

THAILAND-AUSTRALIA FREE TRADE AGREEMENT (TAFTA)

TAFTA was signed on July 5, 2004 and entered into force on January 1, 2005.

A. Tariff Reduction and Elimination Modality

Thailand's list of tariff concessions includes 5,505 tariff lines, 49% of which were immediately eliminated upon the entry into force of the Agreement, *i.e.*, January 1, 2005. Of the remaining 2,934 tariff lines, only 269 were subject to duty free treatment prior to the implementation of TAFTA. A further 51% of all Thailand's tariffs, including tariff rate quotas, will be gradually reduced to zero by 2025.

Australia's tariff concessions include 6,108 tariff lines. Of this amount, 3,084 tariff lines were already subject to duty free treatment before the entry into force of TAFTA. The remaining tariffs will be gradually phased to zero by 2010 for industrial products and by 2015 for agricultural products.

Under TAFTA, the tariff reduction and elimination modality has several tracks: Fast Track, Normal Track, and Sensitive Track (divided into three sub-tracks). There are no duty exemptions under the Agreement. In other words, all tariff lines are subject to duty reduction and elimination. The base rate, or starting point for duty reduction/elimination, is indicated for each item in each Party's schedule.

Fast Track

Items in the Fast Track are subject to zero duty upon entry into force of TAFTA. The total number of tariff lines under HS Chapters 84, 85 and 87 in the Fast Track include:

HS	Australia	Thailand
Chapter 84	588	376
Chapter 85	318	157
Chapter 87	128	38

Normal Track

Tariffs on items in the Normal Track will be gradually reduced to zero by January 1, 2010. The total number of tariff lines under HS Chapters 84, 85 and 87 in the Normal Track include:

HS	Australia	Thailand
Chapter 84	26	201
Chapter 85	20	221
Chapter 87	20	137

Sensitive Track (1)

Tariffs on items in the Sensitive Track (1) will be gradually reduced to zero by January 1, 2015. The total number of tariff lines under HS Chapters 84, 85 and 87 in the Sensitive Track (1) include:

HS	Australia	Thailand
Chapter 84	0	0
Chapter 85	0	4

HS	Australia	Thailand
Chapter 87	0	0

Sensitive Track (2)

Tariffs on items in the Sensitive Track 2 will be gradually reduced to zero by January 1, 2020. This track applies only to agricultural goods.

Sensitive Track (3)

Tariffs on items in the Sensitive Track 3 will be gradually reduced to zero by January 1, 2025. This track applies only to dairy goods.

B. Rules of Origin

General Rules

TAFTA adopts change in tariff classification (CTC) as the basis of origin determination; however, most products are also considered as originating if the aggregate content of the final product from Thailand and/or Australia is not less than 40% to 45% of the FOB value, depending on the product as listed in Annex 4.1. The calculation of RVC is as follows:

$$RVC (\%) = \frac{FOB \text{ Value of Goods} - CIF \text{ Value of Non-originating Materials}}{FOB \text{ Value of Goods}} \times 100$$

Rules applicable to products under HS Chapters 84, 85 and 87 include: (i) combination of CTC and RVC tests; (ii) choice of either a change in tariff heading (4-digit level) or change in tariff sub heading (6-digit) level; and (iii) choice of a CTC or an RVC.

Under TAFTA, the WTO Customs Valuation Agreement is used to determine the value of goods and inputs (or materials), as adjusted appropriately to reflect the FOB or CIF value.

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

Method of Determining Origin	Unique Origin Criteria
1. Wholly obtained or produced 2. Product-specific based on CTC Some goods have an alternative rule based on calculation of RVC (cumulative Australia and Thailand). The RVC requirement ranges from 40% to 45%	Developing country clause for textiles, clothing and footwear with a lower RVC threshold

Rules on Accumulation of Inputs

TAFTA recognizes that the entire value of material, which is qualified for the originating goods under the rules of origin, may be included in all production costs in Australia or Thailand to be taken into account for the calculation of RVC.

For textiles, clothing and footwear, the value of non-originating materials produced in developing countries can contribute up to 25% of the RVC if the product has 55% RVC based on the FOB value. This exception clause expires in 2025.

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TAFTA provides relief when a good does not qualify as an originating good only because some non-originating materials of little value fail to meet an HS classification change requirement. If the total value of the non-originating materials in question is no more than 10% of the value of the good, then the exporter or producer can consider the good to be an originating good.

C. Certification Rules

General Description

TAFTA adopts a government-certification system only. Relevant provisions can be found in Article 407 (registration of exporters) and Article 408 (certification of origin) of the TAFTA legal text. They provide that goods can only attract a tariff preference if they are accompanied by a certificate of origin issued by the authorities of the exporting partner. The certificate of origin confirms that the goods meet the rules of origin set out in Chapter 4 of TAFTA. A separate, valid certificate of origin is required for each shipment of goods attracting a preference. An exporter must register with the customs authorities of the exporting partner in respect of their goods to be exported under TAFTA before it can obtain a certificate of origin for shipment of goods.

Back-to-Back Certificate of Origin

Not applicable to TAFTA.

Third-party Invoicing

Not applicable to TAFTA.

Advance Rulings

An importer, exporter or producer in a Party may apply for a pre-classification ruling according to rules stipulated in Article 307 of the FTA. Each Party shall issue a pre-classification ruling within 30 working days of the receipt of all necessary information. Each Party agrees to apply a pre-classification ruling to all importations of goods covered by the application for that particular ruling within five years of the date the pre-classification was issued or such other period as required by a Party's domestic laws.

Authorized Bodies

In the case of Australia, the bodies authorized to register exporters and issue certificates are the Australian Chamber of Commerce and Industry (ACCI) and the Australian Industry Group (AiG). Exporters must forward a copy of each certificate of origin to the Thai importer. In the case of Thailand, the authorized bodies include the Department of Foreign Trade, Ministry of Commerce and any government body authorized to issue certificates of origin in accordance with the laws, regulations and policies applying to that Department.

Post-Exportation Examination

Where the Australian Customs Service or Thai Customs Department have reasonable grounds to believe that the goods are not originating from Thailand or Australia, respectively, it can take steps to verify the eligibility of goods for preferential treatment in the following steps: (i) issuing written questionnaires to the manufacturer or the exporter of the goods in the exporting partner; (ii) requesting for records relating to the production, manufacture or export of the good; and (iii) visit the factory or premises of the manufacturer or exporter of

the good, with the consent of the relevant manufacturer or exporter. During an investigation, the importing country may suspend the application of the tariff preference. Each country has the right of appeal in matters to the relevant government authorities relating to eligibility for tariff preferences.

Document Retention Requirements

Exporters, importers and producers must maintain records relating to the importation, exportation and production of the good for at least five years after the date of importation.

D. Relevant FTA Provisions

- Legal Text:
http://www.dfat.gov.au/trade/negotiations/aust-thai/tafta_annexes_sideletters_index.html
- Tariff Schedules:
http://www.dfat.gov.au/trade/negotiations/aust-thai/tafta_annexes_sideletters_index.html
- Rules of Origin, Chapter 4:
http://www.dfat.gov.au/trade/negotiations/aust-thai/tafta_chapter_4.html
- Product-Specific Rules of Origin:
http://www.dfat.gov.au/trade/negotiations/aust-thai/Annex_4_1.zip
- Sample Certificate of Origin:
http://www.customs.gov.au/webdata/resources/files/thaiCertOrigin_050112.pdf