

Australia – United States Free Trade Agreement

Supporting a claim of origin

The following text is an extract from the Australia United States Free Trade Agreement (AUSFTA), Chapter 5 – Rules of Origin. It explains the requirements necessary to verify the origin of goods imported under the AUSFTA.

Article 5.12: Claims for Preferential Treatment

1. Each Party shall provide that an importer may make a claim for preferential treatment under this Agreement based on the importer's knowledge or on information in the importer's possession that the good qualifies as an originating good.
2. Each Party may require that an importer be prepared to submit, on request, a statement setting forth the reasons that the good qualifies as an originating good, including pertinent cost and manufacturing information. The statement need not be in a prescribed format, and may be submitted electronically, where feasible.

Article 5.13: Obligations Relating to Importations

1. Each Party shall grant a claim for preferential treatment under this Agreement, made in accordance with this Chapter unless the Party possesses information that the claim is invalid.
2. A Party may deny preferential treatment under this Agreement to an imported good if the importer fails to comply with any requirement of this Chapter.
3. If a Party denies a claim for preferential treatment under this Agreement, it shall issue a written determination containing findings of fact and the legal basis for the determination.
4. The importing Party shall not subject an importer to any penalty for making an invalid claim for preferential treatment if the importer:
 - (a) on becoming aware that such claim is not valid, promptly and voluntarily corrects the claim and pays any duty owing; and

(b) in any event, corrects the claim and pays any duty owing within a period determined by the Party, which shall be at least one year from the submission of the invalid claim.

Article 5.14: Record-Keeping Requirement

Each Party may require that importers maintain, for up to five years after the date of importation, records relating to the importation of the good, and may require, as set out in Article 5.12.2, that an importer provide, on request, records necessary to demonstrate that a good qualifies as an originating good, including records concerning:

- (a) the purchase, cost and value of, and payment for, the good;
- (b) the purchase, cost, and value of, and payment for, all materials, including indirect materials, used in the production of the good; and
- (c) the production of the good in the form in which the good was exported.

Article 5.15: Verification

1. For the purpose of determining whether a good imported into its territory from the territory of the other Party qualifies as an originating good, a Party may conduct verification by means of one or more of the following:

- (a) requests for information from the importer;
- (b) written requests for information to an exporter or a producer in the territory of the other Party;
- (c) requests for the importer to arrange for the producer or exporter to provide information directly to the Party conducting the verification;
- (d) information received directly by the importing Party from an importer as a result of a request described in Article 5.12.2;
- (e) visits to the premises of an exporter or a producer in the territory of the other Party, in accordance with any procedures that the Parties jointly adopt;
- (f) for textile and apparel goods, procedures set forth in Article 4.3 (Customs Cooperation); or
- (g) such other procedures as the Parties may agree.

2. A Party may deny preferential tariff treatment to a good where the importer, exporter, or producer fails to provide information that the Party requests in a verification conducted in accordance with paragraph 1 demonstrating that the good is an originating good.

Australian Customs Entry

Customs operates in a self-assessment environment, where information provided to it is treated in the first instance as true and correct. Underpinning this self-assessment environment are risk management strategies to identify cargo and passengers most likely to require further attention, as well as a number of compliance management tools including real time checking of entries and audits.

When a customs entry states that a US preference rate of duty applies, this will be taken to indicate that the importer of the goods possesses information, or knowledge, as required in Article 5.12, paragraph 1, above, that this declaration is correct.

Criteria for eligibility for preference rates of duty

The criteria for eligibility for US preference rates of duty are detailed in Chapter 5, Rules of Origin to AUSFTA and are set out in Division 1 C of Part V111 to the *Customs Act 1901*.

Verification of Preference eligibility

Customs' compliance monitoring may take place at the time of entry, or after the goods are delivered into home consumption.

Customs may require an importer to produce supporting information to confirm that the criteria for eligibility for preference rates of duty have been met.

Information required

The information required to determine correct eligibility for preference should be requested from the manufacturer in the US.

The information should confirm that the goods:

- are wholly obtained as defined in AUSFTA; or
- produced entirely in the US or in the US and Australia exclusively from originating materials; or
- meet the requirements of the product specific rule of origin as detailed in Annex 4A or 5A of AUSFTA; or
- otherwise qualify as originating under the rules of origin in AUSFTA.

The information should provide details of which of the above requirements has been met and provide details as to why that requirement has been met. Eg, if a good meets a product specific rule in Annex 5A, then the information should detail exactly which product specific rule has been met and why it has been met.

Is a certificate of origin required?

No.

Article 5.12 of AUSFTA does not require a certificate of origin. The information can be in any form that the manufacturer wishes to provide, so long as it shows that the imported good meets the rules of origin requirements of AUSFTA.

How is the information used by Customs?

The information helps Customs to verify that goods for which US origin is claimed, do in fact meet the conditions set out in the *Customs Act 1901*.

If Customs subsequently finds that the goods do not meet the relevant terms and conditions, Customs will demand any duty short paid and may impose penalties. Additional action may be taken where fraud is involved.

Please see the Customs Infringement Notice Guidelines on the Customs Internet site for more information:

http://www.customs.gov.au/internet/page_7/page_1002.htm

Note: This information is provided as a guide for importers of goods into Australia from the United States. For exporters of goods to the United States, details of the United States requirements should be obtained from United States Customs Border Protection.

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