Australian BORDER FORCE

Australian Customs Notice No. 2026/24

China–Australia Free Trade Agreement (ChAFTA) Expired Origin Advance Rulings

The Australian Border Force (ABF) is aware that some customs brokers and importers are using Declarations of Origin that are based on expired Origin Advance Rulings to support claims for preferential tariff treatment under the China-Australia Free Trade Agreement (ChAFTA).

<u>Customs brokers and importers are reminded that Declarations of Origin must comply with the terms of ChAFTA. This includes using a valid Origin Advance Ruling.</u>

Use of a Declaration of Origin to Claim Preferential Treatment under ChAFTA

Under ChAFTA, a Declaration of Origin may be used in place of a Certificate of Origin only where the goods are covered by a **valid** Origin Advance Ruling.

A Declaration of Origin must comply with the requirements of Article 3.15 and Annex 3-B of ChAFTA, and must be in the format prescribed under the agreement.

To use a Declaration of Origin to access preferential duty rates:

- the Origin Advance Ruling must be current and valid at the time the claim for preferential treatment is made; and
- the facts and circumstances on which the ruling were based must remain valid and unchanged.

Origin Advance Rulings issued under ChAFTA are generally valid for a period of five years, provided there has been no material change in circumstances.

Where an Origin Advance Ruling has ceased, including due to expiry, a new ruling must be sought in accordance with published guidance available at:
https://www.abf.gov.au/importing-exporting-and-manufacturing/fta/origin-advice

If there is no valid Origin Advance Ruling in force, a Declaration of Origin cannot be used to claim preferential treatment under ChAFTA.

Australian Trusted Traders (ATT) should note that:

- Origin Advance Rulings issued under the ATT Origin Advance Ruling benefit are also subject to the same five-year validity period, and
- where such rulings have expired, importers must reapply through their ATT Account Manager to continue accessing the benefit.

Changes in Circumstances

A new Origin Advance Ruling must be obtained where there has been any material change to the circumstances underpinning the original ruling, including (but not limited to) a change in the:

- supplier of any materials used in the production of the goods,
- materials used to manufacture the goods,
- applicable Rule of Origin, or
- tariff classification of the goods.

Where any such change occurs, a Declaration of Origin cannot be used until a new Origin Advance Ruling has been issued.

Legislative and Treaty Framework

Importers and customs brokers are reminded that claims for preferential tariff treatment under ChAFTA must comply with the requirements set out in:

- the *Customs Act 1901*, including provisions for making of entries, record-keeping, provision of information, and substantiation of tariff classification and origin claims.
- the *Customs Tariff Act 1995*, including:
  - Schedule 12 (ChAFTA rates of customs duty); and
  - Schedule 4, which gives effect to Australia's free trade agreement tariff concessions, including those under ChAFTA.
- the *Customs (Chinese Rules of Origin) Regulation 2015*, which sets out record keeping requirements, the method for determining regional value content and other matters;
- the *Customs (International Obligations) Regulations 2015*, which prescribe the Rules of Origin and origin-related requirements for free trade agreements, including ChAFTA; and
- Chapter 3 (Rules of Origin and Implementation Procedures) and related Annexes of the China–Australia Free Trade Agreement, which set out:
  - acceptable evidence of origin.
  - validity requirements for origin documentation; and
  - the circumstances in which Certificates of Origin, Declarations of Origin, and Origin Advance Rulings may be relied upon.

Compliance Obligations

Importers and customs brokers are advised that:

- when a Declaration of Origin is used in place of a Certificate of Origin, the relevant Origin Advance Ruling must be valid and in force at the time the claim for preferential treatment is made,
- expired Origin Advance Rulings cannot be used to support a ChAFTA claim,
- where there is no valid Origin Advance Ruling, a valid Certificate of Origin must be held at the time of importation, as required under ChAFTA, and
- the onus remains on the importer and their customs broker to ensure that sufficient, current, and compliant evidence of origin is available to substantiate each claim.

The use of expired, incorrect, or inappropriate origin documentation may result in a refusal of preferential tariff treatment, recovery of underpaid duty under the *Customs Act 1901*, the application of administrative or infringement penalties or further compliance or audit action by the ABF.

Importers and brokers are encouraged to review their origin documentation, the validity of their Origin Advance Rulings, and internal compliance processes to ensure ongoing adherence to ChAFTA and Australian customs legislation.

Importers who identify that a short payment of duty has arisen because of an incorrectly claimed preferential rate, may be protected from liability for an offence under subsections 243T(1) or 243U(1) of the *Customs Act 1901* if a voluntary disclosure is made through a written error notice. Further information is at Voluntary disclosures.

Further information on origin requirements and documentary evidence under ChAFTA is available on ABF China- Australian Free Trade Agreement website or by contacting the ChAFTA team at chafta@abf.gov.au.

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Customs and Trade Frameworks	Customs and Trade Compliance Branch
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