII of the *Customs Act 1901* (the Customs Act)) that were imported into Australia from the US. The preferential rates of customs duty that apply to these “US originating goods” are specified in the *Customs Tariff Act 1995*.

A recent Federal Court judgement has led to Customs’ amending its treatment in relation to the entry of goods for home consumption under the AUSFTA. The Federal Court decided that:

*"Goods which are 'US originating goods' within the meaning of Division 1C of Part VIII of the Customs Act which were:*

* *imported into Australia prior to 1 January 2005; and*
* *forthwith upon importation, entered for warehousing pursuant to s.68(2)(b) of the Customs Act, and*
* *on or after 1 January 2005, entered for home consumption pursuant to s.99(1)(a) of*

*the Customs Act 1901, attract the rate of duty applicable to 'US originating goods' under the Customs Tariff Act 1995 as at the date of entry for home consumption".*

All ‘US originating goods’ entered for home consumption after 1 January 2005 will be considered eligible for the preferential rates of duty for such goods under the Customs Tariff. Goods that were imported into Australia prior to the commencement of the AUSFTA but not entered for home consumption until after the commencement date (*ie* warehoused) would therefore be eligible for a preferential duty rate.

Importers who paid the general rate of duty on such goods are entitled to refunds of duty if the refund applications meet the requirements under the *Customs Regulations 1926* (refer to r.126 – r.128A) including the time limit for lodgement of refund applications. ACN 2006/20 contains further information regarding refunds.

Enquiries in relation to the AUSFTA may be directed to Origin, Trade Services Branch by email at [origin@customs.gov.au](mailto:origin@customs.gov.au) or telephone on (02) 6275 6556.

Enquires in relation to refunds may be directed to Cargo Policy, Trade Policy and Regulation Division on (02) 6275 3500.

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