Australian Government
Department of Foreign Affairs and Trade

A Business Guide to the Thailand-Australia Free Trade Agreement (TAFTA)

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Cargo ship, courtesy Sydney Ports. Vineyard and cattle yard, courtesy Tourism New South Wales

A Business Guide to the Thailand-Australia Free Trade Agreement (TAFTA)

Minister's Foreword

The Thailand-Australia Free Trade Agreement (TAFTA) is a major market-opening agreement that offers substantial benefits for Australian exporters across a wide range of sectors. One of the key features of the Agreement is its comprehensive coverage of trade in goods and services; sanitary and phyto-sanitary measures; food standards; the movement of business persons; investment; industrial standards; intellectual property; competition policy; e-commerce and government procurement.

More than half of Thailand's five thousand tariffs will be eliminated as soon as the Agreement enters into force. Virtually all the remaining tariffs will be eliminated by 2010. The services framework will establish a strong foundation for an expansion of two-way services trade and represents a significant step forward towards the removal or relaxation of existing restrictions to services trade. By 2010, 95 per cent of all current trade between Australia and Thailand will be completely free.

The Thailand-Australia FTA is Thailand's first with a developed country and positions Australian exporters to take advantage of the rapidly growing Thai economy (7 per cent GDP growth expected in 2004). Thailand is currently Australia's 11th largest trading partner. The agreement will also strengthen linkages between Australia and the ASEAN Free Trade Area (AFTA).

I encourage Australian companies to become familiar with TAFTA and position themselves to take advantage of its benefits once the Agreement enters into force. Australian businesses now have a window of opportunity to take advantage of lower tariffs than those faced by their foreign competitors. It is important that Australian companies are aware of those areas where they will gain preferential access to the Thai market, especially for products protected hitherto by high tariff barriers.

This Agreement reflects the Government's commitment to advancing Australia's trade and economic interests using every available opportunity. Through TAFTA, the Government has secured practical results for Australian businesses, established a high benchmark for the multilateral system, and made a genuine contribution to future trade liberalisation in the region.

This FTA, with the second largest economy in South East Asia, is a further mark of Australia's close economic integration with the countries of East Asia. The Government will continue to pursue opportunities to help Australians compete successfully in the global economy.

Mark Vaile

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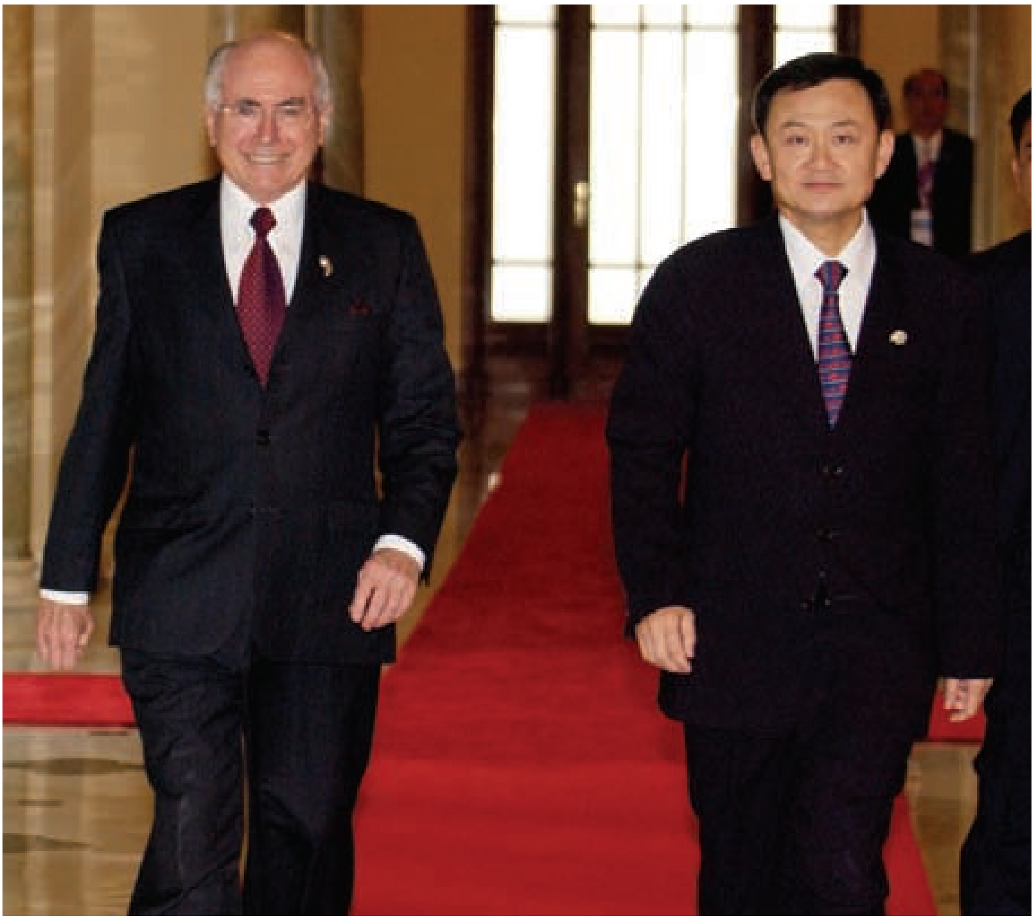
Chapter 1: What is TAFTA?

What is TAFTA?

Australia's relationship with Thailand is strong and spans cooperation in trade and investment, security and defence, police, education, tourism and development. In recent years, the two countries have signed a number of agreements on issues such as transnational crime, migration, terrorism and social security that have served to broaden and strengthen this cooperation. Australia is seeking to deepen further bilateral ties with Thailand, and the Thailand-Australia Free Trade Agreement (TAFTA) is a cornerstone of that effort.

Formal bilateral negotiations on TAFTA commenced in May 2002, with Prime Ministers John Howard and Thaksin Shinawatra announcing the successful conclusion of the negotiations on 19 October 2003. TAFTA is Australia's fourth free trade agreement – after FTAs signed with New Zealand, Singapore and the United States. It is Thailand's first comprehensive FTA and its first with a developed country. The full text of TAFTA is available on the Department of Foreign Affairs and Trade website - www.dfat.gov.au/trade/negotiations/aust-thai/



Photography by AUSPIC

Australian Prime Minister John Howard with Thai Prime Minister Thaksin Shinawatra at an APEC meeting in Bangkok, October 2003, when both leaders announced the successful conclusion of TAFTA negotiations.

TAFTA is a major market-opening agreement which will result in Thai tariffs on virtually all goods imported from Australia being eliminated by 1 January 2010. It will also substantially improve the environment for bilateral services trade and investment. The Agreement contains 19 chapters and runs to over 1200 pages. TAFTA is comprehensive, covering trade in goods, trade in services and investment, as well as promoting cooperation and best practice in a wide range of areas, including competition policy, e-commerce, industrial standards, quarantine procedures, intellectual property, government procurement and dispute settlement.

Australian business is urged to take a close look at the new opportunities created by TAFTA. The imminent reduction of Thailand's high tariff barriers (for some tariffs up to 200 per cent) means that exports may now become viable for many products. Opportunities are also opening for Australian service providers, investors, and manufacturers and processors.

The target date for TAFTA's entry into force is 1 January 2005, or as soon as possible thereafter, following the completion by both countries of the domestic procedures necessary for implementation.

Anticipated Implementation Timetable:

- 12 May 2004 – Release of TAFTA text. Available on DFAT website.
- 4-6 July 2004 – Signature of text during visit to Australia by Thai Prime Minister Thaksin.
- June-September 2004 – Parliament's Joint Standing Committee on Treaties review – hearing of submissions.
- October-December 2004 – Customs Tariff Act amended
- 1 January 2005 – Target date for entry into force.

Summary of key TAFTA outcomes for Australia

- Over $700 million of current Australian exports to Thailand will benefit immediately from tariff cuts.
- 95 per cent of all current trade between Australia and Thailand will be completely free by 2010.
- 98 per cent of tariff lines will be at zero both ways by 2010.
- More than half of Thailand's 5000 tariffs - accounting for nearly 80 per cent of Australian exports - will be eliminated on entry into force.
- Many Australian companies formerly locked out of the Thai market by high tariffs and quotas will enjoy new opportunities, particularly in areas such as agriculture, processed foods and beverages, mining and automotive products.
- It is estimated that in the first year of the Agreement, Australian exporters to Thailand could save more than $100 million in duties.
- According to a recent study by the Centre for International Economics, TAFTA's net economic benefit to Australian GDP will be an estimated US$2.4 billion.
- On industrial tariffs, Thailand will immediately eliminate its 80 per cent tariff on large passenger motor vehicles and will reduce its 80 per cent tariff on other passenger motor vehicles to 30 per cent, phasing to zero in 2010.
- Tariffs on all automotive parts, components and accessories, currently up to 42 per cent, will be immediately reduced to a ceiling of 20 per cent and then phased to zero in 2010.
- Thai tariffs on machinery and equipment, currently up to 30 per cent, will either be immediately eliminated or phased to zero by 2010.
- On grains, Thailand will immediately eliminate the current tariffs on wheat (ad valorem equivalent of 12-20 per cent), barley, rye and oats (ad valorem equivalents of up to 25 per cent), and the tariff and tariff rate quota on rice.
- On beef, Thailand will immediately reduce the tariff to 40 per cent, down from 51 per cent, and for beef offal to 30 per cent, down from 33 per cent, and phase these rates to zero in 2020.
- In services and investment, the Agreement will liberalise Thailand's foreign investment restrictions, protect Australian investment, and improve transparency.
- Thailand will eliminate or relax foreign equity restrictions in a number of sectors of interest to Australia, including mining, certain distribution services, management consultancy services, certain construction services and a range of other services.

Chapter 2: Thailand: A Natural Trading Partner

Thailand: A Natural Trading Partner

Over the past few years Thailand's economic performance has been consistently strong. It is South-East Asia's second largest economy, with a population of 63 million people and GDP per capita of US$1991. Consensus Economics estimates that Thailand's GDP growth was 6.7 per cent in 2003. Moreover, high growth is expected to continue as the government promotes policies aimed at building a more open, deregulated and efficient economy and as exports continue to grow on the back of strong domestic consumption.

Bilateral trade between Australia and Thailand is continuing to grow. Thailand was our 12th largest source of exports and 13th largest source of imports in 2003. Two-way trade that year was worth $5.9 billion, four per cent more than in 2002. The balance of trade remains in Thailand's favour by $1.36 billion.

Australia-Thailand trade is complementary, with Thailand having a large surplus in trade in Elaborately Transformed Manufactures (ETMs), and Australia having a surplus in agricultural raw materials, minerals, metals and fuels - all of which are important inputs to Thai industry.

Photo courtesy Tourism New South Wales

TAFTA will position the two economies to realise their respective comparative advantages. With its high tariff barriers, Thailand has not been a large export market for Australia before now. On entry into force, TAFTA will remove most of the barriers on goods where Australia has real competitive strength.

Up till now, Thailand's high tariff peaks compelled Australian producers to export at the low value-added end of the production chain. Removal of Thailand's tarifff peaks will give Australia the opportunity to export higher value-added goods and reduce its traditional reliance on exports of raw materials and energy.

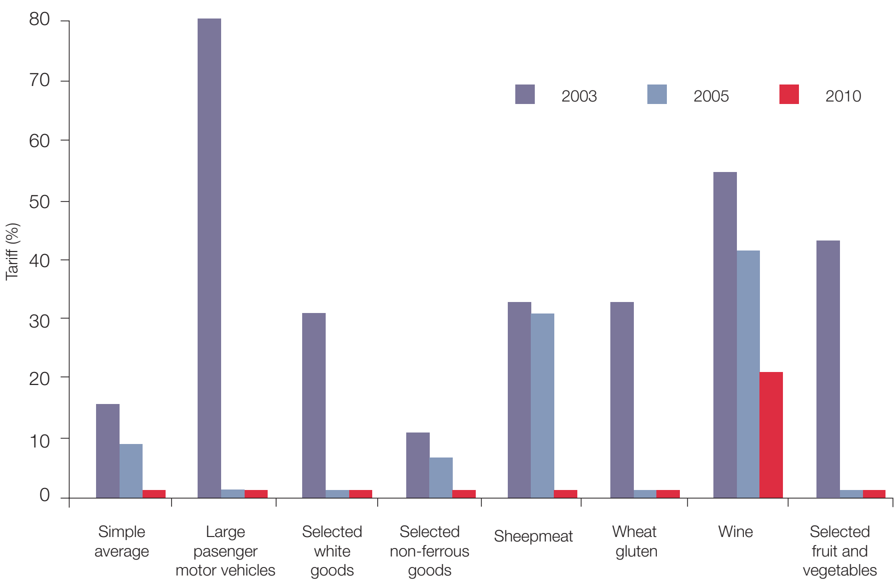
As previously noted, TAFTA will also substantially improve the environment for bilateral investment. Two-way investment flows have traditionally been low. Australian investment in Thailand ($272m in June 2002) is currently roughly half the value of Thai investment in Australia.

Trade liberalisation undertaken as a result of TAFTA will deliver economic benefits to both Australia and Thailand. According to an analysis prepared by the Centre for International Economics, TAFTA could be worth US$ 2.4 billion of additional GDP to Australia in net present value terms over a 20 year period.

With TAFTA's entry into force, Thailand will gain improved access to an Australian market of 20 million consumers with a disposable income equivalent to the highest level of Thai consumers. Thai consumers will benefit from cheaper goods, while Thai industry will gain from cheaper inputs - leading in turn to an improvement in Thai competitiveness and exports and higher demand for Australian products.

The auto sector illustrates the potential mutual gains from TAFTA. The complementary nature of the vehicle industries in both countries, with Thailand focussing on small cars and light commercial vehicles and Australia on larger cars, will encourage economies of scale through closer integration of the two markets. Thailand can be expected to increase its share of the Australian market in existing auto product lines such as tyres, radios and lights, while Australian suppliers of engines, transmissions and brakes will have greater opportunities in the rapidly growing Thai market.

Tariffs facing Australian exports to Thailand



Fiscal Policy Office, Ministry of Finance, Thailand and Thailand-Australia FTA: Tariff Schedule of Thailand.

What Australian exporters currently doing business in Thailand say:

"Thailand is a high potential market for Australia".

"Thailand has a good track record in terms of payment".

Chapter 3: Liberalising Trade in Goods

Liberalising Trade in Goods

Preferential tariff rates

What are TAFTA preferences?

Thailand's existing average tariff rate is around 15 per cent (compared with 3.9 per cent for Australia), but tariffs exceed 30 per cent for significant import lines. For example, motor vehicles attract tariffs of up to 80 per cent, beef 60 per cent and fish 60 per cent.

Moreover, products in which Australia has a special interest often attract higher than average tariffs. These include confectionery (30 per cent), automotive components (up to 42 per cent), fruit (30 per cent), and wine (54-60 per cent).

Photos courtesy Tourism New South Wales

As soon as TAFTA enters into force, Thailand will eliminate tariffs on more than 50 per cent of products, accounting for nearly 80 per cent of Australia's current exports to Thailand. Tariffs on a further 40 per cent of goods will be phased down and eliminated by 2010. Importantly, all remaining Thai tariffs and tariff quotas will be subject to up-front cuts and then eliminated according to agreed phasing timetables, most by 2010. For summary details of Thailand's offer, see Annex I of this document.

Over $700 million of Australia's current exports to Thailand will benefit immediately from the tariff cuts under TAFTA and many Australian companies currently locked out of the Thai market because of prohibitively high tariffs will enjoy new opportunities for export. Such companies include Australian exporters of agricultural and manufactured goods. For example, tariffs will be eliminated on lactose, infant formula, casein and milk albumin, while tariffs on dairy products such as butter, cheese and milk powders will be cut and phased to zero in 2020. The tariff on beef will be cut to 40 per cent and then reduced by 2.6 per cent each year until eliminated in 2020.

TAFTA also provides benefits for Australian automotive products manufacturers. Automotive parts exporters, for example, will benefit from an immediate tariff cut to 20 per cent (from 42 per cent) phased to zero in 2010.

The elimination or reduction of these tariffs will give Australian exporters a considerable advantage in the Thai market relative to many of their competitors. However, exporters should move quickly to secure these advantages. If, as foreshadowed, Thailand embarks on an ambitious Free Trade Agreement with the United States later this year, the competitive advantage Australia will enjoy through TAFTA may not be sustained, even though access to the Thai market will remain much easier than at present.

Importers of Thai goods to Australia will also benefit from significant tariff preferences.

Details of tariff rates which will apply to key Australian exports are set out in Annex I of this Guide. The complete list of preferential rates which will apply to all products is set out in Annex 2 of TAFTA, at the website of the Department of Foreign Affairs and Trade www.dfat.gov.au/trade/negotiations/australia-thai/

What happens to tariff rate quotas?

Imports to Thailand of certain sensitive agricultural products (dairy, coffee, tea and potatoes), are governed by tariff rate quotas (TRQs). Under TAFTA, Thailand will expand access for Australian imports under TRQs over a transition period that varies according to the product, with the eventual elimination of all TRQ restrictions. A number of TRQs will be eliminated on TAFTA's entry into force. The remainder will be subject to an expanding quota over the transition period, with the in-quota tariff also phasing to zero over that same period.

What TAFTA preferences do not cover

Preferences under TAFTA only cover tariffs and access to TRQs. Excise-equivalent duties, goods and services tax (GST) in Australia, value added tax in Thailand, dumping duties and other taxes and levies, if relevant, are still payable in the usual way.

Trade Minister Mark Vaile meeting Thai Prime Minister Thaksin Shinawatra in Bangkok, 2002.

Case Study: Processed Food Producers Tasting New Opportunities - the Masterfoods Story

Thailand's high tariffs on many processed food products have been a major impediment to the expansion of Australia's exports. TAFTA will open up new opportunities for a variety of food products. Masterfoods Australia New Zealand (MFANZ) is one processed food exporter that is expecting to reap significant benefits from the agreement. Masterfoods estimates that by 2010 its exports to Thailand could almost double 2002 levels. These export opportunities will bolster investment in centres such as Wodonga, Ballarat and Bathurst. More than 30,000 workers in the wider economy benefit indirectly from Masterfoods' businesses, and strengthened export prospects augur well for the future growth of the company and the industries linked with it.

Trade Minister's Trade Statement 2004

Rules of Origin

For products from Australia or Thailand to be eligible for preferential tariff rates into the other market, they must be declared to be 'originating' goods of the exporting country. Originating goods are those that:

- are wholly obtained or produced in their entirety in Australia or Thailand; or
- are produced in Australia or Thailand partly from non-originating materials.

Goods containing inputs from third countries must satisfy requirements agreed between the parties. The principal requirement is whether any third country input has undergone a specified change in tariff classification as a result of production processes occurring in the territory of either party. This is known as a "change in tariff classification" approach to determining origin. The required change for each product is set out in Annex 4.1 of the Agreement (see details in www.dfat.gov.au/trade/negotiations/aust-thai/).

Regional value content

For a number of products, particularly textiles, clothing and footwear and a number of other manufactures, the good being exported must also contain a defined level of local content as a proportion of the overall value of the good. This is known as a "regional value content" requirement. Where there is a regional value content requirement for a particular product, this is also set out in Annex 4.1 of the Agreement.

The WTO Customs Valuation Agreement provides a number of methods for calculating the value of goods. The primary method is the transaction value method, which is based on the actual price paid or payable for the goods. Under TAFTA, the Customs Valuation Agreement will be used to determine the value of goods and inputs (or materials), as adjusted appropriately to reflect the FOB or CIF value.

Goods will not qualify for a tariff preference if, following export from one of the parties, they undergo further production in a third country prior to importation by the other Party. Annex II of this Guide outlines some useful steps in determining the origin of goods using the 'change in tariff classification method'.

Case Study: Australian car manufacturers motoring into Thailand

The FTA will generate tangible benefits for Australia's automotive industry. Thailand will remove its 80 per cent tariff on large passenger motor vehicles from the day the agreement enters into force and rapidly phase down its high tariffs on other automotive products. This will translate into significant new export opportunities in an automotive market that is similar in size to Australia's. Australia's motor vehicle manufacturers are already moving to take advantage of these positive changes.

Holden has announced its intention to begin selling Commodores into Thailand, under the badge of the Chevrolet Lumina. Ford Australia is initiating plans to expand its commercial presence in the Thai market, with prospects for vehicles, parts and components. Mitsubishi has received positive feedback from the display of its Adelaide-built Diamante (Magna) at the Bangkok Motor Show and hopes to start exporting to Thailand this year.

Photo courtesy Holden Australia

Most exporters need a Certificate of Origin

TAFTA provides that goods can only attract a tariff preference if they are accompanied by a certificate which confirms that they meet the rules of origin set out in Chapter Four of TAFTA. This certificate is known as a 'Certificate of Origin'. A separate, valid Certificate of Origin is required for each shipment of goods attracting a preference. The Australian exporter must be registered in respect of their goods to be exported under TAFTA before it can obtain a Certificate of Origin for shipment of goods. The bodies authorised to register exporters and issue certificates are the Australian Chamber of Commerce and Industry (ACCI) and the Australian Industry Group (AiG). Exporters must forward a copy of each Certificate to the Thai importer.

Exporters must be honest in filling out their documentation, and classify their goods correctly, as penalties and delays may otherwise result.

What if I don't have a Certificate of Origin?

Exports which do not meet the rules of origin, or which do meet the rules but lack a Certificate of Origin, are still permitted, but will be subject to the 'most-favoured nation' (MFN) tariff rate rather than the TAFTA rate. MFN tariffs are the general rates that Australia and Thailand apply to goods from all countries, and are generally higher than the rates applying under TAFTA. But where the Australian or Thai MFN rate for a particular product is zero, or equal to or below the TAFTA rate for any reason, that product does not have to meet the rules of origin, and a Certificate of Origin is not required.

Who to contact for a Certificate of Origin

Exporters should get in touch with ACCI by telephoning the Director, Trade and Policy on (02) 6237 2311. To contact AiG, exporters should phone AiG's Trade and Development Officer on (03) 9867 0152.

Importers wanting to take advantage of tariff preferences for entry into the Australian market should contact the Thai Ministry of Commerce for a Certificate of Origin.

EXPORT SUCCESS STORY: THE PRODUCT MAKERS

Thailand and other markets in South-East Asia are getting a taste for the unique flavours of Melbourne-based beverage seasoning, flavours and additives specialists, The Product Makers. The company has been exporting from the day it opened its factory doors in 1985 and is currently enjoying a recent surge of sales in South East Asia, including Thailand.

According to Commercial Marketing Manager, Lucky Procopiou, the reason behind the company's success is their commitment to innovation.

"To give you an example, while selling orange flavours and additives for orange juice was nothing new, making it into an orange functional drink and selling it as a complete product is a new idea."

"The immediate success our business had told us that there was a market out there looking for this type of idea," he said.

When The Product Makers began 25 years ago the income generated from exports was five per cent of total revenue – that figure now stands at 30 per cent.

"We also have agents placed in Thailand and other Southeast Asian markets and the Middle East who are serviced with our own technical laboratories," Mr Procopiou said.

"These markets are cheaper to export to because of lower freight costs and it is significantly cheaper to distribute larger quantities of stock there."

"One of the biggest sections of our company is our research and development branch and we invest a lot of money back into our company to look for new products that will appeal to our existing markets," Mr Procopiou said.

Austrade

Further Information on Certificates of Origin

Further details concerning the rules of origin requirements will be issued closer to TAFTA's entry into force. Those notices will be made available on the Australian Customs website at www.customs.gov.au and at the ACCI and AiG websites at www.acci.asn.au and www.aigroup.asn.au.

For queries on rules of origin as well as other import entry requirements, please contact the Manager Origin, Australian Customs Service, at origin@customs.gov.au or (02) 6275 6551.

Photo courtesy Sydney Ports

Safeguards: when preferential tariff rates may not apply

In order to achieve the ambitious level of tariff reductions in TAFTA, the Agreement includes certain safeguard mechanisms, to allow domestic industry in both countries to adjust to the new trading environment.

What are transitional safeguard measures?

Transitional safeguards may be applied to all products covered by TAFTA. During the period of transition to free trade, each country may, subject to certain strictly defined conditions, lift the tariff to the MFN rate which applied either at entry into force of the Agreement, or at the time the measure is imposed (whichever is lower). Increased imports resulting from the reduction or elimination of customs duties must threaten serious damage to the domestic industry producing competing products. Transitional safeguard measures may be imposed initially for only two years, with a possibility of extension to a maximum of six years.

What are special safeguards?

In addition, special safeguards can be applied to agricultural products which both countries consider sensitive. The specific products are listed in Annex 5 of TAFTA, which also includes a time limit for application of a special safeguard to each product. If a volume level is triggered, the resulting safeguard action allows additional duties to be imposed to a level up to the 'Most Favoured Nation' (MFN) tariff rate for the rest of the year. Thailand has access to the special safeguard mechanism for 41 dairy, meat and horticultural items.

Addressing internal obstacles to trade in goods

Tariffs are not the only barriers to trade in goods. Domestic regulation in the importing country may also affect trade, especially where such regulation requires goods – including imported goods – to meet particular standards, or restricts imports of certain goods for quarantine purposes.

Reducing technical barriers to trade

Under TAFTA, Australia and Thailand aim to harmonise their technical regulations where feasible, recognise each other's standards as equivalent where they meet the objectives of their own standards, and make conformity assessment procedures mutually compatible.

Quarantine and food safety

Australia and Thailand are both major agricultural producers and exporters, but with different environmental conditions and pest and disease status. TAFTA affirms that decisions on matters affecting quarantine and food safety will continue to be made on the basis of scientific assessments of the risks involved, as required by international obligations. However, TAFTA also promotes cooperation and consultation between Australia and Thailand on this subject.

Australian Customs Service Chief Executive Officer, Lionel Woodward, and the Director-General of Royal Thai Customs, Chavalit Sethameteekul, signing a Memorandum of Understanding in Thailand, December 2003.

Other steps to facilitate trade in goods

Simplification of existing customs procedures will make trade in goods between Australia and Thailand more predictable. TAFTA includes measures to enhance transparency of customs laws and procedures, promote certainty in the valuation of goods, and allow appeals against decisions taken by the customs authority of the other country.

Australia and Thailand have committed to provide in advance of export, rulings on the tariff classification of goods to be exported under TAFTA. In addition, the relevant customs administrations will release immediately any goods imported which are accompanied by a certificate of origin. Where the customs administration doubts the validity of a certificate, it may require the payment of a security until it has investigated. However, the two countries will work to clear low-risk goods quickly. Contact points will be established in both countries to respond to customs-related enquiries.

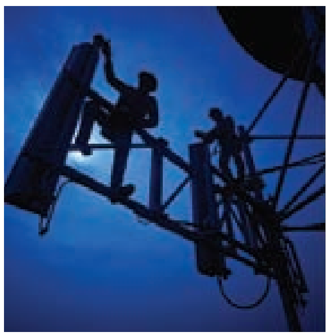
Chapter 4: A Better Environment for Services and Investment

A Better Environment for Services and Investment

At present, cross-border services trade represents only about one-fifth of bilateral trade between Australia and Thailand. Tourism and education are Australia's major service exports to Thailand, with Australia being the number one destination for Thai students seeking an education abroad. Other particular areas of opportunity are telecommunications (internet and wireless), environmental management and food service (airline catering, hotels).

Photo courtesy University of Sydney

TAFTA's key provisions on services are modelled on international obligations under the WTO's General Agreement on Trade in Services (GATS). Australia's commitment under TAFTA is essentially a standstill of its GATS obligations, meaning that no additional liberalisation will be undertaken in Australia as a result of TAFTA. However, Thailand will make a number of changes that will improve the environment for bilateral services and investment.



mobile phone installation

National Treatment

A key provision of the Investment Chapter is that on National Treatment. Australia and Thailand have committed to treating investors and investments of the other country at least as well as they treat their own investors. National Treatment applies only to those sectors listed in Annex 8 of TAFTA.

Higher limits on Foreign Ownership

Thailand currently has a limit of 49 per cent on foreign equity in most sectors, although this cap is more restrictive in some sectors such as telecommunications and banking. Once TAFTA enters into force, Thailand will permit majority Australian ownership of mining, construction, management consulting and hospitality ventures. Annex 8 of TAFTA lists Thailand's specific commitments in these sectors.

Mining Sector

The Thai Ministry of Commerce has confirmed that Australian enterprises which qualify for benefits under TAFTA (ie companies incorporated in Australia which are at least 50 per cent Australian-owned) will be permitted to hold up to 60 per cent ownership in mining operations without the specific approval normally required for businesses falling under the Foreign Business Act. The Thai commitment on mining operations is not limited to new projects. Once TAFTA enters into force, it would be open to an Australian company to acquire up to 60 per cent of an existing mining operation in Thailand without obtaining specific approval. An Australian company wanting to acquire the interest would simply need to demonstrate to the Ministry of Commerce that it was at least 50 per cent Australian-owned. TAFTA does not have any effect on the provisions of the Thai Foreign Business Act, which permit up to 75 per cent foreign equity in a mining operation with specific Thai Cabinet approval, or on the 100 per cent foreign equity for a specified period available under special packages agreed with the Board of Investment.

DFAT 2004

Additional protection for Australian Investments

Australia and Thailand have agreed not to expropriate investments made by each other's investors except where the expropriation is for a public purpose, on a non-discriminatory basis, and appropriate compensation is paid. Both countries will permit each others' investors to transfer their funds freely, except where a party is facing balance of payments or external financial difficulties.

Chapter 9 of TAFTA gives additional protection to Australian investors in Thailand through its investor-state dispute settlement provisions. These provide an investor of one country with the right to challenge the Government of the other country, either in the latter's courts or in an international arbitral tribunal, for a breach of the obligations in the Investment Chapter.

Easier access to Thai business visas

TAFTA also contains rules that will streamline the movement of business people between the two countries. A number of Thailand's conditions relating to visas and work permits for Australian business people will be relaxed, including by allowing longer periods of stay for Australian citizens.

Australian business visitors will no longer require a work permit for stays of up to 15 days (90 days for APEC Travel Card holders). In addition, Thailand will grant extended visas and work permits (from one year to five) for Australian citizens being transferred to work in Thailand as intra-corporate transferees, increase the work permit to three years for contractual services suppliers in Thailand, and allow Australians who hold work permits to participate in business meetings anywhere in Thailand.

Detailed information about the new visa provisions is in Annex 8 of TAFTA, in Thailand's schedule of commitments, under the heading 'Movement of Natural Persons'.

Further negotiations

It is important to note that further negotiations will be held in future to achieve further liberalisation of two-way services trade. This is aimed at capturing developments in Thailand's financial and telecommunications industries where regulatory reforms have not yet been completed.

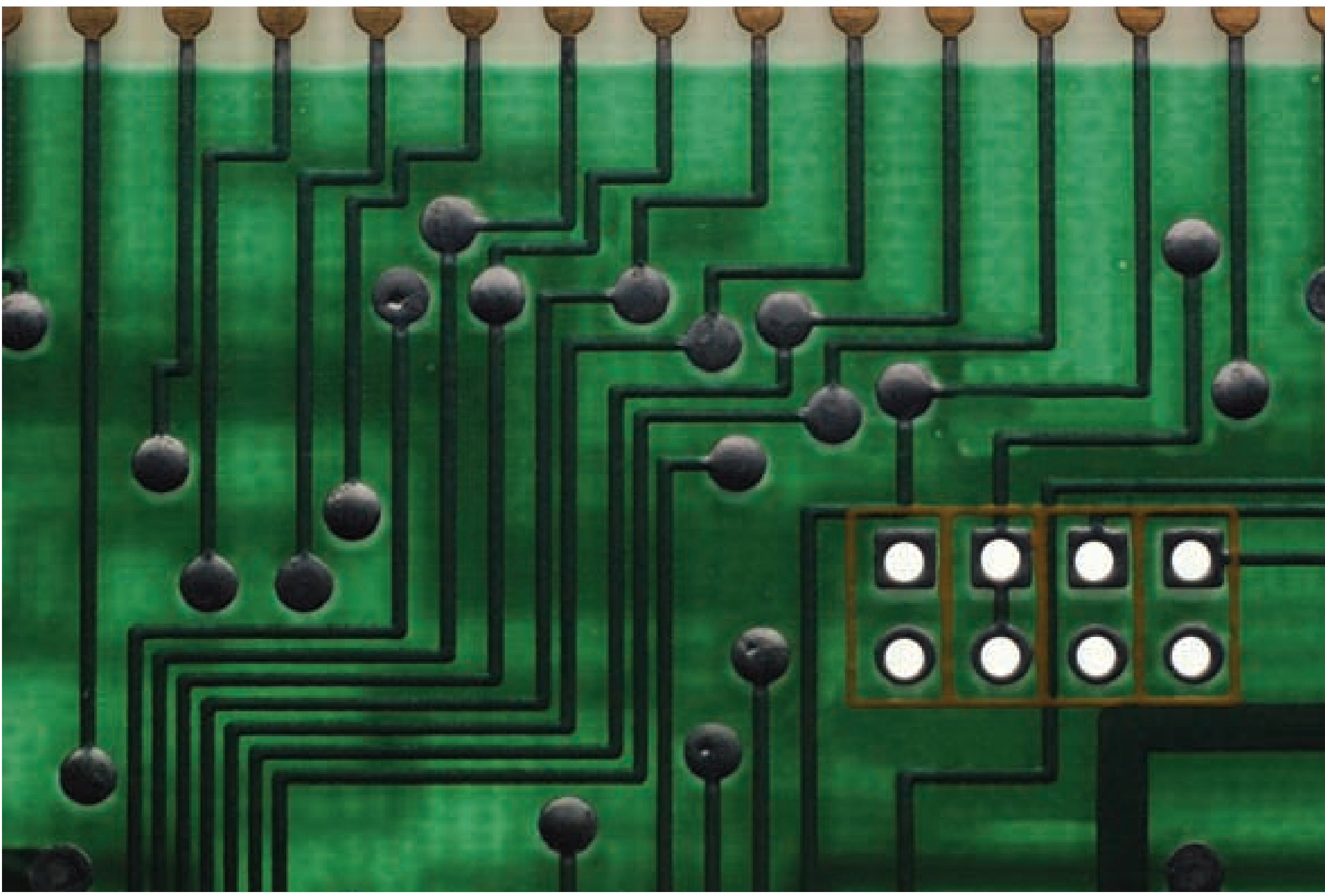
Chapter 5: Protecting Your Intellectual Property

Protecting Your Intellectual Property

Australia and Thailand recognise the importance of effective protection of intellectual property as a vital component in fostering invention and technology. Both countries are parties to the World Trade Organisation's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and understand the importance of the intellectual property component in exports. In line with Thailand's obligations under TRIPS, Thailand has amended its existing IP laws, namely its copyright, patents and trademark legislation, while promulgating new laws in relation to plant species, trade secrets and integrated circuits layout designs.

Since 1998, Thailand has stepped up its IP enforcement effort, with an increase in the number of successful prosecutions, particularly in copyright and trademark infringements.

TAFTA strengthens both countries' capacity to protect intellectual property and reaffirms that they will respect the provisions of TRIPS. Under TAFTA, Australia and Thailand will take measures to prevent the export of goods which infringe copyright or trade marks. They will also cooperate with a view to eliminating trade in goods which infringe intellectual property rights, including through the exchange of information through nominated contact points. They have further agreed to cooperate to increase awareness of intellectual property rights and the commercialisation of intellectual property.



Chapter 6: Dispute Settlement and Transparency

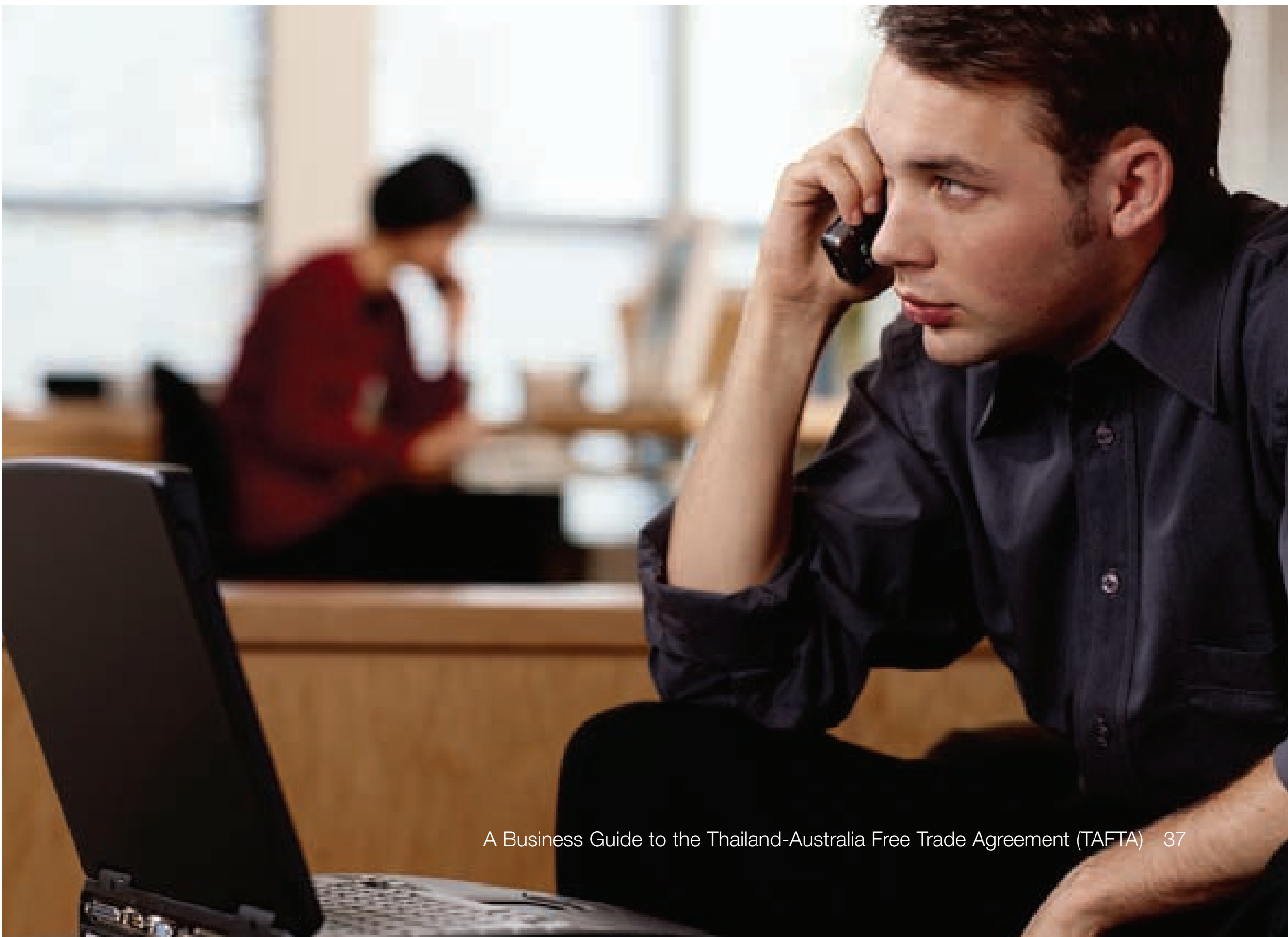
Dispute Settlement and Transparency

What happens if there is a dispute?

If a dispute arises over the implementation over a TAFTA obligation, the complaining country may resort to the dispute settlement mechanism in TAFTA. Dispute settlement provisions do not, however, apply to TAFTA obligations relating to sanitary and phyto-sanitary issues and food standards.

The focus is on dispute resolution through consultation. Where consultation fails, a country may, after 60 days, seek to establish an arbitral tribunal. The tribunal will advise its award within 90 days and make the award public within a further 10 days. If the complaining country is not satisfied that the other has adequately implemented a tribunal award, it may suspend the benefits it owes to the other country under TAFTA.

Many problems can be resolved readily through informal consultations without the need for invoking dispute resolution mechanisms. Problems encountered in doing business with Thailand should be conveyed, in the first instance, to the Department of Foreign Affairs and Trade or the Australian Embassy in Bangkok – contact details for these are listed in Chapter 7 below. Both can assist Australian companies with contacts in relevant Thai Government agencies. In addition, the Department of Foreign Affairs and Trade has offices located in all Australian capital cities. Their contact numbers are listed at Annex V of this Guide.



Transparency

Transparency of laws and regulations governing trade in goods and services is a critical factor in encouraging increased bilateral trade. TAFTA aims to ensure that the relevant laws and regulations of each party are readily available to the other party, by requiring prompt publication of these, and providing for contact points in each country for enquiries.

TAFTA also has provisions for procedural protections in administrative proceedings, including review mechanisms.

Chapter 7: Review and Feedback

Review and Feedback

TAFTA will be reviewed regularly

TAFTA sets out how the Agreement can be amended, essentially by agreement between Australia and Thailand. It also provides that other countries may accede to the Agreement and confirms that nothing in the Agreement commits either country to passing on to the other any benefit it confirms to a third country under a Free Trade Agreement or Customs Union.

TAFTA provides for periodic review of the Agreement though the establishment of a Joint Commission, which will ensure proper implementation of the Agreement and consider changes in the bilateral economic relationship which may impact on TAFTA.

How to give us your feedback

The Department of Foreign Affairs and Trade, through Australia's Embassy in Bangkok, maintains excellent contacts with the Government of Thailand and Thai business groups. DFAT has a proven track record of success in securing trade wins for Australian companies throughout Asia and, with Austrade, is a ready resource for Australian companies pursuing business opportunities in Thailand.

We encourage companies to seek advice from the Department's Thailand, Vietnam and Laos Section, and to explore the DFAT website for information about Thailand and TAFTA. We are also keen to receive feedback from business about TAFTA and how it might be fine-tuned in future.

Please provide feedback to:

Executive Officer (Thailand)
Thailand, Vietnam, Laos Section
Department of Foreign Affairs and Trade (DFAT)
RG Casey Building
John McEwen Crescent
Barton ACT 0221
Tel: (02) 6261 2373 or 6261 1251
Fax: (02) 6112 2373
E-mail: Thailand-fta@dfat.gov.au

In Bangkok, please provide feedback to:

First Secretary Political/Economic
Australian Embassy
37 South Sathorn Road
Bangkok 10120 Thailand
Tel: +66-2-287 2680
Fax: +66-2-287 2029

Annexes

Annex I

Thailand's Commitments on Goods

Product	Tariff Reductions
Agricultural Products	
Beef Meat (current tariff 50%)	40% on entry, then phase to 0% in 2020
Sheep Meat (current tariff 30%)	30% on entry, then phase to 0% in 2010
Offal (current tariff 30-40%)	30% on entry, then phase to 0% in 2020
Frozen Shrimps and Prawns (current tariff 5%)	Hold tariff at 5%, then phase to 0% in 2020
Canned Fish (current tariff 10-30%)	0% on entry
Milk and Cream (20% in quota, 41% out of quota)	Immediate additional quota of 120 tonnes, expanded by 17% at five-yearly intervals until 2025, when all tariffs and quotas are eliminated
Butter (current tariff 30%)	30% on entry, then phase to 0% in 2020
Skim Milk Powder (20% in quota, 216% out of quota)	Immediate additional quota of 2,200 tonnes, expanded by 17% at five-yearly intervals until 2025, when all tariffs and quotas are eliminated
Cheese (current tariff 30%)	30% on entry, then phase to 0% in 2020
Fresh Potatoes (27% in quota, 125% out of quota)	Additional quota will be immediately granted, expands yearly until 2020, when all traiffs and quotas are eliminated
Fresh Carrots and Turnips (current tariff 40%)	30% on entry, then phase to 0% in 2010
Processed Potatoes (current tariff 30%)	Phased to 0% in 2015
Dried Pulses (current tariff 30%)	30% on entry, then phase to 0% in 2010
Chickpeas (current tariff 40%)	0% on entry
Fresh or Dried Mandarins (current tariff 40%)	30% on entry, then phase to 0% in 2015
Fresh Grapes (current tariff 30%)	30% on entry, then phase to 0% in 2015
Fresh Cherries (current tariff 40%)	30% on entry, then phase to 0% in 2010
Processed Pears (current tariff 30%)	24% on entry, then phase to 0% in 2010
Processed Peaches (current tariff 30%)	24% on entry, then phase to 0% in 2010
Fruit Juice (current tariff 30%)	24% on entry, then phase to 0% in 2010
Wheat (current tariff ad valorem equivalent of 12-20%)	0% on entry
Millet (current tariff 2.75 Baht/kg)	24% on entry, then phase to 0% in 2010
Wheat Flour (current tariff ad valorem equivalent of 25.5%)	30% on entry, then phase to 0% in 2010
Wheat Gluten (current tariff ad valorem equivalent of 5%)	0% on entry
Unroasted Malt (current tariff 2.75 Baht/kg)	0% on entry
Sunflower Seeds (current tariff 30%)	30% on entry, then phase to 0% in 2010
Mixes and Doughs (current tariff 30%)	24% on entry, then phase to 0% in 2010
Bakery Products (current tariff 30%)	24% on entry, then phase to 0% in 2010
Crispbread (current tariff 30%)	0% on entry

Cereal Products (current tariff 30%)	Generally 24% on entry, then phase to 0% in 2010
Raw Sugar (current tariff 65% in quota, 94% out of quota)	Immediate additional quota, expanded annually by 10%, until tariffs and quotas are eliminated in 2020
Sugar Confectionary (current tariff 30%)	24% on entry, then phase to 0% in 2010
Chocolate (current tariff ad valorem equivalent of 10%)	0% on entry
Margarine (current tariff ad valorem equivalent of 30%)	24% on entry, then phase to 0% in 2010
Sauces (current tariff 30%)	0% on entry
Wine (current tariff 54-60%)	40% on entry, then phase to 0% in 2015
Spirits (current tariff 60%)	30% on entry, then phase to 0% in 2010
Hides and Skins (current tariff 5%)	0% on entry
Pet Food (current tariff 9%)	6% on entry, then phase to 0% in 2009

Raw Materials

Silica Sands and Quartz Sands (current tariff 1%)	0% on entry
Salt (current tariff 10%)	8% on entry, then phase to 0% in 2009
Ores, Slag and Ash (current tariff 1%)	0% on entry
Zinc Ores and Concentrates (current tariff 1%)	0% on entry
Tin Ores and Concentrates (current tariff 1%)	0% on entry
Iron Ores and Concentrates (current tariff 1%)	0% on entry
Coal (current tariff 1%)	0% on entry

Chemicals and their Derivatives

Aluminium Hydroxide(current tariff 1%)	0% on entry
Sodium Cyanide and Sodium Cyanide Oxides (current tariff 1%)	0% on entry
Zinc Oxide (current tariff 5%)	0% on entry
Organic chemicals (current tariff 1%)	Majority will be elimiated on entry
Provitamins and Vitamins (current tariff 1%)	0% on entry
Citric Acid (current tariff 5%)	0% on entry
Medicaments for Retail Sale, containing antibiotics other than penicillin (current tariff 10%)	5% on entry, then phase to 0% in 2007
First Aid Boxes and Kits (current tariff 10%)	5% on entry, then phase to 0% in 2009
Fertilisers (current tariff 5%)	0% on entry
Colouring Agents - pigments and preparations (current tariff 1%) - Paint Colours in Sets (current tariff 20%)	 0% on entry 16% on entry, then phase to 0% in 2010
Cosmetics and Toiletries	

- Shampoo (current tariff 20%) - Perfumes (current tariff 40%)	16% on entry, then phase to 0% in 2010 20% on entry, then phase to 0% in 2010
Cleaning Products and Waxes - Candles (current tariff 20%)	 16% on entry, then phase to 0% in 2010
Starches, Glues and Enzymes - Glues (current tariff 5%) - Modified Starches (current tariff 5%)	 0% on entry 0% on entry
Explosives and Matches - Cigarette Lighter Refills (current tariff 20%) - Fireworks (current tariff 20%)	 16% on entry, then phase to 0% in 2010 16% on entry, then phase to 0% in 2010
Photographic and Cinematographic Goods - Chemical Preparations (current tariff 20%)	 0% on entry
Miscellaneous Chemical Products - Insecticides (current tariff 20%) - Ester Gums (current tariff 5%)	 0% on entry 0% on entry
Plastics - Baths, Shower-baths and Wash-basins (current tariff 30%) - Tableware and Kitchenware (current tariff 30%)	 20% on entry, then phase to 0% in 2010 20% on entry, then phase to 0% in 2010
Rubber and Articles of Rubber - Surgical Gloves (current tariff 30%) - Motorcycle Tyres (current tariff 20%)	 20% on entry, then phase to 0% in 2010 20% on entry, then phase to 0% in 2010

Products of Plant Material

Wood and Articles of Wood	
- Wooden Clothes Hangers (current tariff 20%) - Windows, French Windows and Frames (current tariff 30%)	16% on entry, then phase to 0% in 2010 0% on entry
Cork (current tariff 15%)	16% on entry, then phase to 0% in 2010
Products of Straw (current tariff 30%)	20% on entry, then phase to 0% in 2010
Mats, Matting and Screens of Vegetable Materials (current tariff 30%)	20% on entry, then phase to 0% in 2010
Pulp of Wood, Recovered Paper and Paperboard (current tariff 1%)	0% on entry
Toilet Paper, Towels and Tissues (current tariff 20%)	15% on entry, then phase to 0% in 2010
Postcards (current tariff 15-20%)	0% on entry

Textiles, Clothing, Footwear and Leather

Leather - Saddles (current tariff 30%) - Belts (current tariff 30%)	 20% on entry, then phase to 0% in 2010 20% on entry, then phase to 0% in 2010
Furskins and Artificial Fur - Furskin Clothing (current tariff 30%) - Silkworm cocoons (current tariff 10%)	 20% on entry, then phase to 0% in 2010 0% on entry

Wool (current tariff 1%)	0% on entry
Raw Flax (current tariff 5%)	0% on entry
Sewing Thread of Man-Made Filaments (current tariff 10%)	8% on entry, then phase to 0% in 2009
Wool Pile Carpet (current tariff 30%)	20% on entry, then phase to 0% in 2010
Knotted Wool Carpet (current tariff 30%)	0% on entry
Tulle (current tariff 12.5%)	0% on entry
Linoleum (current tariff 30%)	20% on entry, then phase to 0% in 2010
Knitted or Crocheted Fabric of Wool or Fine Animal Hair (current tariff 20%)	16% on entry, then phase to 0% in 2010
Articles of Apparel and Clothing Accessories - Gloves, Mittens and Mitts (current tariff 30%) - Handkerchiefs (current tariff 30%)	 0% on entry 20% on entry, then phase to 0% in 2010
Electric Blankets (current tariff 30%)	20% on entry, then phase to 0% in 2010
Ski Boots (current tariff 30%)	20% on entry, then phase to 0% in 2010
Tennis Shoes (current tariff 30%)	20% on entry, then phase to 0% in 2010
Safety Hats (current tariff 30%)	20% on entry, then phase to 0% in 2010
Hair Nets (current tariff 30%)	20% on entry, then phase to 0% in 2010
Garden Umbrellas (current tariff 30%)	20% on entry, then phase to 0% in 2010
Handles and Knobs (current tariff 10%)	0% on entry
Complete Wigs (current tariff 30%)	20% on entry, then phase to 0% in 2010

Other Materials

Brake Linings and Pads (current tariff 10%)	0% on entry
Ceramic Bricks (current tariff 10%)	0% on entry
Glasses for Corrective Spectacles (current tariff 5%)	0% on entry
Lead Crystal Drinking Glasses (current tariff 30%)	0% on entry
Rear-View Mirrors for Vehicles (current tariff 30%)	30% on entry, then phase to 0% in 2010
Semi-Precious Stones (current tariff 1%)	0% on entry
Graded, Strung Pearls (current tariff 5%)	0% on entry
Articles of Precious Metal (current tariff 0-20%)	0% on entry
Imitation Jewellery (current tariff 20%)	0% on entry

Metals and Articles Thereof

Iron and Steel (Primary Materials and Semi-Finished Products) (current tariff 1%)	0% on entry
Articles of Iron and Steel - Tubes (current tariff 15%) - Railway Track (current tariff 1%) - Containers for Liquified Gas (current tariff 17 %)	 12% on entry, then phase to 0% in 2009 0% on entry 0% on entry

- Nuts, Rivets (current tariff 20%) - Bridges (current tariff 20%) - Roofs (current tariff 20%) - Tanks (current tariff 20%) - Barbed Wire (current tariff 20%)	0% on entry 16% on entry, then phase to 0% in 2010 16% on entry, then phase to 0% in 2010 16% on entry, then phase to 0% in 2010 16% on entry, then phase to 0% in 2010
Copper Bars, Rods and Profiles (current tariff 5%)	0% on entry
Nickel Wire (current tariff 5%)	0% on entry
Aluminum (current tariff 10%)	5% on entry, then phase to 0% in 2007
Aluminum Plates, Sheetsand Strips (current tariff 10%)	5% on entry, then phase to 0% in 2007
Lead Articles (current tariff 1%)	0% on entry
Zinc Pipes (current tariff 10%)	0% on entry
Tin Sheets (current tariff 5%)	0% on entry
Tools, Implements, Cutlery - Hand Tools (current tariff 20%) - Razors (current tariff 20%)	 16% on entry, then phase to 0% in 2010

Machinery

Turbo Jets (current tariff 1%)	0% on entry
Water Generators (current tariff 3%)	0% on entry
Furnace Burners (current tariff 1%)	0% on entry
Machinery for Cleaning (current tariff 3%)	0% on entry
Washing Machines (current tariff 1%)	0% on entry
Sewing Machines (current tariff 20%)	16% on entry and then phase to 0% in 2010
Typewriters (current tariff 20%)	16% on entry and then phase to 0% in 2010
Machinery for Making Hot Drinks (current tariff 20%)	16% on entry and then phase to 0% in 2010
Agricultural, Horticultural or Forestry Machinery (current tariff 5%)	0% on entry
Machines for Cleaning (current tariff 1%)	0% on entry
Parts for Harvesting (current tariff 5%)	0% on entry
Dairy Machines (current tariff 1%)	0% on entry
Book-binding machinery (current tariff 1%)	0% on entry
Printing Machinery (current tariff 1%)	0% on entry
Weaving Machines(current tariff 1-5%)	0% on entry
Dry Cleaning Machines(current tariff 1%)	0% on entry
Sawing Machines (current tariff 1%)	0% on entry
Crushing or Grinding Machines (current tariff 5%)	0% on entry
Engines and Motors for Automobiles (current tariff 20%)	0% on entry
Gas Water Heaters (current tariff 20%)	0% on entry
Household Dishwashing Machines (current tariff 20%)	0% on entry

Aircraft Engine Parts (current tariff 10%)	10% on entry, and then phase to 0% in 2010
Parts of Air Conditioners (current tariff 15%)	10% on entry, and then phase to 0% in 2010
Window or Wall Air Conditioning Units (current tariff 30%)	0% on entry
Refrigerators (current tariff 30%)	0% on entry
Fully Automatic Washing Machines (current tariff 30%)	0% on entry
Television Camera Tubes (current tariff 10%)	0% on entry
Microwave Tubes (current tariff 10%)	0% on entry
Television Cameras (current tariff 3%)	0% on entry
Radar Apparatus (current tariff 1%)	0% on entry
Colour Television Sets (current tariff 20%)	0% on entry
Telephone Sets (current tariff 10%)	0% on entry
Tractors (current tariff 5%)	0% on entry
Bicycles (current tariff 30%)	30% on entry, then phase to 0% in 2010
Passenger Motor Vehicles with an engine capacity exceeding 3,000cc (current tariff 80%)	0% on entry
Other Passenger Motor Vehicles (current tariff 80%)	30% on entry, then phase to 0% in 2010
Ships and Ferries (current tariff 0-10%)	0% on entry
Clocks (current tariff 20%)	16% on entry, then phase to 0% in 2010
Musical Instruments (current tariff 10%)	0% on entry
Works of Art, Collectors' Pieces and Antiques (current tariff 20%)	30% on entry, then phase to 0% in 2010

Annex II

A Guide to Determining the Origin of Goods under TAFTA using the "Change in Tariff Classification Method"

May 2004

(1) WHAT IS THE PURPOSE OF RULES OF ORIGIN?

We need rules of origin to provide objective criteria for determining whether or not goods are eligible for the benefit of preferential rates of duty provided under TAFTA.

Sometimes it is obvious that a product originates in a particular country. For instance, if paper is made entirely in Thailand from Thai trees, the paper obviously originates in Thailand. However, if the envelopes are folded in Thailand from paper made in Brazil, which is the country of origin?

TAFTA's rules of origin provide precise answers to such questions where products made wholly or fabricated partly in either Australia or Thailand are concerned.

(2) HOW DO GOODS QUALIFY AS ORIGINATING UNDER TAFTA ANNEX 4.1?

A good is considered to be an originating good, if it meets one of the following requirements:

- the good is wholly obtained or produced in the territory of one of the parties to the Agreement (including those goods that are entirely grown, fished, or mined - it does not include goods purchased in the territory of one of the parties to the Agreement that were imported from the territory of a country not party to TAFTA);
- the good is made up entirely of components and materials that qualify in their own right as goods that originate in the TAFTA region (ie the combined territories of Australia and Thailand)
- the good meets the requirements of a specific rule of origin for that product, as listed in the TAFTA Annex; or
- the good meets other requirements as specified in TAFTA.

Of these requirements, the most common is the third, which applies to a good that includes non-originating materials in its production.

(3) WHAT ARE NON-ORIGINATING MATERIALS?

Non-originating materials used to produce a good are those materials or components that would not qualify as originating under TAFTA's rules of origin, ie:

- materials or components imported from a country that is not a signatory to TAFTA; or
- materials produced in the TAFTA region but, because of the high level of offshore input used to produce them, do not meet the rule of origin.

Note

Any material of unknown or unconfirmed origin should be treated as a non-originating material.

(4) HOW DO THE SPECIFIC RULES OF ORIGIN WORK?

TAFTA provides a specific rule of origin for every type of good that incorporates non-originating materials. The rules can be found in TAFTA Annex 4.1.

Generally, a good qualifies as originating in the TAFTA region if its final production process was undertaken within the TAFTA region, and if the production process resulted in a significant change in all of the components or materials non-originating in either Australia or Thailand. To establish whether a significant change has occurred, a tariff classification change test is used.

When a product is transformed from a collection of materials and components into the finished good, there is usually a resulting change from the tariff classifications of the materials and components to that of the finished good.

(5) HARMONIZED SYSTEM OF TARIFF CLASSIFICATION

A good's specific rule of origin is based on its tariff classification under the internationally accepted Harmonized System (HS). The HS organizes products according to the degree of production, and assigns them numbers known as classifications. The HS is arranged into 97 chapters covering all products. Each chapter is divided into headings and headings can be divided into subheadings.

Under the Harmonized System, the chapter, heading, and subheading numbers for any good are identical in any country using the HS. However, each country can further divide HS classifications for their own purposes. In Australia, subheadings can be further divided into tariff classifications for imported goods, and Australian Harmonized Export Commodity Codes (AHECC) for exported goods.

Example

Chapter 62 ____ Articles of apparel and clothing accessories, not knitted or crocheted

Heading 6209 ____ Babies' garments and clothing accessories

Subheading 6209.10 ____ Of wool or fine animal hair

Tariff classification 6209.10.20 ____ Clothing accessories

As shown above, headings are identified with a four-digit number, subheadings with a six-digit number, and tariff classifications with an eight-digit number. Subheadings give a more specific description than headings, and tariff classifications give a more specific description than subheadings.

The specific rules of origin in the TAFTA Annex are organized using the HS classification numbers. Therefore, importers determine the HS classification of the imported good and use that classification to find the specific rule of origin in the Annex that applies. If the good meets the requirements of the rule of origin, it is an originating good.

(6) HS CLASSIFICATION CHANGE

Most of the specific rules of origin require a certain HS classification change from the non-originating materials to the finished good. This change must be a result of production in one or other of the parties to TAFTA.

In most cases, the only requirement of a rule of origin will be a HS classification change specified in the TAFTA Annex. Therefore, to determine whether a good qualifies as an originating good, after looking up the specific rule of origin, exporters or producers will need to know only the HS classification of the good, and the HS classification of any non-originating materials.

(7) REGIONAL VALUE CONTENT TEST

For a minority of goods, particularly textiles, clothing and footwear and some manufactures, a specific rule of origin will require the good to meet an additional requirement in order to qualify as originating. Usually, this additional requirement tests the good's regional value content (RVC), which requires that a certain percentage of the good's value originates in Australia or Thailand.

TAFTA uses a variation of the Build-Down method to calculate the RVC.

Where an RVC is required, it is specified in the relevant rule. To qualify for originating status under TAFTA in these cases, importers have to demonstrate that at least the specified percentage of the good's value originated in Australia or Thailand. There is only one exception: in accordance with Article 403(2), for particular goods in HS Chapters 50-64, non-originating materials produced in developing countries may contribute towards the RVC for those goods up to a maximum allowable proportion of 25% of the FOB value of the goods.

If a rule requires an HS classification change and an RVC test, the good has to meet both of these requirements to be an originating good.

(8) CALCULATING REGIONAL VALUE CONTENT

Unless specified in the rule, exporters or producers can choose the RVC method to be used.

Build-Down Method

$$RVC = \frac{AV - VNM}{AV} \times 100$$

where

RVC is the regional value content, expressed as a percentage;

AV is the adjusted value (value for customs purposes), and

VNM is the value of non-originating materials that are imported either by the producer of the good or by an Australian or Thai producer of materials supplied to the producer of the good. For most textiles, clothing and footwear products, the value of non-originating materials produced in developing countries, other than Thailand, can be deducted from the VNM, up to a maximum of 25% of the AV.

Example of Build-Down Method

A producer sells a good for $100 in an arm's-length sale. The value of relevant non originating materials used in the good is $30. Using the Build-Down method, the producer calculates the RVC as follows

$$\frac{\text{adjusted value - value of relevant non-originating materials}}{\text{adjusted value}} \times 100 = \text{RVC}$$

$$\frac{\$100 - \$30}{\$100} \times 100 = 70\%$$

Therefore, using the Build-Down value method, the RVC of the good is 70%

(9) PROCESS RULES

For some goods, a specific rule of origin will require a particular process to be performed in the territory of one or both of the TAFTA partners. In these cases, provided that process is performed in the territory of one or both of the partners at some point in the production of the goods, the goods will be originating goods. Unless otherwise specified, no change in classification or RVC requirement needs to be met.

Example of Process Rules

A good classified in Chapter 28 is produced in Australia through a chemical reaction between two materials, A and B, which are both non-originating materials imported from outside the TAFTA region. Chapter 28 requires a chemical reaction to take place in the territory of one or both Parties. As the good was produced in Australia through a chemical reaction, the good is an originating good. While alternative rules would also apply to the good, those rules can be disregarded, as the good meets the chemical reaction rule.

(10) SPECIAL OPTIONS

These are additional rules of origin that exporters or producers can use if their goods fail to qualify under the specific rules of origin.

General goods *De minimis* exception to HS classification change requirement

TAFTA provides relief when a good does not qualify as an originating good only because some non-originating materials of little value fail to meet an HS classification change requirement. If the total value of the non-originating materials in question is no more than 10% of the value of the good, then the exporter or producer can consider the good to be an originating good.

Example

A good uses two materials, A and B, and both are non-originating materials. As a result of its transformation into the finished good, A makes the required HS classification change, but B does not. Because B does not make the required change, the finished good will not qualify unless the value of B is no more than 10% of the good's value. The good is valued at $100 and the value of B is $5. The value of B is 5% of the good's value, therefore the goods are considered originating.

The test only considers whether the total value of all non-originating materials that do not meet the HS classification change is less than 10% of the total value of the good.

Accumulation qualification for the HS classification change requirement

A good may be produced partly in the territory of one TAFTA partner, and completed in the territory of the other TAFTA partner. A good may be made from materials produced by one producer from components produced by another producer. To determine whether a good meets an HS classification change, treat all the production done in both countries as if it occurred in one, and treat the production done by all producers in the TAFTA region as if it were completed by one.

Example

A producer imports uncoated kraft paper of heading 4804 to make kraft paper lightly coated with plastics of subheading 4811.59. The specific rule of origin for goods of subheading 4811.59 allows a change from any other heading except from heading 4804. The imported uncoated kraft paper is non-originating and was classified in heading 4804. Therefore, the kraft paper lightly coated with plastics is non-originating.

The non-originating kraft paper lightly coated with plastics of suheading 4811.59 is then forwarded to another producer within the TAFTA region. That producer coats the goods with another plastic material, producing kraft paper heavily coated with plastics of subheading 4811.51. The specific rule for that subheading is a change from any other heading. As the change from 4811.59 to 4811.51 is not a change in heading, the goods would normally be non-originating.

However the producer of the kraft paper heavily coated with plastics can accumulate the production of the kraft paper lightly coated with plastics from uncoated kraft paper, because that process also occurred within the TAFTA region. The change in classification becomes a change from uncoated kraft paper of 4804 to kraft paper heavily coated in plastics of subheading 4811.51. As this is a change in heading, the goods meet the specific rule for 4811.51. The kraft paper heavily coated in plastics is therefore originating.

(11) CERTIFICATE OF ORIGIN OR OTHER EVIDENCE OF ORIGIN

There is a Certificate of Origin requirement under TAFTA. All exporters of goods under the Agreement, together with their suppliers, must obtain sufficient evidence that the goods meet the rules of origin. The exporter must then register the goods as originating before obtaining a Certificate of Origin from an authorized body, viz. the Australian Chamber of Commerce and Industry, or the Australian Industry Group.

Where to go for help with rules of origin

Customs authorities in Australia and Thailand will provide tariff advice on the goods to be exported. Advice from these authorities is the most reliable for the purposes of TAFTA. Tariff advice can also be obtained from the Customs authority in the exporting country where this is more convenient (for example, where local producers of materials require classification advice).

The Australian Customs Service will also provide advice on the rules of origin for all goods to be imported into its territory. Thailand, however, is not in a position to provide such advice. Rules of origin advice on goods to be exported to Thailand must be obtained from an authorized Certification body.

STEP-BY-STEP GUIDE TO DETERMINING A GOOD'S ORIGIN

Follow these steps to determine whether a good of mixed origin qualifies as an originating good under TAFTA's rules of origin.

Step 1

Was the good last processed in the TAFTA region?

> If yes, go to step 2.
>
> If no, the good does not qualify.

Step 2

Do any of the materials or components used in the good come from outside the territory of the parties to TAFTA, or otherwise do not qualify as originating materials under TAFTA's rules of origin?

> If yes, go to step 3. (If you do not know the origin of any material, you have to assume it does not originate in a TAFTA country.)
>
> If no, the good qualifies.

Step 3

Determine the HS classification number of the good. Usually, the six-digit subheading level is sufficient.

Step 4

Using the HS classification number, identify the specific rule or rules of origin in the TAFTA Annex that apply to the good.

If two rules apply, the good must meet one of them. One rule may require only an HS classification change, whereas the other requires an easier HS classification change and an RVC test. Select the rule that is most appropriate for the non-originating materials used to produce the goods.

Step 5

Determine the HS classification of the non-originating materials or components used to produce the good in the TAFTA country.

Step 6

Does the change from the HS classification of the non-originating materials to the HS classification of the good imported into Australia meet the HS classification change required in the specific rule or rules of origin identified in Step 4?

> If yes, the HS classification change requirement is met. Go to Step 7.
>
> If no, the good does not qualify, unless it falls under certain exemptions such as the *de minimis* exemption.

Step 7

Does the specific rule also contain an RVC test?

> If yes, choose whether to use the build-down or build-up method (step 8).
>
> If no, and the HS classification change requirement is met, the good qualifies as an originating good. Go to step 9.

Step 8 - Build-down value method

Determine the actual price paid for the good. Determine the CIF value of all non-originating materials imported into Australia or Thailand and used to produce the finished good, or used to produce a non-originating material in Thailand or Australia that was supplied to the producer of the finished product. Using the build-down value formula, calculate the RVC percentage.

> If the RVC percentage is equal to or more than the minimum percentage set out in the specific rule of origin, the good qualifies as an originating good, as long as you meet all other requirements of the rule. Go to step 9.
>
> If the percentage is less than the set minimum, the good does not qualify.

Step 9

Determine whether the goods meet any other applicable requirements.

> If yes, go to step 10.
>
> If no, the good does not qualify.

Step 10

If exporting to Thailand, ensure sufficient evidence has been obtained before applying for registration of the goods as originating goods or for a Certificate of Origin. Provide the Certificate of Origin to the importer. The importer must possess a valid Certificate of Origin to claim preferential duty rates.

Annex III

THAILAND

Fact Sheet

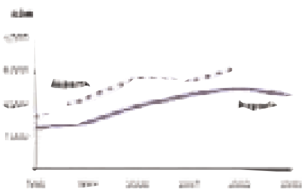
General information:

Capital	Bangkok	**Head of State:**	
Surface area:	513 thousand sq km	M King Bhumibol Adulyadej	
Official language:	Thai		
Population:	64.0 million (2003)	**Head of Government:**	
Exchange rate:	A$1 = 29.2894 Baht (Dec 2003)	H.E. Prime Minister Dr Thaksin Shinawatra	

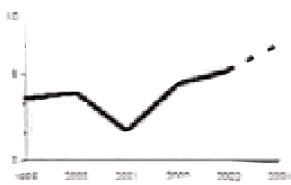
Recent economic indicators:

	1999	2000	2001	2002	2003(a)	2004(b)
GDP (US$bn):	22.8	122.8	15.3	126.6	38.4	155.8
GDP per capita (US$):	984	1,984	833	990	2,131	2,413
Real GDP growth (% change YOY):	4.4	4.8	2.1	5.4	6.3	8.2
Current account balance (US$m):	12,478	9,314	6,222	7,650	8,491	7,763
Current account balance (% GDP):	10	7.6	5.4	6.0	6.2	4.9
Goods & services exports (% GDP):	58.3	66.9	66.1	64.7	65.9	66.5
Inflation (% change YOY):	0.3	1.6	1.7	0.6	1.8	2.4
Unemployment rate (%):	4.2	3.6	3.3	2.4	0.6	1

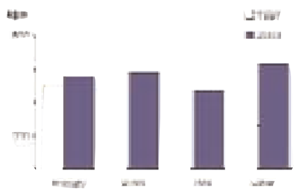
Australia's trade with Thailand



Real GDP growth



Australia's exports to Thailand



Australia's trade relationship with Thailand:

Major Australian exports, 2003 (A$m):

Aluminium	377
Non monetary gold	201
Cotton	117
Copper	117
Crude petroleum	106

Major Australian imports, 2003 (A$m):

Motor vehicles for transporting goods	750
Heating & cooling equipment	298
Non monetary gold	168
Prepared seafood	161
Passenger motor vehicles	139

Australian merchandise trade with Thailand, 2003:		*Total share:*	*Rank:*	*Growth (yoy):*
Exports to Thailand (A$m):	2,252	2.1%	12th	-10.4%
Imports from Thailand (A$m):	3,616	2.8%	13th	15.1%
Total trade (exports + imports) (A$m):	5,868	2.5%	12th	1.6%
Merchandise trade deficit with Thailand (A$m):	1,364			

Australia's trade in services with Thailand, 2003:		*Total share:*
Exports of services to Thailand (A$m):	460	1.4%
Imports of services from Thailand (A$m):	748	2.5%
Services trade deficit with Thailand (A$m):	288	

Thailand's global trade relationships:

Thailand's principal export destinations, 2003:

1	United States	17.0%
2	Japan	14.2%
3	Singapore	7.3%
4	China	7.1%
5	Hong Kong	5.3%
11	*Australia*	2.7%

Thailand's principal import sources, 2003:

1	Japan	24.1%
2	United States	9.4%
3	China	8.0%
4	Malaysia	6.0%
5	Singapore	4.3%
12	*Australia*	2.1%

Compiled by the Market Information and Analysis Section, DFAT, using the latest data from the ABS, the IMF and various international sources.

(a) all recent data subject to revision (b) EIU forecast

Fact sheets are updated biannually; next update: September 2004

Annex IV

POTENTIAL TAFTA BENEFITS FOR AUSTRALIAN EXPORTERS (BY STATE AND TERRITORY)

NSW

In calendar year 2003, NSW businesses exported over half a billion dollars worth of goods to Thailand. Textile fibres accounted for a large share of these exports, as did edible products, medical and pharmaceutical products, chemicals, iron and steel, non-ferrous metals, machinery, furniture, industry machinery and equipment, professional scientific and controlling instruments, and miscellaneous manufactured articles. We expect these and other exports to increase once Thai tariffs are eliminated or reduced.

Victoria

Textile fibres accounted for a large proportion of export earnings from Victoria to Thailand. Other principal exports include medicinal and pharmaceutical products, chemical materials and products, non-ferrous metals and machinery. In calendar year 2003, Victorian businesses exported almost half a billion dollars worth of goods to Thailand. Companies such as Victorian-based business, Mildura Fruit Company, which has exported oranges to Thailand for eight years, believes it will be able to export much larger volumes under TAFTA. Similarly, Strategic Horizons Pty Ltd, a leading Australasian retail management consultancy, believes it will benefit from TAFTA.

Queensland

Textile fibres account for a large proportion of export earnings from Queensland to Thailand. Other exports include cereals, vegetables and fruit, oil seeds and oleaginous fruits, machinery, cork and wood, rubber manufactures, and industrial and transport equipment. Queensland-based business, C S Global, which supplies marketing solutions for the supply of fruit and vegetables believe TAFTA will provide unprecedented market access of Australian fresh produce to some of the world's largest retailers based in Thailand. Similarly, Graham's Natural Alternatives Pty Ltd, believe the elimination of Thai tariffs will give them an edge in exporting Bath Oil, Mega Oil and Calendulis Cream.

Western Australia

Textile fibres account for a large proportion of export earnings from Western Australia to Thailand. Among other exports are metalliferous ores and metal scrap, non ferrous metals, petroleum, petroleum products and dyeing, tanning and colouring materials. In calendar year 2003, Western Australian businesses exported over half a billion dollars worth of goods to Thailand. This should rise under TAFTA.

South Australia

Cereals and cereal preparations account for a large proportion of export earnings from South Australia to Thailand. Textile fibres, metalliferous ores and metal scrap, inorganic chemicals, medicinal and pharmaceutical products are among other leading export items. In calendar year 2003, South Australian businesses exported just over $140,000 worth of goods to Thailand. South Australia-based firm Blue Lake Milling Pty Ltd (BLM) exports cereal goods to Thailand and acknowledges that once TAFTA takes affect, reduced tariffs will mean their products will become more affordable to Thai consumers.

Tasmania

Non-ferrous metals account for a large proportion of export earnings from Tasmania to Thailand. Other major exports include cork and wood, plastics, perfume materials, iron and steel, tanning and dyeing materials, electrical machinery, metalliferous ores and metal scrap. In calendar year 2003, Tasmania-based businesses exported over $70 million worth of goods to Thailand. We expect this figure will further improve once tariffs are eliminated or reduced through TAFTA.

Northern Territory

In calendar year 2003, NT-based businesses exported almost a million dollars worth of goods to Thailand, with major exports being metalliferous ores, metal scrap, cork and wood, fertilisers, and non-metallic mineral manufactures. We expect this figure will increase under TAFTA.

Australian Capital Territory

In calendar year 2003, ACT-based businesses exported under $10,000 worth of goods to Thailand. This figure should improve once many tariffs are eliminated or reduced.

Austrade

Annex V

Who to Contact for More Information

In Australia

Department of Foreign Affairs and Trade (DFAT) - Canberra

RG Casey Building
John McEwen Crescent
Barton ACT 0221
Website: www.dfat.gov.au

Attention: Executive Officer (Thailand)
Thailand, Vietnam and Laos Section
Tel: (02) 6261 2373 or 6261 1251
Fax: (02) 6261 1304

DFAT State Offices in:

Adelaide, South Australia - Tel: (08) 8403 4899; Fax: (08) 8403 4873
Brisbane, Queensland - Tel: (07) 3405 4799; Fax: (07) 3405 4782
Sydney, New South Wales - Tel: (02) 9356 6222; Fax: (02) 9356 4238
Perth, Western Australia - Tel: (08) 9231 4499; Fax: (08) 9221 2827
Melbourne, Victoria - Tel: (03) 9221 5555; Fax: (03) 9221 5455
Hobart, Tasmania - Tel: (03) 6238 4099; Fax: (03) 6238 4024
Darwin, Northern Territory - Tel: (08) 8982 4199; Fax: (08) 8982 4155

Australian Trade Commission (Austrade)

Minter Ellison Building, Level 2
25 National Circuit
Forrest ACT 2603
Website: www.austrade.gov.au

Attention: International Liaison Manager, South East Asia, South Asia and the Pacific
Tel: (02) 6201 7419
Fax: (02) 6201 7301

Australian Customs Service

Customs House
5 Constitution Avenue
Canberra ACT 2601
Website: www.customs.gov.au

Attention: Director, Valuation and Origin Section (for Rules of Origin)
Tel: (02) 6275 6383
Website: origin@customs.gov.au
Manager, Tariff Legislation & External Review (for customs tariff duty rates)
Tel: (02) 6275 6486.

Australian Chamber of Commerce and Industry (ACCI)

Commerce House
Brisbane Avenue
BARTON ACT 2600
Tel: (02) 6273 2311
Fax: (02) 6273 3196
Website: www.acci.asn.au

Australian Industry Group (AiG)

20 Queens Road
Melbourne VIC 8004
Tel: (03) 9867 0111
Fax: (03) 9867 0199
Website: www.aigroup.asn.au

Attention: Trade and Development Officer
Tel: (03) 9867 0152

Australia-Thailand Business Council

Executive Director
PO Box 6005
Kingston ACT 2604
Tel: (02) 6273 2311
Email: atbc@acci.asn.au

In Thailand

The Australian Embassy

Australian Embassy
37 South Sathorn Road
Bangkok 10120
Thailand
Tel: +66-2-287 2680
Fax: +66-2-287 2029

Australian-Thai Chamber of Commerce

20th Fl Thai CC Tower
889 South Sathorn Road, Yannawa
Bangkok 10120
Thailand
Tel: +66-2-210 0216
Fax: +66-2- 675 6696
E-mail: austcham@loxinfo.co.th

Thailand Ministry of Commerce

44/100 Nonthaburi 1 Rd., Amphur Muang, Nonthaburi 11000
Bangkok Thailand
Tel: +66-2-507 8000
Fax: +66-2-507 7717

Notes

Australian Government

Department of Foreign Affairs and Trade

HOW TO FIND OUT MORE

Comprehensive information on the agreement is available at www.dfat.gov.au together with details of relevant contacts in the Department of Foreign Affairs and Trade (DFAT).

DFAT officers are happy to provide advice on the contents of the agreement and its commercial implications. Enquiries can be directed to our e-mail: **thailand-fta@dfat.gov.au** or phone (02) 6261 2373 or (02) 6261 1251.

If you would like to know more about the practical aspects of exporting to Thailand contact Austrade on **13 28 78** or visit **www.austrade.gov.au**