



The Australia-US Free Trade Agreement (AUSFTA)

On January 1, 2005, Australia entered into the Free Trade Agreement with the United States (AUSFTA), which will provide major benefits for both countries immediately, through the removal of tariffs, and longer term, through the phased opening of markets. It is Australia's first trade agreement with a major economy, and the first agreement that the U.S. has entered with a major economy since 1988. For more information visit: <http://www.ustr.gov/trade-agreements/free-trade-agreements/australian-fta>

In addition to the elimination of tariffs, AUSFTA provides benefits in a range of other sectors. Certain services markets will be opened; intellectual property will be better protected; investments will be facilitated through predictable access, and U.S. firms will be allowed to compete for Australia's government purchases on a nondiscriminatory basis. Non-compliant state government procurement preferences, for example, will be phased out after three years of the agreement. Some aspects, including provisions for local broadcasting content and local industry involvement expectations in major defense contracts, have been excluded from the agreement.

Further information on How U.S. companies can benefit from the AUSFTA, Tariff Elimination Schedule, Declaring origin, Rules of origin and frequently asked questions, can be found here: http://tcc.export.gov/Trade_Agreements/All_Trade_Agreements/exp_002771.asp

Q and A on the AUSFTA

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What is the U.S.-Australia Free Trade Agreement?

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The U.S.-Australia FTA is an agreement between the United States and Australia that allows both nations to strengthen and develop economic relations and to establish free trade between the two nations through the reduction and elimination of barriers to trade in goods and to investment.

How has access under the Agreement been improved for U.S. exports to Australia

Duties on more than 99 percent of U.S. manufactured goods exports to Australia were eliminated as soon as the Agreement entered into force on January 01, 2005. Manufactured goods account for 93 percent of U.S. exports to Australia. Australia is a key export market for important U.S. manufacturing sectors such as aircraft, autos and auto parts, machinery, computers and electronic products, chemicals, and wood and paper products. All U.S. farm exports-nearly \$700 million last year – are now duty-free to Australia, benefiting many sectors such as processed foods, fruits and vegetables, corn, and soybeans.

The Agreement also requires the elimination of a variety of non-tariff barriers. The FTA will open markets and streamline mutual access in intellectual property, services, government procurement, e-commerce, and investment.

Each of the 50 U.S. states exports to Australia, and Australia is among the top 25 export destinations for 48 of the 50 states.

How does the agreement benefit U.S. exporters?

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Among other benefits from the elimination of non-tariff barriers, the FTA allows the U.S. supplier to be more price-competitive in the Australian market simply due to duty reduction. A U.S. exporter that is able to prove that its goods qualify under the Agreement may afford its buyer considerable savings. U.S. exporters will also be more competitive in Australia against competing third country products that do not have the duty benefits.

How can my product qualify?

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How can my product qualify to take advantage of the U.S. - Australia Free Trade Agreement? The product must qualify as an “originating” good under the terms of the Agreement. This means that the product must have sufficient U.S. or Australian content or processing to meet the criteria of the agreement. If goods contain only U.S. or Australian inputs, they qualify. If they contain some inputs from other countries, they still might qualify if they meet specific criteria set out in the Rules of Origin of the agreement. Each product has a unique rule. Most of the rules require either that the non-U.S./Australian inputs undergo a substantial transformation through processing in the United States or Australia (tariff shift method) or that they have a sufficient level of content as determined by a formula (regional value content method). See the Rules of Origin section for more information.

Will this require additional documentation for all of my shipments to Australia? [return](#)

First, you do not need to provide any additional information if you are not claiming the duty benefits under the agreement. U.S. goods can still enter Australia without FTA benefits. If your goods qualify, however, your importer will want to claim FTA duty benefits. The importer will need to be able to supply a statement of why the goods qualify. So your importer may ask you for proof of qualification, such as a Certificate of Origin or another statement.

Is it necessary to fill out a Certificate of Origin? [return](#)

In order to be eligible for preferential duty rates is it necessary to fill out a Certificate of Origin?

The U.S.-Australia FTA calls for a claim of preference from the importer. This Agreement does not require that the importer provide a certificate of origin in support of the claim of preference. However, importers claiming a preference for a good must be prepared to submit, upon request by Customs authorities, a statement setting out the reasons that the good qualifies, including pertinent cost and manufacturing information. No particular format for such a statement is specified in the Agreement.

The importer may therefore ask the exporter for this information. The exporter (seller) may give confirmation, in an unprescribed format, of why the goods qualify as “originating,” which the importer may use to validate its claim. It is advisable to work with your importer and provide your importer with a written statement of origin.

Customs officials can require importers to maintain documents relating to purchases and costs for up to five years after importation, should investigation and

verification of claims be required. Customs officials can also seek information from exporters in verifying claims.

Can I use a NAFTA Certificate of Origin?

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Can I use a North American Free Trade Agreement (NAFTA) Certificate of Origin to declare that my products qualify for preferential duty treatment under the U.S.-Australia FTA?

No. The U.S.-Australia FTA differs from NAFTA. Under the U.S.-Australia FTA, there is no standard Certificate of Origin document for the exporter to complete. For further information visit the “Declaring Origin” section of the website.

Why do I need to qualify my goods?

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Why do I need to go through the process of qualifying my good if I don't even need a Certificate of Origin?

Regardless of what form - written or oral - the statement of eligibility for preferential duty rates takes, it remains a declaration whose truthfulness may be verified or audited by Australian customs. If the goods are found not to qualify, the duty benefit will be lost at best. Declarations that are found after the fact to deliberately make false statements may result in significant penalties.

Are packaging materials and containers taken into consideration?

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I have heard that packaging materials and containers are not taken into consideration when qualifying a good under the U.S. - Australia FTA. Is this true?

When the packing materials and containers are being used for shipping purposes, the materials and containers are disregarded in determining the origin of the good being shipped.

In cases where the packaging material or container is for retail sale, it will be disregarded in qualifying the good only if it is classified with the good and the good qualifies using the tariff shift method. If the container is not such that its classification is contained within the classification of the good, or the regional value content method is used, the material or container will need to be considered in determining whether the good qualifies as originating.

Separately sent accessories...

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I often send accessories for my product separately from the product. Will these qualify automatically if the main product qualifies?

No. When accessories, spare parts, or tools are delivered with a good, they are regarded as a material used in the production of the good as long as 1) they are classified with and not invoiced separately from the good and 2) the quantities are not considered to be unusual. However, when these ancillary items are sent separately from the original good, they are treated as a separate export and must qualify as such.

Goods transshipped through a third country...

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What if my goods are produced in the United States, but is transshipped through a third country on its way to Australia? Can it still qualify for preferential treatment

It can. According to the U.S.-Australia FTA, a good that undergoes “subsequent production or any other operation outside the territories of the Parties, other than unloading, reloading, or any other process necessary to preserve the good in good condition or to transport the good to the territory of a Party” can no longer qualify for preferential treatment.

Will the Agreement create new opportunities in electronic commerce?

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The Agreement ensures that digital products, including software, music, video, and text, will receive non-discriminatory treatment and makes permanent the current practice of not subjecting such transmissions to customs duties. This is the first Agreement to include provisions on facilitating authentication of electronic signatures, encouraging paperless trade and establishing a program for cooperation on other e-commerce issues.

What will be different about investing in Australia?

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All U.S. investment in new businesses is exempted from screening under Australia's Foreign Investment Review Board. Thresholds for acquisitions by U.S. investors in nearly all sectors are raised significantly, from A\$50 million to A\$800 million, exempting the vast majority of transactions from screening.

Will there be new arbitration procedures for investment disputes?

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In recognition of the unique circumstances of this Agreement - including, for example, the longstanding economic ties between the United States and Australia, their shared legal traditions, and the confidence of their investors in operating in each others' markets - the two countries agreed not to adopt procedures in the Agreement that would allow investors to arbitrate disputes with governments.

Will U.S. companies be able to sell to the Australian government?

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Under the Agreement, U.S. suppliers are granted non-discriminatory rights to bid on contracts to supply Australian Government entities, including all major procuring entities and administrative and public bodies. Commonwealth (federal), state and territory government agencies are included. The Australian Government will eliminate its industry development programs, under which suppliers have had to meet various types of local content or local manufacturing requirements as conditions of their contracts. The Australian Government also will restrict its use of selective tendering, which will ensure that U.S. suppliers have a fair opportunity to compete for government contracts.

Ambiguity as to the "originating" status of the product

If I believe after thoroughly reviewing my product, its inputs, and the applicable Rule of Origin, that there remains ambiguity as to the "originating" status of the product under the U.S.-Australia FTA, is there a way that I can find out the position of Australian customs prior to the arrival of my goods in Australia?

The Customs authority of Australia will issue "advance rulings" at the written request of the importer, exporter, or producer on questions of tariff classification, customs valuation questions, duty drawback, origin, and treatment of goods entering temporarily for repair or alteration. Extensive information regarding the facts and circumstances of the inquiry will be required by the Customs authority prior to issuing such a ruling.

More information

For more information on this FTA and others visit:

http://tcc.export.gov/Trade_Agreements/Free_Trade_Agreements/index.asp

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