



Summary of the U.S. - Australia Free Trade Agreement

The information presented on this website is meant to serve as a guide. Only the agreement text and the customs regulations issued to implement the agreement are definitive.

If you have any questions about this Agreement, please contact Linda Martinich,
Office of Textiles and Apparel, (202) 482-3588.

Status: Entered into force on January 1, 2005.

How U.S. Textile and Apparel Companies Benefit

Through duty elimination, the U.S.-Australia FTA (USAFTA) allows U.S. textile and apparel exporters to be more price-competitive in the Australian market when competing with domestic suppliers and with third country suppliers that do not have duty benefits. Through the elimination of a variety of non-tariff barriers, the FTA further opens the Australian market to U.S. products. The FTA affords substantial benefits in a broad range of service sectors; enhances the protection of intellectual property; and facilitates U.S. investments through predictable access and a stable business environment. For the first time in many sectors, U.S. firms compete for Australia's government purchases on a non-discriminatory basis.

Tariff Elimination

Under the USAFTA, tariffs on qualifying U.S. textile, apparel, footwear, and travel goods entering into Australia, and vice versa, have been eliminated.

Also see the [FTA Tariff Tool](#) for the duty-free status or reduced duties that apply to products eligible under U.S. free trade agreements.

Rules of Origin

Textiles and Apparel

In general, goods containing only U.S. or Australian inputs qualify. However, goods containing inputs from other countries still might qualify if they meet specific criteria set out in the rules of origin of the Agreement. Textile and apparel products are subject to specific rules, based on tariff classification. The rules for textile and apparel products are generally referred to as "**yarn forward**," which requires that the yarn production and all operations forward occur in either Australia or the United States, but the fiber may be from anywhere.

There are some exceptions in the rules requiring "fiber forward," and some requiring "fabric forward." If a good does not meet the rule of origin requirements as set out above, a textile or apparel product might be considered originating if all non-originating fibers and yarns make up less than a "de minimis" seven percent of the total weight of the product. Special provisions also apply to textile and apparel goods put up in sets for retail sale.

Footwear

There are two different rules of origin that cover footwear in the USAFTA:

- *This Rule Applies to All Footwear Except for the 17 Specific Rubber/Fabric & Plastic/Protective Footwear Items Listed Under #2 below--A change to HTS headings 6401 through 6405 from any heading outside that group, provided there is a regional value content of not less than 35 percent of the adjusted value of the product. There are no restrictions on the use of imported uppers. Also, the article must be substantially transformed such that it is a new or different article.*
- *This rule applies to the following 17 specific rubber/fabric and plastic/protective footwear items: HTS 6401.10.00, 6401.91.00, 6401.92.90, 6401.99.30, 6401.99.60, 6401.99.90, 6402.30.50, 6402.30.70, 6402.30.80, 6402.91.50, 6402.91.80, 6402.91.90, 6402.99.20, 6402.99.80, 6402.99.90, 6404.11.90 and 6404.19.20--A change to headings 6401 through 6405 from any heading outside that group, except from subheading 6406.10, provided there is a regional value content of not less than 55 percent of the adjusted value of the product. Under this rule of origin, to qualify for the duty benefits, uppers can only be made in the United States or Australia.*

NOTE: The regional value content is determined by the "Build-up method":

$$RVC = \frac{VOM}{AV} \times 100$$

Where RVC is the regional value content, expressed as a percentage; AV is the adjusted value (value without Cost, Insurance, Freight); and VOM is the value of originating materials used by the producer for the production of the good.

Note: Textile footwear and footwear parts (HTS numbers: 6405.20, 6406.10 and 6406.99) are covered under the Textile and Apparel rules of origin.

Non-Textile Travel Goods

Non-textile travel goods are subject to the following tariff shift rules of origin:

- HTS 4202.11: A change to subheading 4202.11 from any other chapter.
- HTS 4202.19 - 4202.21: A change to subheading 4202.19 through 4202.21 from any other chapter.
- HTS 4202.29 - 4202.31: A change to subheading 4202.29 through 4202.31 from any other chapter.
- HTS 4202.39 - 4202.91: A change to subheading 4202.39 through 4202.91 from any other chapter.
- HTS 4202.99: A change to subheading 4202.99 from any other chapter.

Note: Textile travel goods (HTS numbers: 4202.12, 4202.22, 4202.32, and 4202.92) are covered under the Textile and Apparel rules of origin.

See the [Australian Department of Immigration and Border Protection website](#) for more information on how determinations of origin are made under the FTA. The Department will issue "advance rulings" at the written request of the importer, exporter, or producer on questions of tariff classification, customs valuation, country of origin, and whether the good qualifies as originating under the FTA. The written Origin Advice (OA) advises Australian importers, US producers and US exporters on specific issues relating to the origin of their goods for the purposes of determining eligibility for preferential duty rates for goods imported into Australia. Extensive information regarding the facts and circumstances of the inquiry is required prior to issuing such a ruling.

Commercial Availability

Article 4.2.3 of the Agreement provides for a consultation mechanism to consider whether the rules of origin applicable to a particular textile or apparel good should be revised to address issues of availability of supply of fibers, yarns, or fabrics in the territories of the Parties.

For information on commercial availability requests and modifications to the rules of origin, see the [Australia Commercial Availability](#) webpage.

Measures to Prevent Circumvention of the Agreement's Rule of Origin

The USAFTA contains additional measures to ensure that textile and apparel goods are not subject to fraud, such as transshipment. The Parties agree that the exporting Party, at the request of the importer Party, shall conduct verification procedures to determine that a claim for origin of a textile and apparel good is accurate, allows the exchange of information between parties when suspicion occurs, and permits the importing party to suspend preferential tariff treatment to the textile and apparel good under suspicion or any textile and apparel good produced or exported by a specific company.

Documentation Requirements

For qualifying goods in which USAFTA duty benefits are requested, the importer must make a claim of preference. The Agreement does not require that the importer provide a certificate of origin in support of the claim of preference. However, it is the importer's responsibility to declare in writing in the importation document that a good qualifies as originating. When claiming a preferential rate of customs duty for a U.S. originating good, the importer must use the preference code "U" in the preference indicator field on the import entry.

The importer may ask the exporter for information regarding why the goods qualify as "originating," to support a claim of preferential treatment. The information required should confirm that the goods are:

- wholly obtained or produced entirely in the United States; or
- produced in the United States wholly from other originating materials from either Australia or the United States; or
- produced in the United States partly from non-originating materials, but such non-originating materials undergo processing so that the good meets the requirements of the rules of origin in Annex 4-A to the Textiles and Apparel Chapter; or
- otherwise qualify as originating under the rules of origin in the USAFTA,

Australian authorities may verify a claim of preferential treatment up to five years after the date of importation. Therefore, it is recommended that exporters and importers maintain documents relating to the importation of the good and all supporting documentation for at least five years. Records should include information on:

- the purchase, cost and value of, and payment for, the good;
- the purchase, cost, and value of, and payment for, all materials, including indirect materials, used in the production of the goods (if value is relevant to the claim of origin); and
- the production of the good in the form in which the good was exported.

Intellectual Property Rights

As a result of commitments it made in the FTA, Australia now provides copyright protection for the life of the author plus 70 years (where the term of protection is measured by a person's life), or 70 years (where the term of protection is not measured by a person's life, *i.e.*, for corporate works). It also clarified that the right to reproduce artistic works. Unlike for patents, registered

trademarks, and designs, where registration is a precondition for protection, copyright is granted automatically where the substantive requirements are fulfilled.

The trademark and geographical indication provisions of the FTA established that trademarks must include marks in respect of goods and services, collective marks, and certification marks. Geographical indications are eligible for protection as marks. Australia is implementing its commitment to provide protection for marks and geographical indications, as well as to provide efficient and transparent procedures governing the application for protection of marks and geographical indications.

Under the patent provisions of the FTA, Australia confirmed that its law makes patents available for any invention, subject to limited exclusions, and confirms the availability of patents for new uses or methods of using a known product. To guard against arbitrary revocation, Australia limits the grounds for revoking a patent to those that would have justified a refusal to grant the patent. Fraud is also grounds for revocation. Under the FTA, Australia also committed to patent term adjustments to compensate patent owners for unreasonable delays in the issuance of patents.

Government Procurement

Under the USAFTA, U.S. suppliers are granted non-discriminatory rights to bid on contracts to supply Australian Government entities, including all major procuring entities and administrative and public bodies. Commonwealth (federal), state and territory government agencies are included. The Australian Government will eliminate its industry development programs, under which suppliers have had to meet various types of local content or local manufacturing requirements as conditions of their contracts. The Australian Government also will restrict its use of selective tendering, which will ensure that U.S. suppliers have a fair opportunity to compete for government contracts. For more information, see [Chapter 15 - Government Procurement](#).

Supporting Documentation

[Full Text of Agreement](#)

[Textile and Apparel Chapter](#)

[Textile and Apparel Product-Specific Rules of Origin \(Annex 4-A\)](#)

[U.S. Tariff Elimination Schedule](#)

[Australia Tariff Elimination Schedule](#)

[U.S.-Australia Free Trade Implementation Act \(Public Law 108-286\)](#)

[ISAC 15 Advisory Committee Report on the USAFTA](#)