

Free Trade Agreements

What are Free Trade Agreements?

Free trade agreements (FTAs) are business agreements negotiated between governments. They are meant to provide businesses within the relevant countries with benefits not available to businesses outside the agreement.

THESE BENEFITS CAN INCLUDE:

- Lower duty rates on imports
- Increased access to government contracts
- Additional visas or visas with better conditions
- Increased protection for investors
- Agreements on standards
- Ability to deliver services from within and outside the market
- Improved access for e-commerce

In negotiating these benefits for their own population, governments then spend a lot of time negotiating the rules that companies must meet to qualify for those benefits. For example, simply shipping goods from a country doesn't

necessarily mean that the goods were made in that country and so shouldn't benefit from lower duty rates, which leads to the first tip on using FTAs:

TIP 1

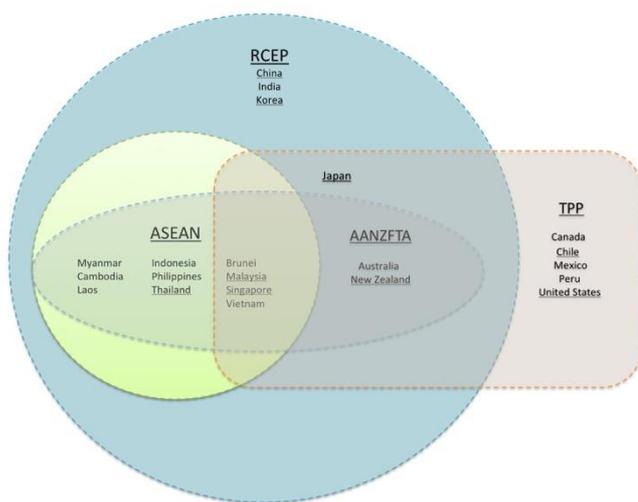
FTAs don't automatically apply. Exporters and Importers need to opt in and provide the necessary evidence to access the benefits available to them.

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WHERE CAN AUSTRALIAN COMPANIES EXPORT PRODUCTS TO WITH THE BENEFIT OF AN FTA?

The Australian Government has negotiated agreements with most of our major trading partners and is currently negotiating agreements with the rest. The chart below maps out the agreements that Australia has negotiated as of 2016 as well as two that are yet to be finalised. One thing that you might immediately notice is that some countries appear to have multiple agreements with Australia. Those with a logical mind might assume that subsequent agreements would cancel out older agreements. I'm afraid to say that they don't, which leads to the next tip:

Figure 1:



WHAT ARE YOU COMPARING ACROSS AGREEMENTS?

There are two things goods exporters need to check when deciding which FTA to use.

- The Rule of Origin that the product needs to meet to qualify as Australian
- The duty rate reduction.

TIP 2

Companies need to compare the FTA's that might apply to their target market and choose the one that provides the best benefit to their product and supports their strategic goals.

WHAT ARE RULES OF ORIGIN?

There are a number of ways a product can be considered as Australian under an FTA. In each FTA there is a large document that lists products according to their **Harmonised System Code**. Against each code is a Rule of Origin that a product must meet to be considered eligible for FTA benefits. There are three basic rules that are used across all agreements.

- **Wholly Obtained Rule:** Products classified as wholly obtained are usually those goods that are entirely grown, fished, mined or produced ENTIRELY in the country from goods wholly obtained. Purchasing all your materials in Australia does not necessarily count as wholly obtained.
- **Product Specific Rules:** The second, and most common way to be considered Australian is to meet a product specific rule. Product specific rules are based on the Change of Tariff Classification method of determining origin, where the rules require a substantial transformation to any imported goods.

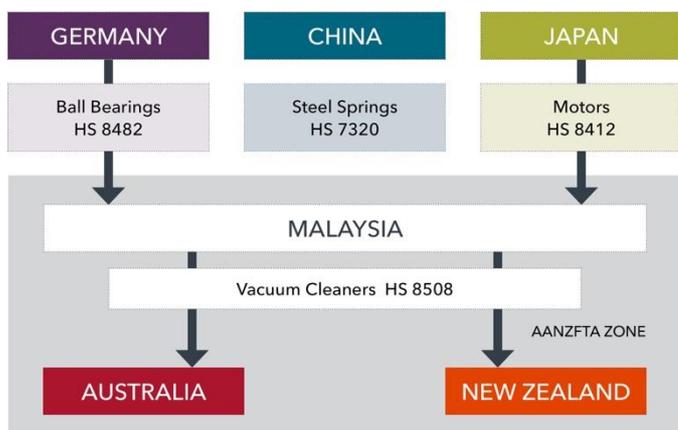
To use a very simple example, if you import honey into Australia in bulk and bottle it into novelty jars and re-export, it is still honey, you haven't substantially changed the nature of the product. However, if you import honey, oats, cinnamon and flour and bake biscuits for export, you have substantially changed the nature of the goods and they can be treated as Australian.

However, rather than name products or ingredients in these rules, the rules use **Harmonised System Tariff codes**. These are the codes that are allocated to all products in the world

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and are used by all customs authorities. For an example of how this works, look at the diagram of the manufacture of vacuum cleaners in Malaysia, and how they can use imported product, but still be considered as Malaysian under the Australia NZ ASEAN Free Trade Agreement (AANZFTA)

Figure 2: Application of CTC



The Malaysian manufacturer has converted products with the codes 8482 from Germany, 7320 from China and 8412 from Japan into a new product, 8508, also known as a vacuum cleaner. However, if the rule stated that the vacuum cleaner, 8508, can be made from any code except products whose code starts with the number 84, eg the ball bearings (8481 from Germany) and motors (8412 from Japan), would mean

that the product did not qualify for AANZFTA and would be treated by Australian Customs like any non-FTA product. This is the trap of the rules. Companies need to check that their supply chain arrangements can meet the rule for their product. If this was the case for the Malaysian exporter, then he may be lucky and have another rule that he can meet.

Regional Value Content Rule

Regional Value content (RVC) is usually calculated using the build-down or indirect method:

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

This means that you take your export price, which includes all costs and profit, deduct the value of the imports (non-originating materials), divide by the export price and multiply by 100% to reach a regional value content. The threshold to meet depends on the individual rule, it varies from 35% to 40%. In the vacuum cleaner example, if the ball bearings came from Thailand, which is a member of ASEAN, instead of Germany, then it would not have counted as an import as its origin is from within the AANZFTA zone.

HOW DO I FIND OUT WHAT MY HS CODE IS?

If you don't already have a Customs Broker to help you, you can contact Australian Customs for advice on the HS code for your product, please email tariffclassification@border.gov.au or phone 1800 053 016.

I HAVE MY HS CODE, WORKED OUT WHICH AGREEMENT SUITS ME AND THAT I MEET THE RULE, IS THAT IT?

No, now you need to prove it. Each agreement has different requirements for what documents must be produced at the border to prove claims for preferential duty rates.

TIP 3

Get to know your supply chain so you can be confident that you meet the rule. Giving false evidence to customs authorities for a duty concession is illegal, even if it isn't intentional. Buying in Australia does not mean that it is an Australian product.

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AGREEMENT	3 RD PARTY ISSUER (EG Ai GROUP)	EXPORTER SELF-ISSUE USING SET FORM	EXPORTER SELF-ISSUE NO SET FORM
USA Australia FTA			*
Thailand Australia FTA	*		
Singapore Australia FTA	*	*	
Malaysia Australia FTA		*	
Asean Australia NZ FTA	*		
Japan Comprehensive Economic Partnership	*	*	
Korea Australia FTA	*	*	
Chile Australia FTA		*	
China Australia FTA	*		
Australia NZ Closer Economic Agreement			*

I think I understand, but need someone to talk to...

For more information, or help with any questions you might have, please contact our TradeDocs team at Ai Group:
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