Australian
BORDER FORCE

Preferential Rules of Origin

Guide to claiming preferential rates of customs duty under preferential arrangements other than Free Trade Agreements

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Table of Contents

1 Overview 6
- 1.1 Coverage of the Guide 6
- 1.2 Structure of this guide 8
- 1.3 Background 9
- 1.4 Import declaration codes 11
- 1.5 Refunds 13
- 1.6 Abbreviations 14

2 Legislation 16
- 2.1 General outline of legislation 16

3 Definitions 17
- 3.1 Section 4 of the Customs Act 17
- 3.2 Division 1A of Part VIII of the Customs Act 17
- 3.3 The Customs Tariff Act 1995 19
- 3.4 The Customs Regulation 20

4 Principles of Rules of Origin of preference claim goods 21
- 4.1 Goods covered by preferential arrangements 21
- 4.2 Geographical area covered by preferential arrangements 22
- Qualifying Areas 24
- 4.3 Rules of origin for goods that are the produce or manufacture of a country or place 25
- 4.4 Determining whether goods are the produce or manufacture of a country or place 26
- Flow chart of whether goods are Produced or Manufactured in a country or place 27

5 Unmanufactured Raw Products 28
- 5.1 Overview of Unmanufactured Raw Products 28
- 5.2 Waste and Scrap 29

6 Partly Manufactured Goods 30
- 6.1 Overview of Partly Manufactured Goods 30
- 6.2 The Concept of Factory Cost 30
- 6.3 Materials 32
- 6.4 Total Expenditure of factory on materials 32
- 6.5 Allowable Expenditure of factory on Materials 35
- 6.6 Factory labour 39
- 6.7 Factory overheads 41
- 6.8 Other costs – Labels/Tickets 43
- 6.9 Goods Not Commercially Manufactured in Australia 43
- 6.10 Example 1: illustrating the calculation of allowable and total factory cost – DCU 45
- 6.11 Example 2: illustrating the calculation of allowable and total factory cost – SPARTECA 47
- 6.12 Example 3: illustrating the calculation of allowable and total factory cost – LDC 49

7 Other Criteria 51
7.1 Additional Requirements 51
7.2 Last Process of Manufacture 51
7.3 Direct shipment 52
7.4 Prohibition against Double Counting 52
7.5 Treatment of inner containers 53
7.6 Tolerance in Minimum Value-Added 54

8 Wholly Manufactured Goods 56
8.1 Wholly manufactured goods criteria 56
8.2 Unmanufactured raw products 56
8.3 Determined manufactured raw materials (DMRM) 56

9 Procedures and evidence required to claim preferential rates of customs duty 58
9.1 Claiming preferential rates of customs duty 58
9.2 Waiver of Documentary Evidence of Origin 59
9.3 Compliance procedures for claiming preference 60
9.4 Validity 61
9.5 Record keeping obligations 61

10 Origin advice rulings 62
10.1 Provision of origin advice rulings 62
10.2 Policy and practice 62

11 Related policies and references 63
11.1 Associated documents 63

12 Document details 64
12.1 Document change control 64

Annex 1 – Qualifying Area 65
Qualifying areas for various arrangements 66

Annex 2 – Sample Declarations 71
Sample Declaration: Unmanufactured Raw Products 71
Sample Declaration: Partially Manufactured Goods: Developing Countries, External territories, Forum Island Countries, Malaysia, Papua New Guinea (Not Canada) 72
Sample Declaration: Partially Manufactured Goods: Canada 73
Sample Declaration: Wholly Manufactured Goods Canada, Papua New Guinea, External Territories 74
Sample Declaration: Manufactured Goods Granted Local Area Content Derogation by the Comptroller-General of Customs (Forum Island Countries) 75

Annex 3 – Costs of a factory—overheads 76

Annex 4 – Sample Government Gazettal notices 78
Notice Under Subsection 153E(4) of the *Customs Act 1901* 78
Notice Under Subsection 153E(5) of the *Customs Act 1901* 79
Notice Under Subsection 153E(6) of the *Customs Act 1901* 80
Notice Of Determination Made Under Subsection 153R(1) of the *Customs Act 1901* 81
Notice Of Determination Made Under Paragraph 153L(4)(b) of the *Customs Act 1901* 82

Annex 5 – Determined Manufactured Raw Materials in relation to Canada 83

Annex 6 – Partially manufactured goods supporting documentation 86
Preference claim goods – origin information requirements 86
General information required 86
Financial information required 86
Supporting material 88
Summary of total factory cost 89

1 Overview

1.1 Coverage of the Guide

1.1.1 This Guide deals only with origin issues related to trade arrangements that Australia has entered into which provide preferential rates of customs duty other than those specifically covered by a free trade agreement (FTA) for which separate guides are available on the ABF website.

1.1.2 This Guide covers originating goods imported under

- South Pacific Regional Trade and Economic Cooperation Agreement (SPARTECA) which provides duty-free and quota free access for Forum Island Countries (FICs);
- the Australian System of Tariff Preferences (ASTP) which includes duty-free and quota free access for Least Developed Countries(LDC); and
- Other preferential arrangements other than FTAs.

1.1.3 The specific arrangements this Guide covers are:

- South Pacific Regional Trade and Economic Cooperation Agreement - Forum Island country (Schedule 1, Part 1 - Customs Tariff Regulations); and
- Least Developed Countries (Part 2, Schedule 1 - Customs Tariff Regulations).
- Developing Countries:
  - Developing Countries (DC) (Part 3, Schedule 1 - Customs Tariff Regulations);
  - Developing Country Status (DCS) (Part 4, Schedule 1 - Customs Tariff Regulations);
  - Developing Country Category T (DCT) (Part 5, Schedule 1 - Customs Tariff Regulations); and
  - Developing Country, Ukraine – Section 18B of the *Customs Tariff Act 1995*
- Preferential arrangements other than FTAs.
  - Trade Agreement between the Government of the Commonwealth of Australia and the Government of Canada (CANATA);
  - Agreement on Trade and Commercial Relations between the Government of Australia and the Government of Papua New Guinea (PATCRA II);
  - Trade Agreement between the Commonwealth of Australia and the Federation of Malaya as amended (MATA); and
  - External Territories

1.1.4 Guides for each of Australia's FTAs are available at the ABF's FTA webpage. While this Guide mentions the Australian-New Zealand Closer Economic Relations Trade Agreement (ANZCERTA), a specific guide for goods imported under ANZCERTA is at the ABF's New Zealand FTA webpage.

1.1.5 Questions relating to the treatment of goods that have not been entered for home consumption seeking to claim preferential rates of customs duty in Australia under Australia's preferential arrangements other than FTAs should be directed to: origin@abf.gov.au.

1.1.6 Questions concerning refunds under Australia's preferential arrangements other than FTAs that are not covered by Sections 1.5 and 9.2 of this Guide should be directed to: nationalrefunds@abf.gov.au

1.2 Structure of this guide

1.2.1 This Guide contains 11 sections and 6 annexes

1.2.2 These sections are:

- Overview
- Legislation
- Definitions
- Principles of Rules of Origin of preference claim goods
- Unmanufactured Raw Products
- Partly Manufactured Goods
- Other Criteria
- Wholly Manufactured Goods
- Procedures and evidence required to claim preferential rates of customs duty
- Origin advice rulings
- Related policies and references
- Document details

1.2.3 The annexes are

- Annex 1 – Qualifying Area
- Annex 2 – Sample Declarations
- Annex 3 – Costs of a factory—overheads
- Annex 4 – Sample Government Gazettal notices
- Annex 5 – Determined Manufactured Raw Materials in relation to Canada
- Annex 6 – Partially manufactured goods supporting documentation

1.3 Background

1.3.1 Both the United Nations Conference on Trade and Development (UNCTAD) and the World Trade Organization (WTO) encourage the provision of special treatment to developing countries, especially those nominated by UNCTAD as 'least developed countries' (LDCs).

1.3.2 Many nations, including Australia, offer Generalised System of Preferences (GSP) Schemes for developing countries under a framework developed by UNCTAD. As GSP Schemes are applied on a non-reciprocal basis, there is no underlying agreement governing conditions of entitlement. Each nation that offers a GSP Scheme is free to specify its own rules of origin.

1.3.3 Australia first extended preferential rates to developing countries unilaterally in 1966 under the Australian System of Tariff Preferences (ASTP)[1][2]. Over time, Australia reduced preferences under the ASTP, in line with UNCTAD's graduation principles. In 1991, Australia commenced phasing-out preferences for Hong Kong, China; the Republic of Korea; Singapore and Taiwan. The phasing-out of preferential rates for most other developing countries commenced in 1993 and was extended in 1994. Generally, the full margin of developing country preference is now limited to imports from LDCs and certain Forum Island Countries where the goods do not meet the SPARTECA rules of origin.

1.3.4 Section 18B of the *Customs Tariff Act 1995* (Customs Tariff Act) provides a temporary decrease in rates of duty for goods imported into Australia that are the produce or manufacture of Ukraine during the period between 4 July 2022 and 3 July 2026. This Section provides that the rates of customs duty for goods that are classified to certain tariff subheadings in Schedule 3 of the Customs Tariff Act for which a 'DC' tariff rate is listed, would be calculated as the lower of either the 'DC' rate in Schedule 3 or any concessional rate applying in Schedule 4. The relevant subheadings are in Chapters 22, 24, 27, 29, 34 and 38. All other goods imported within this period that are the produce or manufacture of Ukraine have a duty rate of 'Free'.

1.3.5 On 1 July 2003, Australia granted duty free entry to goods originating in LDCs. Duty free entry for LDCs is conditional on the goods meeting more stringent rules of origin than those devised for the purposes of earlier developing country preference. These rules are aimed at ensuring that the benefits of duty free entry flow primarily to LDCs rather than to other Developing Countries.

1.3.6 While the LDC rules allow materials from all developing countries, Forum Island countries and Australia to count as local content, the level of materials from all non-LDC that can count as local content is limited to 25% of the total factory cost of the goods.

1.3.7 Part 1 of Schedule 1 to the Customs Tariff Regulations lists the Forum Island countries. The entry into force of SPARTECA on 30 June 1982 extended preferential rates of customs duty to these countries.

1.3.8 Canada was first given preferential treatment in 1925 as part of the then British Commonwealth preferential system. The Canada Australia Trade Agreement (CANATA), which entered into force on 12 February 1960, extended the Canadian preferential rates. While this Agreement does not include rules of origin, Australia continues to offer preferential rates based on the rules of origin that governed the British Commonwealth preference system.

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[1] https://www.wto.org/gatt_docs/English/SULPDF/90780120.pdf

[2] https://www.legislation.gov.au/files/gazettes/historic/1966/1966GN34.pdf

1.3.9 Papua New Guinea gained access to preferential rates of duty in 1926. On 1 February 1977, an Agreement on Trade and Commercial Relations between Australia and Papua New Guinea (PATCRA), which included provisions on rules of origin, entered into force. A replacement agreement, known as PATCRA II, which entered into force on 20 September 1991, superseded the original PACTRA. . PATCRA II includes rules of origin, and refers to additional preferential treatment under the South Pacific Regional Trade and Economic Cooperation Agreement (SPARTECA) for Forum Island countries.

1.3.10 Certain goods that are the produce or manufacture of Australia's External Territories (Christmas, Cocos (Keeling) and Norfolk islands) gain duty-free entry through acts of Parliament other than the Tariff Act. The rules of origin governing access to the duty-free entry provided by these enactments are contained in Division 1A of part VIII of the Customs Act.

1.4 Import declaration codes

1.4.1 Before making a claim for preferential rates of customs duty, importers must take reasonable care to ensure that their goods meet the relevant rules of origin for preference claim goods in Division 1A of Part VIII of the Customs Act.

1.4.2 The codes that must be input into the Integrated Cargo System (ICS) or noted on the appropriate hard-copy form (e.g. B650 N10, Import Declaration) to claim preferential tariff treatment for each arrangement can be found in the ABF guide *Claiming preferential rates of customs duty in the Integrated Cargo System*.

1.4.3 The following table sets out the combination of Preference Rules and Preference Scheme Codes that can be claimed in the ICS. The table is also a useful guide as to which rules of origin are available under each of the preferential arrangements.

ICS Preference Rule	ICS Preference Scheme	CANATA	External Territories	ANZCERTA[3]	MATA	DCU	PATCRA II	SPARTECA	LDC	DC	DCS	DCT
		CA	EXT	NZ	MYT	DCU	PG	FI	LDC	DC	DCS	DCT
Unmanufactured Raw Products. (Refer Customs Act 1901, S.4)	URP	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Partly Manufactured Goods With A Minimum Of 50% Local Content (No Accumulation)	P50	✗	✓	✗	✓	✓	✓	✓	✓	✓	✓	✓
Partly Manufactured Goods With A Minimum Of 75% Local Content (No Accumulation) - For Goods Ineligible for a Current Tariff Concession Order	P75	✓	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗
Partly Manufactured Goods With A Minimum Of 25% Local Content (No Accumulation) - Limited To Goods Eligible For A Current Tariff Concession Order	P25	✓	✓	✗	✗	✗	✗	✗	✗	✗	✗	✗
Wholly Manufactured Goods - Incorporating Determined Manufactured Raw Materials	WMD	✓	✓	✓	✗	✗	✓	✗	✗	✗	✗	✗
Wholly Manufactured Goods - Not Incorporating Determined Manufactured Raw Materials	WMN	✓	✓	✓	✗	✗	✓	✗	✗	✗	✗	✗

[3] ANZCERTA includes modern ROO which are set out in Division 1E of Part VIII of the *Customs Act 1901*, while historic arrangements similar to rules covered in this guide are provided for in Section 153ZIH of the *Customs Act 1901*

1.4.4 For CANATA and External Territories, the following goods are considered "not commercially available" for the purpose of determining whether those goods can claim to be partly manufactured goods with a minimum of 25% local content (P25) in accordance with Customs Act 1901 – Determination Made Under section 153R (1) of the Customs Act 1901: Notice No. 98/1:

- goods, other than reconditioned or reconstructed machines, with a 'Free rate of duty' or
- goods subject to a Tariff Concession Order (TCO).

1.4.5 As a TCO also provides a free rate of customs duty there is no additional benefit in also claiming a free rate of duty under these arrangements and P25 rule is practically obsolete as the same benefit can be obtained by using the TCO on its own. Prior to 11 May 2005, certain TCOs did not provide a free rate of duty see ACN2005/18.

1.4.6 Due to Australia's tariff reforms resulting in low Most Favoured Nation (MFN) tariffs and an increase in the availability of tariff preferences under FTAs, the ABF has not issued a new determination on Determined Manufactured Raw Materials (DMRM) since 2008 This affects preference rule WMD which is covered in Section 8 of this guide.

1.4.7 Historically, imports under ANZCERTA followed by CANATA were the main source of DMRM determinations. With the implementation of more flexible rules of origin under ANZCERTA for New Zealand in 2006 and CPTPP for Canada in 2018, the ABF expects that few businesses meet the requirements necessary to make use of these particular rules.

1.4.8 Businesses seeking a new DMRM for material used in goods imported under CANATA, PATCRA II and EXT should consult Section 8.

1.4.9 Historic DMRM for CANATA that can still be used can be found in Annex 5.

1.5 Refunds

1.5.1 There are no specific refund codes to obtain a refund for overpaid duties under these arrangements.

1.5.2 Refund applications may be made under Item 6 of Schedule 6 of the Customs Regulation where duty has been paid on goods because of manifest error of fact or patent misconception of the law, and the goods are not a gaseous fuel.

1.5.3 The ICS Code for such a refund is “E”.

1.5.4 Refund applications may be made under Item 9 of Schedule 6 of the Customs Regulation where duty has been paid on goods, and there is a reduction of the duty payable on goods entered for home consumption because of a Customs Tariff alteration or an amendment of the Customs Tariff Act. This is the case for goods imported under DCU.

1.5.5 The ICS Code for such a refund is “EB”.

1.5.6 Generally, the period for lodging a refund is within 4 years after the date on which the customs duty was first paid. More details about the refund of customs duty can be found at: https://www.abf.gov.au/importing-exporting-and-manufacturing/importing/refund-of-customs-duty

1.6 Abbreviations

1.6.1 The following abbreviations and terminology are used throughout this Guide:

Abbreviation	Description
ABF	Australian Border Force
ACN	Australian Customs Notice (also includes Department of Home Affairs Notice (DHAN) and Department of Immigration and Border Protection Notices (DIBPN))
COO	Certificate of Origin
Customs Act	*Customs Act 1901*
Customs Regulation	Customs Regulation 2015
DC	Developing Country
DCS	Developing Country Status
DCT	Developing Country, category T
DCU	Developing Country, Ukraine
DOO	Declaration of Origin
Department	unless separately identified, 'the Department' includes, for the purposes of this Guide, the Department of Home Affairs and the Australian Border Force
EXT	External Territories
FTA	free trade agreement
FIC	Forum Island Country
HS	Harmonized Commodity Description and Coding System
ICS	Integrated Cargo System
LDC	Least Developed Country
MFN	Most Favoured Nation
P25	Partly manufactured goods with a minimum of 25% local content (no accumulation) - limited to goods eligible for a current tariff concession order
P50	Partly manufactured goods with a minimum of 50% local content (no accumulation)
P75	Partly manufactured goods with a minimum of 75% local content (no accumulation) - for goods ineligible for a current tariff concession order
Preference country	See definition in 3.3.14
Qualifying Area	See definition in 3.2.13
ROO	rule(s) of origin
SP	specific process rule
Tariff Act	*Customs Tariff Act 1995*
Tariff Regulations	Customs Tariff Regulations 2004
TCO	Tariff Concession Order
URP	Unmanufactured Raw Products.
Working Tariff	Combined Australian Customs Tariff Nomenclature and Statistical Classification
WMD	Wholly Manufactured Goods - Incorporating Determined Manufactured Raw Materials
WMN	Wholly Manufactured Goods - Not Incorporating Determined Manufactured Raw Materials

1.6.2 The following acronyms are used throughout this Guide to refer to various agreements:

Acronym	Description
ANZCERTA	Australian New-Zealand Closer Economic Relations Trade Agreement
CANATA	Trade Agreement between the Government of the Commonwealth of Australia and the Government of Canada[4]
MATA	Trade Agreement between the Commonwealth of Australia and the Federation of Malaya as amended[5]
PATRCA II	Agreement on Trade and Commercial Relations between the Government of Australia and the Government of Papua New Guinea[6]
SPARTECA	South Pacific Regional Trade and Economic Cooperation Agreement[7]

The footnotes on this page provide links to the text of CANATA, MATA, PATRCA II and SPARTECA

[4] http://www.austlii.edu.au/au/other/dfat/treaties/1960/5.html - amended by http://www.austlii.edu.au/au/other/dfat/treaties/1973/28.html

[5] http://www.austlii.edu.au/au/other/dfat/treaties/1958/24.html - amended by http://www.austlii.edu.au/au/other/dfat/treaties/1968/17.html - amended by http://www.austlii.edu.au/au/other/dfat/treaties/1975/9.html:

Arrangement on unvulcanized compounded rubber of 4005 implemented through CUSTOMS TARIFF AMENDMENT BILL (NO. 2) 1994 - Bilateral trade concessions are accorded under the Malaysia-Australia Trade Agreement. In this amendment a Free rate of duty is provided for unvulcanised compounded rubber of Malaysian origin of heading 4005 http://www5.austlii.edu.au/au/legis/cth/bill_em/ctab21994295/memo_0.html

[6] http://www.austlii.edu.au/au/other/dfat/treaties/1977/7.html - amended by http://www.austlii.edu.au/au/other/dfat/treaties/1982/6.html - replaced by http://www.austlii.edu.au/au/other/dfat/treaties/1991/37.html

[7] http://www.austlii.edu.au/au/other/dfat/treaties/1982/31.html

2 Legislation

2.1 General outline of legislation

2.1.1 The following documents contain the requirements for claiming preferential rates of customs duty under the relevant arrangements covered by this Guide:

- Combined Australian Customs Tariff Nomenclature and Statistical Classification, commonly known as the 'Working Tariff'
- *Customs Act 1901* (Customs Act)
  - Section 4 – Definition of unmanufactured raw products
  - Division 1A of Part VIII – Rules of origin of preference claim goods
- *Customs Tariff Act 1995* (the Customs Tariff)
  - Section 18B - Temporary decrease in duties for goods from Ukraine
  - Schedule 3
- Customs Regulation 2015 (the Customs Regulation)
  - Section 96 – Costs of a factory—labour
  - Section 97 – Costs of a factory—overheads
  - Division 5 of Part 12 – Refunds, rebates and remissions of duty
  - Schedule 5 – Costs of a factory—overheads
  - Schedule 6 – Refunds, rebates and remissions of duty
- Customs Tariff Regulations 2004 (the Customs Tariff Regulations)

  Schedule 1—Classes of countries and places for which preferential rates apply
- *Norfolk Island Act 1979* – In particular, section 64.
- *Christmas Island Act 1958* – In particular, section 21.
- *Cocos (Keeling) Islands Act 1955* – In particular, section 18A

Note: The Customs Tariff Act and the Customs Tariff Regulations define a number of countries and places as a Least Developed Country, a Developed Country or a Forum Island Country. These are aggregated alongside a number of other countries in the definitions of the Customs Tariff Act as a "Preference country".

Subsequently, the legislation may only refer to Preference country or Developing country, which may include places. This Guide will refer to countries and places where practical.

3 Definitions

3.1 Section 4 of the Customs Act

3.1.1 This part of the Guide sets out the definitions in section 4 of the Customs Act that are relevant in determining whether goods are preference claim goods.

3.1.2 **Customs Tariff** means an Act imposing duties of customs, and includes such an Act that has not come into operation

3.1.3 **unmanufactured raw products** means natural or primary products that have not been subjected to an industrial process, other than an ordinary process of primary production, and, without limiting the generality of the foregoing, includes:

(a) animals;

(b) bones, hides, skins and other parts of animals obtained by killing, including such hides and skins that have been sun-dried;

(c) greasy wool;

(d) plants and parts of plants, including raw cotton, bark, fruit, nuts, grain, seeds in their natural state and unwrought logs;

(e) minerals in their natural state and ores; and

(f) crude petroleum.

3.2 Division 1A of Part VIII of the Customs Act

3.2.1 This part of the Guide sets out the definitions in section 153B of the Customs Act that are relevant in determining whether goods are preference claim goods.

3.2.2 **allowable factory cost**, in relation to preference claim goods and to the factory at which the last process of their manufacture was performed, means the sum of:

(a) the allowable expenditure of the factory on materials in respect of the goods worked out under section 153D; and

(b) the allowable expenditure of the factory on labour in respect of the goods worked out under section 153F; and

(c) the allowable expenditure of the factory on overheads in respect of the goods worked out under section 153G.

3.2.3 **Developing Country** has the same meaning as in the *Customs Tariff Act 1995*. See 3.3.8

3.2.4 **factory**, in relation to preference claim goods, means:

(a) if the goods are claimed to be the manufacture of a particular preference country—the place in that country where the last process in the manufacture of the goods was performed; and

(b) if the goods are claimed to be the manufacture of a preference country that is a Developing Country but not a particular Developing Country—the place in Papua New Guinea or in a Forum Island Country where the last process in the manufacture of the goods was performed.

3.2.5 **Forum Island Country** has the same meaning as in the *Customs Tariff Act 1995*. See 3.3.10

3.2.6 **inner container** includes any container into which preference claim goods are packed, other than a shipping or airline container, pallet or other similar article.

3.2.7 **Least Developed Country** has the same meaning as in the *Customs Tariff Act 1995*. See 3.3.13

3.2.8 **manufacturer**, in relation to preference claim goods, means the person undertaking the last process in their manufacture.

3.2.9 **materials**, in relation to preference claim goods, means:

(a) if the goods are unmanufactured raw products—those products; and

(b) if the goods are manufactured goods—all matter or substances used or consumed in the manufacture of the goods (other than that matter or those substances that are treated as overheads); and

(c) in either case—the inner containers in which the goods are packed.

3.2.10 **person** includes partnerships and unincorporated associations.

3.2.11 **preference claim goods** means goods that are claimed, when they are entered for home consumption, to be the produce or manufacture of a preference country.

3.2.12 **preference country** has the same meaning as in the *Customs Tariff Act 1995*. See 3.3.14

3.2.13 **qualifying area**, in relation to particular preference claim goods, means:

(b) if the goods are claimed to be the manufacture of Canada—Canada and Australia; or

(c) if the goods are claimed to be the manufacture of Papua New Guinea—Papua New Guinea, the Forum Island Countries, New Zealand and Australia; or

(d) if the goods are claimed to be the manufacture of a Forum Island Country—the Forum Island Countries, Papua New Guinea, New Zealand and Australia; or

(e) if the goods are claimed to be the manufacture of a particular Developing Country—the Developing Country, Papua New Guinea, the Forum Island Countries, the other Developing Countries and Australia; or

(f) if the goods are claimed to be the manufacture of a Developing Country but not a particular Developing Country—Papua New Guinea, the Forum Island Countries, the Developing Countries and Australia; or

(fa) if goods are claimed to be the manufacture of a Least Developed Country—the Developing Countries, the Forum Island Countries and Australia; or

(g) if the goods are claimed to be the manufacture of a country that is not a preference country—that country and Australia.

3.2.14 **total factory cost**, in relation to preference claim goods, means the sum of:

(a) the total expenditure of the factory on materials in respect of the goods, worked out under section 153C; and

(b) the allowable expenditure of the factory on labour in respect of the goods, worked out under section 153F; and

(c) the allowable expenditure of the factory on overheads in respect of the goods, worked out under section 153G.

3.3 The Customs Tariff Act 1995

3.3.1 This part of the Guide sets out the definitions in section 3 of the Customs Tariff Act that are relevant in determining the preferential rates of customs duty applicable to preference claim goods:

3.3.2 **abbreviation**, in relation to a country or place specified in Schedule 1 to the regulations, means the abbreviation specified in that Schedule opposite to the name of that country or place.

3.3.3 **amount of duty** includes no duty.

3.3.4 **Chapter** means a Chapter of a Section in Schedule 3.

3.3.5 **column** means a column of a Schedule.

3.3.6 **Comptroller-General of Customs** means the person who is the Comptroller-General of Customs in accordance with subsection 11(3) or 14(2) of the *Australian Border Force Act 2015*.

3.3.7 **Convention** means the International Convention on the Harmonized Commodity Description and Coding System done at Brussels on 14 June 1983.

3.3.8 **Developing Country** means:

(a) a country that is a Developing Country under paragraph 12(d); or

(b) a place that is treated as a Developing Country under paragraph 12(e); or

3.3.9 **duty** means a duty of Customs imposed by section 15.

3.3.10 **Forum Island Country** means a country that is a Forum Island Country under paragraph 12(a).

3.3.11 **general rate** means a rate of duty other than a rate that applies in relation to a Preference Country.

3.3.12 **heading** means a heading in Schedule 3.

3.3.13 **Least Developed Country** means a country or place that is, or is treated as, a Least Developed Country under paragraph 12(b) or 12(c).

3.3.14 **Preference Country** means:

(b) Papua New Guinea; or

(c) a Forum Island Country; or

(d) a Least Developed Country; or

(e) a Developing Country; or

(f) Canada; or

(g) Singapore.

3.3.15 **subheading** means a subheading of a heading.

3.3.16 **value** means the customs value of the goods worked out or determined in accordance with Division 2 of Part VIII of the *Customs Act 1901*.

3.4 The Customs Regulation

3.4.1 This part of the Guide sets out the definitions in sections 96 and 97 of the Customs Regulation that are relevant in determining whether goods are originating goods. Schedule 5 of the Customs Regulation—Costs of a factory—overheads is duplicated in Annex 3 – Costs of a factory—overheads

3.4.2 **Costs of a factory—labour** For subsection 153F(1) of the Act, the cost of each of the following, to the extent that the cost relates to labour, is prescribed:

(a) wages and employee benefits;

(b) supervision and training;

(c) management of the process of manufacture;

(d) receipt and storage of materials;

(e) quality control;

(f) packing of goods into inner containers;

(g) handling and storage of goods within the factory.

3.4.3 **Costs of a factory—overheads** For subsection 153G(1) of the Act, clause 1 of Schedule 5 prescribes costs.

4 Principles of Rules of Origin of preference claim goods

4.1 Goods covered by preferential arrangements

4.1.1 Section 13 of the Customs Tariff Act sets out that goods are the produce or manufacture of a country or place only if they are, under Division 1A of Part VIII of the Customs Act 1901, the produce or manufacture of that country or place for the purposes of that Act.

4.1.2 Section 14 of the Customs Tariff Act sets out the application of rates of duty in relation to countries and places:

Section 14 of the Customs Tariff Act: Application of rates of duty in relation to countries and places

(1) Subject to subsection (2):

(a) a rate of duty set out in a rate column applies in relation to New Zealand if "NZ" is specified in relation to the rate; and

(b) a rate of duty so set out applies in relation to Papua New Guinea if "PG" is specified in relation to the rate; and

(c) a rate of duty so set out applies in relation to every Forum Island Country specified in Part 1 of Schedule 1 to the regulations if "FI" is specified in relation to the rate; and

(d) a rate of duty so set out applies in relation to every Least Developed Country specified in Part 2 of Schedule 1 to the regulations if "LDC" is specified in relation to the rate; and

(e) a rate of duty so set out applies in relation to every Developing Country specified in Part 3 of Schedule 1 to the regulations if "DC" is specified in relation to the rate; and

(f) a rate of duty so set out applies in relation to every Developing Country specified in Part 4 of Schedule 1 to the regulations (other than a Developing Country or place specified in paragraph (g)) if "DCS" is specified in relation to the rate; and

(g) a rate of duty so set out applies in relation to a Developing Country or place specified in Part 5 of Schedule 1 to the regulations if "DCT" is specified in relation to the rate; and

(h) a rate of duty so set out applies in relation to a particular Forum Island Country, Least Developed Country or Developing Country if its name, or the abbreviation for it, is specified in relation to the rate; and

(i) a rate of duty so set out applies in relation to Canada if "CA" is specified in relation to the rate; and

(k) a rate of duty set out in a rate column in Schedule 4 applies in relation to the United States of America if "US" is specified in relation to the rate; and

(l) a rate of duty set out in a rate column in Schedule 4 applies in relation to Japan if "JP" is specified in relation to the rate.

(2) A rate of duty set out in a rate column in relation to which "FI", "LDC", "DC", "DCS" or "DCT" is specified does not apply in relation to a Forum Island Country, a Least Developed Country or a Developing Country if that country or the abbreviation for it appears in a rate column followed by a rate of duty.

4.2 Geographical area covered by preferential arrangements

4.2.1 Section 12 of the Customs Tariff Act sets out classes of countries and places in relation to which special rates of duty apply, while under Section 18B of the Customs Tariff Act Ukraine is taken to be a Developing Country for the purpose of the rates set out in paragraph 18B(1) and 18B(2) of the Customs Tariff Act.

4.2.2 Under section 13 a good is the produce or manufacture of a country or place only if they are, under Division 1A of Part VIII of the Customs Act 1901, the produce or manufacture of that country or place for the purposes of that Act.

Geographic areas covered by preferential arrangements – Customs Tariff Act

Section 12 of the Customs Tariff Act: Classes of countries and places in relation to which special rates apply

For the purposes of this Act:

(a) a country specified in column 1 of the table in Part 1 of Schedule 1 to the regulations is a Forum Island Country; and

(b) a country specified in column 1 of the table in Division 1 of Part 2 of Schedule 1 to the regulations is a Least Developed Country; and

(c) a country or place specified in column 1 of the table in Division 2 of Part 2 of Schedule 1 to the regulations is to be treated as a Least Developed Country; and

(d) a country specified in column 1 of the table in Division 1 of Part 3, 4 or 5 of Schedule 1 to the regulations is a Developing Country; and

(e) a place specified in column 1 of the table in Division 2 of Part 3, 4 or 5 of Schedule 1 to the regulations is to be treated as a Developing Country

13 When goods are the produce or manufacture of a particular country or place

For the purposes of this Act, goods are the produce or manufacture of a country or place only if they are, under Division 1A of Part VIII of the *Customs Act 1901*, the produce or manufacture of that country or place for the purposes of that Act.

Section 18B of the Customs Tariff Act: Temporary decrease in duties for goods from Ukraine

(4) For the purposes of section 13, as it applies in relation to paragraph (1)(a) of this section, Ukraine is taken to be a Developing Country within the meaning of this Act.

4.2.3 However, section 153B of the Customs Act defines the **qualifying area**, see also paragraph 3.2.13, for the purpose of determining whether a good is the manufacture of a country for the purpose of meeting the P50 (and P25 or P75) rule of origin.

4.2.4 The Customs Tariff Regulations may specify that only certain countries or places are eligible for a particular preferential rate of customs duty. Under Division 1A of the Customs Act, goods that are the manufacture of a preference country may incorporate material from a broader range of countries and places for a number of arrangements as set out in their qualifying area under the Customs Act.

4.2.5 The location, however, where the last process in the manufacture of the goods was performed must be a country or place set out in the relevant Part of the Schedule in the Customs Tariff Regulations, Canada or Ukraine as the case may be to be eligible for a particular preferential rate of customs duty. See Section 7.2 for information about the Last Process of Manufacture.

4.2.6 The following table identifies the overlap in qualifying areas, particularly between Australia, New Zealand, Papua New Guinea and FICs as well as the overlap between countries that are eligible for LDC, DC, DCS, DCT and DCU rates of duty. An exhaustive list of countries and

places eligible for LDC, DC, DCS, DCT and DCU rates of duty can be found in Annex 1 – Qualifying Area.

4.2.7 All FICs are also either included in the list of countries and places eligible for LDC or DC preferential rates of customs duty.

4.2.8 Goods eligible for PATCRA II and SPARTECA preferences can incorporate New Zealand input, however the last process in the manufacture of the goods cannot be New Zealand.

4.2.9 For Ukraine, input from LDC, DC, DCS and DCT countries and places can be incorporated in goods eligible for DCU preferences and the last process of manufacture must be in Ukraine, however, Ukraine is not in the qualifying area for LDC, DC, DCS and DCT. This is covered in ACN 2022/32 - Temporary duty reduction for goods from Ukraine, and ACN 2023/29 – Extension of the temporary duty reduction for goods from Ukraine.

Qualifying Areas

Countries and Places	Abbreviation	CANATA	Christmas Island	Cocos (Keeling) Island	Norfolk Island	ANZCERTA	MATA	DCU	PATCRA II	SPARTECA	LDC	DC	DCS	DCT
Australia	AU	I	I	I	I	I	I	I	I	I	I	I	I	I
Canada	CA	✓	✕	✕	✕	✕	✕	✕	✕	✕	✕	✕	✕	✕
Christmas Island	CX	✕	✓	✕	✕	✕	✕	✕	✕	✕	✕	✕	✕	✕
Cocos (Keeling) Island	CC	✕	✕	✓	✕	✕	✕	✕	✕	✕	✕	✕	✕	✕
Norfolk Island	NF	✕	✕	✕	✓	✕	✕	✕	✕	✕	✕	✕	✕	✕
New Zealand	NZ	✕	✕	✕	✕	✓	✕	✕	I	I	✕	✕	✕	✕
Malaysia	MY	✕	✕	✕	✕	✕	✓	I	✕	✕	¼	I	✓	I
Ukraine	UA	✕	✕	✕	✕	✕	✕	✓	✕	✕	✕	✕	✕	✕
Papua New Guinea	PG	✕	✕	✕	✕	✕	I	I	✓	✓	¼	✓	I	I
FICs that are also LDC		✕	✕	✕	✕	✕	I	I	I	✓	✓	✓	I	I
FICs that are not LDC		✕	✕	✕	✕	✕	I	I	I	✓	¼	✓	I	I
Least Developed Countries		✕	✕	✕	✕	✕	I	I	✕	✕	✓	✓	I	I
Developing Countries		✕	✕	✕	✕	✕	I	I	✕	✕	¼	✓	I	I
Developing Countries Status		✕	✕	✕	✕	✕	I	I	✕	✕	¼	I	✓	I
Developing Countries, category T		✕	✕	✕	✕	✕	I	I	✕	✕	¼	I	I	✓

Key to Table	
✓	Can be included in this arrangement if the last place of manufacture was this country or place
✕	Cannot include URP or cost incurred on material in that country or place in the qualifying area
I	URP and costs incurred on material can be included from this country or place but the last process in their manufacture must be performed in a country or place with a ✓.
¼	URP and costs incurred on material can be included from this country or place but the last process in their manufacture was performed in that country or place with a ✓. Further, in accordance with Paragraph 153D(2A) of the *Customs Act 1901*, where the allowable expenditure of the factory on those materials would exceed 25% of the total factory cost of the goods the allowable expenditure on those materials is taken to be 25% of the total factory cost of the goods.

4.3 Rules of origin for goods that are the produce or manufacture of a country or place

4.3.1 Rules of Origin (ROO) are essential for determining whether imported goods are eligible for claiming the preferential rates of customs duty available under the various arrangements.

4.3.2 ROO define the methods for ascertaining whether a good has undergone sufficient work or processing, or substantial transformation, in its production or manufacture, to obtain the preferential rates of customs duty. ROO preclude goods that are the produce or manufacture of other countries and places from obtaining benefit by merely transiting through Australia or eligible countries and places.

4.3.3 Although free trade agreements tend to refer to the underlying conditions for preferential rates of customs duty as the 'Rules of Origin', this expression is not specifically found in the legislation beyond the heading of the Division. Section 153A of the Customs Act identifies that the purpose of Division 1A of Part VIII of the Customs Act 1901 is to determine whether goods are the **produce** or **manufacture** of a particular country other than Australia or of a Developing Country but not of a particular Developing Country.

Section 153A of the Customs Act: Purpose of Division

(1) The purpose of this Division is to set out rules for determining whether goods are the produce or manufacture:

(a) of a particular country other than Australia; or

(b) of a Developing Country but not of a particular Developing Country.

(2) Goods are not the produce or manufacture of a country other than Australia unless, under the rules as so set out, they are its produce or manufacture.

4.4 Determining whether goods are the produce or manufacture of a country or place

4.4.1 Goods that satisfy the requirements of Division 1A of Part VIII of the Customs Act are eligible for preferential rates of customs duty set out in the Customs Tariff Act. While there are a number of rules, they can be grouped into two classes as those that apply to:

- Goods that are the **produce** of a country or place
  - Unmanufactured Raw Products (URP) (Defined in paragraph 3.1.3 and Section 5)
    - Applies to all arrangements covered by this guide
- Goods that are the **manufacture** of a country or place with two main sets of rules
  - Partly Manufactured Goods (Section 6)
    - having regard to their qualifying area, their allowable factory cost is at least 50% of their total factory cost which applies to all arrangements covered by this guide except CANATA
    - having regard to their qualifying area, their allowable factory cost is at least 75% of their total factory cost applying only to CANATA
    - having regard to their qualifying area, their allowable factory cost is at least 25% of their total factory cost applying to CANATA and External Territories where a TCO is in place for the final goods – as TCOs provide a free rate of customs duty, this category provides no additional benefit
  - Wholly Manufactured Goods (Section 8)
    - Only applies to CANATA, External Territories and PATCRA II

4.4.2 The diagram on the following page can assist in identifying which particular provisions might apply to a particular good.

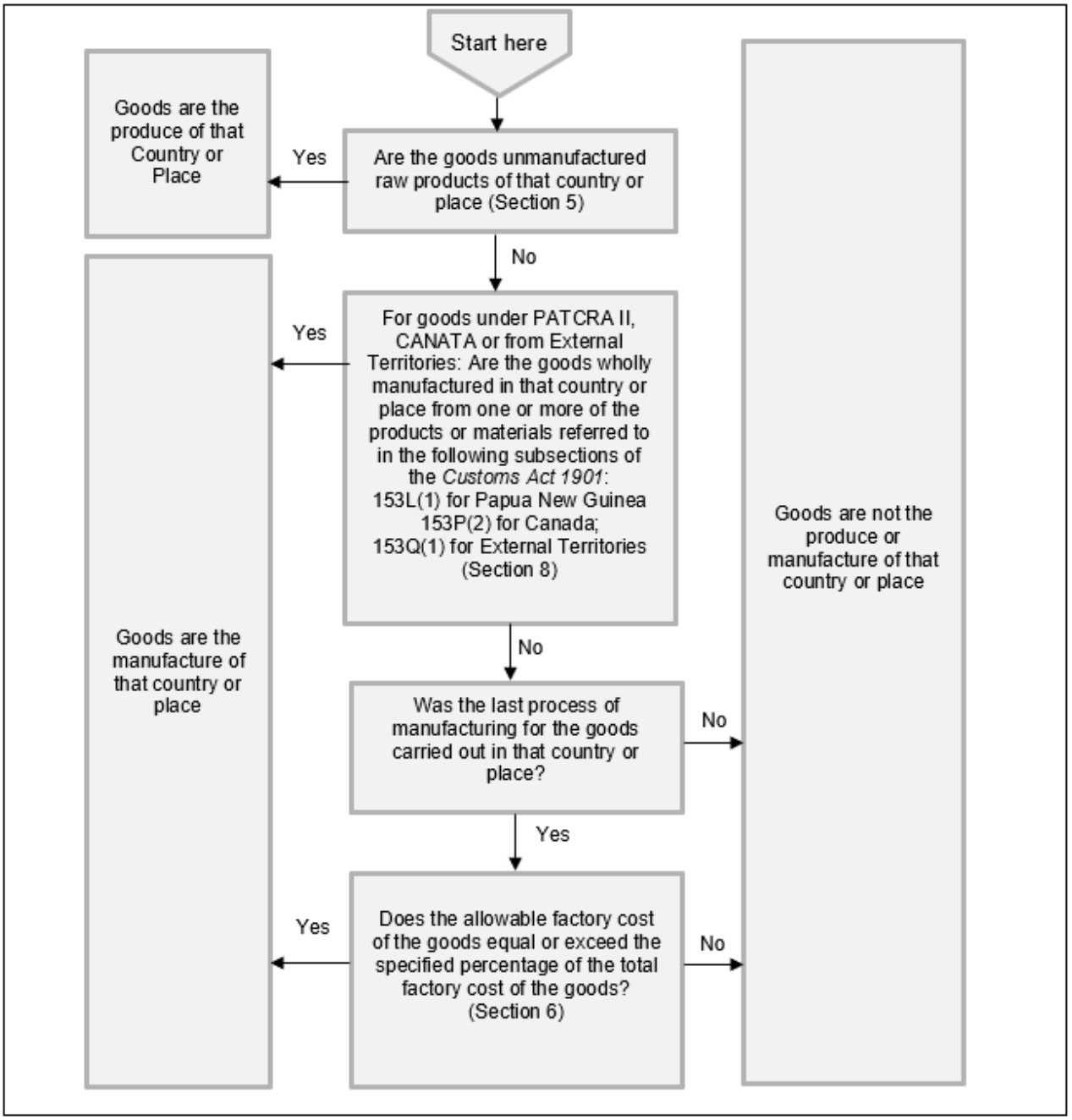
4.4.3 While most rules are applied in a consistent manner, there are some derogations. In particular:

- Preference claim goods under CANATA must meet the direct shipment requirements in 153P(1) of the Customs Act. See Section 7.3.
- Calculations of allowable costs for PATCRA II and SPARTECA are slightly different to other arrangements set out in section 153D(3) of the Customs Act.
- For goods claiming LDC preferences, a maximum of 25% of allowable factory costs on materials is allowed from the Developing Countries as set out in 153D(2A) of the Customs Act

4.4.4 The importer claiming preferential rates of custom duty must satisfy the documentary requirements set out in Section 9.

4.4.5 The flowchart on the following page may assist in identifying if a good is produced or manufactured in a country or place.

Flow chart of whether goods are Produced or Manufactured in a country or place



5 Unmanufactured Raw Products

5.1 Overview of Unmanufactured Raw Products

5.1.1 Section 4 of the Customs Act defines Unmanufactured Raw Products (URP) for the purpose of determining whether goods are the **produce** of a particular country other than Australia are a preference claim goods.

All arrangements covered by this guide allow for use of the URP ROO.

Section 4 of the Customs Act: unmanufactured raw products

unmanufactured raw products means natural or primary products that have not been subjected to an industrial process, other than an ordinary process of primary production, and, without limiting the generality of the foregoing, includes:

(a) animals;

(b) bones, hides, skins and other parts of animals obtained by killing, including such hides and skins that have been sun-dried;

(c) greasy wool;

(d) plants and parts of plants, including raw cotton, bark, fruit, nuts, grain, seeds in their natural state and unwrought logs;

(e) minerals in their natural state and ores; and

(f) crude petroleum.

5.1.2 While this list is not limiting, goods that are subject to any form of industrial process are excluded. Where processing occurs, these goods should be assessed against the requirements of Partly Manufactured Goods in Section 6 or, if applicable, Wholly Manufactured Goods in Section 8.

5.1.3 Goods claimed to be covered by this provision must not have been subjected to any process of manufacture (however minor) which would remove them from their raw state. For instance, in the case of peanuts, the process of shelling would place such goods outside this provision.

5.1.4 Where the process is limited to cleaning, grading and the like to maintain the state of the product for international trade, such products will continue to be regarded as unmanufactured raw products.

5.1.5 Section 153H of the Customs Act sets out goods that meet this requirement are the produce of that country or place. Importers claiming preference for goods meeting this requirement should use Preference Rule Code URP in the ICS.

Section 153H of the Customs Act: unmanufactured goods

Goods claimed to be the produce of a country are the produce of that country if they are its unmanufactured raw products.

5.2 Waste and Scrap

5.2.1 For the purposes of determining whether a Partially Manufactured good is a preference claim good, subsection 153D(7) of the Customs Act provides that certain waste and scrap may be considered an unmanufactured raw product.

5.2.2 However, these goods are not unmanufactured goods for the purpose of section 153H of the Customs Act and are not entitled to preferential rates of customs duty in their own right.

5.2.3 Where material is imported into a country from outside the qualifying area, and that material is subject to a process of manufacture that results in waste or scrap that is fit only for the recovery of the same original raw material and is re-processed in the preference country to yield the same, the cost of the recovered raw material is to be treated as an unmanufactured raw product and as if it were materials of the country.

5.2.4 This provision applies only to materials that may be re-processed into the same original raw material. Plastic or metal are examples of these materials but not off-cuts of leather.

5.2.5 Section 153S of the Customs Act explicitly forbids double counting. See Section 7.4

5.2.6 Scrap or waste generated as an ordinary consequence of manufacture is usually reflected in standard usage specifications, which govern costs of material charged to production. If, for example, three lineal metres of material from a roll are required for a garment but only 2.7 metres will actually be reflected in the garment, production will, nevertheless, be charged with 3 metres of material.

5.2.7 That is, they are not of themselves an URP but can be included in determining allowable expenditure of factory materials in Section 6.

Paragraph 153D(7) of the Customs Act: Waste and Scrap

(7) If:

(a) materials are imported into a country; and

(b) the subjecting of those materials to a process of manufacture gives rise to waste or scrap; and

(c) that waste or scrap is fit only for the recovery of raw materials;

any raw materials that are so recovered in that country are to be treated, for the purposes of this section, as if they were unmanufactured raw products of that country

6 Partly Manufactured Goods

6.1 Overview of Partly Manufactured Goods

6.1.1 The primary criterion used to ascertain the origin of imported goods is that allowable factory costs are a minimum percentage of total factory cost.

6.1.2 This criterion is dealt with in this section under the general heading of factory or works cost. In general, 'allowable factory cost' as a percentage of 'total factory cost' as defined in section 153B of the Customs Act provides the first part of the test in satisfying this criterion.

6.1.3 The second criterion is that the last process of manufacture occurred the preference country or place.

6.1.4 Division 1A of Part VIII of the Customs Act sets out the minimum percentages that are to be met for each of the arrangements as follows:

- **Canada**: under subsections 153P(4) of the Customs Act - 25% or 75%, depending on whether the goods are of a kind commercially manufactured in Australia.
  - Practically only 75% applies.
- **Papua New Guinea & Forum Island Countries**: subsection 153L(4) of the Customs Act - 50%; and under subsection 153LA(1) - in special circumstances the Comptroller-General of Customs may substitute 48% for 50%
- **Particular Developing Country (including goods under MATA from Malaysia)**: under section 153M of the Customs Act - 50%
- **Other Developing Country**: under section 153N of the Customs Act - 50%
- **Least Developed Country**: under section 153NA of the Customs Act - 50%
- **External Territories**: under subsection 153Q(4) of the Customs Act - 25% or 50%, depending on whether the goods are of a kind commercially manufactured in Australia
  - Practically only 50% applies.

6.2 The Concept of Factory Cost

6.2.1 Section 153B of the Customs Act defines 'allowable factory cost' and 'total factory cost' in terms of materials, labour and overheads. Sections 153D and 153E of the Customs Act establish rules for calculating the total expenditure and allowable expenditure respectively for materials received at the factory.

6.2.2 Sections 153F and 153G of the Customs Act set out the allowable labour and overhead costs respectively. Regulations can prescribe costs that are to be taken into account and allowable expenditure is limited to prescribed costs.

6.2.3 To determine whether goods are Partly Manufactured Goods, the calculation is:

$$Percentage\ of\ total\ factory\ cost = \frac{Allowable\ Factory\ Cost}{Total\ Factory\ Cost}$$

Where

allowable factory cost, in relation to preference claim goods and to the factory at which the last process of their manufacture was performed, means the sum of:

(a) the allowable expenditure of the factory on materials in respect of the goods worked out under section 153D of the Customs Act; and

(b) the allowable expenditure of the factory on labour in respect of the goods worked out under section 153F of the Customs Act; and

(c) the allowable expenditure of the factory on overheads in respect of the goods worked out under section 153G of the Customs Act..

total factory cost, in relation to preference claim goods, means the sum of:

(a) the total expenditure of the factory on materials in respect of the goods, worked out under section 153C of the Customs Act; and

(b) the allowable expenditure of the factory on labour in respect of the goods, worked out under section 153F of the Customs Act; and

(c) the allowable expenditure of the factory on overheads in respect of the goods, worked out under section 153G of the Customs Act.

This means that the formula can also be written as:

$$Percentage\ of\ total\ factory\ cost = \frac{AE\ Materials + AE\ Labour + AE\ Overheads}{TE\ Materials + AE\ Labour + AE\ Overheads}$$

Where AE means '*allowable expenditure of the factory on*' and TE means '*total expenditure of the factory on*'.

6.2.4 Whereas total factory cost includes both allowable and non-allowable expenditure of materials, allowable factory cost only includes allowable expenditure on materials. Labour and overheads are limited to allowable expenditure in both cases.

6.2.5 It is important to recognise that as the calculation of materials, labour and overheads related to the production of the goods does not necessarily include all factors in determining the value of a good, total factory cost will not necessarily be the same as the customs value of the good.

6.2.6 Examination of allowable costs of the factory must now turn to each element:

- Materials – Subsections 6.3 through 6.5
- Factory labour – Subsection 6.6
- Factory overheads – Subsection 6.7

6.3 Materials

6.3.1 Materials are defined in section 153B of the Customs Act as follows:

materials, in relation to preference claim goods, means:

(a) if the goods are unmanufactured raw products—those products; and

(b) if the goods are manufactured goods—all matter or substances used or consumed in the manufacture of the goods (other than that matter or those substances that are treated as overheads); and

(c) in either case—the inner containers in which the goods are packed.

6.4 Total Expenditure of factory on materials

6.4.1 The calculation of the cost of materials received at a factory in accordance with section 153E of the Customs Act has implications for both total factory cost and allowable factory cost.

6.4.2 Section 153C of the Customs Act states that the total expenditure of the factory on materials is calculated by reference to section 153E.

Sections 153C and 153E of the Customs Act

Section 153C of the Customs Act: Total expenditure of factory on materials

The total expenditure of a factory on materials in respect of preference claim goods is the cost to the manufacturer of the materials in the form they are received at the factory, worked out under section 153E.

Section 153E of the Customs Act: Calculation of the cost of materials received at a factory

Purpose of section

(1) This section sets out, for the purposes of sections 153C and 153D, the rules for working out the cost of materials in the form they are received at a factory.

General rule

(2) Subject to this section, the cost of materials received at a factory is the amount paid or payable by the manufacturer in respect of the materials in the form they are so received.

Customs and excise duties and certain other taxes to be disregarded

(3) Any part of the cost of materials in the form they are received at a factory that represents:

(a) a customs or excise duty; or

(b) a tax in the nature of a sales tax, a goods and services tax, an anti-dumping duty or a countervailing duty;

imposed on the materials by a country in the qualifying area is to be disregarded.

Comptroller-General of Customs may require artificial elements of cost to be disregarded

(4) If the Comptroller-General of Customs is satisfied that preference claim goods consist partly of materials added or attached solely for the purpose of artificially raising the allowable factory cost of the goods, the Comptroller-General of Customs may, by written notice given to the importer of the preference claim goods, require the part of that cost that is, in the opinion of the Comptroller-General of Customs, reasonably attributable to those materials, to be disregarded.

Comptroller-General of Customs may require cost over normal market value to be disregarded

(5) If the Comptroller-General of Customs is satisfied that the cost to the manufacturer of materials in the form they are received at a factory exceeds, by an amount determined by the Comptroller-General of Customs, the normal market value of the materials, the Comptroller-General

Sections 153C and 153E of the Customs Act

of Customs may, by written notice given to the importer of preference claim goods in which those materials are incorporated, require the excess to be disregarded.

Comptroller-General of Customs may determine cost of certain materials received at a factory

(6) If the Comptroller-General of Customs is satisfied:

(a) that materials in the form they are received at a factory are so received:

(i) free of charge; or

(ii) at a cost that is less than the normal market value of the materials; and

(b) that the receipt of the materials free of charge or at a reduced cost has been arranged, directly or indirectly, by a person who will be the importer of preference claim goods in which those materials are incorporated;

the Comptroller-General of Customs may, by written notice given to the importer, require that an amount determined by the Comptroller-General of Customs to be the difference between the cost, if any, paid by the manufacturer and the normal market value be treated as the amount, or a part of the amount, paid by the manufacturer in respect of the materials.

Effect of determination

(7) If the Comptroller-General of Customs gives a notice to the importer of preference claim goods under subsection (4), (5) or (6) in respect of materials incorporated in those goods, the cost of the materials to the manufacturer must be determined having regard to the terms of that notice.

6.4.3 Subsection 153E(2) provides that the cost of materials is the amount paid or payable by the manufacturer in respect of the materials in the form they are so received. This cost includes all costs of acquisition into the manufacturer's factory. The section place the emphasis on the form in which the materials are received into the factory. This is intended to make clear that in determining the origin and cost of particular materials to the manufacturer, it is the origin and cost of materials in that particular form that is important rather than what might be the raw ingredients of the material received into the factory.

6.4.4 The cost of materials will include such items as overseas and internal freight, insurance, port and clearance charges and any financial accommodation that is a part of the CIF, FOB or other price paid. The use of the words 'in respect of' is intended to embrace all acquisition costs including the price paid or payable.

6.4.5 Where materials are imported, the relevant price paid will be the actual amount paid in the currency of the country. The rate of exchange, therefore, will be the actual rate applicable to the transaction, even if it is a forward rate. Alternatively, average rates of exchange based on actual rates over a period may be used. Labour costs incurred in the procurement of materials are not to be included as a cost of materials. Such costs are to be included as a labour cost of management of the process of manufacture. See Subsection 6.6

6.4.6 Costs should be actual costs in all instances. Standard costs should not be used except where they are an accurate reflection of a manufacturer's operations.

6.4.7 Subsection 153E(3) specifies particular charges that do not form part of the cost of materials. These are customs or excise duties or a tax in the nature of a sales tax, a goods and services tax, an anti-dumping duty or a countervailing duty.

6.4.8 As it is common for such liabilities of an enterprise to be accumulated separately from the company's ordinary accounts, it is unlikely that these taxes will need to be removed from the

cost shown in the accounts. Nevertheless, given the variability of company accounting systems, the question must always be addressed and resolved.

6.4.9 Where certain materials have been added to goods merely to raise the allowable factory cost of those goods, subsection 153E(4) enables the Comptroller-General of Customs to require the costs associated with those materials to be disregarded.

6.4.10 Where the cost of materials to the manufacturer is excessive, subsection 153E(5) enables the Comptroller-General of Customs to require the excess to be disregarded. The determination of the excess is based on the normal market value of the materials. The normal market value will generally be ascertained by recourse to other sellers of like materials in the relevant market. Where materials are, or would be, obtained from overseas sources, official rates of exchange may be applied to ascertain the price that would have been paid or payable in that overseas market.

6.4.11 Where materials are provided to an overseas manufacturer free of charge or at a reduced cost by the eventual importer of the finished products, subsection 153E(6) allows the Comptroller-General of Customs to determine an amount to be treated as the amount paid by the overseas manufacturer for those materials. The amount determined by the Comptroller-General of Customs is based on the difference between the normal market value and the cost incurred. This provision is aimed at non-arms length dealing between a manufacturer and an Australian importer as well as Cut, Make and Trim (CMT) contracts between an importer and a manufacturer in a preference country. The normal market value will be interpreted in a similar manner to subsection 153E(5).

6.4.12 Examples of the different notices prepared by the ABF under subsection 153E(4) are on page 78, subsection 153E(5) on page 79 and subsection 153E(6) on page 80.

6.5 Allowable Expenditure of factory on Materials

6.5.1 The calculation of the allowable expenditure of a factory on materials forms a subset of the value worked out in section 153E of the Customs Act.

6.5.2 Section 153D of the Customs Act sets out the general rule for calculating allowable expenditure on material and outlines the exceptions to the general rule. These expenditures are removed from the total expenditure of a factory on materials.to arrive at the value of the allowable expenditure of a factory on materials

Section 153D of the Customs Act: Allowable expenditure of factory on materials

General rule for determining allowable expenditure of a factory on materials

(1) Subject to the exceptions set out in this section, the allowable expenditure of a factory on materials in respect of preference claim goods is the cost to the manufacturer of those materials in the form they are received at the factory, worked out under section 153E.

Goods wholly or partly manufactured from materials imported from outside the qualifying area

(2) If:

(a) preference claim goods (other than goods wholly manufactured from unmanufactured raw products) are manufactured, in whole or in part, from particular materials; and

(b) those particular materials, in the form they are received at the factory, are imported from a country outside the qualifying area;

there is no allowable expenditure of the factory on those particular materials.

Goods claimed to be the manufacture of a Least Developed Country—special rule

(2A) If:

(a) goods claimed to be the manufacture of a Least Developed Country contain materials that, in the form they were received by the factory, were manufactured or produced in Developing Countries that are not Least Developed Countries; and

(b) the allowable expenditure of the factory on those materials in aggregate would, but for this subsection, exceed 25% of the total factory cost of the goods;

that allowable expenditure on those materials is taken to be 25% of the total factory cost of the goods.

Inland freight rule

(3) If:

(a) preference claim goods are manufactured, in whole or in part, from particular materials; and

(b) the preference country is Papua New Guinea or a Forum Island Country; and

(ba) the goods are claimed to be the manufacture of Papua New Guinea or a Forum Island Country; and

(c) those particular materials:

(i) were imported into the preference country from a country outside the qualifying area; or

(ii) incorporate other materials (contributing materials) imported into the preference country from a country outside the qualifying area;

then, despite subsection (2), the allowable expenditure of the factory on those particular materials includes:

(d) the cartage of those particular materials; or

Section 153D of the Customs Act: Allowable expenditure of factory on materials

(e) the part of the cost of those particular materials that is attributable to the cartage of those contributing materials;

from the port or airport in the preference country where those particular materials or contributing materials are first landed to the factory or to the plant where they are processed or first processed.

Goods wholly or partly manufactured from materials imported from outside the qualifying area—intervening manufacture

(4) If:

(a) preference claim goods are manufactured, in whole or in part, from particular materials; and

(b) other materials (contributing materials) have been incorporated in those particular materials; and

(c) those contributing materials were imported into a country in the qualifying area from a country outside the qualifying area; and

(d) after their importation and to achieve that incorporation, those contributing materials have been subjected to a process of manufacture, or a series of processes of manufacture, in the qualifying area without any intervening exportation to a country outside that area;

the allowable expenditure of the factory on those particular materials in the form they are received at the factory does not include any part of the cost of those particular materials to the manufacturer, worked out under section 153E, that is attributable to the cost of those contributing materials in the form in which the contributing materials were received by the person who subjected them to their first manufacturing process in the qualifying area after importation.

Intervening export of contributing materials

(5) If contributing materials within the meaning of subsection (4) are, after their importation into a country in the qualifying area and before their incorporation into the particular materials from which preference claim goods are manufactured, subsequently exported to a country outside that area, then, on their reimportation into a country in the qualifying area, subsection (2) or (4), as the case requires, applies as if that subsequent reimportation were the only importation of those materials.

(6A) If:

(a) goods claimed to be the manufacture of Papua New Guinea or a particular Forum Island Country are manufactured, in whole or in part, from particular materials; and

(b) if the qualifying area for that country consisted only of that country and Australia—under subsection (4), the allowable expenditure of the factory on those particular materials, after excluding any costs required to be excluded under subsection (4), would be at least 50% of the total expenditure of the factory on those particular materials worked out in accordance with section 153C;

then, despite subsection (4), the allowable expenditure of the factory on those particular materials is taken to be that total expenditure.

Waste or scrap

(7) If:

(a) materials are imported into a country; and

(b) the subjecting of those materials to a process of manufacture gives rise to waste or scrap; and

(c) that waste or scrap is fit only for the recovery of raw materials;

any raw materials that are so recovered in that country are to be treated, for the purposes of this section, as if they were unmanufactured raw products of that country.

Section 153D of the Customs Act: Allowable expenditure of factory on materials

Transhipment

(8) If, in the course of their exportation from one country to another country, materials are transhipped, that transhipment is to be disregarded for the purpose of determining, under this section, the country from which the materials were exported.

6.5.3 The qualifying area that applies to a preference country is an important consideration when calculating allowable expenditure on materials. The qualifying area may comprise a number of countries. Where materials used or consumed in the manufacture of goods within a preference country were themselves manufactured or produced in countries from within the qualifying area, those materials can be included in the allowable expenditure on materials for the goods, subject to the provisions contained in section 153D. The provisions of the relevant arrangement determine the countries that are included within a qualifying area. Some countries are included in the qualifying areas for more than one preferential trade arrangement. Australia is included in the qualifying area for all arrangements.

6.5.4 Where a country is covered by more than one preferential trade arrangement, goods manufactured in that country can be eligible for preference under one arrangement but not under another simply because the arrangements may have differing qualifying areas. For example, goods manufactured in Fiji from Chinese materials may not meet the SPARTECA 50 per cent allowable factory cost requirement under section 153L, because China is not within the SPARTECA qualifying area. The same goods may, however, meet the Developing Country 50 per cent allowable factory cost requirement under section 153N, due to the broader qualifying area under Developing Country arrangements.

6.5.5 Subsection 153D(2) provides for no allowable expenditure where particular materials are sourced from outside the qualifying area notwithstanding that such particular materials may have some qualifying area content incorporated in them, e.g. area content wool in woven fabric or gold in gold chain.

6.5.6 This section places the emphasis on the form in which the materials are received into the factory. This makes clear that in determining the origin and cost of particular materials to the manufacturer, it is the origin and cost of materials in that particular form that is important rather than what might be the raw ingredients of the material received into the factory. It also means that, where a material changed hands after importation, but did not change form, it is still considered to have been imported into the qualifying area rather than locally sourced.

6.5.7 Subsection 153D(2), by exclusion, provides that the cost to the manufacturer of unmanufactured raw products is allowable expenditure in total, regardless of the origin of those products, provided no other materials are used in the manufacture of the goods. Section 153E sets out how to ascertain the cost to the manufacturer of unmanufactured raw products.

6.5.8 The qualifying area for Least Developed Countries includes all Developing Countries. Subsection 153D(2A), however, limits the amount of expenditure on materials manufactured or produced in Developing Countries (that are not also Least Developed Countries) that can be included in the allowable expenditure on materials for the purpose of determining whether goods are the manufacture of a Least Developed Country. Where that expenditure exceeds 25% of the total factory cost of the goods, only 25% of the expenditure can be included as allowable.

6.5.9 Subsection 153D(3) provides for goods where the last process of manufacture is in Papua New Guinea or a Forum Island country, and the goods are claimed to be the manufacture of that country, the cost of freight incurred in transporting materials from the port or airport in the

country to the factory where the preference claim goods are made is to be regarded as allowable expenditure of factory on materials for those materials.

6.5.10 Subsection 153D(4) deals with materials of mixed origin. In summary, the circumstances are:

(i) Material A is brought into a preference country from outside the qualifying area; and

(ii) Material A is further manufactured into Material B in the qualifying area and sold to the 'manufacturer' as defined in section 153B.

6.5.11 The allowable expenditure in the sale to the manufacturer is the cost of the Material B calculated in accordance with section 153E, minus the cost of Material A to the first processor in the country. This is calculated in accordance with section 153E. This subsection also embraces contract work.

6.5.12 Notwithstanding the special treatment of unmanufactured raw materials used in the manufacture of wholly manufactured goods (see Section 3.1.3), there is no special treatment as to origin accorded to unmanufactured raw materials processed prior to manufacture in accordance with subsection 153D(4).

6.5.13 Subsection 153D(5) provides that if, after commencement of intervening manufacture in the qualifying area in accordance with subsection 153D(4), materials are exported outside the qualifying area and are subsequently re-imported, subsection 153D(2) or 153D(4), as appropriate, applies to the re-imported materials.

6.5.14 With respect to subsection 153D(6A), it is important to note that this subsection applies only to goods of Papua New Guinea or a Forum Island Country origin. All of the circumstances of subsection 153D(4) are picked up by the opening words of paragraph (b) of that subsection. Paragraph b then goes on to provide that if the qualifying area for that country consists only of that country and Australia and if the allowable expenditure is at least 50% of the total expenditure of the factory on those materials, the allowable expenditure is taken to be the total expenditure.

6.5.15 Subsection 153D(7) applies to the treatment of waste and scrap material and is covered under section 5.2 of this guide.

6.5.16 Subsection 153D(8) allows transhipment to be disregarded in determining origin of material for the purposes of this section. In administering this provision, any country or place of manufactured materials other than the country or place where the last process of manufacture occurred, will be disregarded.

6.5.17 Subsection 153D(8) operates only for 'the purposes of the section' and it does not derogate from the explicit direct shipment rules which apply to goods that are the produce or manufacture of Canada in section 153P.

6.5.18 An example of the operation of subsection 153D(8) might be where a chemical is manufactured in country A and is then shipped to country B. In country B it is stored in bulk tanks before being sold to Australia in smaller lots by a selling agent in country B. Note that if product from other countries is stored in the tanks, positive identification of the source of the material exported to the preference country for further manufacture may not be possible.

6.5.19 Where raw materials are written-down below cost to reflect current market value by a manufacturer and sold to another manufacturer for manufacture into preference claim goods, the written-down value (whether allowable or non-allowable) is to be taken into account.

6.6 Factory labour

6.6.1 Section 153F sets out basic requirements with respect to relevant (allowable) labour costs. Such costs are prescribed in the Customs Regulation in accordance with the power conferred by subsection 153F(2).

Section 153F of the Customs Act: Allowable expenditure of factory on labour

Calculation of allowable expenditure of factory on labour

(1) expenditure of a factory on labour in respect of preference claim goods means the sum of the part of each cost prescribed for the purposes of this subsection:

(a) that is incurred by the manufacturer of the goods; and

(b) that relates, directly or indirectly, and wholly or partly, to the manufacture of the goods; and

(c) that can reasonably be allocated to the manufacture of the goods.

Regulations may specify manner of working out cost

(2) Regulations prescribing a cost for the purposes of subsection (1) may also specify the manner of working out that cost.

6.6.2 Paragraph 153F(1)(a) imposes an 'incurred by the manufacturer' test. 'Manufacturer' is defined in section 153B to mean the person undertaking the last process in the manufacture of the goods. The significance of the word 'incurred' is that the cost or charge must be paid or payable by the manufacturer and not incurred independently by another party without recompense by the manufacturer. Further, it must be an actual cost and not a standard (budgeted), hypothetical, imputed or opportunity cost.

6.6.3 Paragraph 153F(1)(b) establishes the linkage between cost and manufacture. There must be a clear connection with production before any such expenditure can be considered allowable. In order for costs incurred by a production facility to be treated as direct costs of processing, those costs must be directly incurred in the production of the exported goods and not merely associated with the production facility as peripheral costs necessary to operate the facility.

6.6.4 Paragraph 153F(1)(c) implies two essential requirements:

- adequate records and information must be available; and
- a reasonable and appropriate method of allocation to production must be available.

6.6.5 Section 96 of the Customs Regulation define allowable expenditure of the factory on labour as follows:

Section 96 of the Customs Regulation – Costs of a factory—labour

For subsection 153F(1) of the Act, the cost of each of the following, to the extent that the cost relates to labour, is prescribed:

(a) wages and employee benefits;

(b) supervision and training;

(c) management of the process of manufacture;

(d) receipt and storage of materials;

(e) quality control;

(f) packing of goods into inner containers;

(g) handling and storage of goods within the factory

6.6.6 Wages and benefits includes the cost of labour that can be identified or associated directly or indirectly with goods produced, i.e. production line workers and other factory personnel. Examples are base pay, overtime pay, incentive pay, shift differentials and employee benefits such as vacation pay, public holidays, medical insurance and government required social program contributions.

6.6.7 The cost of wages in section 96 the Customs Regulation is to be interpreted to include the cost of interest payments on bank loans to finance wages. For this entitlement to be established, it must be clear from the loan documentation that the purpose of the loan is specifically for the financing of wage payments and that borrowed funds have, in fact, been used for that purpose. Indirect labour, although attributable to factory overhead, is prescribed in this area.

6.6.8 Labour costs incurred in connection with supervision would be limited to the factory supervisor. Labour associated with training would encompass in-house training, particularly on-the-job training.

6.6.9 Management of the process of manufacture would include the direct costs of factory management such as the production manager as well as the factory cost accountant. The question as to whether layers of management beyond the production manager should be included depends on the structure and size of the company and the circumstances of the particular case. It would have to be shown, for instance, that the connection with manufacture is not too remote as envisaged by the exclusion of the general expense of executive services in section 96 of the Customs Regulation.

6.6.10 Indirect costs in the form of labour costs for material purchasers, production planning and scheduling would also be included in the 'Management of the Process of Manufacture' heading. Labour associated with the receipt and storage of materials would relate to personnel employed in the materials store.

6.6.11 Labour incurred in quality control refers to the cost of inspecting and testing the goods prior to transfer off-line to ascertain whether they meet particular standards or specifications. Packing into inner containers refers to labour costs incurred in that function only. Inner containers are defined in section 153B as including any container into which preference claim goods are packed, other than a shipping or airline container, pallet or similar article. Labour related to other containers must therefore be excluded from allowable costs. Labour costs incurred in handling and storage of the goods within the factory will include the labour costs of personnel employed in the finished goods store. This cost is the only exception to the general rule that allowable costs are limited to those incurred to the point of completion of manufacture.

6.7 Factory overheads

6.7.1 Section 153G sets out basic requirements with respect to relevant (allowable) factory costs. Such costs are prescribed in the Customs Regulation in accordance with the power conferred by subsection 153G(2).

Section 153G of the Customs Act: Allowable expenditure of factory on overheads

Calculation of allowable expenditure of factory on overheads

(1) Allowable expenditure of a factory on overheads in respect of preference claim goods means the sum of the part of each cost prescribed for the purposes of this subsection:

(a) that is incurred by the manufacturer of the goods; and

(b) that relates, directly or indirectly, and wholly or partly, to the manufacture of the goods; and

(c) that can reasonably be allocated to the manufacture of the goods.

Regulations may specify manner of working out cost

(2) Regulations prescribing a cost for the purposes of subsection (1) may also specify the manner of working out that cost.

6.7.2 Paragraph 153G(1)(a) imposes an 'incurred by the manufacturer' test. 'Manufacturer' is defined in section 153B to mean the person undertaking the last process in the manufacture of the goods. The significance of the word 'incurred' is that the cost or charge must be paid or payable by the manufacturer and not incurred independently by another party without recompense by the manufacturer. Further, it must be an actual cost and not a standard (budgeted), hypothetical, imputed or opportunity cost.

6.7.3 Paragraph 153G(1)(b) establishes the linkage between the cost and manufacture. That is, there must be a clear connection with production before any such expenditure can be considered allowable.

6.7.4 Paragraph 153G(1)(c) implies two essential requirements:

- adequate records and information must be available; and
- a reasonable and appropriate method of allocation to production must be available.

6.7.5 In any commercial undertaking, overheads will include both production overheads and 'other' overheads. Overheads that relate to general administration, finance, marketing, selling and distribution to customers are specifically excluded from prescribed costs by the table in subclause (3) of schedule 5 of the Customs Regulation - see Annex 3 – Factory Overheads.

6.7.6 The classification of overheads to isolate that portion related to production only, would take the function of the overhead as its distinguishing characteristic (e.g., whether it is a function of production, marketing, selling, finance, or administration).

6.7.7 The costs therefore, of general management as distinct from functional management are not directly or indirectly related to current production and are excluded from the cost of production. Such costs are typically not attributable to any operation or product and their only association with the production facility may be as peripheral costs necessary to operate the facility.

6.7.8 An example of paragraph 153G(1)(c) may arise where materials are transported in the manufacturer's vehicle and large numbers of substantially different types of materials arrive at the factory in the same consignment. Where all materials are sourced in the qualifying area, it may be easier to treat the cost of freight inwards as an overhead cost, provided it can reasonably be allocated to the goods. Where materials are sourced from countries outside the qualifying area, however, care must be taken to ensure that the cost of transport of such goods between the wharf and the manufacturer's premises is attributed to the materials to which it relates and does not form part of qualifying overheads.

6.7.9 Subsection 153G(1) of the Customs Act provides that allowable expenditure means "the sum of the part of each cost prescribed...". Costs are therefore prescribed in section 97 of the Customs Regulation which refers to schedule 5 of that same Regulation. The table in clause (1) of schedule 5 of the Regulation is also subject to clause (2) and the table in clause (3) of schedule 5 of the Regulation.

6.7.10 That is to say, subsection 153G(1) narrows the scope of costs prescribed in the subclause (1) and (4) to the relevant part of each cost that is to form allowable expenditure, and subclause (1) is further narrowed by the exclusions in subclause (2) and (3). Costs that are not prescribed are not to form part of allowable expenditure.

6.7.11 The isolation of expenses that bear (in whole or in part) a direct or indirect relationship to manufacture will always require careful analysis. This analysis must address the question of whether the particular cost can be identified directly or indirectly with the function of producing goods. The costs of general management are typically not attributable to any operation and their association with the production facility may be as peripheral costs necessary to operate the facility.

6.7.12 Item 1 of the table in clause (3) of schedule 5 the Customs Regulation provides that costs or expenses relating to the general expense of doing business are not to be included as a prescribed cost. The intention of this paragraph is to exclude general expenses that are not related to the manufacture of particular preference claim goods.

6.7.13 In normal circumstances, these expenses would be treated as 'other' overheads rather than 'production' overheads and would, therefore, not appear in the manufacturing accounts. The costs listed in the table in clause (3) of schedule 5 the Customs Regulation illustrate this principle. Other examples are bank charges, donations, corporate expenses, audit expenses, entertainment, printing and stationery and personnel costs including staff advertising.

6.7.14 No account is to be taken of the origin of the energy, plant, machinery, royalties or other such costs incurred by the manufacturer in the production of goods when determining whether or not particular goods are the produce or manufacture of a country. For example, the payment by the manufacturer of a royalty to a recipient in a country outside the qualifying area, for a process

developed in that country, does not provide grounds for denying inclusion of the cost in allowable expenditure.

6.7.15 Clause (2) of schedule 5 the Customs Regulation limits depreciation charges to those that are ascertained in accordance with generally accepted accounting principles as applied by the manufacturer. These principles will apply whether or not they are applied by the manufacturer.

6.7.16 Allowable expenditure on factory overhead is to include re-work costs on faulty manufacture whether or not such defects are discovered post sale.

6.8 Other costs – Labels/Tickets

6.8.1 Materials and labour will be expended on adding labels and tickets to a good. Generally, items which are required by law and/or which identify the goods, their origin, characteristics, brand name, fabric codes, care instructions and material composition may be included in allowable expenditure.

6.8.2 However, items that are of a promotional nature in relation to particular manufacturers or generic goods should not be treated as allowable expenditure on the grounds that they represent selling or marketing expenses which are specifically excluded by Customs Regulation in Item 1 of the table in clause (3) of schedule 5 the Regulation as advertising and marketing services.

6.9 Goods Not Commercially Manufactured in Australia

6.9.1 In certain circumstances, alternative minimum value-added thresholds are applicable where goods are of a kind not commercially manufactured in Australia.

6.9.2 However, where goods are not commercially manufactured in Australia, importers are able to make use of Tariff Concession Orders that generally provide a 'Free' rate of duty for eligible goods.

6.9.3 Relevant provisions are:

- Canada: subsection 153P(4) – 25 per cent
- Non-preference countries: subsection 153Q(3) 25 per cent;
- Christmas, Cocos (Keeling) and Norfolk Islands: subsection 153Q(4) – 25 per cent.

Section 153R of the Customs Act: Are goods commercially manufactured in Australia

Comptroller-General of Customs may determine that goods are, or are not, commercially manufactured in Australia

(1) For the purposes of sections 153P and 153Q, the Comptroller-General of Customs may, by Gazette notice, determine that goods of a specified kind are, or are not, commercially manufactured in Australia.

Effect of determination

(2) If such a determination is made, this Division has effect accordingly.

6.9.4 The concept behind this provision is that trade should not be impeded where there is no threat to Australian industry. In such cases, goods may enter at preferential rates with a lower minimum value-added threshold than would otherwise apply.

6.9.5 The absence of Australian manufacture is generally indicated by the presence of a general duty rate of 'Free' or by the existence of a Tariff Concession Order made pursuant to Part XVA of the Customs Act. Reconditioned or reconstructed machines do not gain the benefit of the lower thresholds.

6.9.6 The kinds of goods considered not to be commercially manufactured in Australia are set out by notice in the Gazette. An example of the type of notice is set out on page 81.

6.9.7 The last notice made under these arrangements occurred on 18 February 1998 in Determination made under section 153R(1) of the Customs Act 1901 - Notice No. 98/1.

6.10 Example 1: illustrating the calculation of allowable and total factory cost – DCU

The following diagrams and explanatory notes illustrate the operation and effect of Division 1A of Part VIII.

An example of possible inputs into goods last processed in Ukraine and claimed to be the manufacture of that country

An explanation of the calculations to determine whether the goods are properly so claimed appears in the notes to the diagram.

Plant 1 Australia	
Materials	$15
Australian Labour	$10
Australian Overheads	$10
Australian Profit/freight etc	$5

↓

Plant 2 Italy	
Materials	$15
Italian Labour	$2
Italian Overheads	$2
Italian Profit/freight etc	$1

↓

Plant 2 Fiji	
Materials	$5
Fijian Labour	$7
Fijian Overheads	$7
Fijian Profit/freight etc	$1

↓

Plant 4 New Zealand	
Plant 1 Materials	$40
NZ Labour	$10
NZ Overheads	$10
NZ Profit/freight etc	$5
Plant 4 total	$65

↓

Plant 5 Hong Kong	
Plant 2 Materials	$20
Hong Kong Labour	$2
Hong Kong Overheads	$2
Hong Kong Profit/freight etc	$1
Plant 5 total	$25

↓

Plant 6 Australia	
Plant 3 Materials	$20
Australian Labour	$10
Australian Overheads	$5
Australian Profit/freight etc	$10
Plant 6 total	$45

↓

Plant 7
Ukraine
This plant is the factory
Allowable factory cost $125
Total factory cost $215

Plant 4 materials $65 (Allowable expenditure on materials $0)

Plant 5 materials $25 (Allowable expenditure on materials $5)

Plant 6 materials $45 (Allowable expenditure on materials $40)

Ukrainian labour $60

Ukrainian overheads $20

Goods imported into Australia after last process in the factory (i.e. Plant 7) are claimed to be the manufacture of Ukraine. This claim will be correct if the allowable factory cost of these preference claim goods is at least 50% of their total factory cost.

To work out both of these factory costs, the allowable expenditure of the factory on the three manufactured materials that make up the preference claim goods must be worked out.

This needs to take into account three other amounts

- the total expenditure of the factory on materials
- the allowable expenditure of the factory on labour
- the allowable expenditure of the factory on overheads

Working out allowable expenditure on materials under section 153D of the Customs Act

The allowable expenditure of the factory on particular manufactured materials in the form they are received from Plant 4 is nil because the materials are imported from outside the qualifying area i.e. New Zealand. In accordance with subsection 153D(2) and subsection 153D(5). This is so even though the manufactured materials themselves incorporate goods originating inside the qualifying area i.e. Plant 1 in Australia.

The allowable expenditure of the factory on particular manufactured materials in the form they are received from Plant 5 is not $25 but $5. This is because:

- the cost of contributing materials imported into the qualifying area from outside that area i.e. Plant 2 in Italy and subsequently processed is excluded under subsection 153D(4) from the working out of that allowable expenditure; and
- subsection 153D(6A) does not apply.

The allowable expenditure of the factory on particular manufactured materials in the form they are received from Plant 6 is the full cost to the manufacturer of $45 minus the $5 of material imported into Fiji, as Fiji is included in the qualifying area. That is, the Fiji labour, overheads and profit can be carried forward.

Working out allowable factory cost under section 153B and 153F of the Customs Act

Allowable expenditure of the factory on materials $50 from Plants 4, 5 and 6 (Nil + $5 + $40)

PLUS allowable expenditure of the factory on labour $60.

PLUS allowable expenditure of the factory on overheads $20

TOTAL $125

Working out total factory cost under section 153B and 153F of the Customs Act)

Total expenditure of the factory on materials $135 from Plants 4, 5 and 6 ($65 + $25 + $45)

PLUS allowable expenditure of the factory on labour $60.

PLUS allowable expenditure of the factory on overheads $20

TOTAL $215

CONCLUSION: Since allowable factory cost is at least 50 per cent of total factory cost, goods are the manufacture of Ukraine.

6.11 Example 2: illustrating the calculation of allowable and total factory cost – SPARTECA

The following diagrams and explanatory notes illustrate the operation and effect of Division 1A of Part VIII.

An example of possible inputs into goods last processed in Tuvalu and claimed to be the manufacture of that country

An explanation of the calculations to determine whether the goods are properly so claimed appears in the notes to the diagram.

Plant 1 Australia	
Materials	$15
Australian Labour	$10
Australian Overheads	$10
Australian Profit/freight etc	$5

↓

Plant 2 Italy	
Materials	$15
Italian Labour	$2
Italian Overheads	$2
Italian Profit/freight etc	$1

↓

Plant 2 New Zealand	
Materials	$5
NZ Labour	$7
NZ Overheads	$7
NZ Profit/freight etc	$1

↓

Plant 4 Tuvalu	
Plant 1 Materials	$40
Tuvalu Labour	$10
Tuvalu Overheads	$10
Tuvalu Profit/freight etc	$5
Plant 4 total	$65

↓

Plant 5 Hong Kong	
Plant 2 Materials	$20
Hong Kong Labour	$2
Hong Kong Overheads	$2
Hong Kong Profit/freight etc	$1
Plant 5 total	$25

↓

Plant 6 Australia	
Plant 3 Materials	$20
Australian Labour	$10
Australian Overheads	$5
Australian Profit/freight etc	$10
Plant 6 total	$45

↓

Plant 7
Tuvalu
This plant is the factory
Allowable factory cost $185
Total factory cost $215

Plant 4 materials $65 (Allowable expenditure on materials $65)

Plant 5 materials $25 (Allowable expenditure on materials $0)

Plant 6 materials $45 (Allowable expenditure on materials $40)

Tuvalu labour $60

Tuvalu overheads $20

Goods imported into Australia after last process in the factory (i.e. Plant 7) are claimed to be the manufacture of Tuvalu under SPARTECA. This claim will be correct if the allowable factory cost of these preference claim goods is at least 50% of their total factory cost.

To work out both of these factory costs, the allowable expenditure of the factory on the three manufactured materials that make up the preference claim goods must be worked out.

This needs to take into account three other amounts

- the total expenditure of the factory on materials
- the allowable expenditure of the factory on labour
- the allowable expenditure of the factory on overheads

Working out allowable expenditure on materials under section 153D of the Customs Act

The allowable expenditure of the factory on particular manufactured materials in the form they are received from Plant 4 is $65. This is because the materials are imported from inside the qualifying area and, as the work done on the goods in Australia exceeds 50 per cent, and the qualifying area for the material is Australia and Tuvalu, subsection 153D(6A) would apply. This means that despite subsection 153D(4) the allowable expenditure of the factory on those particular materials is taken to be that total expenditure.

The allowable expenditure of the factory on particular manufactured materials in the form they are received from Plant 5 is nil since neither Italy nor Hong Kong are in the qualifying area for goods claiming SPARTECA preferences.

The allowable expenditure of the factory on particular manufactured materials in the form they are received from Plant 6 is the full cost to the manufacturer of $45 minus the $5 of material imported into NZ as NZ is included in the qualifying area. That is, the NZ labour, overheads and profit can be carried forward. However, unlike plant 4, subsection 153D(6A) does not apply because the NZ component would disqualify the application of that provision to the materials under paragraph 153D(6A)(b) *if the qualifying area for that country consisted only of that country and Australia*.

Working out allowable factory cost under section 153B and 153F of the Customs Act

Allowable expenditure of the factory on materials $105 from Plants 4, 5 and 6 ($65 + $0 + $40)

PLUS allowable expenditure of the factory on labour $60.

PLUS allowable expenditure of the factory on overheads $20

TOTAL $185

Working out total factory cost under section 153B and 153F of the Customs Act)

Total expenditure of the factory on materials $135 from Plants 4, 5 and 6 ($65 + $25 + $45)

PLUS allowable expenditure of the factory on labour $60.

PLUS allowable expenditure of the factory on overheads $20

TOTAL $215

CONCLUSION: Since allowable factory cost is at least 50 per cent of total factory cost, goods are the manufacture of Tuvalu for the purpose of SPARTECA.

6.12 Example 3: illustrating the calculation of allowable and total factory cost – LDC

The following diagrams and explanatory notes illustrate the operation and effect of Division 1A of Part VIII.

An example of possible inputs into goods last processed in Lao PDR and claimed to be the manufacture of that country

An explanation of the calculations to determine whether the goods are properly so claimed appears in the notes to the diagram.)

Plant 1 Korea	
Materials	$15
Korean Labour	$10
Korean Overheads	$10
Korean Profit/freight etc	$5

↓

Plant 2 Italy	
Materials	$15
Italian Labour	$2
Italian Overheads	$2
Italian Profit/freight etc	$1

↓

Plant 2 Singapore	
Materials	$5
Singaporean Labour	$7
Singaporean Overheads	$7
Singaporean Profit/freight	$1

↓

Plant 4 Korea	
Plant 1 Materials	$40
Korean Labour	$10
Korean Overheads	$10
Korean Profit/freight etc	$5
Plant 4 total	$65

↓

Plant 5 Hong Kong	
Plant 2 Materials	$20
Hong Kong Labour	$2
Hong Kong Overheads	$2
Hong Kong Profit/freight etc	$1
Plant 5 total	$25

↓

Plant 6 Taiwan	
Plant 3 Materials	$20
Taiwanese Labour	$10
Taiwanese Overheads	$5
Taiwanese Profit/freight	$10
Plant 6 total	$45

↓

Plant 7
Lao PDR
This plant is the factory
Allowable factory cost $135.33
Total factory cost $215

Plant 4 materials $65 (Allowable expenditure on materials $50)
Plant 5 materials $25 (Allowable expenditure on materials $5)
Plant 6 materials $45 (Allowable expenditure on materials $40)
Lao PDR labour $60
Lao PDR overheads $20

Goods imported into Australia after last process in the factory (i.e. Plant 7) are claimed to be the manufacture of Lao PDR under LDC. This claim will be correct if the allowable factory cost of these preference claim goods is at least 50% of their total factory cost.

To work out both of these factory costs, the allowable expenditure of the factory on the three manufactured materials that make up the preference claim goods must be worked out.

This needs to take into account three other amounts

- the total expenditure of the factory on materials
- the allowable expenditure of the factory on labour
- the allowable expenditure of the factory on overheads

Working out allowable expenditure on materials under section 153D of the Customs Act

The allowable expenditure of the factory on particular manufactured materials in the form they are received from Plant 4 is $50.

The allowable expenditure of the factory on particular manufactured materials in the form they are received from Plant 5 is $5 since only Hong Kong is in the qualifying area.

The allowable expenditure of the factory on particular manufactured materials in the form they are received from Plant 6 is $40.

Subsection 153D(2A) of the Customs Act sets out a special rule for goods claimed to be the manufacture of a LDC that contain materials that were manufactured or produced in Developing Countries that are not Least Developed Countries. Where the allowable expenditure of the factory on those materials in aggregate would exceed 25% of the total factory cost of the goods then subsection 153D(2A) sets out that the allowable expenditure on those materials is taken to be 25% of the total factory cost of the goods.

This means that although the allowable expenditure of the factory on materials would have been $95 from Plants 4, 5 and 6 ($50 + $5 + $40) if not for subsection 153D(2A), and is instead taken to be $53.33.

Working out allowable factory cost under section 153B and 153F of the Customs Act

Allowable expenditure of the factory on materials $55.33

PLUS allowable expenditure of the factory on labour $60.

PLUS allowable expenditure of the factory on overheads $20

TOTAL $135.33

Working out total factory cost under section 153B and 153F of the Customs Act)

Total expenditure of the factory on materials $135 from Plants 4, 5 and 6 ($65 + $25 + $45)

PLUS allowable expenditure of the factory on labour $60.

PLUS allowable expenditure of the factory on overheads $20

TOTAL $215

CONCLUSION: Since allowable factory cost is at least 50 per cent of total factory cost, goods are the manufacture of Lao PDR for the purpose of claiming LDC preferences.

7 Other Criteria

7.1 Additional Requirements

7.1.1 There are other conditions that must be met before goods are considered to be the produce or manufacture of a particular country. These are:

- last process of manufacture
- direct shipment
- prohibition against double counting
- treatment of inner containers
- Tolerance in Minimum Value Add

Further details on each of these are in sections 7.2 to 7.6.

7.2 Last Process of Manufacture

7.2.1 For goods that are partly manufactured the following provisions require that the last process in the manufacture of preference claim goods be performed in the preference country concerned:

- Papua New Guinea/Forum Island – paragraph 153L(2)(a) of the Customs Act
- A particular Developing Country (includes Malaysia and Ukraine) – subsection 153M(a) of the Customs Act
- Developing Country but not a particular Developing Country – subsection 153N(a) of the Customs Act
- Canada – paragraph 153P(3)(a) of the Customs Act
- non-preference country including Australian External Territories – subsection 153Q(4) of the Customs Act

7.2.2 All work undertaken in respect to the goods prior to that undertaken by the manufacturer (as defined in section 153B of the Customs Act) of preference claim goods at the factory (as defined in section 153B) will represent materials in that (final) process. Manufacture requires the creation of an article essentially different from the component parts or materials that go into such manufacture. Further, the manufacturer of the preference claim goods must perform the final process in the manufacture of those goods.

7.2.3 What is 'manufacture' in any particular case must be determined on a case-by-case basis with due regard being paid to the nature of the goods concerned and the processes to which they have been subjected.

7.2.4 Processes such as repairing, overhauling or re-furbishing do not constitute manufacture as they are restoration processes (see Regal Holdings Ltd and Chief Executive Officer of Customs [1997] AATA 749 (30 April 1997).

7.2.5 In keeping with the above, minor processing operations such as pressing, labelling, ticketing, packaging, preparation for sale and quality control inspections are not considered to be processes of manufacture in their own right.

7.2.6 Generally, minor processing operations are considered to be part of overall manufacture, provided there is a single continuous line of production at the factory from primary materials to finished goods ready for sale.

7.3 Direct shipment

7.3.1 Direct shipment rules only apply for Canada through subsection 153P(1) of the Customs Act.

7.3.2 This provision relates to all goods claiming preferences under CANATA, whether unmanufactured, partly or wholly manufactured.

Subsection 153P(1) of the Customs Act: Manufactured goods originating in Canada

General Rule

(1) Despite section 153H and subsections (2) and (3), goods claimed to be the produce or manufacture of Canada are not the produce or manufacture of that country unless:

(a) they have been shipped to Australia from Canada; and

(b) either:

(i) they have not been transhipped; or

(ii) the Comptroller-General of Customs is satisfied that, when they were shipped from Canada, their intended destination was Australia.

7.3.3 This direct shipment provision is to ensure that the benefits of the preference go to the seller in the exporting country. This may not be so if goods enter the commerce of another country before importation into Australia. Transhipment is, therefore, only permissible where, in the words of the Customs Act, the Comptroller-General of Customs was satisfied that the intended destination was Australia.

7.3.4 For all other arrangements, the lack of such a provision recognises geographical barriers to direct shipment, e.g. landlocked countries, provided the intended destination was Australia. However, it does not allow for situations where the goods are shipped to and stored in another country before the ultimate destination of the goods is known, or where goods are shipped to another country for further processing (for example, packaging for retail sale), prior to being shipped to Australia.

7.4 Prohibition against Double Counting

7.4.1 Section 153S of the Customs Act prohibits any double counting.

7.4.2 Given the variability of accounting practice, there is considerable scope for double counting of particular costs. Care will need to be taken, for instance, to ensure that indirect labour costs, which in some circumstances can form part of total payroll costs, are not counted in direct labour as well as manufacturing overhead when costs are determined on a per unit basis.

Section 153S of the Customs Act: Rule against double counting

In determining the allowable factory cost or the total factory cost of preference claim goods, a cost incurred, whether directly or indirectly, by the manufacturer of the goods must not be taken into account more than once

7.5 Treatment of inner containers

7.5.1 Inner containers shall include any item of packaging, container or containers into or onto which the goods are packed but shall not include shipping containers (including pallets and like articles or air containers that are used by carriers for cargo conveyancing).

7.5.2 Inner containers are not mentioned specifically as an element of allowable factory cost in the definition of that term in section 153B. Costs associated with inner containers will be represented under the three categories of materials, labour and overhead.

7.5.3 Section 153B includes the cost of inner containers in the definition of 'materials' for the purposes of Division 1A of Part VIII.

7.5.4 In prescribing labour costs which represent allowable expenditure in labour under subsection 153F(2), the Customs Regulation includes labour costs incurred in packing goods into inner containers in subsection 96(f).

7.5.5 Overhead costs associated with packing would be considered allowable insofar as they relate to the labour cost entitlement and are specified in the table in subclause 1 of schedule 5 of the Customs Regulation.

7.6 Tolerance in Minimum Value-Added

7.6.1 Section 153LA provides for a lower value-added content in certain circumstances with respect to goods that are the produce of Papua New Guinea or a Forum Island country.

Section 153LA of the Customs Act: Modification of section 153L in special circumstances

When 50% in subsection 153L(4) can be read as 48%

(1) If the Comptroller-General of Customs is satisfied:

(a) that the allowable factory cost of preference claim goods in a shipment of such goods that are claimed to be the manufacture of Papua New Guinea or a Forum Island Country is at least 48% but not 50% of the total factory cost of those goods; and

(b) that the allowable factory cost of those goods would be at least 50% of the total factory cost of those goods if an unforeseen circumstance had not occurred; and

(c) that the unforeseen circumstance is unlikely to continue;

the Comptroller-General of Customs may determine, in writing, that section 153L has effect:

(d) for the purpose of the shipment of goods that is affected by that unforeseen circumstance; and

(e) for the purposes of any subsequent shipment of similar goods that is so affected during a period specified in the determination;

as if the reference in subsection 153L(4) to 50% were a reference to 48%.

Effect of determination

(2) If the Comptroller-General of Customs makes a determination, then, in relation to all preference claim goods imported into Australia that are covered by the determination, section 153L has effect in accordance with the determination.

Comptroller-General of Customs may revoke determination

(3) If:

(a) the Comptroller-General of Customs makes a determination; and

(b) the Comptroller-General of Customs becomes satisfied that the unforeseen circumstance giving rise to the determination no longer continues;

the Comptroller-General of Customs may, by written notice, revoke the determination despite the fact that the period referred to in the determination has not ended.

Definition of similar goods

(4) In this section:

similar goods, in relation to goods in a particular shipment, means goods:

(a) that are contained in another shipment that is imported by the same importer; and

(b) that undergo the same process or processes of manufacture as the goods in the first-mentioned shipment.

7.6.2 Allowable labour and overheads would generally be based on a 12 month period coinciding with the annual reporting period of the manufacturer. For this reason, such costs are unlikely to be affected by this provision, which relates to short-term aberrations.

7.6.3 The provision will, however, apply directly to materials in circumstances where a short-term variation is experienced through, for example, exchange rate fluctuations. Where this variation directly affects the cost of production of each individual unit produced, it will come within the

ambit of this provision. In ordinary circumstances, the short-term would not be expected to exceed three months.

7.6.4 Special provisions exist to permit a lower minimum value-added threshold where the Comptroller-General of Customs has made a determination. This is commonly referred to as 'derogation'. These provisions are set out in paragraph 153L(4)(b) for Papua New Guinea and Forum Island countries.

7.6.5 Several derogation requests have been received from Forum Island countries, the most recent being the request by the Government of Samoa in relation to wiring harnesses for passenger motor vehicles. In response to this request, a decision was made to reduce the minimum value-added threshold for these goods to 40% from 10 October 2001 to 31 December 2017.

8 Wholly Manufactured Goods

8.1 Wholly manufactured goods criteria

8.1.1 Provisions relating to goods that are wholly manufactured in a preference country are set out in the following subsections:

- • Papua New Guinea – subsection 153L(1) of the Customs Act
- • Canada – subsection 153P(2) of the Customs Act
- • non-preference country (including External Territories) – subsection153Q(1) of the Customs Act

8.1.2 Wholly manufactured provisions apply in respect of goods produced in Papua New Guinea, Canada and non-preference countries (including Australia's External Territories of Christmas, Cocos (Keeling) and Norfolk Islands). They do not apply to goods produced in Least Developed Countries, Developing Countries or Forum Island countries (other than Papua New Guinea).

8.1.3 All provisions require wholly manufactured goods to be made from materials falling into one or more of three basic classes, as follows:

- unmanufactured raw products
- materials wholly manufactured in the relevant country or Australia
- materials imported into the relevant country from a country other than Australia that are determined by the Comptroller-General of Customs to be the manufactured raw materials of the relevant country

8.1.4 Australia recognises that small quantities of imported manufactured materials may be used to produce otherwise wholly manufactured goods.

8.1.5 The wholly manufactured provisions are generally administered, therefore, with a tolerance of 3%. This administrative policy is based on the arrangements agreed between the Governments of Australia and New Zealand under ANZCERTA.

8.2 Unmanufactured raw products

8.2.1 Contrary to the provisions for unmanufactured raw products imported into Australia without further manufacture, dealt with in Section 5, there is no limitation placed on the origin of unmanufactured raw products used as materials in wholly manufactured goods imported into Australia.

8.2.2 Goods will be the manufacture of the country concerned even though they may be made from unmanufactured raw products from outside the qualifying area.

8.3 Determined manufactured raw materials (DMRM)

8.3.1 Where goods would be wholly manufactured in a relevant country but for materials that are not available from within Australia or the exporting country, the Comptroller-General of Customs may determine those materials to be the produce or manufacture of the exporting country.

8.3.2 However, since 2008, Australia has not issued any new DMRM. There are no DMRM for External territories or Papua New Guinea. A list of DMRM for Canada is at Annex 5 – Determined Manufactured Raw Materials in relation to Canada.

8.3.3 For the purposes of this provision, joint procedures for the handling of DMRM requests were developed between Australia and New Zealand. These procedures have been published in the booklet, *ANZCERTA - Rules of Origin – Determined Manufactured Raw Materials (DMRM)*.

8.3.4 While there is no formal agreement between Australia and other countries on the operation of DMRM, Australia adopts procedures similar to those agreed to with New Zealand. This includes consideration of the general duty rate applicable to imports of the material into Australia, eligibility for a duty concession and the publication of a Gazette notice that allows Australian manufacturers of the material for which a DMRM is sought 21 days in which to object to the granting of a DMRM.

8.3.5 The ABF previously provided the following forms related to DMRM:

- B293 - Application for the Approval of Goods as Determined Manufactured Raw Materials (DMRM)
- B294 - Request for Revocation of a Determined Manufactured Raw Material (DMRM)
- B295 - Submission Objecting to the Granting of a Determined Manufactured Raw Material (DMRM)

8.3.6 Businesses considering making use of DMRM should contact origin@abf.gov.au for advice on making use of DMRM.

8.3.7 In this process, consideration is limited to the extent to which the material for which a DMRM is sought can be made locally. No consideration is given to the extent to which local firms can manufacture the complete goods to be made using that material.

9 Procedures and evidence required to claim preferential rates of customs duty

9.1 Claiming preferential rates of customs duty

9.1.1 To claim preferential treatment under the various arrangements covered by this guide, a declaration by the manufacturer or certificate of origin (COO) made by the manufacturer of goods may be used to support a claim for preferential rates of customs duty under that arrangement.

9.1.2 The name of the person signing the certificate or declaration, together with their position and the company or entity represented, should be clearly stated. The declaration may be on the commercial documents or form a separate document.

9.1.3 There is no prescribed form for a declaration by the manufacturer. It should, however, describe the goods and refer to the particular provision in Division 1A of Part VIII of the Customs Act that relates to the goods.

9.1.4 Examples of acceptable declarations are set out in Annex 2 – Sample Declarations.

9.1.5 Certificates of origin provided to support a claim of origin under the Generalized System of Preferences arrangements must meet the requirements of the GSP Form A (Combined declaration and certificate of origin).

9.1.6 An example of the GSP Form A can be found at: https://www.abf.gov.au/free-trade-agreements/files/gsp-form-a.pdf

9.1.7 There is no requirement for official certification on the GSP Form A. For Australia the main requirement is the manufacturer's declaration on the normal commercial invoice. Form A, accompanied by the normal commercial invoice, is an acceptable alternative.

9.2 Waiver of Documentary Evidence of Origin

9.2.1 A declaration by the manufacturer or a COO is not required for imports when the total customs value of the originating goods does not exceed AUD1000, provided that the importation does not form part of one or more importations that may reasonably be considered to have been undertaken or arranged for the purposes of avoiding the requirements of the Agreement.

Note: For custom clearance purposes the importer will still be required to complete either:

- a self-assessed clearance declaration when the customs value does not exceed AUD1000 and a Documentary Evidence of Origin is not required or
- a full import declaration if the customs value exceeds AUD1000.

9.2.2 The, ABF has waived the requirement for Australian Trusted Traders importing goods claiming preferential rates of customs duty under FI, LDC, DC, DCS and DCT to obtain or present declarations by the manufacturer or COOs in accordance with ACN No 2020/18.

9.2.3 Even where the requirement to obtain or present a declaration by the manufacturer or COOs is waived, importers will still be required to keep evidence (for a period of at least five years from the day of importation) that imported goods are originating and present this if requested. Importers must otherwise comply with all requirements of the Agreement.

9.2.4 Where an Australian Trusted Trader has paid duty on goods that were later understood to be preference claim goods, they may be able to apply for a refund of customs duty paid. This applies from the later of the date the trader became an Australian Trusted Trader or 27 November 2019 in accordance with ACN 2020/18 but no longer than 4 years from the date of entry for home consumption.

9.2.5 An applicant for a refund may be requested to provide evidence regarding the origin of the goods, such as commercial documentation, statements or declarations by the manufacturer or a COO.

9.3 Compliance procedures for claiming preference

9.3.1 Under the Customs Act (sections 71DA, 240AA, 240AB and 240AC) the ABF may seek further evidence of good's entitlement to preferential rates of customs duty irrespective of the existence of a declaration by the manufacturer or COO, including through written requests for information from the importer.

9.3.2 The ABF may deny a claim for preferential rates of customs duty if:

(a) it determines that the good does not meet the requirements of Division 1A of Part VIII of the Customs Act to qualify for preferential rates of customs duty;

(b) the importer, exporter, producer or authorised agent fails to comply with the relevant requirements of the Customs Act;

(c) after seeking further information under sections 71DA, 240AA, 240AB and 240AC of the Customs Act, the ABF does not:

(i) receive sufficient information to determine that the good qualifies as originating; or

(ii) receives a response to the requests in 9.3.1.

9.3.3 If, after making a claim for a preferential rate of customs duty, the importer becomes aware that the goods were ineligible for a preferential rate of customs duty, the importer must, as soon as practicable, amend the import declaration and pay any short-fall amount of customs duty. This action may protect an importer against liability for an offence under subsections 243T(1) or 243U(1) of the Customs Act, if the amendment is considered a voluntary disclosure as explained in ACN 2004/05 and DIBPN 2016-35.

9.3.4 Where a short payment results from incorrectly claimed preferential rates of customs duty, an importer may be protected from liability for an offence against subsection 243T(1) or 243U(1) of the Customs Act, if, at the time of entry of the goods, the importer holds a declaration by the manufacturer or COO that states a particular preference criterion of Division 1A of Part VIII of the Customs Act has been met.

9.3.5 The protection will not apply where:

(a) other information available to the importer indicated that the statement on the declaration by the manufacturer or COO was incorrect or unreliable;

(b) the declaration by the manufacture or COO could not be clearly related to the goods in question.

9.3.6 Similarly, the protection will not apply once the ABF has given the owner of the goods or their agent an audit notice under section 214AD of the Customs Act; or the ABF exercises a power under a Customs-related law to verify the accuracy of the information included in the statement; or where the ABF has issued an infringement notice in relation to the statement; or where the ABF has commenced legal proceedings in relation to the statement.

9.3.7 Where an Import Declaration states that a preferential rate of customs duty is being applied for, this will be taken to indicate that the owner of the goods possesses evidence that the stated facts are correct. The criteria for eligibility for preferential rates of customs duty for arrangements covered by this guide are set out in Division 1A of Part VIII of the Customs Act.

9.3.8 The importer must have a declaration by the manufacturer or COO at the time of entering the goods. An importer may be required to produce the declaration by the manufacturer or COO or other evidence either at the time of entering the goods or at some later date to demonstrate any claims made.

9.3.9 If the ABF finds that preferential rates of customs duty is inapplicable or that there is insufficient evidence to justify the claim for a preferential rate of customs duty, the general rate of customs duty is payable on the goods and there will be a liability for the payment of any customs duty and GST that has been short-paid. In these circumstances, an offence may have been committed against subsections 243T(1) or 243U(1) of the Customs Act. An administrative penalty under the Taxation Administration Act 1953 may also apply where there is a shortfall amount of GST. An infringement notice may be served in lieu of prosecution for an offence against subsections 243T(1) or 243U(1) of the Customs Act.

9.4 Validity

9.4.1 There are no expiry dates on declarations by the manufacturer or COOs for preference claim goods under these arrangements.

9.5 Record keeping obligations

9.5.1 Australian importers must maintain, for five years after the date of importation of the goods, documentation, including a copy of the declaration by the manufacturer or COO, relating to the importation of the goods.

10 Origin advice rulings

10.1 Provision of origin advice rulings

10.1.1 Australian importers, as well as exporters and producers of preference claim goods are able to obtain advance rulings from the ABF regarding future importations of goods into Australia.

10.2 Policy and practice

10.2.1 The ABF provides a guide to origin advice rulings at:
https://www.abf.gov.au/free-trade-agreements/files/origin-advice-guide.pdf

11 Related policies and references

11.1 Associated documents

- Origin Advice Rulings Guide
- Integrated Cargo System – Claiming Preferential Tariff Rates

12 Document details

12.1 Document change control

Version number	Date of issue	Author(s)	Brief description of change
1.0	13 June 2023	Trade and Tariff Policy Section	Initial Version Based on Preferential Rules of Origin July 2009 version (2008/041986-01)
1.1	29 June 2023	Trade and Tariff Policy Section	Extension of DCU to 3 July 2024
1.2	14 October 2024	Trade and Tariff Policy Section	Extension of DCU until 3 July 2026 Minor update to 1.3
1.3	29 August 2025	Trade and Tariff Policy Section	Removed references to Notice of Intention to Propose Customs Tariff Alteration
1.31	2 December 2025	Trade and Tariff Policy Section	Minor amendment to Flow chart of whether goods are Produced or Manufactured in a country or place

Annex 1 – Qualifying Area

In accordance with the Definition in 153B of the *Customs Act 1901*, goods claimed to be the manufacture of a country or place may be originating if they include materials from the relevant qualifying area for the arrangement.

In some cases, these may overlap slightly, such as SPARTECA and LDC countries and places also being in DC, while in other cases, there may be specific requirements for some input to be included in the qualifying area, such as for input from DC/DCS/DCT into LDC originating goods only allowed to make up to a maximum of 25% of the total factory cost.

In all cases, to access a preference the last process in their manufacture of a good must be performed in that country or place listed in the relevant table of Schedule 1 to the Customs Tariff Regulations.

Key to Tables	
✓	Can be included in this arrangement if the last place of manufacture was this country or place
✕	Cannot include URP or cost incurred on material in that country or place in the qualifying area
I	URP and costs incurred on material can be included from this country or place but the last process in their manufacture must be performed in a country or place with a ✓.
¼	URP and costs incurred on material can be included from this country or place but the last process in their manufacture was performed in that country or place with a ✓. Further, in accordance with Paragraph 153D(2A) of the *Customs Act 1901*, where the allowable expenditure of the factory on those materials would exceed 25% of the total factory cost of the goods the allowable expenditure on those materials is taken to be 25% of the total factory cost of the goods.

Qualifying areas for various arrangements

Countries and Places	Abbreviation	PATCRA II	SPARTECA	LDC	DC	DCS	DCT	DCU
Australia	AU	I	I	I	I	I	I	I
New Zealand	NZ	I	I	✕	✕	✕	✕	✕
Cook Islands	CK	I	✓	¼	✓	I	I	I
Fiji	FJ	I	✓	¼	✓	I	I	I
Kiribati	KI	I	✓	✓	✓	I	I	I
Marshall Islands, Republic of	MH	I	✓	¼	✓	I	I	I
Micronesia, Federated States of	FM	I	✓	¼	✓	I	I	I
Nauru	NR	I	✓	¼	✓	I	I	I
Niue	NU	I	✓	¼	✓	I	I	I
Papua New Guinea	PG	✓	✓	¼	✓	I	I	I
Samoa	WS	I	✓	✓	✓	I	I	I
Solomon Islands	SB	I	✓	✓	✓	I	I	I
Tonga	TO	I	✓	¼	✓	I	I	I
Tuvalu	TV	I	✓	✓	✓	I	I	I
Vanuatu	VU	I	✓	✓	✓	I	I	I
Afghanistan	AF	✕	✕	✓	✓	I	I	I
Angola	AO	✕	✕	✓	✓	I	I	I
Bangladesh	BD	✕	✕	✓	✓	I	I	I
Benin	BJ	✕	✕	✓	✓	I	I	I
Bhutan	BT	✕	✕	✓	✓	I	I	I
Burkina Faso	BF	✕	✕	✓	✓	I	I	I
Burundi	BI	✕	✕	✓	✓	I	I	I
Cambodia	KH	✕	✕	✓	✓	I	I	I
Cape Verde	CV	✕	✕	✓	✓	I	I	I
Central African Republic	CF	✕	✕	✓	✓	I	I	I
Chad	TD	✕	✕	✓	✓	I	I	I
Comoros	KM	✕	✕	✓	✓	I	I	I
Congo, Democratic Republic of	CD	✕	✕	✓	✓	I	I	I
Djibouti	DJ	✕	✕	✓	✓	I	I	I
East Timor (Timor-Leste)	TL	✕	✕	✓	✓	I	I	I
Equatorial Guinea	GQ	✕	✕	✓	✓	I	I	I
Eritrea	ER	✕	✕	✓	✓	I	I	I
Ethiopia	ET	✕	✕	✓	✓	I	I	I
Gambia	GM	✕	✕	✓	✓	I	I	I
Guinea	GN	✕	✕	✓	✓	I	I	I
Guinea-Bissau	GW	✕	✕	✓	✓	I	I	I

Countries and Places	Abbreviation	PATCRA II	SPARTECA	LDC	DC	DCS	DCT	DCU
Haiti	HT	✗	✗	✓	✓	I	I	I
Lao People's Democratic Republic	LA	✗	✗	✓	✓	I	I	I
Lesotho	LS	✗	✗	✓	✓	I	I	I
Liberia	LR	✗	✗	✓	✓	I	I	I
Madagascar	MG	✗	✗	✓	✓	I	I	I
Malawi	MW	✗	✗	✓	✓	I	I	I
Maldives	MV	✗	✗	✓	✓	I	I	I
Mali	ML	✗	✗	✓	✓	I	I	I
Mauritania	MR	✗	✗	✓	✓	I	I	I
Mozambique	MZ	✗	✗	✓	✓	I	I	I
Myanmar, Union of	MM	✗	✗	✓	✓	I	I	I
Nepal	NP	✗	✗	✓	✓	I	I	I
Niger	NE	✗	✗	✓	✓	I	I	I
Rwanda	RW	✗	✗	✓	✓	I	I	I
Sao Tome and Principe	ST	✗	✗	✓	✓	I	I	I
Senegal	SN	✗	✗	✓	✓	I	I	I
Sierra Leone	SL	✗	✗	✓	✓	I	I	I
Somalia	SO	✗	✗	✓	✓	I	I	I
Sudan	SD	✗	✗	✓	✓	I	I	I
Tanzania, United Republic of	TZ	✗	✗	✓	✓	I	I	I
Togo	TG	✗	✗	✓	✓	I	I	I
Uganda	UG	✗	✗	✓	✓	I	I	I
Yemen, Republic of	YE	✗	✗	✓	✓	I	I	I
Zambia	ZM	✗	✗	✓	✓	I	I	I
American Samoa	AS	✗	✗	¼	✓	I	I	I
Botswana	BW	✗	✗	¼	✓	I	I	I
French Polynesia	PF	✗	✗	¼	✓	I	I	I
Guam	GU	✗	✗	¼	✓	I	I	I
Mariana Islands	MP	✗	✗	¼	✓	I	I	I
Namibia	NA	✗	✗	¼	✓	I	I	I
New Caledonia	NC	✗	✗	¼	✓	I	I	I
Palau	PW	✗	✗	¼	✓	I	I	I
Pitcairn Island	PN	✗	✗	¼	✓	I	I	I
Tokelau Islands	TK	✗	✗	¼	✓	I	I	I
Wallis and Futuna Islands	WF	✗	✗	¼	✓	I	I	I
Albania	AL	✗	✗	¼	I	✓	I	I
Algeria	DZ	✗	✗	¼	I	✓	I	I
Anguilla	AI	✗	✗	¼	I	✓	I	I

Countries and Places	Abbreviation	PATCRA II	SPARTECA	LDC	DC	DCS	DCT	DCU
Antigua and Barbuda	AG	✕	✕	¼	I	✓	I	I
Argentina	AR	✕	✕	¼	I	✓	I	I
Bahamas	BS	✕	✕	¼	I	✓	I	I
Bahrain	BH	✕	✕	¼	I	✓	I	I
Barbados	BB	✕	✕	¼	I	✓	I	I
Belize	BZ	✕	✕	¼	I	✓	I	I
Bermuda	BM	✕	✕	¼	I	✓	I	I
Bolivia	BO	✕	✕	¼	I	✓	I	I
Bosnia and Herzegovina	BA	✕	✕	¼	I	✓	I	I
Brazil	BR	✕	✕	¼	I	✓	I	I
British Indian Ocean Territory	IO	✕	✕	¼	I	✓	I	I
British Virgin Islands	VG	✕	✕	¼	I	✓	I	I
Brunei Darussalam	BN	✕	✕	¼	I	✓	I	I
Bulgaria	BG	✕	✕	¼	I	✓	I	I
Cameroon	CM	✕	✕	¼	I	✓	I	I
Cayman Islands	KY	✕	✕	¼	I	✓	I	I
Chile	CL	✕	✕	¼	I	✓	I	I
China, People’s Republic of	CN	✕	✕	¼	I	✓	I	I
Colombia	CO	✕	✕	¼	I	✓	I	I
Congo	CG	✕	✕	¼	I	✓	I	I
Costa Rica	CR	✕	✕	¼	I	✓	I	I
Cote d’Ivoire	CI	✕	✕	¼	I	✓	I	I
Croatia	HR	✕	✕	¼	I	✓	I	I
Cuba	CU	✕	✕	¼	I	✓	I	I
Cyprus	CY	✕	✕	¼	I	✓	I	I
Czech Republic	CZ	✕	✕	¼	I	✓	I	I
Dominica	DM	✕	✕	¼	I	✓	I	I
Dominican Republic	DO	✕	✕	¼	I	✓	I	I
Ecuador	EC	✕	✕	¼	I	✓	I	I
Egypt	EG	✕	✕	¼	I	✓	I	I
El Salvador	SV	✕	✕	¼	I	✓	I	I
Falkland Islands	FK	✕	✕	¼	I	✓	I	I
Former Yugoslav Republic of Macedonia	MK	✕	✕	¼	I	✓	I	I
Gabon	GA	✕	✕	¼	I	✓	I	I
Ghana	GH	✕	✕	¼	I	✓	I	I
Gibraltar	GI	✕	✕	¼	I	✓	I	I
Grenada	GD	✕	✕	¼	I	✓	I	I
Guatemala	GT	✕	✕	¼	I	✓	I	I

Countries and Places	Abbreviation	PATCRA II	SPARTECA	LDC	DC	DCS	DCT	DCU
Guyana	GY	✗	✗	¼	I	✓	I	I
Honduras	HN	✗	✗	¼	I	✓	I	I
Hungary	HU	✗	✗	¼	I	✓	I	I
India	IN	✗	✗	¼	I	✓	I	I
Indonesia	ID	✗	✗	¼	I	✓	I	I
Iran	IR	✗	✗	¼	I	✓	I	I
Iraq	IQ	✗	✗	¼	I	✓	I	I
Israel	IL	✗	✗	¼	I	✓	I	I
Jamaica	JM	✗	✗	¼	I	✓	I	I
Johnston Island	XA	✗	✗	¼	I	✓	I	I
Jordan	JO	✗	✗	¼	I	✓	I	I
Kenya	KE	✗	✗	¼	I	✓	I	I
Korea, Democratic People's Republic of	KP	✗	✗	¼	I	✓	I	I
Kuwait	KW	✗	✗	¼	I	✓	I	I
Lebanon	LB	✗	✗	¼	I	✓	I	I
Libyan Arab Jamahiriya	LY	✗	✗	¼	I	✓	I	I
Macao	MO	✗	✗	¼	I	✓	I	I
Malaysia	MY	✗	✗	¼	I	✓	I	I
Malta	MT	✗	✗	¼	I	✓	I	I
Mauritius	MU	✗	✗	¼	I	✓	I	I
Mexico	MX	✗	✗	¼	I	✓	I	I
Midway Islands	XB	✗	✗	¼	I	✓	I	I
Mongolia	MN	✗	✗	¼	I	✓	I	I
Montserrat	MS	✗	✗	¼	I	✓	I	I
Morocco	MA	✗	✗	¼	I	✓	I	I
Netherlands Antilles	AN	✗	✗	¼	I	✓	I	I
Nicaragua	NI	✗	✗	¼	I	✓	I	I
Nigeria	NG	✗	✗	¼	I	✓	I	I
Oman	OM	✗	✗	¼	I	✓	I	I
Pakistan	PK	✗	✗	¼	I	✓	I	I
Panama	PA	✗	✗	¼	I	✓	I	I
Paraguay	PY	✗	✗	¼	I	✓	I	I
Peru	PE	✗	✗	¼	I	✓	I	I
Philippines	PH	✗	✗	¼	I	✓	I	I
Poland	PL	✗	✗	¼	I	✓	I	I
Qatar	QA	✗	✗	¼	I	✓	I	I
Romania	RO	✗	✗	¼	I	✓	I	I
Saudi Arabia	SA	✗	✗	¼	I	✓	I	I

Countries and Places	Abbreviation	PATCRA II	SPARTECA	LDC	DC	DCS	DCT	DCU
Serbia	RS	✕	✕	¼	I	✓	I	I
Seychelles	SC	✕	✕	¼	I	✓	I	I
Slovak Republic	SK	✕	✕	¼	I	✓	I	I
Slovenia	SI	✕	✕	¼	I	✓	I	I
South Georgia and the South Sandwich Islands	GS	✕	✕	¼	I	✓	I	I
Sri Lanka	LK	✕	✕	¼	I	✓	I	I
St Christopher and Nevis	KN	✕	✕	¼	I	✓	I	I
St Helena	SH	✕	✕	¼	I	✓	I	I
St Lucia	LC	✕	✕	¼	I	✓	I	I
St Pierre and Miquelon	PM	✕	✕	¼	I	✓	I	I
St Vincent and the Grenadines	VC	✕	✕	¼	I	✓	I	I
Suriname	SR	✕	✕	¼	I	✓	I	I
Swaziland	SZ	✕	✕	¼	I	✓	I	I
Syrian Arab Republic	SY	✕	✕	¼	I	✓	I	I
Territories administered by the Palestinian Authority	PS	✕	✕	¼	I	✓	I	I
Thailand	TH	✕	✕	¼	I	✓	I	I
Trinidad and Tobago	TT	✕	✕	¼	I	✓	I	I
Tunisia	TN	✕	✕	¼	I	✓	I	I
Turkey	TR	✕	✕	¼	I	✓	I	I
Turks and Caicos Islands	TC	✕	✕	¼	I	✓	I	I
United Arab Emirates (Abu Dhabi, Dubai, Sharjah, Ajman, Umm al Quwain, Fujairah, Ras al Khaimah)	AE	✕	✕	¼	I	✓	I	I
Uruguay	UY	✕	✕	¼	I	✓	I	I
Venezuela	VE	✕	✕	¼	I	✓	I	I
Vietnam, Socialist Republic of	VN	✕	✕	¼	I	✓	I	I
Virgin Islands of the United States	VI	✕	✕	¼	I	✓	I	I
Wake Island	XC	✕	✕	¼	I	✓	I	I
Zimbabwe	ZW	✕	✕	¼	I	✓	I	I
Hong Kong	HK	✕	✕	¼	I	I	✓	I
Korea, Republic of	KR	✕	✕	¼	I	I	✓	I
Singapore	SG	✕	✕	¼	I	I	✓	I
Taiwan Province	TW	✕	✕	¼	I	I	✓	I
Ukraine	UA	✕	✕	✕	✕	✕	✕	✓

Annex 2 – Sample Declarations

Sample Declaration: Unmanufactured Raw Products

Preference Rule Type: URP

"I declare that the goods described below are the un-manufactured raw products of (*preference country*)."

Item Numbers	Marks and numbers of packages	Quantity	Description of goods	Number and date of invoice

Signature:
Name:
Position in manufacturing company:
Name of manufacturing company:
Date:

Sample Declaration: Partially Manufactured Goods: Developing Countries, External territories, Forum Island Countries, Malaysia, Papua New Guinea (Not Canada)

Preference Rule Type: P50

"I declare that:

(a) the last process in the manufacture of the goods described below was performed in (*preference country*); and

(b) not less than 50 % of their total factory cost is represented by the sum of the allowable expenditure of the factory on materials, labour and overheads and the cost of inner containers of (*Name of relevant preference countries and, if applicable, Australia*)."

Item Numbers	Marks and numbers of packages	Quantity	Description of goods	Number and date of invoice

Signature:
Name:
Position in manufacturing company:
Name of manufacturing company:
Date:

Sample Declaration: Partially Manufactured Goods: Canada

Preference Rule Type: P75

"I declare that:

(a) the last process in the manufacture of the goods described below was performed in Canada;

(b) not less than 75 % of their total factory cost is represented by the sum of the allowable expenditure of the factory on materials, labour and overheads and the cost of inner containers of Canada or of Australia and Canada; and

(c) the goods were shipped to Australia from Canada and either:
(i) they were not transhipped;
or
(ii) when they were shipped from Canada, their intended destination was Australia

Item Numbers	Marks and numbers of packages	Quantity	Description of goods	Number and date of invoice

Signature:
Name:
Position in manufacturing company:
Name of manufacturing company:
Date:

Sample Declaration: Wholly Manufactured Goods Canada, Papua New Guinea, External Territories

Preference Rule Type WMN if the last box is not ticked;

Preference Rule Type WMD if the last box is ticked

"I declare that the goods described below are wholly manufactured in, (*preference country*) from one or more of:

- ☐ unmanufactured raw products;
- ☐ materials wholly manufactured in one or both of Australia and the preference country; or
- ☐ materials imported into the preference country that the Comptroller-General of Customs has determined, by notice in writing published in the Gazette, to be manufactured raw materials of the country."

*you can place a tick (✓) in more than one box

Item Numbers	Marks and numbers of packages	Quantity	Description of goods	Number and date of invoice

Signature:
Name:
Position in manufacturing company:
Name of manufacturing company:
Date:

Sample Declaration: Manufactured Goods Granted Local Area Content Derogation by the Comptroller-General of Customs (Forum Island Countries)

Preference Rule Type Px*

Note: There are currently no derogations applicable

"I declare that:

(a) the last process in the manufacture of the goods described below was performed in (*preference country*); and

(b) _____ % (being a percentage of at least the percentage determined by the Comptroller-General of Customs and less than 50%) of the total factory cost of the goods is represented by the sum of the allowable expenditure of the factory on materials, labour and overheads and the cost of inner containers of _____ _____ (*names of relevant preference countries and, if applicable, Australia*)"

Item Numbers	Marks and numbers of packages	Quantity	Description of goods	Number and date of invoice

Signature:
Name:
Position in manufacturing company:
Name of manufacturing company:
Date:

**x represents the percentage determined by the Comptroller-General of Customs*

Annex 3 – Costs of a factory—overheads

Note: See section 97 of the Custom Regulation 2015
Customs Regulation - schedule 5.
(1) Costs of a factory—overheads
For section 97, the costs mentioned in the following table are prescribed.

Allowable expenditure of a factory on overheads

Item	Costs
1	The cost of inspection and testing of materials and goods.
2	The cost of insurance of the following kinds: (a) insurance of plant, equipment and materials used in the production of the goods; (b) insurance of work in progress and finished goods; (c) liability insurance; (d) accident compensation insurance; (e) insurance against consequential loss from accident to plant and equipment.
3	The cost of dies, moulds, tooling and the depreciation, maintenance and repair of plant and equipment. Note: See subclause (2).
4	The cost of interest payments for plant and equipment.
5	The cost of research, development, design and engineering.
6	The cost of the following items in relation to real property used in the production of the goods: (a) insurance; (b) rent and leasing; (c) mortgage interest; (d) depreciation on buildings; (e) maintenance and repair; (f) rates and taxes. Note: See subclause (2).
7	The cost of leasing of plant and equipment.
8	The cost of energy, fuel, water, lighting, lubricants, rags and other materials and supplies not directly incorporated in manufactured goods.
9	The cost of storage of goods at a factory.
10	The cost of royalties or licences in relation to patented machines or processes used in the manufacture of the goods or in relation to the right to manufacture the goods.
11	The cost of subscriptions to standards institutions and industry and research associations.
12	The cost of the provision of medical care, cleaning services, cleaning materials and equipment, training materials and safety and protective clothing and equipment.
13	The cost of the disposal of non-recyclable waste.
14	The cost of subsidisation of a factory cafeteria to the extent not recovered by returns.
15	The cost of factory security.
16	The cost of computer facilities allocated to the process of manufacture of the goods.
17	The cost of contracting out part of the manufacturing process within Australia or New Zealand.
18	The cost of employee transport.
19	The cost of vehicle expenses.
20	The cost of any tax in the nature of a fringe benefits tax.

(2) For items 3 and 6 of the table in subclause (1), the cost of depreciation of plant, equipment or buildings must be worked out in accordance with generally accepted accounting principles, as applied by the manufacturer.

(3) In working out a cost for subclause (1), the costs mentioned in the following table are not included.

Allowable expenditure of a factory on overheads—exceptions

Item	Costs
1	Any cost or expense relating to the general expense of doing business, including any cost or expense relating to insurance or to executive, financial, sales, advertising, marketing, accounting or legal services.
2	The cost of telephone, mail and other means of communication.
3	The cost of international travel expenses, including fares and accommodation.
4	The cost of the following items in relation to real property used by persons carrying out administrative functions: (a) insurance; (b) rent and leasing; (c) mortgage interest; (d) depreciation on buildings; (e) maintenance and repair; (f) rates and taxes.
5	The cost of conveying, insuring or shipping the goods after manufacture.
6	The cost of shipping containers or packing the goods into shipping containers.
7	The cost of any royalty payment relating to a licensing agreement to distribute or sell the goods.
8	The manufacturer's profit and the profit or remuneration of any trader, agent, broker or other person dealing in the goods after manufacture.
9	Any other cost incurred after the completion of manufacture of the goods.

(4) However, if preference claim goods are claimed to be the manufacture of Papua New Guinea or a Forum Island Country, the following costs are prescribed for section 97 (in addition to the costs mentioned in subclause (1)):

(a) 25% of the cost of telecommunications;

(b) the cost of international travel expenses incurred to allow one person to travel, in a year, to attend one trade fair or to purchase equipment;

(c) the cost of contracting out part of the manufacturing process within Papua New Guinea or a Forum Island Country.

Annex 4 – Sample Government Gazettal notices

The following annex sets out five sample Government gazettal notices that may be issued in relations to preference claim goods under Division 1A of the Customs Act.

Notice Under Subsection 153E(4) of the *Customs Act 1901*

Materials in a preference claim good that are to be disregarded in accordance with 153E(4) of the Customs Act which are used solely to artificially raise the cost of the materials

COMMONWEALTH OF AUSTRALIA
Customs Act 1901
NOTICE UNDER SUBSECTION 153E(4) OF THE *CUSTOMS ACT 1901*

I, (*state full name of delegate*), delegate of the Comptroller-General of Customs under subsection 153E(4) of the *Customs Act 1901*, being satisfied that materials being (*describe briefly the materials*) in the form they are received into factory incorporate other materials being (*describe briefly other materials*) solely for the purpose of artificially raising the cost of the first-mentioned materials, hereby notify you, the importer of preference claim goods in which those other materials are incorporated, that, in my opinion, part of the cost being (*state which part*) is reasonably attributable to those other materials and are to be disregarded.

Dated this day of 20

.....
Delegate of the
Comptroller-General of Customs

To:

.....
IMPORTER OF PREFERENCE CLAIM GOODS

Notice Under Subsection 153E(5) of the *Customs Act 1901*

Cost of materials in a preference claim good that are to be disregarded in accordance with 153E(5) of the Customs Act 1901 the cost to the manufacturer of materials exceeds the normal market value of the materials.

COMMONWEALTH OF AUSTRALIA
Customs Act 1901
NOTICE UNDER SUBSECTION 153E(5) OF THE *CUSTOMS ACT 1901*

I, (*state full name of delegate*), delegate of the Comptroller-General of Customs under subsection 153E(5) of the *Customs Act 1901*, being satisfied that the cost to the manufacturer of materials being (*briefly describe materials*) in the form they are received into factory exceeds by (*specify amount determined by delegate*) the normal market value of the materials, hereby notify you, the importer of preference claim goods in which those materials are incorporated, that the excess amount is to be disregarded.

Dated this day of 20 .

.....
Delegate of the
Comptroller-General of Customs

To:

.....
IMPORTER OF PREFERENCE CLAIM GOODS

Notice Under Subsection 153E(6) of the *Customs Act 1901*

Cost of materials in a preference claim good that are to be disregarded in accordance with 153E(5) of the Customs Act 1901 the cost to the manufacturer of materials exceeds the normal market value of the materials.

COMMONWEALTH OF AUSTRALIA
Customs Act 1901
NOTICE UNDER SUBSECTION 153E(6) OF THE *CUSTOMS ACT 1901*

I, (*state full name of delegate*), delegate of the Comptroller-General of Customs under subsection 153E(6) of the *Customs Act 1901*, being satisfied that:

(a) materials being (*describe materials briefly*) in the form they are received into factory are so received (*free of charge; or at a cost being (specify cost) that is less than the normal market value of the materials - you have to specify one of these*); and

(b) the receipt of the materials (*free of charge or at a reduced cost - you have to specify one of these*) has been arranged directly or indirectly by you, a person who would be the importer of preference claim goods in which those materials are incorporated

hereby notify you that I have determined the amount of (*specify amount*) is the normal market value and that amount shall be treated as the amount (*or part of the amount*) paid by the manufacturer in respect of the materials.

Dated this day of 20 .

.....
Delegate of the
Comptroller-General of Customs

To:

.....
(A PROSPECTIVE IMPORTER OF PREFERENCE CLAIM GOODS)

Notice Of Determination Made Under Subsection 153R(1) of the *Customs Act 1901*

Determination for preference claim goods manufactured in Papua New Guinea or an external territory for which a lesser percentage of their total factory cost is appropriate as they are or are not commercially manufactured in Australia.

COMMONWEALTH OF AUSTRALIA
Customs Act 1901
NOTICE OF DETERMINATION MADE UNDER SUBSECTION 153R(1) OF THE *CUSTOMS ACT 1901*

I (*state full name of delegate*) delegate of the Comptroller-General of Customs under subsection 153R(1) of the *Customs Act 1901* ("the Act") do hereby determine for the purposes of (*specify section 153P and/or section 153Q, as appropriate*) of the Act, (*name the goods or goods of a specified kind, as appropriate*) are (*or are not, as appropriate*) commercially manufactured in Australia.

Dated this day of 20 .

.....
Delegate of the
Comptroller-General of Customs

Notice Of Determination Made Under Paragraph 153L(4)(b) of the *Customs Act 1901*

Determination for preference claim goods manufactured in Papua New Guinea or a Forum Island Country for which a lesser percentage of their total factory cost is appropriate

COMMONWEALTH OF AUSTRALIA
Customs Act 1901
NOTICE OF DETERMINATION MADE UNDER PARAGRAPH 153L(4)(b) OF THE *CUSTOMS ACT 1901*

I, (*state full name of delegate*), delegate of the Comptroller-General of Customs under paragraph 153L(4)(b) of the *Customs Act 1901*("the Act"), hereby determine for the purposes of subsection 153L(2) of the Act that:

(a) the following preference claim goods namely, (*specify the goods*) ('the goods') are goods for which a lesser percentage of their total factory cost is appropriate; and

(b) the specified percentage of the total factory cost for the goods is (*specify the percentage*).

Dated this day of 20 .

.....
Delegate of the
Comptroller-General of Customs

Annex 5 – Determined Manufactured Raw Materials in relation to Canada

DMRM Good	File Number
A	
Acetphenetidin (Phenacetin)	
Acrylic Fibre, for use in carpet yarn	78/04183
Aluminium Brazing Temper, No 12 'O', as used in the manufacture of vehicle automatic transmission oil coolers	
B	
Backing, Carpet, spun bonded, non woven, polypropylene	78/04183
Brazing Temper, Aluminium No 12 'O', as used in the manufacture of vehicle automatic transmission oil coolers	
2-Bromo-1-Chloro-1,2,2-Trifluoroethane	72/04234
C	
Carpet Backing, Jute, woven	
Carpet Backing, spun bonded, non woven, polypropylene	78/04183
Carpet Fibre, trevira polyester, type 825, bright pentalobel	94/05567
Carpet Protector, Zepel CSF	
Casein plastic (Erinoid) sheets	
Cellulose Acetate Propionate Sheet	
Citric Acid	90/06433
Crude Iodine	
Cullet, glass	
D	
Discs, rough, for ophthalmic lens	72/05184
Dyestuffs, Synthetic Organic, other than pigment dyestuffs	70/01198
E	
Erinoid (Casein Plastic) sheets	
F	
Fibre, Acrylic for use in carpet yarn	78/04183
Fibre, Carpet, trevira polyester, type 825, bright pentalobel	94/05567
Fibre, Polyester Staple, deep dye, in 8 and 16 denier per filament	78/04184
G	
Glass:	
Cullet;	
Discs, rough, for ophthalmic lenses;	72/05184
Knob tops, moulded for lock sets	
I	
Incoloy 800 Strip, (Nickel Iron Alloy)	72/08602
Incoloy 840 Strip, (Nickel Iron Alloy), in any of the following sizes: (a) thickness 0.38mm or greater, but not exceeding 0.76mm (b) width 1.27mm or greater, but not exceeding 50.8mm	
Iodine, Crude	
Iron Nickel Alloy Strip, (Incoloy 800)	72/08602

DMRM Good	File Number
Iron Nickel Alloy Strip, Incoloy 840 Strip, in any of the following sizes: (a) thickness 0.38mm or greater, but not exceeding 0.76mm (b) width 1.27mm or greater, but not exceeding 50.8mm	
J	
Jute Carpet Backing, woven	
K	
Knob Tops, moulded for lock sets	
Kraft Paper, Saturating unsized, substance of 175 g/m^{2}or more, designed for use in the manufacture of decorative laminates	
M	
Methyl Methacrylate	
N	
Nickel Iron Alloy Strip, (Incoloy 800)	72/08602
Nickel Iron Alloy Strip, Incoloy 840 Strip, in any of the following sizes: (a) thickness 0.38mm or greater, but not exceeding 0.76mm (b) width 1.27mm or greater, but not exceeding 50.8mm	
Nylon Yarn, 10 denier, 7 filament	
P	
Paper and Paperboard, having a grammage exceeding 22 g/m^2, printed with a decorative pattern, not impregnated or coated, designed for use in the manufacture of decorative laminates	
Paper, Release, designed for use in the manufacture of decorative laminates	
Paper, Saturating Kraft, unsized, substance of 175 g/m^2 or more, designed for use in the manufacture of decorative laminates	
Paper, Tissue, suitable for the manufacture of carbon paper	
Phenacetin (Acetphenetidin)	
Polyester Carpet Fibre, Trevira, type 825, bright pentalobel	94/05567
Polyester Staple Fibre, deep dye, in 8 and 16 denier per filament	78/04184
Polypropylene Carpet Backing, spun bonded, non woven	
Protector, Carpet, Zepel CSF	
R	
Release Paper, designed for use in the manufacture of decorative laminates	
Rim Steel, carbon bar stock, in widths of 10, 9.4375 and 9 inches	79/03794
S	
Saturating Kraft Paper, unsized, substance of 175 g/m^2 or more, designed for use in the manufacture of decorative laminates	
Sodium Bromide	
Spandex Yarn, 20 denier	
Stainless Steel Strip, three ply laminated, consisting of two outer layers of stainless steel enclosing a centre of carbon steel	
Steel Bands, Plates, Sheets, Strips, not tempered, ground or further manufactured than cut to shape, without identical edges, as used in the manufacture of band or circular saws	
Steel Plates, Bands, Sheets, Strips, not tempered, ground or further manufactured than cut to shape, without identical edges, as used in the manufacture of band or circular saws	
Steel, Rim, carbon bar stock, in widths of 10, 9.4375 and 9 inches	79/03794

DMRM Good	File Number
Steel Sheets, Strips, Plates, Bands, not tempered, ground or further manufactured than cut to shape, without identical edges, as used in the manufacture of band or circular saws	
Steel Strip, Stainless, three ply laminated, consisting of two outer layers of stainless steel enclosing a centre of carbon steel	
Steel Tubing, cold drawn, seamless, as used in the manufacture of diamond drill rods	
Strip, Nickel Iron Alloy, (Incoloy 800)	72/08602
Strip, Nickel Iron Alloy, Incoloy 840 Strip, in any of the following sizes: (a) thickness 0.38mm or greater, but not exceeding 0.76mm (b) width 1.27mm or greater, but not exceeding 50.8mm	
Strips, Plates, Bands, Sheets, Steel, not tempered, ground or further manufactured than cut to shape, without identical edges, as used in the manufacture of band or circular saws	
Strip, Stainless Steel, three ply laminated, consisting of two outer layers of stainless steel enclosing a centre of carbon steel	
T	
Terephthalic Acid	69/03358
Theobromine	
Tissue Paper, suitable for the manufacture of carbon paper	
Trevira Polyester Carpet Fibre, type 825, bright petalobel	94/05567
Tri Cresyl Phosphate, in the gel form	94/05567
Tubing, Steel, cold drawn, seamless, as used in the manufacture of diamond drill rods	
Y	
Yarn, Nylon, 10 denier, 7 filament	
Yarn, Spandex, 20 denier	
Z	
Zepel CSF Carpet Protector	

Annex 6 – Partially manufactured goods supporting documentation

Preference claim goods – origin information requirements

The purpose of this Annex is to assist importers in understanding the data requirements for particular goods to ascertain whether particular goods are the produce or manufacture of a country and thus are entitled to entry at preferential rates of customs duty. ABF may, at its option, wish to visit manufacturers and verify any data provided.

Entitlement to preference is determined in accordance with Division 1A of Part VIII of the Customs Act and sections 96 and 97 of the Customs Regulation.

This document captures the essence of these requirements but should not be seen as a definitive statement.

Generally, goods qualify for preference if a specified percentage (generally 50%) of the total factory cost in producing those goods constitutes allowable expenditure in relation to the particular 'qualifying area'.

Qualifying areas for the different preference countries are listed in 3.2.13

Definitions of terms used in this document are set out in Section 3

General information required

1. Business Profile
    a. What is the full name, address, telephone number and facsimile number of your business?
    b. Is this business associated with the Australian importer or any supplier of materials?
    c. If so, what are the associations?
    d. If there is an association, what effect does this have on dealings between the parties, e.g., price discounting, purchasing at a premium, rebates, refunds, commissions, etc.
    e. Who is the company officer the ABF should communicate with?
2. Details of Manufacture
    a. Describe the finished goods including model/type or style and specifications.
    b. Describe the materials used in manufacture.
    c. Describe the manufacturing processes for the finished goods

Financial information required

1. Form of Presentation
    a. For preference to apply, allowable factory cost must be equal to or greater than a specified percentage of total factory cost.
    b. The form at the end of this Annex has been designed to summarise all relevant data and show the allowable proportion for each unit/model/style produced.
2. Financial Period

a. Costs should be provided based on the most recently completed accounting period of the manufacturer. The relevant period should be indicated on each completed copy of the form at the end of this Annex.

b. Where any of these costs have changed since the most recently completed accounting period, please show separately which costs have changed and provide reasons for any changes.

c. Actual costs are required in all instances.

3. Materials

a. The cost of materials at any level in the manufacturing cycle will always include all directly attributable costs of acquisition into the purchaser's store. All material costs chargeable to finished goods on which preference is claimed will form part of total factory cost.

b. The allowable part of the total cost of materials is to be determined in accordance with Section 6.5

c. Please provide the following information concerning the purchase of material:

i. Who are the suppliers and what is the country of last process of manufacture for those materials?

ii. Please list the goods, names, addresses, telephone numbers and facsimile number of suppliers.

d. Information should be grouped under the following headings:

i. Materials manufactured in the qualifying area from materials which have also been manufactured in that area:

ii. Materials manufactured outside the qualifying area; and

iii. Materials manufactured within the qualifying area which incorporate materials manufactured outside the qualifying area (materials of mixed origin).

e. Is the supply of any of the above materials restricted (e.g., are they subject to royalties, patents, is there a sole supplier, etc.)?

f. If royalties are payable, what is the basis for the royalty, to whom is it payable and when is it payable?

g. What is the cost of into store acquisition of materials and what are components of this cost?

h. Representative invoices or documentation showing the cost of each of these components.

i. If the materials are manufactured in the qualifying area from 'contributing' materials (in respect of which the last process of manufacture was performed outside the qualifying area), please advise:

i. cost of materials used in the manufacture of the finished goods; and

ii. cost of 'contributing' materials

j. If the costs in (d) above are not available to you from the supplier, please arrange for the supplier to advise the ABF directly.

4. Factory Labour and Overheads

a. These costs are not allowable expenditure unless they are prescribed in sections 96 and 97 of the Customs Regulation.

b. Allowable expenditure in terms of the Customs Regulation forms part of both allowable factory cost and total factory cost.

c. Prescribed costs set out are subject to three main criteria before the sum of the part of each such cost may form part of allowable expenditure:

   i. they must be incurred by the manufacturer of the goods;

   ii. they must relate, directly or indirectly, and wholly or partly, to the manufacture of the goods; and

   iii. they must be able to be reasonably allocated to the manufacture of the goods.

d. With respect to factory overheads, paragraphs 2 and 3 of Schedule 5 to the Customs Regulation serve to further narrow down the scope of such costs which are prescribed in the table in paragraphs 1 of Schedule 5 to the Customs Regulation.

Supporting material

1. Copies of supporting documents used to calculate the total factory cost should be submitted with this document such as:

   a. Company Organisation Chart showing:

      i. all work areas within the company:

      ii. names of persons working within those areas: and

      iii. the position held, title and duties;

   b. Copy of company wages and salary by person's name

   c. Internal (management) manufacturing and profit and loss statement

   d. Depreciation schedule for the factory

   e. Explanation of any formulae used, in particular how actual costs of:

      i. Salaries, Wages; and

      ii. Overheads

      were derived and an explanation as to how these costs were allocated to the manufacture of the particular goods produced including formulae used and worksheets.

Summary of total factory cost

NAME of manufacturer of goods exported to Australia:	
GOODS exported (include model No., type, etc):	
UNIT to which costs apply (one, dozen, kg, etc):	
ACCOUNTING Period to which costs apply:	

List all materials or components and quantity allocated for manufacture	**Name, Address and Facsimile Number of Supplier of materials or components**	**Country of manufacture of material or component**	**Cost of material or component" Allowable (a)**	**Cost of material or component" Other (b)**

Total factory cost of materials	A:	E:
Allowable expenditure on factory labour (per unit)	B:	
Allowable expenditure on factory overheads (per unit)	C:	
ALLOWABLE FACTORY COST (A+B+C)	D:	
TOTAL FACTORY COST (D+E)	F:	

Calculation of specified percentage of Total Factory cost:

$$\frac{D}{F} \times 100 =$$