

## **ASEAN-KOREA FREE TRADE AGREEMENT (AKFTA)**

On August 24, 2006, ASEAN and Korea signed the Trade in Goods Agreement (TIG) Agreement, which entered into force on June 1, 2007 for those countries that had completed their internal domestic procedures to implement the Agreement. On January 1, 2010, the Protocol on the Accession of Thailand to the ASEAN-Korea TIG Agreement took effect for Korea marking the full implementation of the TIG Agreement by Korea and all ASEAN members.

### **A. Tariff Reduction and Elimination Modality**

Tariff liberalization under the TIG Agreement is categorized into two tracks: (i) Normal Track (NT) and (ii) Sensitive Track (ST), which is divided into the Sensitive List (SL) and Highly Sensitive List (HSL).

#### *Normal Track*

Liberalization under the NT follows three separate liberalization schedules for three groups of Parties. Each schedule establishes end dates for tariff elimination in three phases. There is no physical list of items for products falling under the NT. If a product is not in the ST, then it automatically falls under the NT and tariffs will be reduced to zero percent according to the timeframes outlined below.

#### (i) ASEAN-6 and Korea

Korea agreed to eliminate tariffs for at least 70% of the tariff lines placed in the NT upon entry into force of the Agreement, and to eliminate tariffs for at least 95% of the tariff lines placed in the NT no later than January 1, 2008. All tariffs in the NT were scheduled for elimination by January 1, 2010.

The ASEAN-6 agreed to reduce applied MFN tariff rates for at least 50% of the tariff lines placed in the NT to 0-5% by January 1, 2007, and to eliminate tariffs for at least 90% of tariffs lines in the NT by January 1, 2009. All tariffs in the NT were scheduled for elimination by January 1, 2010, with flexibility to have tariff lines, not exceeding 5% of all tariff lines or as listed in an agreed Schedule, eliminated not later than January 1, 2012.

<b>NT PREFERENTIAL TARIFF RATE</b>					
<b>X = Base Rate (%)</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010*</b>
$X \geq 20\%$	20	13	10	5	0
$15\% \leq x < 20\%$	15	10	8	5	0
$10\% \leq x < 15\%$	10	8	5	3	0
$5\% < x < 10\%$	5	5	3	0	0
$X \leq 5\%$	Standstill			0	0

\*With flexibility as stated above

#### (ii) Vietnam

Vietnam agreed to reduce applied MFN tariff rates for at least 50% of the tariff lines placed in the NT to 0-5% by January 1, 2013, and to eliminate at least 90% of the tariff lines in the NT by January 1, 2015. All tariffs in the NT will be eliminated by January 1, 2016, with flexibility to have tariff lines, not exceeding 5% of all the tariff lines, eliminated by January 1, 2018.

NT PREFERENTIAL TARIFF RATE								
X = Base Rate (%)	2006	2007	2008	2009	2011	2013	2015	2016*
$X \geq 60\%$	60	50	40	30	20	15	10	0
$40\% \leq X < 60\%$	45	40	35	25	20	15	10	0
$35\% \leq X < 40\%$	35	30	30	20	15	10	0-5	0
$30\% \leq X < 35\%$	30	30	25	20	15	10	0-5	0
$25\% \leq X < 30\%$	25	25	20	20	10	7	0-5	0
$20\% \leq X < 25\%$	20	20	15	15	10	7	0-5	0
$15\% \leq X < 20\%$	15	15	15	10	7	5	0-5	0
$10\% \leq X < 15\%$	10	10	10	8	5	0-5	0-5	0
$7\% \leq X < 10\%$	7	7	7	7	5	0-5	0-5	0
$5\% \leq X < 7\%$	5	5	5	5	5	0-5	0	0
$X \leq 5\%$	Standstill							0

\*With flexibility as stated above

## (ii) Cambodia, Laos, Myanmar

These three Parties agreed to reduce applied MFN tariff rates for at least 50% of the tariff lines placed in the NT to 0-5% by January 1, 2015, and to eliminate at least 90% of the tariff lines in the NT by January 1, 2017. All tariffs in the NT will be eliminated by January 1, 2018, with flexibility to have tariff lines, not exceeding 5% of all the tariff lines, eliminated not later than January 1, 2020.

NT PREFERENTIAL TARIFF RATE							
X = Base Rate (%)	2006	2007	2008	2009	2012	2015	2018*
$X \geq 60\%$	60	50	40	30	20	10	0
$45\% \leq X < 60\%$	45	40	35	25	15	10	0
$35\% \leq X < 45\%$	35	30	30	20	15	5	0
$30\% \leq X < 35\%$	30	30	25	20	10	5	0
$25\% \leq X < 30\%$	25	25	20	20	10	5	0
$20\% \leq X < 25\%$	20	20	15	15	10	0-5	0
$15\% \leq X < 20\%$	15	15	15	10	5	0-5	0
$10\% \leq X < 15\%$	10	10	10	8	5	0-5	0
$7\% \leq X < 10\%$	7*	7*	7*	7*	5	0-5	0
$5\% \leq X < 7\%$	5	5	5	5	5	0-5	0
$X < 5\%$	Standstill						0

\*With flexibility as stated above

## Sensitive List

The TIG Agreement limits SL tariff lines for the ASEAN-6 and Korea to 10% of total tariff lines or 10% of their total respective import values based on 2004 trade statistics. Vietnam may list 10% of total tariff lines or 25% of its total imports from Korea by value. Cambodia, Laos and Myanmar are allowed 10% of total tariff lines.

SL TARIFF REDUCTION MODALITIES		
COUNTRY	APPLIED MFN TARIFF RATE REDUCTION TO 20% BY:	APPLIED MFN TARIFF RATE REDUCTION TO 0-5% BY:
ASEAN-6 and Korea	January 1, 2012	January 1, 2016

Vietnam	January 1, 2017	January 1, 2021
Cambodia, Laos and Myanmar	January 1, 2020	January 1, 2024

The table below details the number of SL tariff lines Korea and ASEAN included for HS Chapters 84, 85 and 87.

HS CHAPTER	KOREA SCHEDULE	ASEAN SCHEDULE
Chapter 84	5	166
Chapter 85	4	227
Chapter 87	8	166

### *Highly Sensitive List*

The TIG Agreement limits HSL tariff lines for the ASEAN-6 and Korea to 200 lines at the HS 6-digit level, 3% of all tariff lines at the HS level of each country's choice, or 3% of total imports by value based on 2004 trade statistics. Cambodia, Laos, Myanmar, and Vietnam may list 200 lines at the HS 6-digit level, or 3% of all tariff lines at the HS level of each country's choice. HSL tariff lines are subdivided into five groups according to the following modalities:

TARIFF LINE GROUP	ASEAN 6 & KOREA	VIETNAM	CAMBODIA, LAOS, AND MYANMAR
<u>Group A</u> (tariff lines subject to 50% tariff rate capping)	MFN rate to not more than 50% by January 1, 2016	MFN rate to not more than 50% by January 1, 2021	MFN rate to not more than 50% by January 1, 2024
<u>Group B</u> (tariff lines subject to tariff reduction by 20%)	MFN rate to by not less than 20% by January 1, 2016	MFN rate by not less than 20% by January 1, 2021	MFN rate by not less than 20% by January 1, 2024
<u>Group C</u> (tariff lines subject to tariff reduction by 50%)	MFN rate tby not less than 50% by January 1, 2016	MFN rate by not less than 50% by January 1, 2021	MFN rate by not less than 50% by January 1, 2024
<u>Group D</u> (tariff lines subject to TRQs)	Tariff lines subject to tariff rate quotas (TRQs) upon the TIG Agreement's entry into force		
<u>Group E</u> (tariff lines exempted from tariff concession)	Applied MFN tariff rates to remain in place. Group E is limited to 40 tariff lines at the HS 6-digit level for each Party		

The table below details Korea's and ASEAN HSL tariff lines for HS Chapters 84, 85 and 87.

HS CHAPTER	KOREA SCHEDULE <sup>1</sup>	ASEAN SCHEDULE
Chapter 84	-	90
Chapter 85	-	105
Chapter 87	-	119

<sup>1</sup> Korea's HSL tariff lines for all groups are concentrated largely on meat and dairy products, fruits, vegetables, and fish.

## B. Rules of Origin

### *General Rules*

The rules of origin are based on a co-equal approach under which exporters can choose to meet either (i) a regional value content (RVC) rule of 40% of a good's FOB value, or (ii) a change in tariff classification rule at the 4-digit level (change in tariff heading – CTH). These rules are applicable for products which are not listed in the product specific rules (PSR)

The Agreement specifies two methods of calculating RVC: build up and build down methods.

#### Build-up Method:

$$\text{RVC (\%)} = \frac{\text{VOM}^2}{\text{FOB Value of Goods}} \times 100$$

#### Build-down Method:

$$\text{RVC (\%)} = \frac{\text{FOB} - \text{VNM}^3}{\text{FOB Value of Goods}} \times 100$$

While the Parties are given the flexibility to adopt either the build up or build down method, the Agreement stipulates that they choose and adhere to one method. Any change in the method of calculation must be notified in writing to all other Parties at least six months prior to the adoption of the new method. Verification of the RVC by the importing Party shall be done on the basis of the method used by the exporting Party. In November 2009, Korea proposed that the option of choosing the RVC calculation method should be given to the exporter as opposed to adhering to one method for a Party. Korea has suggested removing the requirement to notify all Parties. ASEAN Members are considering this request and are expected to revert with a response in early 2010.

Certain other goods or materials exported from and re-exported into Korea or ASEAN will also qualify for originating status if they undergo production or processing operations in designated external territories, such as the Gaeseong Industrial Complex (GIC) in North Korea. Under the arrangement, each Party provides an individual list with no more than 100 products at the 6-digit level. The lists include products falling under HS Chapters 84, 85 and 87.

A summary of the rules of origin under AKFTA is as follows:

Method of Determining Origin	Unique Origin Criteria
1. Wholly obtained or produced	Non-qualifying operations for textiles and garments despite accordance with RVC formula (see Appendix 3, Explanatory Notes).
2. RVC of 40% using build-up or build-down method	
3. CTC at the 4-digit level	
4. PSR – coverage is 23% of all HS lines	

<sup>2</sup> VOM means value of originating materials, which includes the value of originating materials, direct labor cost, direct overhead cost, transportation cost and profit.

<sup>3</sup> VNM means value of non-originating materials, which shall be: (i) the CIF value at the time of importation of the materials, parts or goods; or (ii) the earliest ascertained price paid for the materials, parts or goods of undetermined origin in the territory of the Party where the working or processing has taken place.

Goods which satisfy the Product Specific Rules (PSR) provided in Appendix 2 of Annex 3 are considered as originating in the territory of the Party, where working or processing of the goods have taken place. A good not wholly obtained or produced in the territory of the exporting Party, could satisfy the origin requirements under the PSR stated in Rule 5. The PSR requiring that the materials used undergo a CTC or a specific manufacturing or processing operation only apply to non-originating materials.

<b>PRODUCT SPECIFIC RULES FOR CHAPTERS 84, 85, 87</b>		
<b>CHAPTER</b>	<b>HS 2007</b>	<b>ORIGIN CONFERRING CRITERIA</b>
<b>Chapter 84</b>	8415.10, 8479.81, 8479.89, 8482.10	For 8415.10, an RVC of not less than 45% of the FOB value of the good  A change in tariff subheading (CTSH) for 8479.81, 8479.89, 8482.10 from any other subheading; or an RVC of not less than 40% of the FOB value of the good
<b>Chapter 85</b>	8504.50, 8536.10, 8540.71  8518.30, 8518.50, 8519.31, 8522.90, 8525.20, 8528.12, 8529.90, 8532.22, 8539.21, 8539.31, 8539.90, 8540.20, 8540.40, 8540.60, 8540.72, 8540.89, 8540.91, 8541.90, 8543.89	A CTSH for 8504.50, 8536.10, 8540.71 from any other subheading; or an RVC of not less than 45% of the FOB value of the good  A CTSH for 8518.30, 8518.50, 8519.31, 8522.90, 8525.20, 8528.12, 8529.90, 8532.22, 8539.21, 8539.31, 8539.90, 8540.20, 8540.40, 8540.60, 8540.72, 8540.89, 8540.91, 8541.90, 8543.89 from any other subheadings; or an RVC of not less than 40% of the FOB value of the good
<b>Chapter 87</b>	8702.10, 8702.90, 8703.21, 8703.22, 8703.23, 8703.24, 8703.31, 8703.32, 8703.33, 8703.90, 8704.10, 8704.21, 8704.22, 8704.23, 8704.31, 8704.32, 8704.90, 8708.94, 8708.99, 87.11	For 8702.10, 8702.90, 8703.21, 8703.22, 8703.23, 8703.24, 8703.31, 8703.32, 8703.33, 8703.90, 8704.10, 8704.21, 8704.22, 8704.23, 8704.31, 8704.32, 8704.90, 8708.94, 8708.99, 87.11, an RVC of not less than 45% of the FOB value of the good

#### *Rules on Accumulation of Inputs*

According to Rule 7, Parties agree to consider a good originating in the territory of a Party, and used in the territory of another Party as material for a finished good eligible for preferential tariff treatment, as originating in the territory of the Party where working or processing of the finished good took place. Except as provided for in Rule 7, the conditions for acquiring originating status must be fulfilled without interruption in the territory of the exporting Party.

#### *De Minimis*

The *de minimis* rule provides for non-originating raw materials that fail to meet the required CTC. For goods under Chapter 50 to 63, non-originating material will be exempted from the required CTC if it does not exceed 10% of the total weight of the product. For other goods, non-originating material will be exempted from the required CTC if it does not exceed 10% of the FOB value of the final product.

## C. Certification Rules

### *General Description*

AKFTA adopts a government-certification system only. The "Form AK" is the preferential certificate of origin (CO) issued by respective issuing authorities to prove the originating status of a product under the Agreement. The CO applies to all imports, except imports that fall below a customs value of USD 200. The CO is valid for multiple consignments of goods to be exported within a period of six months from the date of issue.

### *Back-to-Back Certificate of Origin*

AKFTA allows for the issuance of back-to-back CO Form AK subject to conditions laid down in Rule 7 of the Operational Certification Procedures (OCP).

The issuing authority of the intermediate Party issues a back-to-back CO, if an application is made by the exporter while the good is passing through its territory, provided that:

- a valid original CO is presented;
- the importer of the intermediate Party and the exporter who applies for the back-to-back CO in the intermediate Party are the same; and
- verification procedures, as set out in Rule 14 and discussed below, apply.

The back-to-back Form AK is valid for six months and the originating status of the goods can be retained for as long as 12 months with this specific arrangement, with the original Form AK valid for six months plus the back-to-back Form AK valid for six months.

### *Third-party Invoicing*

AKFTA permits third party invoicing arrangements (Rule 21 of the OCP). The Agreement requires the exporter of the goods to indicate "third country invoicing," and the name and country of the company issuing the invoice in the CO.

### *Advance Ruling*

*Not applicable under AKFTA*

### *Cooperation on Paperless Trading*

All Parties agree to recognize trading using electronic filing and transfer of trade-related information and electronic versions of documents such as bills of lading, invoices, letters of credit and insurance certificates, as an alternative to paper-based methods.

### *Authorized Bodies*

The CO issuing authorities are: (i) the Korea Customs Service, Korea Chamber of Commerce and Industry or any other agency authorized by the Government of Korea in accordance with its laws and regulations, and (ii) the following bodies in ASEAN members:

<b>ASEAN Member</b>	<b>Issuing Authority</b>
Brunei	Ministry of Foreign Affairs and Trade
Cambodia	Ministry of Commerce

ASEAN Member	Issuing Authority
Indonesia	Ministry of Trade (Directorate Export and Import Facilitation)
Laos	Ministry of Commerce
Malaysia	Ministry of International Trade and Industry (Trade Services Division)
Myanmar	Ministry of Commerce
Philippines	Bureau of Customs (Export Coordination Division)
Singapore	Singapore Customs (Documentation Specialist Branch)
Thailand	Ministry of Commerce (Department of Foreign Trade, Bureau of Trade Preference Development)
Vietnam	Ministry of Trade (Export-Import Managing Department)

### *Post-Exportation Examination*

The importing Party may request the issuing authority of the exporting Party to conduct a retroactive check at random or where there is reasonable doubt as to the authenticity or accuracy of the information contained in the certificate of origin. In response, the issuing authority of the exporting Party is required to conduct a retroactive check on a producer's and/or exporter's cost statement based on the current cost and prices within a six-month timeframe of the specified date of exportation, subject to the following steps:

- the importing Party's request for a retroactive check from the exporting Party must be accompanied with the CO concerned and specify the reasons for the check, unless it is requested on a random basis;
- the issuing authority of the exporting Party shall respond within two months after receipt of the request;
- the issuing authority in the exporting Party will transmit the results of the verification process to the importing Party, which shall then determine whether or not the subject good is originating; and
- the entire process for retroactive check shall be completed within six months.

The customs authority of the importing Party may suspend provision of preferential tariff treatment while awaiting the result of verification. The customs authority of the importing Party may request an importer for information or documents relating to the origin of imported good in accordance with its domestic laws and regulations before requesting the retroactive check pursuant to paragraph 1.

### *Document Retention Requirements*

Exporters and/or producers should maintain records relating to the importation, exportation and production of the good for at least three years after the CO issuance date.

## **D. Relevant FTA Provisions**

- Legal Text: [http://www.fta.gov.sg/akfta/agreement\\_on\\_trade\\_in\\_goods.pdf](http://www.fta.gov.sg/akfta/agreement_on_trade_in_goods.pdf)
- Tariff Schedules:  
Modality for Normal Track: <http://www.fta.gov.sg/akfta/annex1-modalityforproductsundernormaltrack.pdf>  
Modality for Sensitive Track: <http://www.fta.gov.sg/akfta/annex2-modalityforproductsundersensitivetrack.pdf>

Appendix 1: Sensitive Lists: [http://www.fta.gov.sg/akfta/annex\\_2\\_appendix\\_1.pdf](http://www.fta.gov.sg/akfta/annex_2_appendix_1.pdf)  
Appendix 2: Highly Sensitive Lists: [http://www.fta.gov.sg/akfta/annex\\_2\\_appendix\\_2.pdf](http://www.fta.gov.sg/akfta/annex_2_appendix_2.pdf)  
Annexes to Thailand's Accession: <http://www.fta.gov.sg/akfta/ak-atg%20-%20thailand%20-%2027%20feb%202009.pdf>

- Rules of Origin, Annex 3:  
<http://www.fta.gov.sg/akfta/annex3-rulesoforigin.pdf>
- Operational Certification Procedures, Appendix 1 of Annex 3:  
Appendix 1 of Annex 3: <http://www.fta.gov.sg/akfta/annex3-rulesoforigin.pdf>
- Product Specific Rules of Origin, Appendix 2 of Annex 3  
Appendix 2 of Annex 3: [http://www.fta.gov.sg/akfta/annex\\_3\\_appendix\\_2.pdf](http://www.fta.gov.sg/akfta/annex_3_appendix_2.pdf)