

THAILAND-AUSTRALIA FREE TRADE AGREEMENT

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FURTHER INFORMATION

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Background

The Thailand- Australia Free Trade Agreement (TAFTA) was signed on 5 July 2004, and is waiting on implementing legislation to be passed by Parliament. If this occurs in a timely manner, it is expected that TAFTA will come into force on 1 January 2005.

The agreement is "FTA-plus", or in other words, goes beyond traditional goods and services market access to cover trade and investment facilitation and cooperative activities. Australia and Thailand will eliminate virtually all tariffs on goods imported from the other country by 1 January 2010.

This is the first comprehensive trade agreement Thailand has negotiated. It also makes Australia the only country to have concluded two free trade agreements with ASEAN economies, following the Singapore-Australia Free Trade Agreement in mid 2003.

Tariffs and Non-tariff Barriers

For Australia, the main value in the FTA is in the elimination of Thailand's relatively high tariffs (averaging 18%), which include significant tariff peaks (such as passenger motor vehicles at 80%) and tariff rate quotas on several commodities.

Thailand Tariff Commitments:

- 49.4% of tariffs eliminated (very few of which were already 0%).
- 43.7% of tariffs eliminated by 2010
- 6.9% of tariffs eliminated between 2015 and 2020.

The items in the longest phase reduction (third) category are predominantly TCF and agricultural products.

Australian Tariff Commitments:

- 83.2% of tariffs eliminated (50% of which were already 0%).
- 12.9% of tariffs eliminated by 2010.
- 3.9% of tariffs eliminated by 2015.

The items in the phase tariff reduction categories are in the Steel, TCF, Automotive, and Chemicals and Plastics sectors.

Automotive Sector

Australia will eliminate tariffs on motor vehicles of Thai origin. Tariff reduction on automotive parts and components falls into three categories:

- Goods at 10% or 15% - 98 items falls to 5% in 2005 and 0% in 2010;
- Goods at 10% or 15% - 48 items will be eliminated on a zero-for-zero basis;
- Goods at 5% or lower will be eliminated.

On the Thai side:

- PMV 3lit and over tariff reduce from 80% to 0% in 2005.

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- Smaller PMV reduce to 30% in 2005, and phase to 0% by 2010.
- Parts & accessories tariffs reduce from 42% to 20% in 2005, and phase to 0% by 2010.

TCF Sector

Australia will phase tariff reduction for almost all TCF items:

- 239 tariff items of apparel and finished textiles, currently at 25%, go to 12.5% in 2005, 5% in 2010 and 0% in 2015.
- Items of apparel, textiles and leather currently at 10% or 15%, go to 5% in 2005, and 0% in 2010.
- Carpets currently at 15% reduce to 10% in 2005, 8% in 2008, 5% in 2009 and 0% in 2010.
- Footwear currently at 15% reduce to 10% in 2005, 8% in 2008, 5% in 2009 and 0% in 2010.
- Textile yarns currently at 5% or below reduce to 3% in 2005 and annually by 1% until 0% in 2008.

Steel Sector

Australia will eliminate current tariffs of 5% or less on steel items, with the exception of eight tariff items, which will maintain the current 4% tariffs until their elimination in 2010.

On the Thai side:

- tariffs will be halved on flat-rolled products of interest to Australia, including hot-rolled coil, cold-rolled coil and coated steel. Tariffs will be eliminated in 2015, except for most coated steel products which will reach zero in 2008;
- long products tariffs reduce to zero by 2010, except for a limited number of products that will immediately halve until elimination in 2015; and
- tariffs on some steel articles (currently at 20%) will be eliminated with the remainder to phase to zero by 2010.

Other Key Chapters of the Agreement

Rules of Origin

The approach to Rules of Origin (ROO) is based on the US-Singapore FTA product-specific model (specific rules for each product under the tariff schedule), which largely employs change in tariff classification (CTC) tests to confer origin. In other words, CTC tests, which differ slightly for each tariff code, state that, if the imported inputs come from "different parts" of the Customs tariff schedule to the final good, then the finished product has undergone sufficient transformation to be deemed as originating. The classifications of the "different parts" of the tariff schedule from which imported inputs may be derived impacts the degree of tariff classification change required.

Some 15% of tariff lines have a local content percentage test applied in addition to the CTC test. The local content test utilises a so-called "Build-Down" formula, which starts at the customs value of the goods (excluding international transportation costs), and

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subtracts the value of the non-originating materials. The total is divided by the customs value to get the qualifying percentage. Some important modifications have been made to the American ROO model, in the case of the Thai FTA, and as a result, companies should consult with Ai Group to confirm the specific ROO which relate to their products.

Safeguard Action

The Agreement contains a safeguard mechanism to apply during a five-year transition period to allow action to be taken should a surge in imports threaten a domestic industry in either country. Where an increase in imports of a product, as a result of a tariff preference applied to that product under the FTA, causes or threatens to cause serious damage to the domestic industry producing a like or directly competitive product, Safeguard Action will provide for the temporary suspension of that tariff preference.

Investment

The Agreement will substantially improve the environment for two-way investment, and will comprise provisions on investment promotion, protection and liberalisation. The promotion and protection rules will guarantee that both countries' investors and their investments enjoy fair and equitable treatment, full protection and security, and be granted compensation for loss incurred through expropriation and strife at fair market value. Investors will also be able to repatriate their invested funds and returns, except in circumstances of balance or payments crises, and have recourse to international arbitration to resolve post-establishment investment disputes.

Thailand will permit majority Australian equity participation in a range of sectors, including mining operations, distribution services, construction services, management consulting services, and major restaurants or hotels.

Movement of Business Persons

The conditions and time periods that will apply to the temporary movement of business persons will improve, including for investors, intra-corporate transferees (up to five year visa and work permits), service suppliers working on the basis of a contract (up to three year visa and work permit) and business visitors (no work permit for up to 15 days).

Industrial Standards

The agreement will provide for the two countries to develop arrangements for the acceptance of the equivalence of mandatory requirements, and to enter into negotiations in the future for the recognition of the results of the other country's conformity assessment procedures on a sectoral basis.

Services Trade

The services framework will establish a strong foundation for an expansion of two-way services trade on the basis of non-discrimination and progressive liberalisation of market access barriers. The package of commitments made by the two countries represents a significant step forward to opening services trade.