



AUSTRALIAN CUSTOMS NOTICE NO. 2004/45

US Free Trade Agreement Implementation (Customs Tariff) Act 2004

The *US Free Trade Agreement Implementation Act 2004* and the *US Free Trade Agreement Implementation (Customs Tariff) Act 2004* (the USFTA Tariff Act) received the Royal Assent on 16 August 2004, as Act No. 120 and Act No. 121 of 2004, respectively.

The USFTA Tariff Act contains amendments to the *Customs Tariff Act 1995* (the Tariff) to implement the duty reductions contained in the Australia-United States Free Trade Agreement (AUSFTA) by:

- providing duty-free access for certain goods and preferential rates of customs duty for other goods that are US originating goods in accordance with new Division 1C of Part VIII of the *Customs Act 1901*, imported after the Agreement enters into force;
- phasing the above preferential rates of customs duty for certain goods to Free by 2015; and
- inserting a regulation making power in the Tariff to prescribe certain footwear that will be subject to phasing rates of customs duty.

Reference should be made to ACN No. 2004/39, which sets out the rules for determining whether goods are United States (US) originating goods, for the purposes of AUSFTA.

The amendments will come into effect when AUSFTA enters into force. A COMPILE news message will be issued to advise the date.

The introduction of AUSFTA will affect entry procedures for goods from the US. In particular, a new preference code will apply for US originating goods when AUSFTA enters into force.

Entry procedures for goods from the United States

- Where goods meet the AUSFTA rules of origin, the preference code "U" should be used on Customs entries to access the preferential rate of duty.
- Where goods are manufactured in the US, but do not meet the AUSFTA rules of origin, the preference indicator "X" should be used and the general rate of duty will apply.
- Prior to the commencement of the AUSFTA arrangements, amendments will be made to the COMPILE computer system that will require importers of goods from the US to quote the preference indicator "X" on entries. A COMPILE news message will be issued when this change occurs. (The preference indicator "U" will not be available until the commencement of AUSFTA).

The amendments to the Tariff contained in the USFTA Tariff Act provide that a Free rate of duty applies to US originating goods, unless a rate is specified in new Schedule 5 opposite the tariff classification that applies to those goods.

A small number of items in Schedule 5, covering footwear of Chapter 64, apply in respect of "prescribed goods only". An extract of the Australian Customs Tariff working pages, indicating those items and the relevant subheadings of Chapter 64, is provided at Attachment A.

The prescribed goods for each relevant item are specified in Schedule 1 of the *Customs Tariff Regulations 2004*. An extract of these Regulations is at Attachment B. Those goods that are prescribed in Schedule 1 make reference to certain US Tariff Classifications for footwear. Importers will need to ascertain whether those US Tariff Classifications apply to their goods. If so, the rate of duty for those prescribed goods, as specified in Schedule 5, will apply.

In the COMPILE system, the rate of duty for prescribed goods will be accessed by using Rate Number 01 for the relevant classification. For those goods that are not prescribed, Rate Number 02 will provide a Free rate of duty.

Extracts of Chapter 64 (footwear classifications) of the US Tariff are provided at Attachment C for the information of importers. These extracts serve as a guide only. The complete US Tariff is obtainable on the Internet at http://hotdocs.usitc.gov/tariff_chapters_current/toc.html

Tariff Reprint Pages

Tariff reprint pages relevant to the above amendments will be issued progressively as other changes are made. Those pages containing the *Customs Tariff Act 1995* and Schedule 5 (US Originating Goods) will be issued as soon as possible.

Enquiries concerning this notice may be directed to:

for customs tariff duty rates: Manager
Tariff Legislation & External Review
Australian Customs Service
5 Constitution Avenue
CANBERRA ACT 2601
Ph: 02 6275 6486

for rules of origin: Manager
Origin
Australian Customs Service
5 Constitution Avenue
CANBERRA ACT 2601
Ph: 02 6275 5821.

John Arndell
Acting National Manager
Trade
CANBERRA ACT
for
Chief Executive Officer

October 2004

Extract from the Australian Customs Tariff Working Pages

CUSTOMS TARIFF
SCHEDULE 5

Schedule 5/61

Item	Heading or subheading in Schedule 3		Rate #	
919	6401.10.00	From entry into force of	9%	
		AUSFTA		
		From 1 January 2006	8%	
		From 1 January 2007	7%	
		From 1 January 2008	6%	
		From 1 January 2009	5%	
		From 1 January 2010	4%	
		From 1 January 2011	3%	
		From 1 January 2012	2%	
		From 1 January 2013	1%	
	From 1 January 2014	Free		
920	6401.91.00	From entry into force of	9%	
		AUSFTA		
		From 1 January 2006	8%	
		From 1 January 2007	7%	
		From 1 January 2008	6%	
		From 1 January 2009	5%	
		From 1 January 2010	4%	
		From 1 January 2011	3%	
		From 1 January 2012	2%	
		From 1 January 2013	1%	
	From 1 January 2014	Free		
921	6401.92.90	From entry into force of	9%	
		AUSFTA		
		From 1 January 2006	8%	
		From 1 January 2007	7%	
		From 1 January 2008	6%	
		From 1 January 2009	5%	
		From 1 January 2010	4%	
		From 1 January 2011	3%	
		From 1 January 2012	2%	
		From 1 January 2013	1%	
			From 1 January 2014	Free
		(Prescribed goods only)		
		(Rate No. 01)		
Refer ACN 2004/45.				
Other		Free		
(Rate No. 02)				
922	6401.99.90	From entry into force of	9%	
		AUSFTA		
		From 1 January 2006	8%	
		From 1 January 2007	7%	
		From 1 January 2008	6%	
		From 1 January 2009	5%	
		From 1 January 2010	4%	
		From 1 January 2011	3%	
		From 1 January 2012	2%	
		From 1 January 2013	1%	
			From 1 January 2014	Free
		(Prescribed goods only)		
		(Rate No. 01)		
Refer ACN 2004/45.				
Other		Free		
(Rate No. 02)				

**CUSTOMS TARIFF
SCHEDULE 5**

Schedule 5/62

Item	Heading or subheading in Schedule 3		Rate #
923	6402.30.00	From entry into force of	9%
		AUSFTA	
	(Prescribed goods only)	From 1 January 2006	8%
		From 1 January 2007	7%
		From 1 January 2008	6%
	(Rate No. 01)	From 1 January 2009	5%
		From 1 January 2010	4%
	Refer	From 1 January 2011	3%
	ACN 2004/45.	From 1 January 2012	2%
		From 1 January 2013	1%
		From 1 January 2014	Free
	Other		Free
	(Rate No. 02)		
924	6402.91.90	From entry into force of	9%
		AUSFTA	
	(Prescribed goods only)	From 1 January 2006	8%
		From 1 January 2007	7%
		From 1 January 2008	6%
	(Rate No. 01)	From 1 January 2009	5%
		From 1 January 2010	4%
	Refer	From 1 January 2011	3%
	ACN 2004/45.	From 1 January 2012	2%
		From 1 January 2013	1%
		From 1 January 2014	Free
	Other		Free
	(Rate No. 02)		
925	6402.99.90	From entry into force of	9%
		AUSFTA	
	(Prescribed goods only)	From 1 January 2006	8%
		From 1 January 2007	7%
		From 1 January 2008	6%
	(Rate No. 01)	From 1 January 2009	5%
		From 1 January 2010	4%
	Refer	From 1 January 2011	3%
	ACN 2004/45.	From 1 January 2012	2%
		From 1 January 2013	1%
		From 1 January 2014	Free
	Other		Free
	(Rate No. 02)		

**CUSTOMS TARIFF
SCHEDULE 5**

Schedule 5/63

Item	Heading or subheading in Schedule 3		Rate #
926	6404.11.90	From entry into force of	9%
		AUSFTA	
	(Prescribed goods only)	From 1 January 2006	8%
		From 1 January 2007	7%
		From 1 January 2008	6%
	(Rate No. 01)	From 1 January 2009	5%
		From 1 January 2010	4%
	Refer	From 1 January 2011	3%
	ACN 2004/45.	From 1 January 2012	2%
		From 1 January 2013	1%
		From 1 January 2014	Free
	Other		Free
	(Rate No. 02)		
927	6404.19.90	From entry into force of	9%
		AUSFTA	
	(Prescribed goods only)	From 1 January 2006	8%
		From 1 January 2007	7%
		From 1 January 2008	6%
	(Rate No. 01)	From 1 January 2009	5%
		From 1 January 2010	4%
	Refer	From 1 January 2011	3%
	ACN 2004/45.	From 1 January 2012	2%
		From 1 January 2013	1%
		From 1 January 2014	Free
	Other		Free
	(Rate No. 02)		
928	7019.11.00	From entry into force of	3%
		AUSFTA	
	From 1 January 2010	Free	
929	7019.12.00	From entry into force of	3%
		AUSFTA	
	From 1 January 2010	Free	
930	7019.19.00	From entry into force of	3%
		AUSFTA	
	From 1 January 2010	Free	
931	7019.40.00	From entry into force of	3%
		AUSFTA	
	From 1 January 2010	Free	
932	7019.51.00	From entry into force of	3%
		AUSFTA	
	From 1 January 2010	Free	
933	7019.52.00	From entry into force of	3%
		AUSFTA	
	From 1 January 2010	Free	
934	7019.59.00	From entry into force of	3%
		AUSFTA	
	From 1 January 2010	Free	

Unless otherwise indicated US rates are Free.

(Example only)

**Extract from the Customs Tariff Regulations 2004
Statutory Rules 2004 No. 289 ¹**

1 Name of Regulations

These Regulations are the *Customs Tariff Regulations 2004*.

2 Commencement

These Regulations commence on the commencement of item 34 of Schedule 1 to the *US Free Trade Agreement Implementation (Customs Tariff) Act 2004*.

3 Definitions

In these Regulations:

Act means the *Customs Tariff Act 1995*.

Harmonized US Tariff Schedule has the meaning given by section 153YA of the *Customs Act 1901*.

Schedule 5 item means an item in the table in Schedule 5 to the Act.

US classification means a classification under the Harmonized US Tariff Schedule.

4 Schedule 5 of the Act — prescribed goods

For each Schedule 5 item mentioned in column 2 of an item in Schedule 1, the goods classified to the US classification, or 1 of the US classifications, mentioned in column 3 of the item are prescribed.

Note Subparagraph 16 (1) (k) (i) of the Act provides that the duty in respect of goods classified to a heading or subheading specified in column 2 of a Schedule 5 item is calculated by reference to the rate of duty specified in column 3 of that item. Subsection 16 (2) of the Act provides that, if column 2 of a Schedule 5 item includes '(prescribed goods only)', subparagraph 16 (1) (k) (i) does not apply to the goods mentioned in the item unless the goods are prescribed.

Note

1. Notified in the *Commonwealth of Australia Gazette* on 7 September 2004.

(Continued)

Schedule 1 Prescribed goods
(regulation 4)

Item	Schedule 5 item	US classification
1	921	6401.92.90
2	922	6401.99.30 6401.99.60 6401.99.90
3	923	6402.30.50 6402.30.70 6402.30.80
4	924	6402.91.50 6402.91.80 6402.91.90
5	925	6402.99.20 6402.99.80 6402.99.90
6	926	6404.11.90
7	927	6404.19.20

Extract from the Harmonized Tariff Schedule of the United States (2004)

CHAPTER 64

FOOTWEAR, GAITERS AND THE LIKE; PARTS OF
SUCH ARTICLESNotes

1. This chapter does not cover:
 - (a) Disposable foot or shoe coverings of flimsy material (for example, paper, sheeting of plastics) without applied soles. These products are classified according to their constituent material;
 - (b) Footwear of textile material, without an outer sole glued, sewn or otherwise affixed or applied to the upper (section XI);
 - (c) Worn footwear of heading 6309;
 - (d) Articles of asbestos (heading 6812);
 - (e) Orthopaedic footwear or other orthopaedic appliances, or parts thereof (heading 9021) ^{1/}; or
 - (f) Toy footwear or skating boots with ice or roller skates attached; shin-guards or similar protective sportswear (chapter 95).
2. For the purposes of heading 6406, the term "parts" does not include pegs, protectors, eyelets, hooks, buckles, ornaments, braid, laces, pompons or other trimmings (which are to be classified in their appropriate headings) or buttons or other goods of heading 9606.
3. For the purposes of this chapter:
 - (a) the terms "rubber" and "plastics" include woven fabrics or other textile products with an external layer of rubber or plastics being visible to the naked eye; for the purpose of this provision, no account should be taken of any resulting change of color; and
 - (b) the term "leather" refers to the goods of headings 4107 and 4112 to 4114.
4. Subject to note 3 to this chapter:
 - (a) The material of the upper shall be taken to be the constituent material having the greatest external surface area, no account being taken of accessories or reinforcements such as ankle patches, edging, ornamentation, buckles, tabs, eyelet stays or similar attachments;
 - (b) The constituent material of the outer sole shall be taken to be the material having the greatest surface area in contact with the ground, no account being taken of accessories or reinforcements such as spikes, bars, nails, protectors or similar attachments.

^{1/} See heading 9817.64.01.

Subheading Note

1. For the purposes of subheadings 6402.12, 6402.19, 6403.12, 6403.19 and 6404.11, the expression "sports footwear" applies only to:
 - (a) Footwear which is designed for a sporting activity and has, or has provision for the attachment of spikes, sprigs, stops, clips, bars or the like;
 - (b) Skating boots, ski-boots and cross-country ski footwear, snowboard boots, wrestling boots, boxing boots and cycling shoes.

Additional U.S. Notes

1. For the purposes of this chapter:
 - (a) The term "welt footwear" means footwear constructed with a welt, which extends around the edge of the tread portion of the sole, and in which the welt and shoe upper are sewed to a lip on the surface of the insole, and the outsole of which is sewed or cemented to the welt;
 - (b) The term "footwear for men, youths and boys" covers footwear of American youths' size 11-1/2 and larger for males, and does not include footwear commonly worn by both sexes.
2. For the purposes of this chapter, the term "tennis shoes, basketball shoes, gym shoes, training shoes and the like" covers athletic footwear other than sports footwear (as defined in subheading note 1 above), whether or not principally used for such athletic games or purposes.
3. For the purposes of heading 6401 "waterproof footwear" means footwear specified in the heading, designed to protect against penetration by water or other liquids, whether or not such footwear is primarily designed for such purposes.
4. Provisions of subheading 6406.10 for "formed uppers" cover uppers, with closed bottoms, which have been shaped by lasting, molding or otherwise but not by simply closing at the bottom.

(Continued)

Heading/ Subheading	Article Description
6401	Waterproof footwear with outer soles and uppers of rubber or plastics, the uppers of which are neither fixed to the sole nor assembled by stitching, riveting, nailing, screwing, plugging or similar processes:
6401.10.00	- Footwear incorporating a protective metal toe-cap - Other footwear:
6401.91.00	-- Covering the knee
6401.92	-- Covering the ankle but not covering the knee:
6401.92.30	--- Ski-boots and snowboard boots --- Other:
6401.92.60	---- Having soles and uppers of which over 90 percent of the external surface area (including any accessories or reinforcements such as those mentioned in note 4(a) to this chapter) is polyvinyl chloride, whether or not supported or lined with polyvinyl chloride but not otherwise supported or lined
6401.92.90	---- Other
6401.99	-- Other: --- Designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather:
6401.99.30	---- Designed for use without closures
6401.99.60	---- Other --- Other:
6401.99.80	---- Having uppers of which over 90 percent of the external surface area (including any accessories or reinforcements such as those mentioned in note 4(a) to this chapter) is rubber or plastics (except footwear having foxing or a foxing-like band applied or molded at the sole and overlapping the upper)
6401.99.90	---- Other

- 6402 **Other footwear with outer soles and uppers of rubber or plastics:**
- Sports footwear:
 - 6402.12.00 -- Ski-boots, cross-country ski footwear and snowboard boots
 - 6402.19 -- Other:
 - Having uppers of which over 90 percent of the external surface area (including any accessories or reinforcements such as those mentioned in note 4(a) to this chapter) is rubber or plastics (except footwear having foxing or a foxing-like band applied or molded at the sole and overlapping the upper and except footwear designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather):
 - 6402.19.05 ---- Golf shoes
 - 6402.19.15 ---- Other
 - Other:
 - 6402.19.30 ---- Valued not over \$(US)3/pair
 - 6402.19.50 ---- Valued over \$(US)3 but not over \$(US)6.50/pair
 - 6402.19.70 ---- Valued over \$(US)6.50 but not over \$(US)12/pair
 - 6402.19.90 ---- Valued over \$(US)12/pair
 - 6402.20.00 - Footwear with upper straps or thongs assembled to the sole by means of plugs (zoris)
 - 6402.30 - Other footwear incorporating a protective metal toe-cap:
 - 6402.30.30 -- Having uppers of which over 90 percent of the external surface area (including any accessories or reinforcements such as those mentioned in note 4(a) to this chapter) is rubber or plastics (except footwear having foxing or a foxing-like band applied or molded at the sole and overlapping the upper and except footwear designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather)
 - Other:
 - 6402.30.50 --- Footwear designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather
 - Other:
 - 6402.30.60 ---- Valued not over \$(US)3/pair
 - 6402.30.70 ---- Valued over \$(US)3 but not over \$(US)6.50/pair
 - 6402.30.80 ---- Valued over \$(US)6.50 but not over \$(US)12/pair
 - 6402.30.90 ---- Valued over \$(US)12/pair

- Other footwear:
 - 6402.91 -- Covering the ankle:
 - 6402.91.40 --- Having uppers of which over 90 percent of the external surface area (including any accessories or reinforcements such as those mentioned in note 4(a) to this chapter) is rubber or plastics except (1) footwear having a foxing or a foxing-like band applied or molded at the sole and overlapping the upper and (2) except footwear (other than footwear having uppers which from a point 3 cm above the top of the outer sole are entirely of non-molded construction formed by sewing the parts together and having exposed on the outer surface a substantial portion of functional stitching) designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather
 - Other:
 - 6402.91.50 ---- Footwear designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather
 - Other:
 - 6402.91.60 ----- Valued not over \$(US)3/pair
 - 6402.91.70 ----- Valued over \$(US)3 but not over \$(US)6.50/pair
 - 6402.91.80 ----- Valued over \$(US)6.50 but not over \$(US)12/pair
 - 6402.91.90 ----- Valued over \$(US)12/pair
 - 6402.99 -- Other:
 - Having uppers of which over 90 percent of the external surface area (including any accessories or reinforcements such as those mentioned in note 4(a) to this chapter) is rubber or plastics (except footwear having a foxing or a foxing-like band applied or molded at the sole and overlapping the upper and except footwear designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather):
 - 6402.99.05 ---- Made on a base or platform of wood
 - 6402.99.10 ---- Made on a base or platform of cork
 - Other:
 - 6402.99.14 ----- Sandals and similar footwear of plastics, produced in one piece by molding
 - 6402.99.18 ----- Other

--- Other:

6402.99.20 ---- Footwear designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather

6402.99.30 ---- Footwear with open toes or open heels; footwear of the slip-on type, that is held to the foot without the use of laces or buckles or other fasteners, the foregoing except footwear of subheading 6402.99.20 and except footwear having a foxing or a foxing-like band wholly or almost wholly of rubber or plastics applied or molded at the sole and overlapping the upper

---- Other:

6402.99.60 ----- Valued not over \$(US)3/pair

6402.99.70 ----- Valued over \$(US)3 but not over \$(US)6.50/pair

6402.99.80 ----- Valued over \$(US)6.50 but not over \$(US)12/pair

6402.99.90 ----- Valued over \$(US)12/pair

6403 **Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of leather:**

6404 **Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of textile materials:**

- Footwear with outer soles of rubber or plastics:

6404.11 -- Sports footwear; tennis shoes, basketball shoes, gym shoes, training shoes and the like:

6404.11.20 --- Having uppers of which over 50 percent of the external surface area (including any leather accessories or reinforcements such as those mentioned in note 4(a) to this chapter) is leather

--- Other:

---- Valued not over \$(US)3/pair:

6404.11.40 ----- Having soles (or mid-soles, if any) of rubber or plastics which are affixed to the upper exclusively with an adhesive (any mid-soles also being affixed exclusively to one another and to the sole with an adhesive); the foregoing except footwear having a foxing or a foxing-like band applied or molded at the sole and overlapping the upper and except footwear with soles which overlap the upper other than at the toe or heel

6404.11.50 ----- Other

- Valued over \$(US)3 but not over \$(US)6.50/pair:
 - 6404.11.60 ----- Having soles (or mid-soles, if any) of rubber or plastics which are affixed to the upper exclusively with an adhesive (any mid-soles also being affixed exclusively to one another and to the sole with an adhesive); the foregoing except footwear having a foxing or a foxing-like band applied or molded at the sole and overlapping the upper and except footwear with soles which overlap the upper other than at the toe or heel
 - 6404.11.70 ----- Other
 - 6404.11.80 ---- Valued over \$(US)6.50 but not over \$(US)12/pair
 - 6404.11.90 ---- Valued over \$(US)12/pair
 - 6404.19 -- Other:
 - 6404.19.15 --- Footwear having uppers of which over 50 percent of the external surface area (including any leather accessories or reinforcements such as those mentioned in note 4(a) to this chapter) is leather
 - 6404.19.20 --- Footwear designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather
 - Footwear with open toes or open heels; footwear of the slip-on type, that is held to the foot without the use of laces or buckles or other fasteners, the foregoing except footwear of subheading 6404.19.20 and except footwear having a foxing or foxing-like band wholly or almost wholly of rubber or plastics applied or molded at the sole and overlapping the upper:
 - Less than 10 percent by weight of rubber or plastics:
 - 6404.19.25 ----- With uppers of vegetable fibers
 - 6404.19.30 ----- Other
 - 6404.19.35 ---- Other
 - Other:
 - Valued not over \$(US)3/pair:
 - 6404.19.40 ----- Having soles (or mid-soles, if any) of rubber or plastics which are affixed to the upper exclusively with an adhesive (any mid-soles also being affixed exclusively to one another and to the sole with an adhesive); the foregoing except footwear having a foxing or a foxing-like band applied or molded at the sole and overlapping the upper and except footwear with soles which overlap the upper other than at the toe or heel
 - 6404.19.50 ----- Other

---- Valued over \$(US)3 but not over \$(US)6.50/pair:

6404.19.60 ----- Having soles (or mid-soles, if any) of rubber or plastics which are affixed to the upper exclusively with an adhesive (any mid-soles also being affixed exclusively to one another and to the sole with an adhesive); the foregoing except footwear having a foxing or a foxing-like band applied or molded at the sole and overlapping the upper and except footwear with soles which overlap the upper other than at the toe or heel

6404.19.70 ----- Other

6404.19.80 ---- Valued over \$(US)6.50 but not over \$(US)12/pair

6404.19.90 ---- Valued over \$(US)12/pair

6404.20 - Footwear with outer soles of leather or composition leather:

-- Not over 50 percent by weight of rubber or plastics and not over 50 percent by weight of textile materials and rubber or plastics with at least 10 percent by weight being rubber or plastics:

6404.20.20 --- Valued not over \$(US)2.50/pair

6404.20.40 --- Valued over \$(US)2.50/pair

6404.20.60 -- Other

6405 **Other footwear:**

6406 **Parts of footwear (including uppers whether or not attached to soles other than outer soles); removable insoles, heel cushions and similar articles; gaiters, leggings and similar articles, and parts thereof:**