



Australian Government

Department of Foreign Affairs and Trade

AGREEMENT ESTABLISHING THE ASEAN-AUSTRALIA-NEW ZEALAND FREE TRADE AREA (AANZFTA)

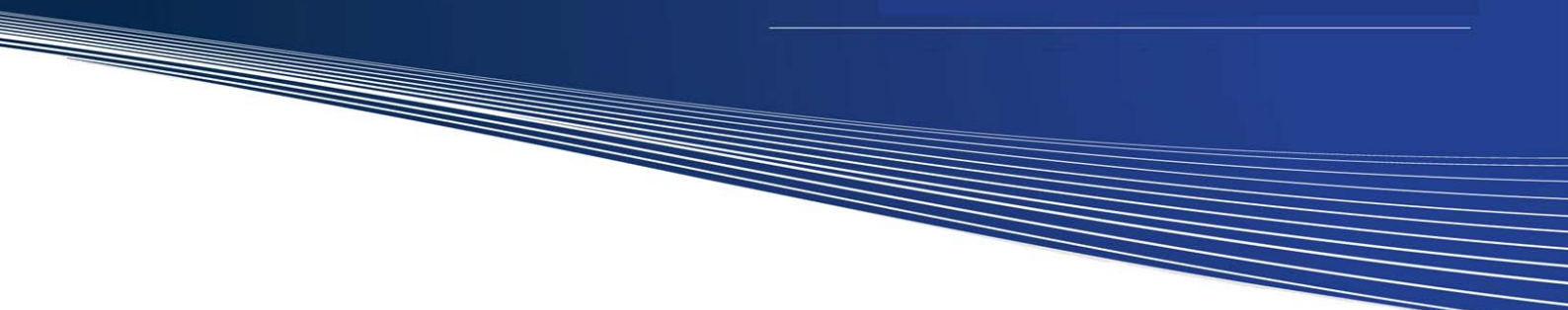
Making Use of AANZFTA to Export or Import Goods

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1. Introduction

1. The Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area (AANZFTA) was signed in Thailand in February 2009 by Australia, New Zealand and the ten member countries of ASEAN, and is expected to enter into force on 1 January 2010. It is not possible to make use of AANZFTA to export or import goods until the Agreement enters into force. When the date of entry into force has been confirmed, this advice will be available on the website of the Department of Foreign Affairs and Trade (DFAT): www.dfat.gov.au/trade/fta/asean/aanzfta
2. The Agreement may not enter into force for all 12 signatories at the same time. The Agreement provides that the minimum requirement for entry into force is that



Australia, New Zealand and four ASEAN countries have completed their necessary internal requirements. The Agreement would enter into force for other ASEAN countries following completion of their internal requirements. The Agreement's provisions will only apply to a country once it has entered into force for that country. Advice on the status of entry into force of the Agreement for each of the 12 signatories will be available on the DFAT website.

3. AANZFTA provides for the progressive reduction or, for most products, elimination, of tariffs facing Australian goods exported to ASEAN countries, and the progressive elimination of all Australian tariffs on imports from AANZFTA Parties. These tariff commitments only apply to those goods exported or imported from an AANZFTA Party that meet the Agreement's rules of origin (ROO).
4. AANZFTA's tariff commitments will apply to goods traded between the 12 Parties to the Agreement:
 - Australia
 - Brunei
 - Burma (Myanmar)
 - Cambodia
 - Indonesia
 - Laos
 - Malaysia
 - New Zealand
 - Philippines
 - Singapore
 - Thailand
 - Vietnam
5. This pamphlet is intended to provide a simple guide to business on how to make use of AANZFTA to export or import goods. It:
 - provides an overview of the tariff commitments contained in AANZFTA;
 - explains where to find details of the tariff commitments for individual products;
 - describes the ROO provisions of the Agreement;
 - explains where to find the ROO for individual products;
 - outlines the Agreement's requirements on the use of certificates of origin (COO) in order to make use of tariff preferences when a good is imported into an AANZFTA Party; and

- notes the Agreement's provisions on verification, including its requirements on retention of records demonstrating that a good meets AANZFTA's ROO.
6. This pamphlet provides a guide to help business understand AANZFTA's provisions governing the exportation and importation of originating goods. However, authoritative and full details on these provisions is to be found in the Agreement and its Annexes, which are available at the DFAT website: www.dfat.gov.au/trade/fta/asean/aanzfta

2. AANZFTA's Tariff Commitments

2.1 Overview of the Tariff Commitments

7. AANZFTA provides for extensive commitments on the reduction and elimination of tariffs. Key features of the tariff outcomes are:
- Tariffs will be eliminated on a high percentage of tariff lines in all AANZFTA Parties. Most tariffs will be progressively phased down until they are eliminated. This phasing generally commences on entry into force of the Agreement, including immediate tariff elimination for some products in individual countries. The phasing uses as a starting point applied most-favoured-nation (MFN) tariffs in 2005.
 - Many tariffs currently at very high levels will be reduced to levels that should allow trade to flow within a few years.
 - Exclusions from tariff commitments in individual ASEAN countries have been kept to a minimum, and generally do not exceed 1% of a country's national tariff lines.
 - For goods where tariffs are neither eliminated nor excluded from commitments, tariffs will either be bound at the 2005 base rate, or will be subject to tariff reductions.
 - The tariff commitments in the Agreement only apply to those goods exported by an AANZFTA Party which meet the applicable rules of origin (ROO).
 - The tariff outcomes provide for longer transition periods, and lower tariff elimination outcomes, for Vietnam and the three least developed countries (Burma, Cambodia and Laos), in recognition of their status as newer ASEAN members with less developed economies.
8. A snapshot of the tariff elimination outcomes is provided in Table 1, which shows, for each Party, the percentage of tariff lines with applied (most-favoured-nation (MFN)) tariff-free treatment in the base year of 2005, and with bound tariff-free

treatment in AANZFTA in 2010, in 2013, and at the end of the transition period for each country. The Table demonstrates:

- the high levels of tariff elimination that will be achieved by AANZFTA; and
- that high levels of tariff-free treatment - generally around 90% - will be achieved as early as 2013 for the more developed ASEAN markets.

Table 1
Percentage of Tariff Lines with Tariff-Free Treatment

| Country | 2005 Base Tariffs (%) | 2010 (%) | 2013 (%) | Final Tariff Elimination (%) | Year Achieved |
|-------------|-----------------------|----------|----------|------------------------------|---------------|
| Australia | 47.6 | 96.4 | 96.5 | 100 | 2020 |
| Brunei | 68 | 75.7 | 90 | 98.9 | 2020 |
| Burma | 3.7 | 3.6 | 3.6 | 85.2 | 2024 |
| Cambodia | 4.7 | 4.7 | 4.7 | 88 | 2024 |
| Indonesia | 21.2 | 58 | 85 | 93.2 | 2025 |
| Laos | 0 | 0 | 0 | 88 | 2023 |
| Malaysia | 57.7 | 67.7 | 90.9 | 96.3 | 2020 |
| New Zealand | 58.6 | 84.7 | 90.3 | 100 | 2020 |
| Philippines | 3.9 | 60.3 | 91 | 94.6 | 2020 |
| Singapore | 99.9 | 100 | 100 | 100 | 2009 |
| Thailand | 7.1 | 73 | 87.2 | 99 | 2020 |
| Vietnam | 29.3 | 29 | 29 | 89.8 | 2020 |

9. An additional perspective on the significance of AANZFTA's tariff commitments is provided in Table 2 which:

- shows the percentage of each country's tariff lines in the 0-5% range (i.e. tariffs that are zero or at such a low level they should not restrict trade) in the 2005 base period, in 2012, 2014, 2017, 2020 and 2025; and
- demonstrates that, within about 2 years of AANZFTA's entry into force (EIF), the tariff commitments should deliver some significant improvements in access to ASEAN markets for Australian exporters.

Table 2
Percentage of Tariff Lines with Tariffs in the 0-5% Range

| Country | 2005 Base Tariffs(%) | 2012(%) | 2014(%) | 2017(%) | 2020(%) | 2025(%) |
|-------------|----------------------|---------|---------|---------|---------|---------|
| Australia | 86.2 | 96.8 | 96.8 | 97.6 | 100 | 100 |
| Brunei | 76.2 | 93 | 93.3 | 95.8 | 99 | 99 |
| Burma | 68.6 | 68.6 | 68.6 | 89 | 89.1 | 96.9 |
| Cambodia | 4.7 | 4.7 | 4.7 | 35.4 | 71.4 | 95 |
| Indonesia | 59.4 | 91.9 | 92.8 | 95.6 | 96.2 | 96.7 |
| Laos | 49.6 | 49.4 | 49.4 | 84.8 | 88.3 | 95.8 |
| Malaysia | 66.2 | 91 | 91.9 | 97 | 97.2 | 97.2 |
| New Zealand | 65.4 | 93.1 | 94.6 | 98.3 | 100 | 100 |
| Philippines | 57.2 | 94.5 | 94.5 | 95.7 | 96.5 | 96.5 |
| Singapore | 99.9 | 100 | 100 | 100 | 100 | 100 |
| Thailand | 56.5 | 91.4 | 91.4 | 92.3 | 99 | 99 |
| Vietnam | 46.7 | 46.3 | 55 | 90.8 | 90.8 | 95 |

10. More detailed summaries of the tariff outcomes, including for individual product sectors, can be found on the DFAT website in a set of Fact Sheets on AANZFTA's outcomes. AANZFTA will apply in parallel with Australia's existing bilateral free trade agreements (FTAs) with three of the countries that are also signatories to AANZFTA (New Zealand (ANZCERTA), Singapore (SAFTA) and Thailand (TAFTA)). These three FTAs have their own tariff commitments, which apply to goods meeting the relevant ROO provisions under each of the agreements. Businesses will be free to decide whether to make use of AANZFTA or the bilateral FTA when trading with these countries, but need to remember that the tariff commitments contained in each agreement are only applicable to goods that meet the relevant ROO in that agreement.

2.2. How to Find the Tariff Commitments for Individual Products

11. The tariff commitments of each of AANZFTA's 12 Parties are set out in the 12 individual country tariff schedules which are contained in Annex 1 to the Agreement. These schedules contain several columns setting out the following information:

- **HS Code:** this is the national tariff number for each product. The Harmonized System (HS) is harmonized internationally up to the six digit level using the Harmonized Commodity Description and Coding System. The HS is used by all AANZFTA Parties as the basis for classifying and differentiating between goods for the purposes of levying tariffs, applying other trade measures and collecting trade statistics. However, the national tariff of most countries is at the 7, 8 or 9

digit level (or higher), with the additional digits allowing countries to make their own distinctions between different categories of goods. Most ASEAN countries use the ASEAN Harmonized Tariff Nomenclature (AHTN), which is based on the Harmonized System but which further harmonizes the tariff numbers up to the eight digit level. Like the HS, the AHTN also allows individual ASEAN countries to have additional digits in their national tariffs to make national-level product distinctions.

- **Description:** this is the description of the good covered by the corresponding national tariff number. Like the tariff numbers, this is harmonized internationally in the HS up to the six digit level, but can differ between countries at higher levels.
- **Base Rate:** this is the applied most-favoured-nation (MFN) tariff for each tariff line on 1 January 2005. This tariff is the agreed starting point for the implementation of AANZFTA's tariff commitments for each tariff line.
- **Columns for 2009, 2010 etc:** these columns set out AANZFTA's tariff commitments for each year. The column headed '2009' was originally included because of the possibility that AANZFTA might have entered into force in the second half of 2009. If, as now expected, AANZFTA enters into force on 1 January 2010, the tariff that would be applied under AANZFTA for each tariff line on that date (or an alternative date of entry into force in 2010) is that set out in the column headed '2010'. The tariff rates that would be implemented in subsequent years are set out in the columns headed '2011', '2012' etc, and these rates will be implemented on 1 January of each year. The final column in most countries' schedules is headed '2020 and subsequent years' and sets out the final tariff rate that would apply from 2020 onwards.

HS Transposition of the Tariff Schedules

12. The tariff schedules included in Annex 1 to the Agreement, and which are also currently available on the DFAT website (www.dfat.gov.au/trade/fta/asean/aanzfta), are in a tariff classification format that is known as HS 2002. The HS is periodically updated by the World Customs Organization – usually every five years – to simplify it where possible and to take account of changes in technology, the appearance of new products, and changes in the patterns of international trade. The version of the HS that applied on 1 January 2005 – the starting point for AANZFTA's tariff commitments – was HS 2002. However, this was replaced in 2007 by a new version, known as HS 2007.
13. Prior to AANZFTA's entry into force, all of the AANZFTA tariff schedules need to be converted (or 'transposed') into the HS 2007 format. For many product sectors there are only minor changes between the structure of the tariff in HS 2002 and that in HS 2007, but for some product sectors there are significant changes between the two formats. In addition to changes at the six-digit level –

to the HS – there may be other changes at the national tariff line level (e.g. the 8 or 9 digit level). For example, Indonesia’s national tariff structure has undergone a major simplification since 2005, and now has a significantly smaller number of tariff lines. These changes often involve a number of tariff lines being merged into a single tariff line, or a single tariff line being split into several new tariff lines, or more complex changes involving both splits and mergers.

14. The AANZFTA Parties have been undertaking the transposition of the tariff schedules into HS 2007 over recent months and expect to complete this process very soon. When the transposition is completed, the HS 2007 tariff schedules will be made publicly available (e.g. they will be available on www.dfat.gov.au/trade/fta/asean/aanzfta), and the AANZFTA tariff commitments will be implemented using these HS 2007 tariff schedules (rather than using the HS 2002 tariff schedules). It will therefore be important for business to check the commitments in the HS 2007 schedules, when they become available, before seeking to export or import under AANZFTA.
15. While the HS 2007 transposition is intended to preserve the tariff commitments contained in the HS 2002 AANZFTA tariff schedules annexed to the Agreement, the transposition also needs to retain the benefits to trade of the tariff simplification and restructuring of the HS 2007 format. This means that there may be some variation in the phasing-in of tariff commitments between the HS 2002 and HS 2007 tariff schedules. This is why it is important that business checks the HS 2007 tariff schedules, when they become available, to ensure that they are in possession of accurate information about the AANZFTA tariff rates that will apply to products of interest to them.

3. The Rules of Origin (ROO) Provisions of AANZFTA

3.1 Overview of the ROO Provisions

16. The tariff commitments in AANZFTA only apply to goods which comply with its rules of origin (ROO) provisions and are therefore eligible to be considered to be AANZFTA originating goods, and which are supported by a Certificate of Origin (COO) issued by Issuing Authority/Body (see Part 3.3 below).
17. Under these provisions a good will be considered an AANZFTA originating good if:
 - It is wholly produced or obtained in a Party (as provided in Article 3 of Chapter 3 (Rules of Origin) of the Agreement); or
 - It makes use of non-originating materials but these are substantially transformed;
or

- It is produced in a Party exclusively from originating materials from one or more of the Parties.
18. Many agricultural, fishery and mineral goods will meet the requirements for being wholly produced or obtained. However, manufactured goods typically make use of components and inputs from a range of countries and will therefore generally involve at least some use of non-originating materials. This means that most manufactured goods will need to comply with AANZFTA's rules on substantial transformation of these non-originating materials in order to be deemed an AANZFTA originating good.

AANZFTA's Substantial Transformation Requirements

19. AANZFTA's ROO make use of a number of internationally recognized tests for determining substantial transformation:
- Change in Tariff Classification (CTC): non-originating materials must undergo the required change in their tariff classification under the HS within the AANZFTA Parties that is specified for the exported good. The required CTC change might be at one of three levels: a change in chapter, at the 2-digit level of the HS; a change in tariff heading, at the 4-digit level of the HS; or a change in tariff sub-heading, at the 6-digit level of the HS.
 - Regional Value Content (RVC): the proportion of the value of the exported good added within the AANZFTA Parties must reach a specified threshold (i.e. this puts a limit on the proportion of the value of the exported good represented by non-originating materials).
 - Specified processing: non-originating materials must undergo specified processing within AANZFTA Parties.

Many Products have Co-Equal CTC or RVC Rules

20. An important feature of AANZFTA's ROO is that for many goods they allow manufacturers the choice of using either a CTC rule or an RVC rule in order to determine origin of the good. AANZFTA's ROO fall into the following general categories:
- The "co-equal" rules – the choice of either a CTC rule or an RVC rule – apply to products covered by about 83 per cent of HS sub-headings.
 - For about 10 per cent of HS sub-headings there is only a CTC rule (mainly textiles and some clothing).
 - For about 1.3 per cent of HS sub-headings there is only an RVC rule (mainly motor vehicles and some motor vehicle parts).

- A requirement that a specified process is met is generally applied in combination with either a CTC or an RVC rule (e.g. textile finishing processes).
- For about two-thirds of chemical products, there is a chemical reaction rule. This provides that in the event the chemical product does not meet the applicable CTC and RVC rules, it would still be considered an AANZFTA originating good if it has been produced as the result of a chemical reaction that occurred in an AANZFTA Party.
- For about 4.5 per cent of HS sub-headings the good must meet AANZFTA's wholly obtained rules in order to be considered AANZFTA originating.

21. *Attachment 1* provides an overview of where to find the ROO provisions in AANZFTA.

Cumulation

22. A key feature of AANZFTA's ROO is that they allow for cumulation. This means that a good that complies with the AANZFTA ROO (i.e. it is an AANZFTA originating good), and which is exported to another AANZFTA Party where it is used as a material in the production of another good, is considered to originate in the other Party where the working or processing of the finished good has taken place. As a result, the use of originating goods as inputs or components in the production of another good can be counted towards that other good meeting AANZFTA's ROO requirements. For example:

- If a CTC test is applicable to the finished good, AANZFTA originating materials used in the production of that good do not have to comply with this test because the test only applies to non-originating materials used in the production of the finished good.
- If an RVC test is applicable to the finished good, AANZFTA originating materials used in the production of that good can be counted towards meeting the specified RVC requirement.

23. The fact that a good has been sourced from an AANZFTA Party does not necessarily mean it can be used for the purposes of the cumulation provisions. The good must be an AANZFTA-originating good in accordance with the Agreement's ROO provisions for it to be used for the purposes of the cumulation provisions.

Transportation of Goods and ROO Requirements

24. An AANZFTA originating good retains its originating status if it is transported from the exporting Party to the importing Party:

- without passing through any non-Party; or
- it has transited through a non-Party and certain conditions are met (see below).

25. Transportation to the importing Party through another AANZFTA Party does not affect the originating status of the good. Furthermore, if the good is imported into another AANZFTA Party and then re-exported it may be eligible for a “back-to-back certificate” to enable it to retain originating status on the basis of the original certificate of origin. See the discussion of back-to-back certificates in Part 3.3 below. A back-to-back certificate is not required in a case of simple transshipment of the good through an AANZFTA Party, i.e. where it is not imported into that Party.

26. Under AANZFTA (Article 14 of the ROO Chapter), a good that transits through a non-Party will retain its originating status provided that:

- The good has not undergone subsequent production or any other operation outside the territories of the Parties other than unloading, reloading, storing or any other operations necessary to preserve it in good condition or to transport it to the importing Party;
- The good has not entered the commerce of the non-Party; and
- The transit entry is justified for geographical, economic, or logistical reasons.

27. Rule 21 of the OCP specifies the documentation required to be provided to the Customs Authority of the importing Party to implement these provisions on goods that transit through a non-Party.

28. Other important elements of the ROO provisions are outlined in *Attachment 2*.

3.2 How to Find the ROO Requirements for Individual Products

29. To find the AANZFTA ROO for a particular good, these steps should be followed:

Step 1: Check whether the good meets AANZFTA requirements for a wholly obtained or produced good as set out in Article 3 of the ROO Chapter, or is produced in a Party exclusively from originating materials from one or more of the Parties in accordance with Article 2.1(c). If the good meets these requirements then it is deemed to be an AANZFTA originating good. If the good does not meet these requirements, proceed to Step 2.

Step 2: Check whether the good is covered by the Product Specific Rules (PSR) set out in Annex 2 of the Agreement. If the good is covered by one of the HS sub-headings listed in Annex 2, then it needs to meet the PSR set out in Column 4 of this Annex to be deemed to be an AANZFTA originating good. If the good is not covered by Annex 2, proceed to Step 3.

Step 3: For goods not covered by Step 1 or Step 2, the general rule set out in Article 4.1 of the ROO Chapter applies. This general rule provides that a good will be deemed to be AANZFTA originating if it meets either of the following alternative RVC or CTC tests: it has an RVC of not less than 40 per cent of the FOB value, and the final process of production has been performed in an AANZFTA Party; or all non-originating materials used in its production have undergone a change in tariff classification at the four-digit level (i.e. a change in tariff heading) within the AANZFTA Parties.

30. These three steps will identify whether the wholly obtained rule, the rule that a good be produced in an AANZFTA Party exclusively from originating materials, a PSR, or the general rule applies to a particular good. In addition, other relevant provisions of AANZFTA's ROO (see the summary above) need to be complied with for a good to be considered an AANZFTA originating good.

3.3 Obtaining and Using a Certificate of Origin, and Verification Procedures

31. AANZFTA's ROO are supported by a requirement that exports be accompanied by a Certificate of Origin (COO) issued by a designated authority (an Issuing Authority/Body). The detailed requirements for obtaining and using COO are set out in the Operational Certification Procedures (OCP) in the Annex to Chapter 3. Key features of the COO requirements:

- A COO is required to claim preferential tariff treatment. A COO will be needed for each shipment of goods for which preferential tariff treatment under AANZFTA is claimed. An importer, if requested to, must submit the COO to the Customs Authority of the importing Party at the time of import declaration in order to claim preferential tariff treatment. (OCP Rule 12).
 - However, a COO will not be required for originating goods not exceeding US\$200 FOB value or such higher amount specified in an importing Party's domestic laws. (OCP Rule 14).
 - Note that in the case of imports into Australia this FOB amount is A\$1,000.

- The COO form. The Parties have agreed on the format for the COO (see *Attachment 3*). Important features to note:
 - The origin conferring criteria has to be specified in Box 8 using the acronyms listed in the Overleaf Notes. There is also a two page guideline (see *Attachment 4*) to assist in filling out Box 8.
 - The quantity and FOB value of the goods have to be specified in Box 9. However, exporters from Australia and New Zealand have the option of not including the FOB value in Box 9 and instead providing this information in a separate Exporter Declaration (see *Attachment 5*). The Exporter Declaration would not be provided to the Issuing Authority/Body that issues the COO, but would need to be presented with the COO to the Customs Authority of the importing Party at the time of import declaration.
 - No erasures or superimpositions are allowed on the COO. Alterations should be made by striking out the erroneous material and making additions, with such alterations being approved by a person authorised to sign the COO and certified by the Issuing Authority/Body. Unused spaces should be crossed out to prevent subsequent additions. (OCP Rule 9)
- Issuing Authorities/Bodies. Details of the Issuing Authorities/Bodies will be notified by each Party before AANZFTA's entry-into-force. The Issuing Authorities/Bodies will provide the names, addresses, specimen signatures and specimens of the impressions of official seals, to the other Parties. These notifications will take place through the ASEAN Secretariat. (OCP Rules 1 and 2).
- Application for a COO. The manufacturer, producer, or exporter of the good or an authorised representative will apply to the Issuing Authority/Body for a COO. They must provide appropriate supporting documents and other relevant information to the Issuing Authority to prove that the good to be exported qualifies as originating. (OCP Rule 6)
- The COO consists of an original and two copies. The original of the COO, bearing the signature and official seal of the Issuing Authority/Body, must be forwarded by the exporter to the importer for submission, if requested, to the Customs Authority in the importing Party. A copy of the COO must be retained by the exporter and the Issuing Authority/Body, respectively. (OCP Rule 7)
- Issuing of the COO. The COO has to be issued as near as possible to, but no later than three working days after, the date of exportation. Where this is not possible, due to involuntary errors or omissions or other valid causes, the COO may be issued retroactively, but no longer than twelve months from the date of exportation, bearing the words "ISSUED RETROACTIVELY". (OCP Rule 10).

- Period of validity of COO. The COO will be valid for a period of twelve months from the date of issue and must be submitted to the Customs Authority of the importing Party within that period. (OCP Rule 13).
- Back-to-back certificate. If an AANZFTA originating good has been imported into an AANZFTA Party but is then re-exported to another AANZFTA Party, the exporter in the “intermediate AANZFTA Party” may make an application to the Issuing Authority/Body in that Party to issue a “back-to-back certificate” to ensure that the good will be eligible for preferential tariff treatment in the AANZFTA Party that is the final destination. A number of conditions must be met for the issuing of a back-to-back certificate (e.g. a valid COO for the first export or its certified true copy must be presented, and the consignment to be re-exported must not undergo further processing in the intermediate Party, except for packing or logistics activities or other operations necessary to preserve them in good condition or to transport them to the final destination.) (OCP Rule 10). Back-to-back certificates are not required for transshipment between AANZFTA Parties where the goods are not imported.
- Record keeping. The Issuing Authority/Body, manufacturer, producer, exporter, importer and their authorised representative are required to maintain all records relating to the exportation or importation that are necessary to demonstrate that the good qualifies for preferential treatment for a period of not less than three years after the date of exportation or importation. (OCP Rule 16). In the case of Australian traders, records must be kept for at least five years.
- Verification. The OCP also provides detailed provisions on the approach to be followed by the Customs Authority of the importing Party if it sees a need to verify the eligibility of a good for preferential tariff treatment. Verification activities may involve requests for information from the Issuing Authority/Body, the importer, the exporter or the producer of the goods, or a request to undertake a verification visit to the premises or factory of the exporter or producer. Communication between the Customs Authority of the importing Party and the exporter or producer is to be channelled through the Issuing Authority/Body of the exporting Party. If the exporter or producer refuses the request, then preferential tariff treatment may be denied. (OCP Rules 17, 18, 19).

The Issuing Authorities/Bodies

32. In the ASEAN countries the Issuing Authorities/Bodies will be government agencies. In Australia and New Zealand the Issuing Authorities/Bodies can be non-government bodies. The Australian Government has decided to establish a new domestic accreditation framework (the FTA COO Accreditation Scheme) to accredit bodies to issue COOs under FTAs that Australia enters into that require

the use of COO issued by an authorised body. This scheme is currently being developed and will provide for the Joint Accreditation System of Australia and New Zealand (JAS-ANZ) to administer the accreditation process.

33. When the Scheme commences, bodies interested in being an Issuing Authority/Body for the purpose of issuing COO under AANZFTA (and other relevant FTAs) will be able to apply to JAS-ANZ for accreditation. It is expected that the Scheme will commence by early 2010. Once the Scheme commences, interested bodies will need to apply to JAS-ANZ for accreditation, and it is expected that completion of the accreditation process will take several months. When a body has been successful in achieving accreditation, JAS-ANZ will notify DFAT, which will undertake any necessary approval or notification requirements under relevant FTAs and advise the body when it can begin issuing COOs for particular FTAs.
34. Pending the establishment of the FTA COO Accreditation Scheme, the Minister for Trade, Mr Crean, has decided to designate the Australian Chamber of Commerce and Industry (ACCI) and the Australian Industry Group (AiG) as Australia's Issuing Authorities/Bodies under AANZFTA for an interim period of twelve months following the Agreement's entry into force. These two organizations already have responsibility for issuing COO under the Singapore-Australia Free Trade Agreement (SAFTA) and the Thailand-Australia Free Trade Agreement (TAFTA), and therefore are experienced with procedures for issuing COO under FTAs. If ACCI and AiG wish to continue as Issuing Authorities/Bodies for AANZFTA beyond the twelve month interim arrangements they will need to obtain accreditation under the FTA COO Accreditation Scheme during this period. Other bodies which are successful in obtaining accreditation will also be able to become an Issuing Authority/Body under AANZFTA, including during the period of the interim arrangements.

35. Contact details for ACCI and AiG are:

ACCI:

Email: nathan.backhouse@acci.asn.au

Telephone: Nathan Backhouse : 02 6273 2311

Web: www.acci.asn.au

AiG:

Email: tradedocs@aigroup.asn.au

Telephone: Bilyana Petrovski: 03 9867 0152

Web: www.aigroup.com.au/trade/certificateoforigin

4. Checklist of Key Points for Successfully Using AANZFTA to Export or Import Goods

36. Some of the key points to follow when using AANZFTA to export or import goods are set out below. But remember that authoritative and full details of AANZFTA's requirements are set out in the Agreement and its Annexes.

- Check when the Agreement enters into force for each of the 12 signatories. This information will be available on the DFAT website (www.dfat.gov.au/trade/fta/asean/aanzfta). The Agreement may not enter into force for all 12 signatories at the same time. The provisions of the Agreement, including the tariff commitments and the rules of origin provisions, will only apply to a country when AANZFTA has entered into force for that country.
- Check the tariff commitments applying to products of interest to you, and in countries of interest, in the AANZFTA tariff schedules in their HS 2007 format, when these become available on the DFAT website
- Check the rule of origin applying to your product following the steps outlined in this pamphlet.
- If you are exporting a good to an AANZFTA Party:
 - apply for a COO to an Issuing Authority/Body for each shipment;
 - ensure that the importer has the COO so they can submit it to the Customs Authority at the time of import declaration for the shipment; and
 - if you have not specified FOB value in Box 9 of the COO, ensure that a completed Exporter Declaration containing this information accompanies the COO.
- If you are importing a good from an AANZFTA Party:
 - ensure that that you have a COO issued by an Issuing Authority in the exporting Party at the time of import declaration for the shipment.
- Ensure you maintain necessary records for at least three years (in the case of Australian traders, five years).

Where to Find the ROO Provisions in AANZFTA

1. The ROO provisions in AANZFTA are set out in the following parts of the Agreement:
 - Chapter 3 of the Agreement is titled “Rules of Origin” and contains the key provisions on ROO. Article 1 of the Chapter contains definitions of many of the key terms used in the rules.
 - An Annex to Chapter 3 is titled “Operational Certification Procedures” (OCP) and sets out the procedures for the issuing and use of certificates of origin (COO) and for verifying that origin requirements have been met. This Annex also includes two Appendices setting out minimum data requirements for:
 - Applications for a Certificate of Origin; and
 - Certificates of Origin.
 - Annex 2 to the Agreement is titled “Product Specific Rules” (PSR) and includes:
 - A Headnote to the Annex which sets out rules for interpreting the PSR rules.
 - The body of the PSR rules arranged according to sub-heading in the HS 2007 format. In some cases, important provisions are contained in Chapter Notes (e.g. the chemical reaction rule in the Chapter Notes to Chapters 28, 29 and 32).
 - An Appendix containing an Indicative List of Textile Finishing Processes.
2. For those products covered by the sub-headings listed in the Annex 2 PSRs, the ROO applicable to them is set out in that Annex. For products covered by sub-headings not listed in Annex 2, a “general rule” applies. This general rule is set out in Article 4.1 of the Rules of Origin Chapter and provides that a good will be considered as an AANZFTA originating good if it meets either of the following tests:
 - The good has an RVC of not less than 40 per cent of the FOB (free on board value) and the final process of production is performed within a Party; or
 - All non-originating materials used in the production of the good have undergone a CTC change at the 4-digit level (i.e. a change in tariff heading).

The Formulas for Calculating RVC

3. In calculating the RVC either of the following formulas can be used:

(a) Direct Formula

$$\text{RVC} = \frac{\text{AANZFTA Material Cost} + \text{Labour Cost} + \text{Overhead Cost} + \text{Profit} + \text{Other Costs}}{\text{FOB}} \times 100\%$$

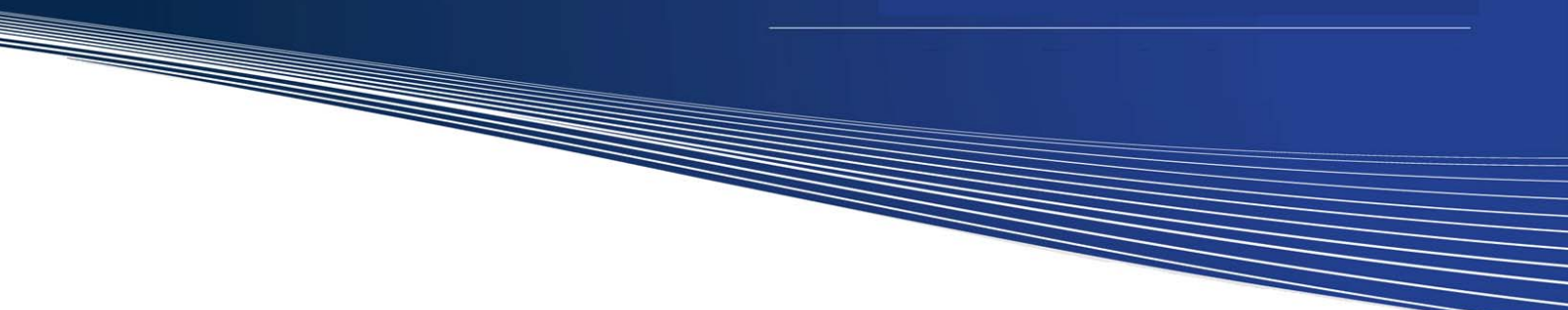
(b) Indirect/Build-Down Formula

$$\text{RVC} = \frac{\text{FOB} - \text{Value of Non-Originating Materials}}{\text{FOB}} \times 100\%$$

4. Article 5 of the ROO Chapter provides further detail on the formulas for calculating RVC, including definitions of the terms used.

Other Important Elements of the ROO Provisions

1. Other important elements of AANZFTA's ROO provisions that business needs to be familiar with:
 - Chemical reaction rule. For about two-thirds of the tariff sub-headings covering chemical products, if the good fails to meet the applicable RVC and CTC rules it would still be an originating good if it was produced as a result of a chemical reaction that occurred in an AANZFTA Party. The Chemical reaction rule is set out in the Chapter Notes in Annex 2 (PSR) for Chapters 28, 29 and 32 of the HS.
 - Minimal operations and processes. These provisions only apply in cases where the claim for origin is based solely on an RVC requirement. In these cases certain operations or processes listed in Article 7 of the ROO Chapter shall not be taken into account in determining whether or not a good is originating.
 - De minimis provisions. These provisions in Article 8 of the ROO Chapter only apply in cases where the claim for origin is based on a CTC requirement. If the good does not meet the CTC it will still be considered an originating good on condition that the value of all non-originating materials used in its production that do not undergo the required CTC do not exceed 10 per cent of the FOB value of the exported good. In the case of textile and apparel products covered by Chapters 50 to 63 of the tariff, the *de minimis* provision also applies if the weight of all non-originating materials that do not undergo the required CTC does not exceed 10 per cent of the total weight of the exported good.
 - Accessories, spare parts and tools. Article 9 of the ROO Chapter provides that accessories, spare parts and tools will not be considered in origin determination where a CTC rule is used, provided that the accessories are customarily supplied with the finished goods and are not separately invoiced. The value of accessories, spare parts and tools will be considered in origin determination where an RVC rule is used.
 - Identical and interchangeable materials. These are materials that are fungible as a result of being of the same kind and commercial quality, possessing the same technical and physical characteristics, and once incorporated into a finished product cannot be distinguished on the basis of any markings or visual examination. Article 10 of the ROO Chapter sets out rules for determining whether they are originating materials.

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- Treatment of packing materials and containers. Article 11 of the ROO Chapter provides that packing materials for shipping and transport are not considered in origin determination. The value of retail packaging materials is considered in the value of the good where an RVC is used. However, retail packing materials, when classified together with the good concerned, will not be taken into account where a CTC rule is used.
 - Indirect materials. Article 12 of the ROO Chapter provides that indirect materials (e.g. costs such as fuel and energy, lubricants and tools used in producing a good but not physically incorporated into it) are treated as originating materials without regard to where they are produced. Article 1 contains the definition of indirect materials.

Attachment 3

| | | | | | |
|---|---|---|--|--|---|
| 1. Goods Consigned from (Exporter's name, address and country) | | | Certificate No. Form AANZ <p style="text-align:center">AGREEMENT ESTABLISHING THE ASEAN – AUSTRALIA – NEW ZEALAND FREE TRADE AREA (AANZFTA)</p> <p style="text-align:center">CERTIFICATE OF ORIGIN (Combined Declaration and Certificate)</p> <p style="text-align:center">Issued in (Country) (see Overleaf Notes)</p> | | |
| 2. Goods Consigned to (Importer's/ Consignee's name, address, country) | | | 4. For Official Use <input type="checkbox"/> Preferential Treatment Given Under AANZFTA <input type="checkbox"/> Preferential Treatment Not Given (Please state reason/s) Signature of Authorised Signatory of the Importing Country | | |
| 3. Means of transport and route (if known) Shipment Date: Vessel's name/Aircraft etc.: Port of Discharge: | | | | | |
| 5. Item number | 6. Marks and numbers on packages | 7. Number and kind of packages; description of goods including HS Code (6 digits) and brand name (if applicable) | 8. Origin Conferring Criterion (see Overleaf Notes) | 9. Quantity (Gross weight or other measurement), and value (FOB) (see Overleaf Notes) | 10. Invoice number(s) and date of invoice(s) |
| | | | | | |
| 11. Declaration by the exporter The undersigned hereby declares that the above details and statements are correct; that all the goods were produced in (country) and that they comply with the rules of origin, as provided in Chapter 3 of the Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area for the goods exported to (importing country) Place and date, name, signature and company of authorised signatory | | | 12. Certification On the basis of control carried out, it is hereby certified that the information herein is correct and that the goods described comply with the origin requirements specified in the Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area. Place and date, signature and stamp of Authorised Issuing Authority/ Body | | |
| 13. <input type="checkbox"/> Back-to-back Certificate of Origin <input type="checkbox"/> <i>De Minimis</i> | | | <input type="checkbox"/> Subject of third-party invoice <input type="checkbox"/> Accumulation | | |
| | | | <input type="checkbox"/> Issued retroactively | | |

OVERLEAF NOTES

1. Countries which accept this form for the purpose of preferential treatment under the Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area (the Agreement):

| | | | | | |
|-----------|-------------------|-------------|-----------|----------|----------|
| Australia | Brunei Darussalam | Cambodia | Indonesia | Lao PDR | Malaysia |
| Myanmar | New Zealand | Philippines | Singapore | Thailand | Viet Nam |

(hereinafter individually referred to as a Party)

2. **CONDITIONS:** To be eligible for the preferential treatment under the AANZFTA, goods must:
- a. Fall within a description of products eligible for concessions in the importing Party;
 - b. Comply with all relevant provisions of Chapter 3 (Rules of Origin) of the Agreement.
3. **EXPORTER AND CONSIGNEE:** Details of the exporter of the goods (including name, address and country) and consignee (name and address) must be provided in Box 1 and Box 2, respectively.
4. **DESCRIPTION OF GOODS:** The description of each good in Box 7 must include the Harmonized Commodity Description and Coding System (HS) subheading at the 6-digit level of the exported product, and if applicable, product name and brand name. This information should be sufficiently detailed to enable the products to be identified by the customs officer examining them.
5. **ORIGIN CRITERIA:** For the goods that meet the origin criteria, the exporter should indicate in Box 8 of this Form, the origin criteria met, in the manner shown in the following table:

| Circumstances of production or manufacture in the country named in Box 11 of this form: | Insert in Box 8 |
|--|---|
| (a) Goods wholly produced or obtained satisfying Article 2.1(a) of the Agreement | WO |
| (b) Goods produced entirely satisfying Article 2.1(c) of the Agreement | PE |
| (c) Not wholly produced or obtained in a Party, provided that the goods satisfy Article 4.1(a) of the Agreement | RVC |
| (d) Not wholly produced or obtained in a Party, provided that the goods satisfy Article 4.1(b) of the Agreement | CTH |
| (e) Not wholly produced or obtained in a Party, provided that the goods satisfy Article 4.2, i.e., if the good is specified in Annex 2, all the product specific requirements listed have been met: <ul style="list-style-type: none"> - Change in Tariff Classification - Regional Value Content - Other, including a Specific Manufacturing or Processing Operation or a CTC or RVC requirement combined with an additional requirement | PSR(CTC) PSR(RVC) PSR(Other) |

6. **EACH GOOD CLAIMING PREFERENTIAL TARIFF TREATMENT MUST QUALIFY IN ITS OWN RIGHT:** It should be noted that all the goods in a consignment must qualify separately in their own right. This is of particular relevance when similar articles of different sizes or spare parts are exported.
7. **FOB VALUE:**
- An exporter from an ASEAN Member State must provide in Box 9 the FOB value of the goods
 - An exporter from Australia or New Zealand can complete either Box 9 or provide a separate "Exporter Declaration" stating the FOB value of the goods.
8. **INVOICES:** Indicate the invoice number and date for each item. The invoice should be the one issued for the importation of the good into the importing Party.
9. **SUBJECT OF THIRD PARTY INVOICE:** In case where invoices are issued by a third country, in accordance with Rule 22 of the Operational Certification Procedures, the "SUBJECT OF THIRD-PARTY INVOICE" box in Box 13 should be ticked (✓). The number of invoices issued by the manufacturers or the exporters and the number of invoice issued by the trader (if known) for the importation of goods into the importing Party should be indicated in Box 10.
10. **BACK-TO-BACK CERTIFICATE OF ORIGIN:** In the case of a back-to-back certificate of origin issued in accordance with paragraph 3 of Rule 10 of the Operational Certification Procedures, the back-to-back certificate of origin in Box 13 should be ticked (✓).
11. **CERTIFIED TRUE COPY:** In case of a certified true copy, the words "CERTIFIED TRUE COPY" should be written or stamped on Box 12 of the Certificate with the date of issuance of the copy in accordance with Rule 11 of the Operational Certification Procedures.
12. **FOR OFFICIAL USE:** The Customs Authority of the Importing Party must indicate (✓) in the relevant boxes in Box 4 whether or not preferential tariff treatment is accorded.
13. **BOX 13:** The items in Box 13 should be ticked (✓), as appropriate, in those cases where such items are relevant to the goods covered by the Certificate.

GUIDELINES FOR COMPLETING THE INFORMATION ON THE ORIGIN CONFERRING CRITERION ON THE CERTIFICATE OF ORIGIN (CO) FORM OF THE AANZFTA

The following table is a guide for implementers of the Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area (AANZFTA) in completing Box 8 of the AANZFTA CO Form. This document will only serve as a guide for the implementers and will not be attached to the AANZFTA CO Form or be required for submission to importing authorities.

| Circumstances of production or manufacture in the country named in Box 11 of this form: | Insert in Box 8 |
|---|---|
| (a) Goods wholly produced or obtained satisfying Article 2.1(a) of the Agreement | <p style="text-align: center;">WO</p> <p>Understanding: “WO” should be placed in Box 8 if the good is wholly produced or obtained in a Party.</p> |
| (b) Goods produced entirely satisfying Article 2.1(c) of the Agreement | <p style="text-align: center;">PE</p> <p>Understanding: “PE” should be placed in Box 8 if the good is produced in a Party entirely in a Party exclusively from originating materials from one or more of the Parties.</p> |
| (c) Not wholly produced or obtained in a Party, provided that the goods satisfy Article 4.1(a) of the Agreement | <p style="text-align: center;">RVC</p> <p>Understanding: “RVC” should be placed in Box 8 if the good satisfies the requirement in Article 4.1(a) of a regional value content of not less than 40 per cent of the FOB value.</p> |
| (d) Not wholly produced or obtained in a Party, provided that the goods satisfy Article 4.1(b) of the Agreement | <p style="text-align: center;">CTH</p> <p>Understanding: “CTH” should be placed in Box 8 if the good satisfies the requirement in Article 4.1(b) that all non-originating materials used in the production of the good have undergone a change in tariff classification at the four-digit level (i.e. a change in tariff heading) of the HS Code in a Party.</p> |

| | |
|---|--|
| <p>(e) Not wholly produced or obtained in a Party, provided that the goods satisfy Article 4.2, i.e., if the good is specified in Annex 2, all the product specific requirements listed have been met:</p> <ul style="list-style-type: none"> - Change in Tariff Classification - Regional Value Content - Other, including a Specific Manufacturing or Processing Operation or a CTC or RVC requirement combined with an additional requirement | <p style="text-align: center;">PSR(CTC)</p> <p>Understanding: “PSR (CTC)” should be placed in Box 8 if the applicable origin criterion in Annex 2 is a Change in Tariff Classification, whether at the level of the chapter (“CC”), the level of a heading (“CTH”) or the level of a subheading (“CTSH”). There is no need to place the actual tariff shift.</p> <p style="text-align: center;">PSR(RVC)</p> <p>Understanding: “PSR (RVC)” should be placed in Box 8 if the applicable origin criterion in Annex 2 is an RVC.</p> <p style="text-align: center;">PSR(Other)</p> <p>Understanding: “PSR (Other)” should be placed in Box 8 if the applicable origin criterion in Annex 2 is either a manufacturing or process rule or a CTC combined with an additional requirement. Below are some of the examples:</p> <ul style="list-style-type: none"> (i) RVC 40% + CTSH; (ii) No change in tariff classification is required provided that the good is cooked in the territory of the parties; (iii) No change in tariff classification is required provided that the good is produced by refining; (iv) CTSH, except from 2523.29 through 2523.90; (v) Origin shall be conferred to a good of this subheading that is derived from production or consumption in a Party; (vi) If the good is a result of a “chemical reaction”. |
|---|--|

