



Australian
BORDER FORCE

Unclassified

Origin Advice

Guide to Origin Advice under Australia's Free Trade Agreements

This guide explains how to seek an origin advice for imports under a free trade agreement that Australia is a Party to.

Approved by	Matthew Duckworth, Assistant Secretary, Customs and Border Revenue Branch
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Contact	Trade Policy Section tradeagreements@abf.gov.au

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1 Introduction

1.1 Coverage of the Guide

- 1.1.1 This Guide explains how to apply for an origin advice (OA) for goods imported under any of the free trade agreements (FTAs) to which Australia is a Party.
- 1.1.2 Origin questions of a general nature should be directed in the first instance to: origin@abf.gov.au.
- 1.1.3 Further information about FTAs, including guides, is available at [the Australian Border Force FTA webpage](#) and on [the Department of Foreign Affairs and Trade's FTA webpage](#).
- 1.1.4 The [Australian Government's Free Trade Agreement Portal](#) also provides information about Australia's FTAs.

1.2 Abbreviations

- 1.2.1 The following abbreviations are used throughout this guide:

ABF	Australian Border Force
CTC	change in tariff classification
Customs Act	<i>Customs Act 1901</i>
FTA	free trade agreement
OA	Origin Advice
PSR	Product specific rule(s) of origin as set out in the regulations or relevant annex to an FTA
QVC	qualifying value content
RVC	regional value content

2 Origin Advice

2.1 Provision of origin advice

2.1.1 Australian importers of goods, as well as exporters and producers of those goods or, if appropriate, their authorised representatives, can obtain an OA from the ABF covering future importations of goods into Australia. An OA is a statement by the ABF advising whether specified goods meet the requirements to claim a preferential rate of duty under an FTA.

2.2 Policy and practice

2.2.1 An OA provides advice to the applicant relating to the origin of their goods for the purposes of determining eligibility for preferential duty rates when imported into Australia.

2.2.2 The ABF will aim to issue an OA within 30 days after all necessary documentation required to assess the origin of the goods has been received.

2.2.3 The ABF will accept a request for an OA before trade in the particular good begins provided all the necessary documentation is available.

2.3 Adequate applications

2.3.1 The ABF will only give an OA where:

- evidence is present of a commitment or firm intent to import the goods in question
- the application contains adequate and correct information, and
- evidence supporting the facts of the application is provided with the application.

2.3.2 The ABF will reject incomplete and/or inaccurate applications.

2.3.3 The Application for Advance Ruling (Origin) (Form B659), available from the ABF website, sets out the information requirements: <https://www.abf.gov.au/form-listing/forms/b659.pdf>

2.4 How to lodge an application

General

2.4.1 Please forward the Application (with supporting documentation) to:

National Trade Advice Centre
Australian Border Force
GPO Box 2809
MELBOURNE VIC 3001

Or by email to:

origin@abf.gov.au

- 2.4.2 The ABF will register the application upon receipt with a unique OA number and advise the applicant of this number.

Applications with more than one origin issue

- 2.4.3 Each OA application must: refer to a specific FTA and contain a single combination of origin issue and tariff classification. Where an applicant wishes to seek advice on more than one issue, a separate OA application must be lodged for each.
- 2.4.4 In cases where the OA application seeks clarification on the validity of the importer's consignment/transshipment arrangements against the requirements of the relevant FTA, the OA application may include multiple tariff classifications. In such cases the tariff classification of the goods in question is not the central issue addressed by the OA.

Supporting information and documentation

- 2.4.5 All information relevant to the request for advice must be supplied with the application to enable the ABF to process the OA promptly.
- 2.4.6 Section 2.5.4 of this guide below sets out a sample list of the supporting documentation that an applicant shall provide in support of an application for an OA. The applicant should also provide any additional relevant documents and information with the application.

Advice conditional on information provided

- 2.4.7 The ABF will make a decision on an application for an OA only on the basis of the statements and supporting documentation provided in the application. The validity of the OA is conditional upon correct and complete information being provided.
- 2.4.8 In the course of processing an OA application, the ABF may request additional information if necessary to evaluate the application or inform the decision on the OA

Penalty action – false or misleading statements

- 2.4.9 From the time a complete OA application is validly submitted until the time when the ABF makes a decision on the application, the applicant will not be subject to penalty provisions under subsection 243T(1) of the Customs Act in respect of any duty short paid on an import declaration for goods the subject of an OA application.
- 2.4.10 If an applicant is uncertain about a claim to utilise preferential tariff rates under an FTA on any import declaration, and considers that as a result of including that information, the import declaration may be false or misleading, then that applicant should lodge the declaration using the “amber line” facility.
- 2.4.11 Subsection 243T(1) of the Customs Act may not apply where, in lodging the declaration “amber line”, a person specifies the information included in the import declaration that might be false or misleading in a particular. Further, that person must also set out the reasons why there is uncertainty about the information.
- 2.4.12 While quoting an OA number on an import declaration is optional, if there is any doubt about a claim for preference a person should follow the above guidelines.

Withdrawing an application

- 2.4.13 An applicant may withdraw an OA application by advising the ABF in writing that they wish to withdraw the application. This can be done at any time after registration of the application and before a decision on the application is made by the ABF. Withdrawing the application has the effect of cancelling the application.

Payment of duty following decision

- 2.4.14 When the ABF notifies the applicant of the OA and the reasons for the decision, any duty or GST short paid on relevant import declarations immediately becomes payable.

Validity of origin advice

- 2.4.15 OAs are valid for all ports in Australia for five (5) years from the date of notification of the advice.
- 2.4.16 OAs will be automatically cancelled at the end of the five year validity period. If an importer requires an OA beyond the five year timeframe, they must make a new application.
- 2.4.17 The ABF may cancel or amend an OA within the five year validity period. Cancellation or amendment may occur for a range of reasons, including where:
- there is a legislative amendment relevant to the advice
 - incorrect information was provided to the ABF or relevant information was withheld
 - the ABF's opinion changes as a result of legal precedent
 - the facts and conditions of the origin application have changed, or
 - the ABF has issued conflicting advices.
- 2.4.18 While an application for an OA must include the tariff classification of the goods, any OA should not be taken as the ABF endorsing the use of that tariff classification for the goods.

Cancelled or amended origin advice

- 2.4.19 Where the ABF cancels or amends an OA, in-transit provisions (see next section) will be applied at the discretion of the ABF. The ABF will notify the original applicant holding the OA in writing of any cancellation or amendment.

In-transit provisions

- 2.4.20 In-transit provisions allow for a cancelled or amended OA to continue to apply in certain circumstances.
- 2.4.21 Where the ABF determines that In-transit provisions apply in relation to goods that are the subject of a cancelled or amended OA, those in-transit provisions will only apply to goods that:
- were imported into Australia on or before the date on which the cancellation or amendment came into effect and were entered for home consumption before, on, or within 30 days after that date, or
 - had left the place of export on or after that date and were entered for home consumption before, on, or within 30 days after the date on which they were imported into Australia.

ABF to honour origin advice

- 2.4.22 An OA is not legally binding on the ABF. The ABF will, however, honour an OA unless it was provided on the basis of false or misleading information or where the applicant failed to provide all the relevant information and documentation that was available.

Conflicting origin advice

- 2.4.23 Should an applicant hold or be aware of any potentially conflicting OAs, they must immediately inform the ABF of the potential conflict and treat the OAs as void. The ABF will review and issue new OAs where required.

Appeals against origin advice

- 2.4.24 Where an applicant disputes an ABF decision on an OA application, they should discuss the matter with the decision maker in the first instance. If the advice remains in dispute, the applicant can request an internal review of the decision in writing to the Director Trade Services, Customs Group.
- 2.4.25 These internal review mechanisms do not affect access to any legislative right to external review including for example, to the Administrative Appeals Tribunal (AAT). It should be noted, however, that an OA itself is not a decision which is reviewable by the AAT or the Federal Court so any appeal right must be activated via a payment under protest under s167 of the Customs Act.

2.5 Origin advice – information requirements

Application

- 2.5.1 The ABF may issue an OA to importers, exporters or, if appropriate, their authorised representatives, on goods imported into Australia under any of Australia's FTAs.

Subject matter of origin advice

- 2.5.2 An OA may be sought on various FTA origin issues including:
- whether a good qualifies as an originating good being wholly obtained or produced under that FTA
 - whether a good qualifies as an originating good produced entirely under that FTA
 - whether non-originating materials used in the production of a good imported into Australia undergo the applicable FTA PSR requirement
 - the application of *de minimis* provisions
 - the application of transshipment (also known as 'consignment' or 'direct transport') provisions through non-Parties to that FTA.

- 2.5.3 The ABF provides guides for each FTA explaining these provisions in detail at: <https://www.abf.gov.au/importing-exporting-and-manufacturing/free-trade-agreements>
- 2.5.4 The evidence required to support an OA varies in relation to the origin criteria the applicant claims the goods meet. Evidence can include:
- commercial invoices between producer and importer
 - commercial invoices between producer and material suppliers
 - declaration from the producer
 - images or description of manufacturing process
 - bill of materials
 - the tariff classification and country of origin of all materials
 - evidence of what procedures the goods underwent while located in a non-Party
 - evidence of where and how the goods were stored while located in a non-Party.

Content of application for origin advice

- 2.5.5 The following information should be included in the application:
- the specific subject matter to which the request relates
 - a complete statement of all relevant facts relating to the transaction
 - a statement that the information presented is accurate and complete
 - the names, addresses and other identifying information of all relevant parties, and
 - copies of any other OA, tariff classification advice or valuation advice that has been issued in relation to the imported good.

2.6 Special application provisions

- 2.6.1 Where a good has been wholly obtained or produced entirely under an FTA, a complete description of the good should be supplied, including:
- evidence the manufacturer is located in the FTA country
 - a description of how the good was obtained
 - details of all processing operations employed in the production of the good
 - the location where each operation was undertaken
 - the sequence in which the operations occurred
 - a list of all materials used in the production of the good, and
 - evidence of the origin of materials used in the production of the good.
- 2.6.2 Where the origin advice relates to a PSR CTC being met, the application must list each material used in the production of the good and must:
- identify each material which is claimed to be an originating material, providing a complete description of each such material including the basis for claiming origin status

- identify each material which is a non-originating material, or for which the origin is unknown, providing a complete description of each such material, including its tariff classification, and
- describe all processing operations employed in the production of the good, the location of each operation and the sequence in which the operations occur.

2.6.3 Where the origin advice relates to a PSR RVC/QVC requirement, the application must:

- provide information sufficient to determine the customs value of the goods in accordance with Division 2 of Part VIII of the Customs Act
- provide information which is sufficient to identify and calculate the value of each non-originating material, or material the origin of which is unknown, used in production of the good.

2.6.4 If a *de minimis* exception is claimed, the application must:

- provide information sufficient to determine the customs value of the goods in accordance with Division 2 of Part VIII of the Customs Act
- identify each material which is claimed to be an originating material and provide a complete description of each such material
- identify each material which is a non-originating material, or for which the origin is unknown, and provide a complete description of each such material, including its tariff classification and value.

2.6.5 If a good has been transhipped through a non-Party, the application must:

- provide information on any production or operations the goods underwent while in the non-Party
- provide information on how and where the goods were stored or warehoused while in the non-Party.

3 Document details

3.1 Document change control

Version number	Date of issue	Author(s)	Brief description of change
1.0	14 January 2020	Trade Policy Section	Initial Version