



AUSTRALIAN CUSTOMS NOTICE NO. 2004/47

Australia-United States Free Trade Agreement and Thailand-Australia Free Trade Agreement - application of preferential rates of Customs duty

The purpose of this Australian Customs Notice (ACN) is to clarify when preferential rates of customs duty will apply under the Australia-United States Free Trade Agreement (AUSFTA) and the Thailand-Australia Free Trade Agreement (TAFTA).

AUSFTA

ACN No. 2004/39 stated: "The preferential rates of customs duty will apply to US originating goods that are imported into Australia from the day that AUSFTA enters into force".

"US originating goods" are defined in the *US Free Trade Agreement Implementation Act 2004*, and the preferential rates of customs duty to apply to "US originating goods" are specified in the *US Free Trade Agreement Implementation (Customs Tariff) Act 2004*.

The legislation for the AUSFTA is due to commence on 1 January 2005, when the AUSFTA comes into force.

Goods imported into Australia from the United States of America on and from the commencement of the AUSFTA legislation that are "US originating goods" will qualify for the preferential rates of customs duty applying under the AUSFTA.

Goods are considered to be imported into Australia when they are landed or brought within the limits of a port with the intention of landing them.

Goods imported into Australia from the United States of America before the commencement of the AUSFTA legislation cannot be "US originating goods". Consequently, such goods will be subject to general rates of customs duty (paragraph 16(a) of the *Customs Tariff Act 1995* refers). Such goods will not qualify for the preferential rates of customs duty applying under the AUSFTA, even if the goods are entered for home consumption after the commencement of the AUSFTA legislation.

TAFTA

The customs legislation for the TAFTA is due to commence on the later of 1 January 2005 and the day on which the TAFTA comes into force for Australia.

The customs legislation has been passed by the Parliament and is awaiting the Royal Assent. Following the Royal Assent, the Australian Customs Service will issue ACNs on the rules of origin and the preferential duty arrangements for the TAFTA.

Goods imported into Australia from Thailand on and from the commencement of the TAFTA legislation that are "Thai originating goods" will qualify for the preferential rates of customs duty applying under the TAFTA, subject to certain requirements being met.

One of those requirements will be that the importer holds a valid Certificate of Origin, or a copy of the Certificate of Origin, at the time of claiming a preferential rate of customs duty.

Certificates of Origin for the TAFTA will not be issued until the TAFTA enters into force.

-2-

Goods imported into Australia from Thailand before the commencement of the TAFTA legislation cannot be "Thai originating goods". Consequently, such goods will be subject to general or DCS rates of customs duty. Such goods will not qualify for the preferential rates of customs duty applying under the TAFTA, even if the goods are entered for home consumption after the commencement of the TAFTA legislation.

John Arndell
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For Chief Executive Officer

25 November 2004