



**Australian Government**

**Australian Customs and  
Border Protection Service**

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**INSTRUCTIONS AND GUIDELINES**  
**SINGAPORE-AUSTRALIA FREE TRADE AGREEMENT**

**FILE NO:** 2008/041989-01

*SINGAPORE-AUSTRALIA FREE TRADE  
AGREEMENT*

*July 2009*

*INTERNAL AND EXTERNAL USE*

**BCS CLASSIFICATION: STRATEGIC MANAGEMENT – Policy - Guidelines**

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**SUBJECT:** Origin issues as they relate to the Singapore–Australia Free Trade Agreement.

**PURPOSE:** To specify the rules that need to be satisfied under the Singapore-Australia Free Trade Agreement which are used to determine if a good is a United States originating good and therefore eligible for a free or preferential duty rate under the Agreement.

**OWNER:** National Director Trade

**CATEGORY:** Operational Procedures

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***The electronic version published on the intranet is the current Instruction and Guideline.***

#### **SUMMARY OF MAIN POINTS**

This Instruction and Guideline specifies all the rules of origin under the Singapore-Australia Free Trade Agreement.

#### **INTRODUCTION**

This Instruction and Guideline deals with origin issues as they relate to the Singapore-Australia Free Trade Agreement (SAFTA), which was signed in February 2003, and commenced on 28 July 2003.

*INTERNAL AND EXTERNAL USE*

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## Section 1: Customs Instructions and Guidelines - SAFTA

### 1.1. Coverage of Instructions and Guidelines

This Instruction and Guideline deals only with Origin issues as they apply to the Singapore–Australia Free Trade Agreement, which was signed in February 2003, commenced on 28 July 2003. Under the Agreement, many goods are eligible for a free or preferential rate of duty provided they satisfy the requirements specified in the Agreement.

### 1.2. Abbreviations

The following abbreviations are used throughout this Instruction and Guideline:

Agreement	Singapore-Australia Free Trade Agreement
SAFTA	Singapore-Australia Free Trade Agreement
Customs Act	<i>Customs Act 1901</i>
HS	Harmonized System
ROO (ROOs)	Rule(s) of Origin

### 1.3. Geographical areas covered by the SAFTA

The Agreement covers the following geographical areas:

1. with respect to Singapore:

the territory of the Republic of Singapore as well as the territorial sea and any maritime area situated beyond the territorial sea which has been or might in the future be designated under its national law, in accordance with international law, as an area within which Singapore may exercise rights with regards to the sea, the sea-bed, the subsoil and the natural resources;

2. with respect to Australia:

the Territory of Norfolk Island, the Territory of Christmas Island, the Territory of Cocos (Keeling) Islands, the Territory of Ashmore and Cartier Islands, the Territory of Heard Island and McDonald Islands, and the Coral Sea Islands Territory; and

Australia's territorial sea, contiguous zone, exclusive economic zone and continental shelf.

## Section 2: Origin Legislation

### 2.1. General outline of legislation

The following legislative provisions give instruction on how to interpret and implement the rules of origin as they apply to Australia's trading partners:

- ***Combined Australian Customs Tariff Classification and Statistical Nomenclature "Introduction"***
  - pages 1 and 2 (Application of Rates of Duty)
- ***Customs Tariff Act 1995 (the Tariff Act)***
  - Part 1 - Preliminary: sections 3, 12, 13 and 14
  - Part 2 - Duties of Customs: sections 15, 16, and 18
  - Schedule 3 (general and preferential rates for tariff classifications)
  - Schedule 4 (general and preferential rates for concessional items)
- ***Customs Act 1901 (the Customs Act)***
  - Section 4 (definition of "unmanufactured raw products")
  - Division 4A of Part VI (sections 126AA to 126AD) – "Exportation of goods to Singapore"
  - Division 1B of Part VIII (sections 153U to 153XB) – "Rules of origin of goods claimed to be the produce or manufacture of Singapore"
- ***Customs Regulations 1926 (the Regulations)***
  - Regulations 105A, 105B and 195C
  - Regulations 107A and 107B.

### 2.2. Operation of the legislation

Section 14 of the Tariff Act specifies particular rates of duty to preference countries and places through designated country or place codes. Where the abovementioned places are not specific e.g., Developing Countries, these are specified in Schedule 1 to the Tariff Act vide section 12 of that Act.

## Section 3: Goods Claimed to be the Produce or Manufacture of Singapore

### 3.1. Statutory provisions

(1) Subdivision B of Division 1B of Part VIII of the Customs Act contains provisions relating to goods claimed to be the produce or manufacture of Singapore, as follows:

**153V Goods claimed to be the produce or manufacture of Singapore**

*Goods claimed to be the produce of Singapore*

- (1) Goods claimed to be the produce of Singapore are the produce of that country if they are wholly obtained goods produced in Singapore.

*Goods claimed to be the manufacture of Singapore*

- (2) Goods claimed to be the manufacture of Singapore are the manufacture of that country if:
- (a) they are wholly manufactured in Singapore; or
  - (b) they are partly manufactured in Singapore.
- (3) This section is subject to sections 153VE and 153VF.

### 3.2. Policy and practice

(1) This provision explains which type of goods can be regarded as being the 'produce' or 'manufacture' of Singapore. Those types of goods are those which are:

- wholly obtained goods produced in Singapore; or
- goods which are either wholly or partly manufactured in Singapore.

(2) Section 153V also states that the above types of goods are only the 'produce' or 'manufacture' of Singapore if those goods also comply with the requirements of section 153VE and section 153VF.

(3) Section 153VE of the Customs Act addresses the requirement of certificates of origin (see 11.7.1) while section 153VF addresses consignment requirements for goods the produce or manufacture of Singapore (see 11.6.1.1).

## Section 4: Manufactured goods of Singapore

### 4.1. Wholly manufactured goods criteria

#### 4.1.1. Statutory provisions

(1) Section 153VA contains the provisions by which goods can be claimed to be wholly manufactured in Singapore. This provision states:

#### **153VA Goods wholly manufactured in Singapore**

Goods are ***wholly manufactured in Singapore*** if they are manufactured in that country from one or more of the following:

- (a) unmanufactured raw products;
- (b) waste and scrap produced in Singapore or Australia;
- (c) materials wholly manufactured within Singapore or Australia;
- (d) materials imported into Singapore that the CEO has determined, by *Gazette* notice, to be manufactured raw materials of Singapore.

#### 4.1.2. Policy and practice

(1) This provision sets out the four categories of goods from which goods claimed to be the manufacture of Singapore can be manufactured, namely:

- unmanufactured raw products;
- waste or scrap produced in Singapore or Australia;
- materials wholly manufactured within Singapore or Australia;
- materials imported into the relevant country from a country other than Australia that are determined by the CEO to be the manufactured raw materials of the relevant country.

### 4.2. Unmanufactured raw products

#### 4.2.1. Statutory provisions

(1) The first category of goods considered to be wholly manufactured in Singapore is 'unmanufactured raw materials'. These are dealt with above under "Produce of Singapore".

(2) Section 153UA defines 'unmanufactured raw products' as:

**unmanufactured raw products** means:

- (a) natural or primary products that have not been subjected to an industrial process, other than an ordinary process of primary production, and includes:
  - (i) animals and products obtained from animals, including greasy wool; and
  - (ii) plants and products obtained from plants; and
  - (iii) minerals in their natural state and ores; and
  - (iv) crude petroleum; or
- (b) raw materials recovered in Singapore or in Australia from waste or scrap.

#### 4.2.2. Policy and practice

(1) Goods claimed to be 'unmanufactured raw products' must not have been subjected to any process of manufacture (however minor) which would remove them from their raw state. For instance, in the case of peanuts, the process of shelling would place such goods outside this provision.

(2) However, where the process is limited to cleaning, grading and the like to maintain the state of the product for international trade, such products will continue to be regarded as raw, unmanufactured products.

(3) Goods covered by section 153U entered under the provisions of SAFTA are declared to be the produce of Singapore.

(4) Unmanufactured raw products are not, therefore, subject to conditions of entitlement applicable to partly manufactured goods, such as last process of manufacture and minimum value-added.

### 4.3. Scrap and waste material

#### 4.3.1. Statutory provisions

(1) The second category of goods wholly manufactured in Singapore is 'waste and scrap produced in Singapore or Australia'. These are also dealt with above under "Produce of Singapore".

(2) Section 153UA defines waste and scrap as:

**waste and scrap** means only waste and scrap that:

- (a) have been derived from manufacturing operations or consumption; and
- (b) are fit only for the recovery of raw materials.

#### 4.3.2. Policy and practice

- (1) Scrap and waste essentially arise from manufacturing operations.
- (2) Where that waste or scrap is fit only for the recovery of the same original raw material and is re-processed in Singapore to yield the same material, the cost of the recovered raw material is to be treated as an unmanufactured raw product and as if it were material of Singapore. Note that this provision applies only to materials that may be re-processed into the same original raw material, e.g. plastic or metal but not, for instance, off-cuts of leather.

#### 4.4. Materials wholly manufactured in Singapore or Australia

- (1) The third category of goods wholly manufactured in Singapore is 'materials wholly manufactured within Singapore or Australia'.
- (2) Material is defined in section 153UA as:

**material** means any matter or substance purchased by the principal manufacturer of the goods and used or consumed in the processing of the goods, other than any matter or substance that is treated as an overhead.

#### 4.5. Determined manufactured raw materials (DMRM)

- (1) The fourth category of goods wholly manufactured in Singapore is 'materials imported into Singapore that the CEO has determined, by Gazette notice, to be manufactured raw materials of Singapore'.
- (2) Further details regarding DMRMs, together with the application process, are provided in Section 10 of this Instruction and Guideline.

## Section 5: Partly manufactured goods – value-added criteria – overview

### 5.1. Cost to manufacture

#### 5.1.1. Statutory provisions

(1) The Singapore-Australia Free Trade Agreement (SAFTA) includes two rules of origin for partly manufactured goods. The primary criterion used to ascertain the origin of imported goods in both cases is a minimum value-added requirement, using a cost to manufacture concept, as follows:

#### **153VB Goods partly manufactured in Singapore**

##### *General rule*

- (1) Goods are **partly manufactured** in Singapore if:
- (a) in relation to any goods—subsection (2) applies to the goods; or
  - (b) in relation to any goods that are not specified in Annex 2C of SAFTA—subsection (5) applies to the goods.

##### *Any goods*

- (2) This subsection applies to the goods if:
- (a) the last process of manufacture was performed in Singapore by, or on behalf of, the principal manufacturer; and
  - (b) the allowable cost to manufacture the goods is not less than:
    - (i) if the goods are specified in Annex 2D of SAFTA—30% of the total cost to manufacture the goods; or
    - (ii) in any other case—50% of the total cost to manufacture the goods.

##### *Costs not included in allowable cost to manufacture—any goods*

- (3) For the purposes of subsection (2), the allowable cost to manufacture the goods does not include the following:
- (a) the cost of any material purchased by the principal manufacturer and subsequently processed outside Singapore or Australia;

- (b) the cost of processing (including the cost of labour and overheads) any materials referred to in paragraph (a) that is performed, whether in Singapore or Australia or elsewhere, up until the processed material is returned to Singapore.

*Minimal operations or quality control inspections*

- (4) For the purposes of subsection (2), if minimal operations or quality control inspections are conducted by, or on behalf of, the principal manufacturer in Singapore, as part of a process of manufacturing the goods, the cost of those minimal operations or quality control inspections may be included in the calculation of:
  - (a) the total expenditure on materials; and
  - (b) the allowable expenditure on materials, labour and overheads;to the extent that they relate to the cost of materials, labour or overheads, as the case requires.

*Goods other than those specified in Annex 2C*

- (5) This subsection applies to the goods if:
  - (a) one or more processes of manufacture was or were performed on the goods in Singapore by, or on behalf of, the principal manufacturer; and
  - (b) one or more processes was or were performed on the goods in Singapore by, or on behalf of, the principal manufacturer immediately prior to export of the goods to Australia; and
  - (c) the principal manufacturer in Singapore incurred all the costs associated with any process performed on the goods outside Singapore or Australia; and
  - (d) the allowable cost to manufacture the goods is not less than:
    - (i) if the goods are specified in Annex 2D of SAFTA—30% of the total cost to manufacture the goods; or
    - (ii) in any other case—50% of the total cost to manufacture the goods.

*Costs not included in allowable cost to manufacture—other goods*

- (6) For the purposes of subsection (5), the allowable cost to manufacture the goods does not include the cost of processing (including the cost of labour or overheads) any material outside Singapore or Australia.

(2) In determining whether goods are the produce or manufacture of Singapore, the following definitions in section 153UA will need to be considered:

**manufacture** means the creation of an article essentially different from the matters or substances that go into such manufacture and does not include the following activities (whether performed alone or in combination with each other):

- (a) restoration or renovation processes such as repairing, reconditioning, overhauling or refurbishing;
- (b) minimal operations;
- (c) quality control inspections.

**minimal operations** means pressing, labelling, ticketing, packaging and preparation for sale, or any similar process, whether conducted alone or in combination with each other.

#### 5.1.2. Policy and practice

(1) The first rule for partly manufactured goods (subsection 153VB(2) of the Customs Act applies to all goods. The second rule (subsection 153VB(5)) does not apply to goods specified in Annex 2C to SAFTA, which covers a range of textiles, clothing and footwear, jewellery and automotive products. Annex 2C is reproduced at Appendix 4.1.

(2) The first rule requires that the last process in the manufacture of the goods take place in Singapore. Under this rule, where overseas processing has taken place, the allowable cost to manufacture excludes both the costs associated with overseas processing and the costs incurred within Singapore prior to overseas processing.

(3) The second rule (subsection 153VB(5) of the Customs Act) allows some process in the manufacture of the goods to be undertaken in a place other than Singapore provided that one or more processes of manufacture, including the final process of manufacture, takes place in Singapore. Under this rule, while the allowable cost to manufacture excludes the costs associated with overseas processing, it includes the costs incurred within Singapore prior to overseas processing, provided the processing of the goods remains in the control of the principal manufacturer at all times.

(4) Both rules have alternative minimum value-added provisions. The first alternative in each case is a 30% provision. The second alternative is a 50% provision.

(5) The 30% provision applies to goods specified in Annex 2D to SAFTA, which covers certain electrical and electronic products, as well as any goods covered by a Tariff Concession Order. Annex 2D is reproduced at Appendix 4.2. The 50% provision applies to all other goods.

## 5.2. The concept of cost to manufacture

(1) Subdivisions C (Sections 153W to 153WC) and D (Sections 153X to 153XB) of Division 1B to Part VIII of the Customs Act provide general rules governing the calculation of the 'allowable cost to manufacture' and the 'total cost to manufacture'. Elements of these costs comprise materials, labour, overheads and, in the case of the total cost to manufacture, overseas processing costs.

(2) Subsections 153VB(3), (4) and (6) (reproduced above) provide additional conditions in relation to the allowable cost to manufacture, specific to either the first or second partly manufactured rule.

## 5.3. The concept of principal manufacturer

### 5.3.1. Statutory provisions

(1) Principal Manufacturer is defined in section 153UA as follows:

***principal manufacturer***, in relation to goods, means the person in Singapore who performs, or has had performed on its behalf, the last process of manufacture of the goods.

### 5.3.2. Policy and practice

(1) It is the expenditure of, and the processes performed by or on behalf of, the principal manufacturer that are of primary concern when assessing whether goods are partly manufactured in Singapore for the purposes of SAFTA. The principal manufacturer must be a person in Singapore. That person must either manufacture the goods, or have the goods manufactured on his behalf.

(2) The concept of principal manufacturer was introduced to ensure that all costs associated with the manufacture of goods in Singapore would be taken into account, even where manufacturing processes are outsourced to other persons in Singapore.

## 5.4. Total cost to manufacture

### 5.4.1. Statutory provisions

(1) Section 153X of the Customs Act defines 'total cost to manufacture' for the purposes of Division 1B of Part VIII of the Customs Act as follows:

The **total cost to manufacture** goods is the sum of:

- (a) the total expenditure by the principal manufacturer on materials in respect of the goods; and
- (b) the allowable expenditure by the principal manufacturer on labour in respect of the goods; and
- (c) the allowable expenditure by the principal manufacturer on overheads in respect of the goods; and
- (d) the total expenditure (if any) by the principal manufacturer on overseas processing costs in respect of the goods.

## 5.5. Allowable cost to manufacture

### 5.5.1. Statutory provisions

(1) Section 153W of the Customs Act defines 'allowable cost to manufacture' as follows:

The **allowable cost to manufacture** goods is the sum of:

- (a) the allowable expenditure by the principal manufacturer on materials in respect of the goods; and
- (b) the allowable expenditure by the principal manufacturer on labour in respect of the goods; and
- (c) the allowable expenditure by the principal manufacturer on overheads in respect of the goods.

### 5.5.2. Policy and practice

(1) Labour, materials and overhead costs are included in both the total and allowable costs to manufacture. However, the total cost to manufacture also includes all expenditure the cost of overseas processing, which is not included in the allowable cost to manufacture.

(2) Each element of the total and allowable costs to manufacture, viz. materials, labour, overheads and overseas processing, is dealt with in Appendix 4.

## 5.6. Adjustments to expenditure

### 5.6.1. Statutory provisions

(1) Section 153UC of the Customs Act provides:

**153UC CEO may determine cost of certain input, material etc.**

If the CEO is satisfied that any input, material, labour, overhead or overseas process was provided:

- (a) free of charge; or
- (b) at a price that is inconsistent with the normal market value of that input, material, labour, overhead or overseas process;

the CEO may require, in writing, that an amount determined by the CEO to be the normal market value of that input, material, labour, overhead or overseas process be treated, for the purposes of this Division, as the amount paid by the manufacturer for the input, material, labour, overhead or overseas process.

### 5.6.2. Policy and practice

(1) Where any element of the cost to manufacture is provided free of charge or at a price that is inconsistent with that element's normal market value, section 153UC of the Customs Act allows the CEO to determine that a particular value is to be treated as the normal market value of those elements.

(2) This provision is included to provide a mechanism for determining appropriate levels of expenditure where prices have been manipulated, or are significantly different from normal market values for other reasons. For example, parts may be supplied free of charge to a Singapore manufacturer for assembly into finished products. In this situation, a value would need to be assigned to the parts to ensure that the goods are substantially transformed in Singapore, in keeping with the spirit of SAFTA.

(3) The normal market value will generally be ascertained by recourse to other sellers of like materials in the relevant market. Where materials are, or would be, obtained from overseas sources, official rates of exchange may be applied to ascertain the price that would have been paid or payable in that overseas market.

(4) Copies of the forms of the different notices prepared pursuant to section 153UC are set out at Appendix 3.

## Section 6: Partly manufactured goods – value-added criteria – key elements

### 6.1. Materials

#### 6.1.1. Statutory provisions

(1) Materials and inputs are defined in section 153UA of the Customs Act as follows:

**material** means any matter or substance purchased by the principal manufacturer of the goods and used or consumed in the processing of the goods, other than any matter or substance that is treated as an overhead.

**input** means any matter or substance used or consumed in the manufacture or production of a material, other than a matter or substance that is treated as an overhead.

### 6.2. Total expenditure on materials

#### 6.2.1. Statutory provisions

(1) These are to be found in section 153XA of the Customs Act as follows:

#### **153XA Total expenditure by principal manufacturer on materials**

##### *General rule*

- (1) The **total expenditure by the principal manufacturer on materials** in respect of goods is the amount incurred, directly or indirectly, by the principal manufacturer for all materials.

##### *What is included in total expenditure on materials*

- (2) The **total expenditure by the principal manufacturer on materials** in respect of goods includes:
- (a) freight, insurance, shipping and packing costs and all other costs, incurred directly or indirectly by the principal manufacturer, in transporting the materials to the first place in Singapore or Australia at which a process is performed on those materials by or on behalf of the principal manufacturer; and
  - (b) customs brokerage fees, incurred directly or indirectly by the principal manufacturer, on the materials paid in Singapore or Australia or both.

*What is not included in total expenditure on materials*

- (3) The total expenditure by the principal manufacturer on materials in respect of goods does not include:
- (a) a customs or excise duty; or
  - (b) a tax in the nature of a sales tax, a goods and services tax, an anti-dumping duty or a countervailing duty;
- imposed on the materials by or under a law of Singapore or Australia.

#### 6.2.2. Policy and practice

(1) Subsection 153XA(1) provides that the cost of materials is the amount incurred, directly or indirectly, by the principal manufacturer for all materials used in the manufacture or production of the goods.

(2) The cost of materials will include such items as overseas and internal freight, insurance, port and clearance charges and any financial accommodation that is a part of the CIF, FOB or other price paid. The use of the words 'in respect of' is intended to embrace all acquisition costs including the price paid or payable for the materials. Where materials are imported, the relevant price paid will be the actual amount paid in the currency of the country into which the materials have been imported. The rate of exchange, therefore, will be the actual rate applicable to the transaction, which may be a forward rate. Alternatively, average rates of exchange based on actual rates over a period may be used. Labour cost of material purchasers is not to be included as a cost of materials. This is to be included as a labour cost of management of the process of manufacture.

(3) Costs should, in all instances, be actual costs. Standard costs should not be used except where they are an accurate reflection of a manufacturer's operations.

(4) Subsection 153XA(3) specifies particular charges that do not form part of the cost of materials. As it is common for the goods and services tax liability of an enterprise to be accumulated separately from the company's ordinary accounts, it is unlikely that this tax will need to be removed from the cost shown in the accounts. Nevertheless, given the variability of company accounting systems, the question must always be addressed and resolved.

### 6.3. Allowable expenditure on materials

#### 6.3.1. Statutory provisions

(1) The allowable expenditure by the principal manufacturer on materials is set out in section 153WA of the Customs Act as follows:

**153WA Allowable expenditure by principal manufacturer on materials**

*General rule*

- (1) The **allowable expenditure by the principal manufacturer on materials** in respect of goods is the amount incurred, directly or indirectly, by the principal manufacturer for all materials, in the form purchased by the principal manufacturer, that were manufactured or produced in Singapore or Australia.

*Particular matters included in allowable expenditure on materials*

- (2) The **allowable expenditure by the principal manufacturer on materials** in respect of goods includes:
- (a) freight, insurance, shipping and packing costs and all other costs, incurred directly or indirectly by the principal manufacturer, in transporting the materials to the first place in Singapore or Australia at which a process is performed on those materials by or on behalf of the principal manufacturer; and
  - (b) customs brokerage fees, incurred directly or indirectly by the principal manufacturer on the materials paid in Singapore or Australia or both.

*What is not included in allowable expenditure on materials*

- (3) The allowable expenditure by the principal manufacturer on materials in respect of goods does not include the following:
- (a) a customs or excise duty imposed on the materials by or under a law of Singapore or Australia;
  - (b) a tax in the nature of a sales tax, a goods and services tax, an anti-dumping duty or a countervailing duty, imposed on the materials by or under a law of Singapore or Australia;

- (c) the cost of any input that, in the form it was received by the manufacturer or producer of the materials, was not manufactured or produced in Singapore or Australia.

*Total cost of inputs may be included in allowable expenditure on materials*

- (4) Despite paragraph (3)(c), the total cost of those inputs that would, because of that paragraph, not have been included in the allowable expenditure on a material by the principal manufacturer may be included in that allowable expenditure if the total cost does not exceed 50% of the total expenditure by the principal manufacturer on that material.
- (5) Subsection (4) does not apply in relation to materials that are provided for processing in a country other than Singapore or Australia.

### 6.3.2. Policy and practice

(1) Section 153WA covers those expenditures by the principal manufacturer on materials which are to be included in the allowable cost to manufacture preference claim goods.

(2) Subsection 153WA(1), in defining "allowable expenditure by the principal manufacturer on materials", restricts allowable expenditure to that actually incurred by the principal manufacturer for all materials, in the form purchased by that manufacturer, that were manufactured or produced in Singapore or Australia.

(3) The cost of materials will include such items as overseas and internal freight, insurance, port and clearance charges and any financial accommodation that is a part of the CIF, FOB or other price paid, in transporting those materials to the first place in Singapore at which a process is performed on those materials by the principal manufacturer. The allowable expenditure also includes costs such as customs brokerage fees which might have been paid for importation of the goods into Singapore or Australia.

(4) Costs should, in all instances, be actual costs. Standard costs should not be used except where they are an accurate reflection of a manufacturer's operations.

(5) Subsection 153XA(3) specifies particular charges that do not form part of the cost of materials. These include customs or excise duties, sales taxes, goods and services taxes and other taxes imposed under a law of Singapore or Australia. As it is common for the goods and services tax liability of an enterprise to be accumulated separately from the company's ordinary accounts, it is unlikely that this tax will need to be removed from the cost shown in the accounts. Nevertheless, given the variability of company accounting systems, the question must always be addressed and resolved.

(6) Where materials used or consumed in the manufacture of goods within Singapore or Australia were themselves manufactured or produced in either of those countries, the inputs to those materials may be included in the allowable expenditure on materials for the goods, in the circumstances set out in subsection 153WA(4).

(7) The emphasis on the form in which the materials are received into the factory is intended to make clear that in determining the origin and cost of particular materials to the principal manufacturer, it is the origin and cost of materials in that particular form that is important rather than relating to what might be the raw ingredients of the material received into the factory. It also means that, where a material changed hands after importation, but did not change form, it is still considered to have been imported into the qualifying area rather than having been locally sourced.

(8) Notwithstanding the special treatment accorded to unmanufactured raw materials used in the manufacture of wholly manufactured goods, there is no special treatment as to origin accorded to unmanufactured raw materials processed prior to manufacture in accordance with section 153VA.

#### **6.4. Factory labour**

##### 6.4.1. Statutory provisions

(1) The 'allowable expenditure by principal manufacturer on labour' is defined in section 153WB as follows:

**153WB Allowable expenditure by principal manufacturer on labour**

*The allowable expenditure by the principal manufacturer on labour, in respect of goods, is the sum of those parts, of the costs relating to the goods that are costs referred to in section (i) of Annex 2B of SAFTA, that:*

- (a) are incurred, directly or indirectly, by the principal manufacturer; and
- (b) relate, directly or indirectly, and wholly or partly, to the processing of the goods in Singapore; and
- (c) can reasonably be allocated to the processing of the goods in Singapore.

##### 6.4.2. Policy and practice

(1) Section 153WB sets out the requirements with respect to allowable labour costs. This section incorporates Section (i) of Annex 2B to SAFTA into the Customs Act. Annex 2B is reproduced at Appendix 4.

(3) Paragraph 153WB(a) imposes an 'incurred by the principal manufacturer' test. 'Principal manufacturer' is defined in section 153UA to mean "the person in Singapore who performs, or has performed on its behalf, the last process of manufacture of the goods". The significance of the word 'incurred' is that the cost or charge must be paid or payable by the principal manufacturer and not incurred independently by another party without recompense by the manufacturer. Further, it must be an actual cost and not a standard (budgeted), hypothetical, imputed or opportunity cost.

(4) Manufacturing wages and employee benefits in paragraph (a) of Section (i) will include the cost of labour that can be identified or associated directly or indirectly with goods produced, i.e. production line workers and other factory personnel. Examples are base pay, overtime pay, incentive pay, shift differentials and employee benefits such as vacation pay, public holidays, medical insurance and government required social program contributions.

(5) The cost of wages and employee benefits can include the cost of interest payments on bank loans to finance wages. For this entitlement to be established, it must be clear from the loan documentation that the purpose of the loan is specifically for the financing of wage payments and that borrowed funds have, in fact, been used for that purpose. Indirect labour, although attributable to factory overhead, is prescribed in this area.

(6) Labour costs incurred in connection with supervision would be limited to the factory foreman or supervisor. Labour associated with training would encompass in-house training, particularly on-the-job training.

(7) Labour costs claimed to be incurred must be actually incurred, either directly or indirectly, by the principal manufacturer, and must relate to the processing of the goods in Singapore and must reasonably be allocated to the processing of the goods in Singapore.

(8) Management of the process of manufacture would include the direct costs of factory management such as the production manager as well as the factory cost accountant. The question as to whether layers of management beyond the production manager should be included depends on the structure and size of the company and the circumstances of the particular case.

(9) Indirect costs in the form of labour costs for material purchasers, production planning and scheduling would also be included as 'cost of management of the process of manufacture'. Labour associated with the receipt and storage of materials would relate to personnel employed in the materials store.

(10) Labour incurred in quality control means the cost of inspecting and testing the goods prior to transfer off-line to ascertain whether they meet particular standards or specifications. Packing into inner containers refers to labour costs incurred in that function only. Inner containers, while not defined, would include any container into which preference claim goods are packed, other than a shipping or airline container, pallet or similar article. Labour related to other containers would therefore be excluded from allowable costs. Labour costs incurred in handling and storage of the goods within the factory will include the labour costs of personnel employed in the finished goods store. This cost is the only exception to the general rule that allowable costs are limited to those incurred to the point of completion of manufacture.

(11) Paragraph 153WB(b) establishes the linkage between the cost and manufacture. That is, there must be a clear connection with production before any such expenditure can be considered allowable. In order for costs incurred by a principal manufacturer to be treated as direct costs of processing, those costs must be directly incurred in the production of the exported goods and not merely associated with the production facility as peripheral costs necessary to operate the facility.

## 6.5. Factory overheads

### 6.5.1. Statutory provisions

(1) The allowable expenditure of the factory on overheads is defined in section 153WC as follows:

#### **153WC Allowable expenditure by principal manufacturer on overheads**

*The allowable expenditure by the principal manufacturer on overheads, in respect of goods, is the sum of those parts, of the costs relating to the goods that are costs referred to in section (ii) of Annex 2B of SAFTA, that:*

- (a) are incurred, directly or indirectly, by the principal manufacturer; and
- (b) relate, directly or indirectly, and wholly or partly, to the processing of the goods in Singapore; and
- (c) can reasonably be allocated to the processing of the goods in Singapore.

### 6.5.2. Policy and practice

(1) Section 153WC sets out the requirements with respect to relevant (allowable) labour costs. This section incorporates Section (ii) of Annex 2B to SAFTA into the Customs Act. Annex 2B is reproduced at Appendix 4.

(2) Paragraph 153WC(a) imposes an 'incurred by the principal manufacturer' test. 'Principal manufacturer' is defined in section 153UA to mean "the person in Singapore who performs, or has performed on its behalf, the last process of manufacture of the goods". The significance of the word 'incurred' is that the cost or charge must be paid or payable by the principal manufacturer and not incurred independently by another party without recompense by the manufacturer. Further, it must be an actual cost and not a standard (budgeted), hypothetical, imputed or opportunity cost.

(3) In any commercial undertaking, overheads will include both production overheads and 'other' overheads. Overheads which relate to general administration, finance, marketing, selling and distribution to customers are specifically excluded from prescribed costs by paragraph (2) of Section (ii) of Annex 2B to SAFTA (see Appendix 4). The classification of overheads to isolate that portion related to production only, would take the function of the overhead as its distinguishing characteristic (e.g., whether it is a function of production, marketing, selling, finance, or administration). The costs listed in paragraph 2(a) of Annex 2B illustrate this principle. Other examples are bank charges, donations, corporate expenses, audit expenses, entertainment, printing and stationery and personal costs including staff advertising.

(4) As the costs of general management, as distinct from functional management, are not directly or indirectly related to current production they are therefore excluded from the cost of production. Such costs are typically not attributable to any operation or product and their only association with the production facility may be as peripheral costs necessary to operate the facility.

(5) Paragraph 153WC(c) implies two essential requirements, viz:

- adequate records and information must be available; and
- a reasonable and appropriate method of allocation to production must be available

(6) An example of paragraph 153WC(c) may arise where materials are transported in the manufacturer's vehicle and large numbers of substantially different types of materials arrive at the factory in the same consignment. Where all materials are sourced in the qualifying area, it may be easier to treat the cost of freight inwards as an overhead cost, provided it can reasonably be allocated to the goods. Where materials are sourced from countries outside the qualifying area, however, care must be taken to ensure that the cost of transport of such goods between the wharf and the manufacturer's premises is attributed to the materials to which it relates and does not form part of qualifying overheads (see also 11.4.5).

(7) In calculating overheads no account is to be taken of the source of the energy, plant, machinery, royalty or other such costs incurred by the manufacturer in the production of goods when determining whether or not particular goods are the produce or manufacture of a country. For example, the payment by the principal manufacturer of a royalty to a recipient in a country outside the qualifying area for a process developed in that country, does not provide grounds for denying inclusion of the cost in allowable expenditure.

(8) Paragraph (3) of Section (ii) of Annex 2B to SAFTA limits depreciation charges to those that are ascertained in accordance with generally accepted accounting principles as applied by the principal manufacturer. These principles will apply whether or not they are applied by the principal manufacturer.

(9) Allowable expenditure on factory overhead is to include re-work costs on faulty manufacture whether or not such defects are discovered post sale.

## 6.6. Other costs

### 6.6.1. Labels/tickets

(1) Materials and labour will be expended on these items. Generally, items which are required by law and/or which identify the goods, their origin, characteristics, brand name, fabric codes, care instructions and material composition may be included in allowable expenditure. However, items that are of a promotional nature in relation to particular manufacturers or generic goods should not be treated as allowable expenditure on the grounds that they represent selling or marketing expenses which are specifically excluded by paragraph (2) of Section (ii) of Annex 2B to SAFTA.

### 6.6.2. Inner containers

(1) Paragraph (f) of Section (i) of Annex 2B to SAFTA states that the cost, to the extent that the cost relates to labour, of packing goods into inner containers is allowable expenditure under SAFTA.

(2) While there are no specific statutory provisions regarding Inner Containers in Division 1B Part VIII of the Customs Act, it is expected that the practices adopted under Division 1A are equally applicable in regards to SAFTA.

(3) Inner containers include any item of packaging, container or containers into or onto which the goods are packed but shall not include shipping containers (including pallets and like articles or air containers that are used by carriers for cargo conveyancing).

(4) Costs associated with inner containers will be represented under the three categories of materials, labour and overhead.

## **6.7. Double counting**

### 6.7.1. Statutory provisions

- (1) Section 153UB is a proscription against any double counting and states:

#### **153UB Rule against double counting**

In determining:

- (a) the allowable cost to manufacture; or
- (b) the total cost to manufacture:

goods claimed to be the produce or manufacture of preference claim goods, a cost incurred, whether directly or indirectly, by the manufacturer of the goods must not be taken into account more than once.

### 6.7.2. Policy and practice

- (1) Given the variability of accounting practice, there is considerable scope for double counting of particular costs. Care would need to be taken for instance to ensure that indirect labour costs, which, in some circumstances, can form part of total Payroll costs, are not counted in Direct Labour as well as Manufacturing Overhead when costs are determined on a per unit basis.

## **Section 7: Partly manufactured goods – value-added criteria – variations**

### **7.1. Goods not commercially manufactured in Australia or Singapore**

#### 7.1.1. Statutory provisions

(1) Section 153VA provides determination powers in relation to goods which are not manufactured in Australia or Singapore, as follows:

#### **153VA Goods wholly manufactured in Singapore**

Goods are ***wholly manufactured in Singapore*** if they are manufactured in that country from one or more of the following:

- (a) .....
- (b) .....
- (c) .....
- (d) materials imported into Singapore that the CEO has determined, by *Gazette* notice, to be manufactured raw materials of Singapore.

#### 7.1.2. Policy and practice

(1) Where goods would be wholly manufactured in Singapore but for being manufactured from materials that are not available from within Australia or Singapore, the CEO may determine those materials to be the manufactured raw materials of Singapore.

(2) The absence of Australian manufacture is generally indicated by the general rate of duty being free or by the existence of a Tariff Concession Order made pursuant to Part XVA of the Customs Act. Reconditioned or reconstructed machines do not gain the benefit of the lower thresholds.

(3) While there is no formal agreement between Australia and Singapore on the operation of DMRM, Australia has adopted procedures similar to those agreed to between Australia and New Zealand. This includes consideration of the general duty rate applicable to imports of the material into Australia, eligibility for a duty concession and the publication of a Gazette notice that allows Australian manufacturers of the material for which a DMRM is sought 21 days in which to object to the granting of a DMRM.

(4) The kinds of goods considered not to be commercially manufactured in Australia or Singapore are set out by Gazette notice. An example of the type of notice is set out in Appendix 4.5.

(5) In this process, consideration is limited to the extent to which the material for which a DMRM is sought can be made locally. No consideration is given to the extent to which local firms can manufacture the complete goods to be made using that material.

(6) A list of DMRM, effective at 31 May 2004, is at Appendix 9. An up-to-date listing can be obtained by addressing an email to [origin@customs.gov.au](mailto:origin@customs.gov.au).

## 7.2. Tolerance in minimum value-added

### 7.2.1. Statutory provisions

(1) Section 153VC provides for a lower value-added content in certain circumstances with respect to goods originating in Singapore.

#### **153VC Reduction of the required percentage of allowable cost to manufacture in unforeseen circumstances**

*When 30% in subsection 153VB(2) or 153VB(5) can be read as 28%*

- (1) If the CEO is satisfied:
- (a) that the allowable cost to manufacture goods that are claimed to be the manufacture of Singapore, in a shipment of such goods, is at least 28% but not 30%, of the total cost to manufacture those goods; and
  - (b) that the allowable cost to manufacture those goods would be at least 30% of the total cost to manufacture those goods if an unforeseen circumstance had not occurred; and
  - (c) that the unforeseen circumstance is unlikely to continue;

the CEO may determine, in writing, that subsection 153VB(2) or 153VB(5) has effect:

- (d) for the purposes of the shipment of goods that is affected by that unforeseen circumstance; and
- (e) for the purposes of any subsequent shipment of similar goods that is so affected during a period specified in the determination;

as if the reference in subsection 153VB(2) or 153VB(3) to 30% were a reference to 28%.

*When 50% in subsection 153VB(2) or 153VB(5) can be read as 48%*

- (2) If the CEO is satisfied:
- (a) that the allowable cost to manufacture goods that are claimed to be the manufacture of Singapore, in a shipment of such goods, is at least 48% but not 50%, of the total cost to manufacture those goods; and

- (b) that the allowable cost to manufacture those goods would be at least 50% of the total cost to manufacture those goods if an unforeseen circumstance had not occurred; and
- (c) that the unforeseen circumstance is unlikely to continue;

the CEO may determine, in writing, that subsection 153VB(2) or 153VB(5) has effect:

- (d) for the purposes of the shipment of goods that is affected by that unforeseen circumstance; and
- (e) for the purposes of any subsequent shipment of similar goods that is so affected during a period specified in the determination;

as if the reference in subsection 153VB(2) or 153VB(5) to 50% were a reference to 48%.

*Effect of determination*

- (3) If the CEO makes a determination under this section then, in relation to all goods imported into Australia that are covered by that determination, section 153VB has effect in accordance with the determination.

*CEO may revoke determination*

- (4) If:
  - (a) the CEO has made a determination under this section; and
  - (b) the CEO becomes satisfied that the unforeseen circumstance giving rise to the determination no longer continues;

the CEO may, by written notice, revoke the determination despite the fact that the period referred to in the determination has not ended.

*Similar goods*

- (5) In this section:
  - similar goods**, in relation to goods in a particular shipment, means goods:
    - (a) that are contained in another shipment that is imported by the same importer; and
    - (b) that are covered by the same Certificate of Origin.

### 7.2.2. Policy and practice

- (1) Allowable labour and overheads would generally be based on a 12 month period coinciding with the annual reporting period of the manufacturer. For this reason, such costs are unlikely to be affected by this provision, which relates to short-term aberrations.
- (2) The provision will, however, apply directly to materials in circumstances where a short-term variation is experienced through, for example, extreme exchange rate fluctuations. Where this variation directly affects the cost of production of each individual unit produced, it will come within the ambit of this provision. In ordinary circumstances, the short-term would not be expected to exceed three months.
- (3) Where use of this provision is contemplated, application should be made to the Director Valuation and Origin, 5 Constitution Avenue, Canberra ACT 2601, well before the goods are to be entered for home consumption, so that sufficient time is allowed to consider the application and, where appropriate, to make a determination. The application should include all material required to support the claim.
- (4) The form of the determination contemplated by section 153VC is set out in Appendix 6.

## **Section 8: Partly manufactured goods – other criteria**

### **8.1. Additional requirements**

(1) Aside from minimum value-added thresholds, there are other conditions that must be met before goods are considered to be the produce or manufacture of Singapore and eligible for duty-free entry under SAFTA. These are:

- consignment requirements.
- processes of manufacture, including manufacture, minimal operations and quality control inspections;

### **8.2. Consignment requirements and final process of manufacture**

#### 8.2.1. Statutory provisions

(1) Specific consignment rules for goods claiming preference under SAFTA are applied through section 153VF. This provision provides:

#### **153VF Consignment requirements**

Goods claimed to be the produce or manufacture of Singapore are not the produce or manufacture of Singapore unless:

- (a) they have been transported directly to Australia from Singapore; or
- (b) they have been transported through a country or place other than Singapore or Australia but:
  - (i) did not undergo operations in that country or place other than packing, packaging, unloading, reloading or operations to preserve them in a good condition; and
  - (ii) were not traded or used in that country or place; or
- (c) they have been transported from a country or place other than Singapore where minimal operations were performed immediately after importation from Singapore and immediately before their exportation to Australia.

## 8.2.2. Policy and practice

- (1) This provision has a twofold effect in that it specifies a requirement:
- regarding transportation to Australia of goods claiming duty-free entry under SAFTA; and
  - for a final process in the manufacture of goods to be undertaken in Singapore by restricting processes which can be undertaken in a place other than Singapore this issue
- (2) The consignment requirements specifically state that unless goods are transported directly to Australia from Singapore, or have been transported through another country or place where only minimal operations might have been performed, then those goods can not be claimed to be the manufacture of Singapore.
- (3) "Minimal operations" are defined in section 153UA as pressing, labelling, ticketing, packaging and preparation for sale, or any similar process, whether conducted alone or in combination with each other.

## Section 9: Declarations and Certificates of Origin

### 9.1. Certificate of Origin - requirements

#### 1. Statutory provision

(1) Section 153VE provides as follows:

#### **153VE Certificate of Origin requirements**

##### *Certificate of origin*

- (1) Goods claimed to be the produce or manufacture of Singapore are not the produce or manufacture of Singapore, unless:
- (a) at the time of entry of the goods, the importer of the goods holds a valid Certificate of Origin relevant to those goods; and
  - (b) if, at the time of entry of the goods, the importer of the goods has previously used that Certificate of Origin in respect of the same kind- at the time of entry of the goods to which the claim relates, the importer of those goods also holds a declaration relevant to those goods; and
  - (c) if an officer requests production of a copy of any document that the importer of the goods is required under paragraph (a) or (b) to hold-a copy of that document is produced to the officer.

##### *Declaration*

- (2) In this section:
- declaration** means a declaration made, by the exporter of the goods in question from Singapore, in accordance with Article 11.6 of Chapter 3 of SAFTA.

(2) Article 11 of Part 3 of SAFTA, titled "Certification of Origin", is at Appendix 4.7.

#### 2. Policy and practice

(1) All goods claimed to be the produce or manufacture of Singapore, for the purpose of SAFTA, require a valid Certificate of Origin which must be completed before the goods are entered. The importer must possess this document before claiming duty-free entry and must produce it to Customs and Border Protection if and when requested.

(2) The Certificate of Origin must be issued by an authorised body. Currently, the only authorised body is Singapore Customs.

(3) The Certificate of Origin must specify the particular rule of origin applicable to the goods. The rule specified in the Certificate of Origin must reflect the numbering system explained in 4.7.2 below.

(4) The Certificate of Origin must relate to the goods claiming preference and must be signed by the exporter, manufacturer or producer. A Certificate of Origin will be valid for two years from the date of issue, provided it is first used within the first year of issue.

(5) There is no prescribed form for a Certificate of Origin. It should, however, be readily identified as a "Preferential Certificate of Origin" and contain at least the following information:

- (1) Certificate of Origin number issued by Singapore Customs
- (2) name and address of the exporter;
- (3) name and address of the consignee;
- (4) departure date of the vessel or aircraft for Australia;
- (5) name of the vessel or flight number of the aircraft;
- (6) port of discharge of the goods;
- (7) country of final destination;
- (8) a dated and signed declaration by the exporter;
- (9) marks and numbers on the packages containing the goods;
- (10) number and kind of packages and description of the goods;
- (11) quantity (and unit) of goods;
- (12) abbreviation of the Rule of origin relied upon; and.
- (13) certification by Singapore Customs.

(6) This information listed above is stated in Annex 2A ("Certificate of Origin Requirements") to SAFTA as being the minimum data requirement when applying for a Certificate of Origin. This annex is reproduced at Appendix 4.8.

(7) A sample "Preferential Certificate of Origin" is also at Appendix 4.8.

(8) If Customs and Border Protection finds that preference is inapplicable or that there is insufficient evidence to justify the claim for preferential rates of duty, there will be a liability for the payment of any Customs duty that has been short paid. In these circumstances, there may also be a liability for an administrative penalty under section 243T of the Customs Act.

(9) If, after the time of entry, evidence becomes available to the owner that the goods are ineligible for preferential rates of duty, the owner should, as soon as practicable after becoming aware of the error, voluntarily tender to Customs and Border Protection any short paid Customs duty. This action may protect the owner from potential penalty under section 243T of the Customs Act if Customs and Border Protection audit action has not commenced.

(10) Where a duty short payment results from incorrectly claimed preferential duty rates, an administrative penalty will not be imposed if, at the time of entry of the goods, the owner had either:

- a Certificate of Origin or Declaration from the overseas manufacturer which stated that the preference criteria of Division 1B of the Customs Act had been met; or
- evidence of the relevant factory costs of the overseas manufacturer which indicated that the goods in question were eligible for preferential rates of duty.

(11) The protection from penalty would not apply, however, where:

- other information available to the owner indicated that the statement on the Declaration or Certificate of Origin from the manufacturer was incorrect;
- the party signing the Declaration/ Certificate of Origin was not the 'overseas manufacturer' - for instance, Customs and Border Protection would give no weight to a Declaration/ Certificate of Origin that is from a supplier who was not the manufacturer of the goods; or
- the Declaration/ Certificate of Origin could not be clearly related to the goods in question.

#### 4.7.2 Certificate of Origin – administrative procedures

##### 1. Preference codes - general

(1) When claiming duty-free entry for goods that are the produce or manufacture of Singapore under Division 1B, the preference code "P" will need to be input in the preference indicator field of the import entry. The Certificate of Origin number and the appropriate abbreviation for the rule of origin relied upon, as specified in the Certificate of Origin, should also be input on the goods description line of the entry, together with the description of the goods. The abbreviations to be used are:

RULE	COVERAGE	ABB.
1	Wholly obtained goods	WO
2A	Wholly manufactured goods that do not incorporate DMRM	WMN
2B	Wholly manufactured goods that incorporate DMRM	WMD
3A	Partly manufactured goods of Section (i) of Annex 2D, no accumulation	P30A
3B	Partly manufactured goods of Section (ii) of Annex 2D, no accumulation	P30B
3C	Other partly manufactured, goods, no accumulation	P50
4A	Partly manufactured goods of Section (i) of Annex 2D, accumulation	A30A
4B	Partly manufactured goods of Section (ii) of Annex 2D, accumulation	A30B
4C	Other partly manufactured goods, accumulation	A50

(2) When claiming duty-free entry for goods that are the produce or manufacture of Singapore under Division 1B, the preference code "P" will need to be input in the preference indicator field of the import entry. The Certificate of Origin number and the appropriate abbreviation for the rule of origin relied upon, as specified in the Certificate of Origin, should also be input on the goods description line of the entry, together with the description of the goods. The abbreviations to be used are:

2. Preference codes – rule 2B

(1) For rule 2B to be used, a DMRM must be granted by the customs administrations of Singapore and Australia. The Singapore manufacturer seeking DMRM for materials for use or consumption in goods to be exported to Australia must apply to Singapore Customs. Applications accepted for processing by Singapore Customs will be referred to the Australian and Border Protection Service (Customs and Border Protection). The issue of DMRMs is further addressed in Section 8.

(2) Applications received by Customs and Border Protection will be processed in accordance with procedures similar to those adopted for DMRM under the Australia New Zealand Closer Economic Relations Trade Agreement (ANZCERTA). Those procedures are set out in a booklet titled "ANZCERTA Rules of Origin – Determined Manufactured Raw Materials (DMRM)", which is available on the Customs and Border Protection website at [www.customs.gov.au](http://www.customs.gov.au).

(3) Singapore DMRM will be published in Tariff Concession Gazettes. A copy of the Gazettes is available on the Customs and Border Protection website.

3. Preference codes – rules 3B or 4B

(1) Where rule 3B or 4B is used, the TCO number nominated in the Certificate of Origin should also be specified on the goods description line of the import entry. Before claiming preference in this instance, the importer or broker will need to ensure that the TCO nominated in the Certificate of Origin applies to the goods and is still current. If the nominated TCO does not apply to the goods or is no longer current, duty-free entry cannot be claimed on the basis of the Certificate of Origin provided. Unless the importer possesses another Certificate of Origin that is valid for those goods, the goods will be ineligible for duty-free entry.

4.7.3 Declarations - requirements

1. Provisions

(1) Article 12 of Part 3 of SAFTA, "Claim for Preferential Tariff Treatment", states that, amongst other requirements covered above, the importer of goods must have "a valid Certificate of Origin when it is used for the first shipment; or a valid Certificate of Origin and a Declaration when the Certificate of Origin is used for subsequent shipments of those goods" in its possession when claiming preferential tariff treatment.

## 2. Policy and practice

(1) A separate Declaration must be completed by the exporter in Singapore for each shipment after the first shipment to confirm that the goods contained in that shipment are the produce or manufacture of Singapore and are covered by a specific Certificate of Origin.

(2) There is no prescribed Declaration form for use by exporters, but such a document must contain the following:

- (a) a reference to the exporter's invoice for the goods;
- (b) a statement that the goods are identical to goods specified in a valid Certificate of Origin nominated in the Declaration;
- (c) a statement that the goods are originating goods that comply with the rule specified in the nominated Certificate of Origin; and
- (d) the signature, name and designation of the exporter's representative, and the date the Declaration is signed.

## Section 10: Determined manufactured raw materials (DMRM)

### 10.1. Certificate of Origin - requirements

#### 10.1.1. Statutory provision

(1) Section 153VA provides as follows:

#### **153VA Goods wholly manufactured in Singapore**

Goods are ***wholly manufactured in Singapore*** if they are manufactured in that country from one or more of the following:

- (a) .....
- (b) .....
- (c) .....
- (d) materials imported into Singapore that the CEO has determined, by *Gazette* notice, to be manufactured raw materials of Singapore.

#### 10.1.2. Policy and practice

(1) Where goods would be wholly manufactured in Singapore but for materials that are not available from within Australia or Singapore, the CEO may determine those materials to be the produce or manufacture of Singapore.

(2) No joint proceedings have been established in respect of the handling of DMRM requests under SAFTA. However, for the purposes of this provision, the joint procedures developed for the handling of DMRM requests between Australia and New Zealand will be adopted for requests seeking determination of DMRMs under SAFTA. The procedures under ANZCERTA have been published in the booklet, Rules of Origin – Determined Manufactured Raw Materials (DMRM), which is available on the Internet at <http://www.customs.gov.au> (then go to "import/export", then "rules of origin", then "preferential – rules of origin", then "New Zealand", then open the PDF file titled "Australia–New Zealand 'Determined manufactured Raw Materials'").

(3) Procedures in considering a DMRM application will include consideration of the general duty rate applicable to imports of the material into Australia, eligibility for a duty concession and the publication of a Gazette notice that allows Australian manufacturers of the material for which a DMRM is sought 21 days in which to object to the granting of a DMRM.

(4) In this process, consideration is limited to the extent to which the material for which a DMRM is sought can be made locally. No consideration is given to the extent to which local firms can manufacture the complete goods to be made using that material.

(5) A list of DMRM, effective at 31 May 2004, is in Appendix 9. An up-to-date listing can be obtained by addressing an email to [origin@customs.gov.au](mailto:origin@customs.gov.au).

## **Section 11: Administrative procedures**

### **11.1. Steps for determining preference entitlement**

- (1) Where preference entitlement is called into question, the following steps, in accordance with Article 14 of Part 3 of SAFTA ("Origin Verifications"), will be taken to address the issue by Australian and/or Singapore Customs:
  - (i) Identify the goods on which preference has been claimed.
  - (ii) Identify the manufacturer producing the goods on which preference has been claimed.
  - (iii) Institute measures to establish the validity of the Certificate of Origin, Declaration or confirmation.
  - (iv) Issue written questionnaires to be completed by the exporter within a period of 30 days.
  - (v) Request the supply of records relating to the production, manufacture or export of the goods.
  - (vi) Visit the factory or premises of the producer, principal manufacturer, or exporter or any other party in Singapore associated with the production, manufacture, import or export, of the goods or of the materials or inputs used therein.

## Section 12: Exports from Australia to Singapore

### 12.1. Declaration by exporter

#### 12.1.1. Statutory provisions

(1) The head of power requiring Australian exporters to provide a declaration when exporting goods to Singapore for which preference is claimed is section 126AA of the Customs Act which states:

#### **126AA Declaration concerning exports to Singapore**

The regulations may prescribe the requirements on exporters relating to the making of declarations concerning the export of goods to Singapore for which preferential tariff is to be claimed.

(2) The Customs Regulations prescribe the requirements referred to in Section 126AA as follows:

#### **105A Exports to Singapore—declaration by exporter**

- (1) For section 126AA of the Act, this regulation sets out requirements on an exporter relating to the making of declarations concerning the export of goods to Singapore for which preferential tariff is to be claimed.
- (2) If the exporter is not the producer or manufacturer of the goods, the exporter must, before making the declaration mentioned in subregulation (3):
  - (a) if the exporter was the applicant for the Certificate of Origin — give a copy of the Certificate of Origin to the producer or manufacturer; and
  - (b) whether or not the exporter was the applicant for the Certificate of Origin — obtain from the producer or manufacturer a written confirmation;
    - (i) specifying evidence of the sale of the goods to the exporter; and
    - (ii) specifying the Certificate of Origin in relation to the goods; and
    - (iii) stating that the goods are identical to goods that are specified in that Certificate of Origin ; and
    - (iv) stating that the goods comply with the rule specified in that Certificate of Origin; and
    - (v) specifying the name, designation and signature of the producer's or manufacturer's representative; and

- (vi) specifying the date on which the confirmation was signed by the producer's or manufacturer's representative.
- (3) The exporter must make a declaration, in writing, before the export of the goods:
- (a) stating that the goods are the produce or manufacture of Australia, in accordance with SAFTA; and
  - (b) specifying the exporter's invoice in relation to the goods; and
  - (c) specifying the Certificate of Origin in relation to the goods; and
  - (d) stating that the goods are identical to goods that are specified in that Certificate of Origin; and
  - (e) stating that the goods comply with the rule specified in that Certificate of Origin; and
  - (f) specifying the name, designation and signature of the exporter's representative; and
  - (g) specifying the date on which the declaration was signed by the exporter's representative.
- (4) In this regulation:
- Certificate of Origin** has the meaning given by section 153UA of the Act.
- SAFTA** has the meaning given by section 153UA of the Act.

#### 12.1.2. Policy and practice

(1) While Division 1B of Part VIII of the Customs Act specifies criteria that goods imported into Australia need to meet to qualify for duty-free importation under SAFTA, the above provisions, together with sections 126AB, 126AC and 126AC of the Customs Act, and regulations 105B and 105C, place requirements on Australian exporters, producers and manufacturers exporting goods to Singapore when claiming preferential entry under SAFTA.

(2) Section 126AA of the Customs Act simply states that requirements may be placed on Australian exporters claiming preferential tariff rates on goods they export to Singapore. Those requirements have been put in place by Regulation 105A.

(3) The basis for Regulation 105A is Article 11 of Part 3 of SAFTA (Certification of Origin). Annex 2A of SAFTA (Certificate of Origin Requirements), which is reproduced at Appendix 4.8, outlines the procedure for applying for a Certificate of Origin and to which organisations such application may be lodged. The requirements espoused by Article 11 of Part 3 of SAFTA apply equally to Australian importers claiming preference on goods the manufacture or produce of Singapore.

(4) While there is no prescribed or approved form of presenting a Certificate of Origin for goods exported from Australia, an example form is provided at Appendix 8.

(5) Exports from Australia to Singapore not containing the required Certificate of Origin would not be granted preferential tariff rates on importation into Singapore.

## **12.2. Record keeping obligations on Australian producers, manufacturers and exporters**

### 12.2.1. Statutory provisions

(1) The Australian legislation which places obligations on Australian producers, manufacturers and exporters exporting goods to Singapore which claim preferential tariff rates in Singapore is section 126AB of the Customs Act which states:

#### **126AB Record keeping obligations**

*Regulations may prescribe record keeping obligations*

- (1) The regulations may prescribe record keeping obligations that apply in relation to goods that:
  - (a) are exported to Singapore; and
  - (b) are claimed to be the produce or manufacture of Australia for the purpose of obtaining a preferential tariff in Singapore.

*On whom obligations may be imposed*

- (2) Regulations for the purposes of subsection (1) may impose such obligations on a producer, manufacturer or exporter of goods.

(2) The Customs Regulations prescribe the record keeping obligations on producers and manufacturers referred to in Section 126AB as follows:

#### **105B Exports to Singapore—record keeping (producer or manufacturer)**

- (1) For section 126AB of the Act, this regulation:
  - (a) sets out record keeping obligations that apply in relation to goods that:
    - (i) are exported to Singapore; and
    - (ii) are claimed to be the produce or manufacture of Australia for the purpose of obtaining a preferential tariff in Singapore; and
  - (b) applies to the producer or manufacturer of the goods (whether or not the producer or manufacturer is the exporter of the goods).

- (2) The producer or manufacturer must keep the following records:
  - (a) records of the purchase of the goods;
  - (b) evidence that payment has been made for the goods;
  - (c) evidence of the cost of the goods in the form sold to the buyer;
  - (d) evidence of the value of the goods;
  - (e) records of the purchase of all materials that were purchased for use or consumption in the production or manufacture of the goods;
  - (f) evidence that payment has been made for those materials;
  - (g) evidence of the cost of those materials in the form sold to the producer or manufacturer;
  - (h) evidence of the value of those materials;
  - (i) records of the production or manufacture of the goods;
  - (j) a copy of the Certificate of Origin in relation to the goods;
  - (k) if the producer or manufacturer has given a confirmation mentioned in paragraph 105A (2) (b) in relation to the goods to an exporter — a copy of the confirmation;
  - (l) if the producer or manufacturer is the exporter of the goods — a copy of the declaration mentioned in paragraph 105A (3) in relation to the goods.
- (3) If the producer or manufacturer is the exporter of the goods, the producer or manufacturer must keep the records required by subregulation (2) for a period of at least 5 years starting on the date of the declaration relating to the goods mentioned in subregulation 105A (3).
- (4) If the producer or manufacturer is not the exporter of the goods, the producer or manufacturer must keep the records required by subregulation (2) for a period of at least 5 years starting on the date of the confirmation mentioned in paragraph 105A (2) (b) in relation to the goods.
- (5) The producer or manufacturer:
  - (a) may keep a record under this regulation at any place (whether or not in Australia); and

(b) must ensure that:

- (i) the record is kept in a form that would enable a determination of whether the goods are the produce or manufacture of Australia, in accordance with SAFTA; and
- (ii) if the record is not in English — the record is kept in a place and form that would enable an English translation to be readily made; and
- (iii) if the record is kept by mechanical or electronic means — the record is readily convertible into a hard copy in English.

(6) In this regulation:

**Certificate of Origin** has the meaning given by section 153UA of the Act.

**SAFTA** has the meaning given by section 153UA of the Act.

(3) The Customs Regulations prescribe the record keeping obligations on an exporter, where that exporter is not a producer or manufacturer, referred to in Section 126AB as follows:

**105C Exports to Singapore—record keeping (exporter that is not producer or manufacturer)**

- (1) For section 126AB of the Act, this regulation:
  - (a) sets out record keeping obligations that apply in relation to goods that:
    - (i) are exported to Singapore; and
    - (ii) are claimed to be the produce or manufacture of Australia for the purpose of obtaining a preferential tariff in Singapore; and
  - (b) applies to the exporter of the goods that is not the producer or manufacturer of the goods.
- (2) The exporter must keep the following records:
  - (a) records of the purchase of the goods by the exporter, including evidence that payment has been made for the goods;
  - (b) records of the purchase of the goods by the person to whom the goods are exported, including evidence that payment has been made for the goods;
  - (c) the confirmation mentioned in paragraph 105A (2) (b) given to the exporter by the producer or manufacturer;
  - (d) a copy of the declaration mentioned in subregulation 105A (3);

- (e) a copy of the Certificate of Origin in relation to the goods.
- (3) The exporter must keep the records required by subregulation (2) for a period of at least 5 years starting on the date of the declaration mentioned in subregulation 105A (3) in relation to the goods.
- (4) The exporter:
  - (a) may keep a record under this regulation at any place (whether or not in Australia); and
  - (b) must ensure that:
    - (i) the record is kept in a form that would enable a determination of whether the goods are the produce or manufacture of Australia, in accordance with SAFTA; and
    - (ii) if the record is not in English — the record is kept in a place and form that would enable an English translation to be readily made; and
    - (iii) if the record is kept by mechanical or electronic means — the record is readily convertible into a hard copy in English.
- (6) In this regulation:
  - Certificate of Origin** has the meaning given by section 153UA of the Act.
  - SAFTA** has the meaning given by section 153UA of the Act.

#### 12.2.2. Policy and practice

- (1) Article 11 of Part 3 of SAFTA (Certification of Origin) imposes responsibilities on producers, manufacturers and exporters in both Australia and Singapore in regard to record keeping when goods are exported from one country to the other and claim preferential tariff treatment.
- (2) Those responsibilities, in so much as they apply to Australian producers, manufacturers and exporters, are reflected in Australian legislation by section 126AB of the Customs Act and Regulation 105B (in respect of the responsibilities of Australian producers and manufacturers) and Regulation 105C (in respect of an Australian exporter who is not a producer or manufacturer).
- (3) The records listed in the regulations are required to be retained by Australian producers, manufacturers and exporters for a period of five (5) years starting at the date the declaration relating to and individual exportation on goods occurs.
- (4) The records which are required to be kept are specified in Regulation 105B (in respect of the responsibilities of Australian producers and manufacturers) and Regulation 105C (in respect of an Australian exporter who is not a producer or manufacturer).

### 12.3. Power to require records

#### 12.3.1. Statutory provisions

(1) Regulation 105B and Regulation 105C, cited above, place certain obligations on producers, manufacturers and exporters in relation to record keeping.

(2) Article 14 of Part 3 of SAFTA permits Australian authorities to verify the eligibility for preferential tariff treatment in respect of imports into Australia. The power to undertake such verification is in part afforded by section 126AC of the Customs Act which states:

#### **126AC Power to require records**

##### *Requirement to produce records*

- (1) An authorised officer may require a person who is subject to record keeping obligations under regulations made for the purposes of section 126AB to produce to the officer such of those records as the officer requires.

##### *Disclosing records to instrumentality or agency of Singapore*

- (2) An authorised officer may, for the purpose of verifying a claim for a preferential tariff in Singapore, disclose any records so produced to an instrumentality or agency in Singapore.

#### 12.3.2. Policy and practice

(1) Subsection 126AC(1) provides that an authorised officer may require a person who is subject to record keeping obligations under Regulation 105B and Regulation 105 to produce such of those records that are required by Customs and Border Protection.

(2) "Authorised Officer" is defined in section 4 of the Customs Act and the CEO of Customs and Border Protection has made authorisations for certain officers of Customs and Border Protection to exercise the powers under section 126AC.

(3) Under this power authorised officers may take action to verify the eligibility of goods for preferential treatment, including requesting the supply of records relating to the production, manufacture or export of the goods.

(4) Subsection 126AC(2) further provides that an authorised officer may disclose any records produced under subsection 126AC(1) to an instrumentality or agency of Singapore for verifying a claim for preferential tariff treatment in Singapore.

(5) Section 16 of the *Customs Administration Act 1985* prohibits the disclosure of protected information except:

- as authorised by section 16; or
- as required or authorised by any other law; or
- in the course of performing the officer's duties.

(6) Records obtained by an authorised officer under this section would be protected information within the meaning of section 16 of the *Customs Administration Act 1985* and therefore cannot be disclosed to Singapore authorities except as allowed by that section.

(7) Any action undertaken by Customs and Border Protection to verify eligibility for preferential tariff treatment shall be completed and a written decision made within 90 days of the commencement of such action. Article 14 of part 3 of SAFTA further provides that written advice as to whether goods are eligible for preferential tariff treatment must be provided to all relevant parties within 10 days of the decision being made.

## **12.4. Power to ask questions**

### 12.4.1. Statutory provisions

(1) In order to verify records kept by producers, manufacturers and exporters, section 126AD of the Customs Act permits authorised officers to ask questions of those same producers, manufacturers and exporters.

(2) Section 126AD of the Customs Act states:

#### **126AD Power to ask questions**

##### *Power to ask questions*

- (1) An authorised officer may require a person who is an exporter, producer or manufacturer of goods that:
- (a) are exported to Singapore; and;
  - (b) are claimed to be the produce or manufacture of Australia for the purpose of obtaining a preferential tariff in Singapore;
- to answer questions in order to verify the origin of the goods.

##### *Disclosing answers to instrumentality or agency of Singapore*

- (2) An authorised officer may, for the purpose of verifying a claim for preferential tariff in Singapore, disclose any answers to such questions to an instrumentality or agency of Singapore.

#### 12.4.2. Policy and practice

(1) This section provides that an authorised officer may require an Australian exporter, producer or manufacturer of goods which are exported to Singapore, and are claimed to be the produce or manufacture of Australia for the purpose of claiming preferential tariff rates, to answer questions in order to verify the origin of the goods.

(2) This power is a necessary adjunct to the power to require records in section 126AC of the Customs Act.

(3) The disclosure of answers to questions asked by authorised officers is authorised to the same extent as stated in paragraphs 4-6 in 12.3.2 above.

## Appendix 1

### GOODS PARTLY MANUFACTURED IN SINGAPORE

#### CLASSIFICATIONS OF GOODS NOT ELIGIBLE FOR ACCUMULATION AS PARTLY MANUFACTURED GOODS (ANNEX 2C TO SAFTA)

3917.22.00	4302	5408	5903
3917.23.00	4302	5501	5905
3917.29.00	4303	5502	5906
3917.21.10	4304	5503	5907
3917.31.10	5004	5504	5908
3917.32.10	5005	5505	5909
3917.33.10	5006	5506	5910
3917.39.10	5007	5507	5911
3926.30.10	5101	5508	6001
3926.90.10	5103	5509	6002
4009.11.10	5104	5510	6003
4009.12.10	5105	5511	6004
4009.21.10	5106	5512	6005
4009.22.10	5107	5513	6006
4009.31.10	5108	5514	6101
4009.32.10	5109	5515	6102
4009.41.10	5110	5516	6103
4009.42.10	5111	5601	6104
4010.31.00	5112	5602	6105
4010.32.00	5113	5603	6106
4010.33.00	5202	5604	6107
4010.34.00	5203	5605	6108
4010.39.00	5204	5606	6109
4011.10.00	5205	5607	6110
4011.20.00	5206	5608	6111
4012.11.00	5207	5609	6112
4012.20.00	5208	5701	6113
4015	5209	5702	6114
4016.91.00	5210	5703	6115
4016.93.00	5211	5704	6116
4016.99.00	5212	5705	6117
4101	5306	5801	6201
4102	5307	5802	6202
4103	5308	5803	6203
4104	5309	5804	6204
4105	5310	5805	6205
4106	5311	5806	6206
4107	5401	5807	6207
4113	5402	5808	6208
4114	5403	5809	6209
4115	5404	5810	6210
4203	5405	5811	6211
4204	5406	5901	6212
4205	5407	5902	6213
6214	7318.15.00	8483.90.00	8707.10.91
6215	7320.10.00	8483.10.91	8708.10.10

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6216	7320.20.00	8483.40.90	8708.21.10
6217	7320.90.00	8483.50.90	8708.40.30
6301	7322.11.00	8501.10.00	8708.50.30
6302	7326.19.00	8503.00.00	8708.29.91
6303	7326.90.10	8507.10.10	8708.31.91
6304	8301.20.00	8507.90.10	8708.93.30
6305	8302.10.00	8511.10.00	8708.99.30
6306	8302.30.00	8511.30.00	8708.39.91
6307	8407.33.10	8511.40.10	8708.40.91
6308	8407.34.10	8511.50.10	8708.50.91
6309	8407.90.10	8511.80.00	8708.60.91
6310	8408.20.10	8511.90.00	8708.70.91
6401	8409.91.10	8512.20.00	8708.80.91
6402	8409.99.10	8512.30.00	8708.91.91
6403	8413.30.90	8512.40.00	8708.92.91
6404	8415.20.00	8512.90.10	8708.93.91
6405	8415.90.00	8519.92.00	8708.94.91
6406	8421.23.00	8519.93.00	8708.99.91
6501	8421.31.00	8519.99.00	9021.10.10
6502	8421.99.00	8527.21.00	9021.10.20
6503	8424.89.10	8527.29.00	9021.10.30
6504	8425.42.00	8536.50.93	9021.10.41
6505	8425.49.00	8539.10.90	9021.10.49
6506	8424.90.90	8544.30.00	9026.10.20
6507	8481.10.00	8703.21.19	9026.20.20
6812.90.30	8481.30.00	8703.22.19	9026.80.20
6813.10.10	8481.40.00	8703.23.19	9029.10.20
6813.90.10	8482.10.10	8703.24.19	9029.20.10
7007.11.11	8482.20.10	8703.31.19	9029.90.10
7007.21.11	8482.40.11	8703.32.19	9401.20.00
7009.10.10	8482.91.10	8703.33.19	9401.90.20
7014.00.20	8482.99.10	8703.90.19	9404
7113	8483.20.00	8706.00.10	9613.80.90
7114	8483.30.10	8706.00.91	
7116	8483.40.11	8707.10.10	
7117	8483.50.11	8707.90.10	

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## Appendix 2

### GOODS PARTLY MANUFACTURED IN SINGAPORE

#### TARIFF REFERENCES FOR CERTAIN ELECTRICAL AND ELECTRONIC PRODUCTS (ANNEX 2D TO SAFTA)

##### (GOODS TO WHICH THE 30% CONTENT RULE APPLIES)

8414.80	8504.23	8516.31	8539.22
8414.90	8504.31	8516.33	8539.29
8419.89	8504.32	8516.40	8539.31
8419.90	8504.33	8518.10	8539.32
8422.30	8504.34	8518.21	8539.39
8422.40	8504.40	8518.22	8539.41
8424.30	8504.50	8518.29	8539.49
8467.21	8504.90	8518.30	8539.90
8467.22	8505.11	8518.40	8540.72
8467.29	8505.19	8518.50	8540.79
8467.91	8506.80	8520.33	8540.89
8467.99	8509.10	8520.90	8543.20
8501.20	8509.20	8523.30	8543.30
8501.31	8509.90	8524.60	8543.90
8501.32	8511.20	8525.10	8544.49
8501.33	8513.10	8525.30	8544.51
8501.34	8514.10	8525.40	8545.20
8501.53	8514.20	8526.10	8546.10
8501.61	8514.30	8526.91	8548.10
8501.62	8514.40	8526.92	9001.10
8502.11	8514.90	8527.19	9006.10
8502.12	8515.11	8527.31	9008.30
8502.13	8515.19	8527.39	9010.90
8502.20	8515.21	8529.10	9017.20
8502.31	8515.31	8529.90	9017.80
8502.39	8515.80	8535.29	9018.11
8502.40	8515.90	8535.40	9031.10
8504.21	8516.21	8536.41	
8504.22	8516.29	8536.49	



## Appendix 4

### SAFTA

#### ANNEX 2B OF SAFTA – ALLOWABLE LABOUR COSTS AND OVERHEADS

##### Section (i): Labour Costs

For the purposes of Article 7 (Calculation of Costs – Allowable Expenditure on Labour) of Chapter 3 (Rules of Origin), each of the following costs, to the extent that the cost relates to labour, is allowed:

- (a) the cost of wages and employee benefits;
- (b) the cost of supervision and training;
- (c) the cost of management of the process of manufacture;
- (d) the cost of receipt and storage of materials;
- (e) the cost of quality control;
- (f) the cost of packing of goods into inner containers;
- (g) the cost of handling and storage of goods within the place or places in which a process is performed, that is operated by the principal manufacturer in the territory of the exporting Party.

##### Section (ii): Overheads

1. For the purposes of Article 8 (Calculation of Costs – Allowable Expenditure on Overheads) of Chapter 3 (Rules of Origin), each of the following costs, to the extent that the cost relates to overheads is allowed:
  - (a) the cost of inspection and testing of materials and goods;
  - (b) the cost of insurance of the following kinds:
    - (i) insurance of plant, equipment and materials used in the production of the goods;
    - (ii) insurance of work in progress and finished goods;
    - (iii) liability insurance;
    - (iv) accident compensation insurance; and
    - (v) insurance against consequential loss from accident to plant and equipment;
  - (c) the cost of dies, moulds, and tooling and the depreciation, maintenance and repair of plant and equipment;
  - (d) the cost of interest payments for plant and equipment;
  - (e) the cost of research, development, design and engineering;

- (f) the cost of the following items in respect of real property in the territory of the exporting Party used in the manufacture of the goods:
  - (i) insurance;
  - (ii) rent and lease payments;
  - (iii) mortgage interest;
  - (iv) depreciation on buildings;
  - (v) maintenance and repair; and
  - (vi) rates and taxes;
- (g) the cost of leasing of plant and equipment;
- (h) the cost of energy, fuel, water, lighting, lubricants, rags and other materials and supplies not directly incorporated in goods manufactured in the territory of the exporting Party;
- (i) the cost of storage of goods at the place or places in which a process is performed, that is operated by the principal manufacturer in the territory of the exporting Party;
- (j) the cost of royalties or licences in respect of patented machines or processes used in the manufacture of the goods or in respect of the right to manufacture the goods;
- (k) the cost of subscriptions to standards institutions and industry and research associations;
- (l) the cost of the provision of medical care, cleaning services, cleaning materials and equipment, training materials and safety and protective clothing and equipment;
- (m) the cost of the disposal of non-recyclable waste;
- (n) the cost of subsidisation of a cafeteria in the place or places in which a process is performed, that is operated by the principal manufacturer in the territory of the exporting Party, to the extent not recovered by returns;
- (o) the cost of security in the place or places in which a process is performed, that is operated by the principal manufacturer in the territory of the exporting Party;
- (p) the cost of computer facilities allocated to the process of manufacture of the goods;
- (q) the cost of contracting out part of the manufacturing process within Australia or Singapore, including any associated transport or storage costs;
- (r) the cost of employee transport;
- (s) the cost of vehicle expenses;
- (t) the cost of any tax in the nature of a fringe benefits tax; and
- (u) the cost of transporting goods between places in the territory of the exporting Party in which one or more processes are performed by the principal manufacturer.

2. In working out a cost for the purposes of paragraph (1), the following costs are not included:
  - (a) any cost or expense relating to the general expense of doing business (including, but not limited to, any cost or expense relating to insurance or to executive, financial, sales, advertising, marketing, accounting or legal services);
  - (b) the cost of telephone, mail and other means of communication;
  - (c) the cost of international travel expenses, including fares and accommodation;
  - (d) the cost of the following items in respect of real property used by persons carrying out administrative functions:
    - (i) insurance;
    - (ii) rent and lease payments;
    - (iii) mortgage interest;
    - (iv) depreciation on buildings;
    - (v) maintenance and repair; and
    - (vi) rates and taxes;
  - (e) the cost of conveying, insuring or shipping the goods after manufacture;
  - (f) the cost of shipping containers or packing the goods into shipping containers;
  - (g) the cost of any royalty payment relating to a licensing agreement to distribute or sell the goods;
  - (h) the profit of the principal manufacturer and the profit or remuneration of any trader, agent, broker or other person dealing in the goods after manufacture;
  - (i) any other cost incurred after the completion of all processes performed by, or on behalf of, the principal manufacturer; and
  - (j) the cost of processing goods in the territory of a non-Party.
3. For the purposes of paragraphs (1)(c) and (1)(f), the cost of depreciation of plant, equipment or buildings must be calculated in accordance with Generally Accepted Accounting Principles, as applied by the principal manufacturer.

## Appendix 5

### SAFTA

#### GAZETTAL OF DMRM APPLICATION UNDER PARAGRAPH 153VA(d)

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#### SINGAPORE–AUSTRALIA FREE TRADE AGREEMENT

#### DETERMINED MANUFACTURED RAW MATERIALS

#### NOTICE N<sup>o</sup>. 20xx/xx

Notice is hereby given that application has been made for approval of goods, described hereunder, to be determined as manufactured raw materials in accordance with paragraph 153VA(d) of the *Customs Act 1901*.

Any person or company wishing to lodge an objection to Australia supporting this application should do so in writing on or before (*day/month/year*). Objections should be addressed to Manager Origin, Australian Customs and Border Protection Service, 5 Constitution Avenue, Canberra, ACT 2601, and be supported by information as to the quality, range, supply, etc. of identical goods, or of substitutable goods, produced in Australia.

#### Application No 04/1

#### Goods

#### Tariff Classification

**(Goods description)**

**1234.56.78**

Any inquiries regarding this Notice should be directed to (*name of Officer*), Valuation and Origin Section on telephone (02) xxxx.xxxx, by facsimile on (02) xxxx xxxx or by email at [origin@customs.gov.au](mailto:origin@customs.gov.au).

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**(Appendix 6...continued)**

**CUSTOMS ACT 1901**

**DETERMINATION UNDER SUBSECTION 153VC(2)  
MODIFYING SUBSECTION 153VB(2)**

**(SO THAT 50% SPECIFIED IN SUBSECTION 153VB(2) OR SUBSECTION  
153VB(5) CAN BE READ AS 48%)**

I, *(state full name of delegate)*, delegate of the Chief Executive Officer under subsection 153VC(2) of the *Customs Act 1901* ('the Act'), being satisfied that:

- (a) the allowable factory cost of the following preference claim goods namely, *(specify the goods)* ('the goods') is *(specify percentage - must be at least 48% but not 50%)* of their total factory cost; and
- (b) the allowable factory cost of the goods would be at least 50% of their total factory cost if *(specify unforeseen circumstance which has occurred)* ('the unforeseen circumstance') had not occurred; and
- (c) the unforeseen circumstance is unlikely to continue.

hereby determine pursuant to subsection 153VC(2) of the Act that section 153VC of the Act has effect:

- (i) for the purpose of the shipment of the goods which is affected by the unforeseen circumstance; and
- (ii) for the purposes of any subsequent shipment of similar goods which is so affected during *(specify a period)*,

as if the reference in section 153VB of the Act to 50% is a reference to 48%.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

.....

Delegate of the  
Chief Executive Officer

## Appendix 7

### SAFTA

#### ARTICLE 11 OF SAFTA – CERTIFICATION OF ORIGIN

##### ARTICLE 11

##### *Certification of Origin*

1. The exporting Party shall provide the opportunity for a principal manufacturer, a producer or an exporter to apply to an authorised body referred to in Annex 2A (Certificate of Origin Requirements) for a Certificate of Origin.
2. An application for a Certificate of Origin and a Certificate of Origin shall meet the requirements of Annex 2A (Certificate of Origin Requirements).
3. A Certificate of Origin shall be valid for multiple shipments of the goods described therein that are exported within two years from the date of issue, provided that the first shipment occurs within the first year of issue and the Certificate of Origin has not been revoked.
4. The exporting Party may revoke a Certificate of Origin by notice in writing. A revoked Certificate of Origin shall have no force from the date specified in that notice.
5. The exporting Party shall forward a copy of a notice revoking a Certificate of Origin to the applicant for the Certificate of Origin and to the importing Party, immediately upon the issue of that notice.
6. The exporting Party shall require that an exporter of goods, for which preferential tariff treatment is claimed, must declare in writing, prior to the export of those goods, that the goods are originating goods. The Declaration shall be completed by a representative of the exporter competent to make the Declaration and must include:
  - (a) a reference to the exporter's invoice for the goods;
  - (b) a statement that the goods are identical to goods specified in a valid Certificate of Origin nominated in the Declaration;
  - (c) a statement that the goods are originating goods that comply with the rule specified in the nominated Certificate of Origin; and
  - (d) the signature, name and designation of the exporter's representative, and the date the Declaration is signed.

7. Where the exporter of the goods is not the producer or principal manufacturer of the goods, the exporting Party shall require that, prior to making a Declaration pursuant to Article 11.6, the exporter must ensure that the producer or principal manufacturer has a copy of the relevant Certificate of Origin and has obtained from that producer or principal manufacturer written confirmation that the goods are originating goods. The confirmation shall be completed by the representative of the producer or principal manufacturer who is competent to make the confirmation, and shall include:
- (a) a reference to the evidence of sale of the goods between the producer or principal manufacturer and the exporter;<sup>1</sup>
  - (b) a statement that the goods are identical to goods specified in a valid Certificate of Origin nominated in the confirmation;
  - (c) a statement that the goods are originating goods that comply with the rule specified in the nominated Certificate of Origin; and
  - (d) the signature, name and designation of the principal manufacturer's representative, and the date the confirmation is signed.

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<sup>1</sup> Evidence of sale in most cases would refer to an invoice number and not the purchase order number.

## Appendix 8

### SAFTA

#### ANNEX 2A: CERTIFICATE OF ORIGIN REQUIREMENTS

##### 1. Authorised Bodies

The following bodies, and their successor bodies, are authorised to certify origin for the purposes of Section C (Documentary Evidence) of Chapter 3 (Rules of Origin).

<b>AUSTRALIA</b>	<b>SINGAPORE</b>
Australian Chamber of Commerce and Industry and affiliated bodies	International Enterprise Singapore <i>(succeeded by Singapore Customs)</i>
Australian Industry Group	Any body authorised by the Government of Singapore, subject to the agreement of the Parties
Any body authorised by the Government of Australia, subject to the agreement of the Parties	

##### 2. Minimum data requirements – Application for Certificate of Origin

The minimum data to be included in an application for a Certificate of Origin are:

1. Exporter (and Producer or Principal Manufacturer) details	The name, address and business number of the Exporter (and of the Producer or Principal Manufacturer if different from the Exporter).
2. First Shipment details (if known)	(a) Consignee name and address (b) Sufficient details to identify the consignment, such as invoice number and date and Air Way Bill, Sea Way Bill or Bill of Lading (c) Export Permit/Declaration (d) Port of Discharge
3. Full Description of the Goods	Detailed description of the goods, including the relevant code under the Harmonized Commodity Description and Coding System, and if applicable, product number and brand name.
4. Exporter Declaration	Declaration completed by a competent representative of the Exporter that the details provided in items 1 to 3 above are true and correct, signed and dated by that representative and annotated with the representative's name and designation.

**(Appendix 8...continued)****3. Minimum data requirements – Certificate of Origin**

The minimum data to be included in the Certificate of Origin are:

1. Exporter details	The name and address of the Exporter.
2. First Shipment details (if known)	(a) Consignee name and address (e) Sufficient details to identify the consignment, such as invoice number and date and Air Way Bill, Sea Way Bill or Bill of Lading (b) Export Permit/Declaration (d) Port of Discharge
3. Full Description of the Goods	Detailed description of the goods, including the relevant code under the Harmonized Commodity Description and Coding System, and if applicable, product number and brand name.
4. Exporter Declaration	Declaration completed by a competent representative of the Exporter that the details provided in items 1 to 3 above are true and correct, signed and dated by that representative and annotated with the representative's name and designation.
5. Certification by Authorised Body	Certification completed by a competent representative of the authorised body that, based on evidence provided by the producer or manufacturer, the goods specified in the Certificate of Origin originate in the exporting Party and comply with the rules of origin, as provided in Section A (Origin Conferment) of Chapter 3 (Rules of Origin) and specified in the Certificate of Origin. The Certificate of Origin must be signed and dated by the competent representative and annotated with the representative's name and designation.
6. Certificate Number	A unique number assigned to the Certificate of Origin by the authorised body

(Appendix 8...continued)

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**SAMPLE PREFERENTIAL CERTIFICATE OF ORIGIN**

<b>1 Exporter (Name &amp; Address)</b>		<b>REPUBLIC OF SINGAPORE</b>  <b>PREFERENTIAL CERTIFICATE OF ORIGIN</b>  <b>No.</b>  NO UNAUTHORISED ADDITION/ALTERATION MAY BE MADE TO THIS CERTIFICATE	
<b>2 Consignee (Name, Full Address &amp; Country)</b>			
<b>3 Departure Date</b>		<b>8 DECLARATION BY THE EXPORTER</b>  We hereby declare that the details and statements provided in this Certificate are true and correct.  Signature: ..... Name: ..... Designation: ..... Date: .....	
<b>4 Vessel Name / Flight No.</b>			
<b>5 Port of Discharge</b>			
<b>6 Country of Final Destination</b>			
<b>7 Country of Origin of Goods</b>			
<b>9 Marks &amp; Numbers</b>	<b>10 No. &amp; Kind of Packages Description of Goods (include brand names if necessary)</b>	<b>11 Quantity &amp; Unit</b>	
<b>12 CERTIFICATION BY THE COMPETENT AUTHORITY</b> We hereby certify that evidence has been produced to satisfy us that the goods specified above originates in the country shown in Box 7.			

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## Appendix 9

### DETERMINED MANUFACTURED RAW MATERIALS FOR PREFERENCE PURPOSES IN RELATION TO SINGAPORE

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**RELATED POLICIES AND REFERENCES**

Practice Statement – Rules of Origin

Instructions and guidelines – AUSFTA

Instructions and Guidelines – ANZCERTA

Instructions and guidelines – Preferential Rules of Origin (General)

Instructions and Guidelines – TAFTA

Instructions and Guidelines – ACI-FTA

**KEY ROLES AND RESPONSIBILITIES**

The policy owner of this Instruction and Guideline is:

Director Valuation and Origin Section  
Trade Services Branch  
Australian Customs and Border Protection Service

**CONSULTATION****Industry Consultation**

Not required.

**Internal Consultation**

The following internal stakeholders have been consulted in the development of this Instruction and Guideline:

- Customs Legal Unit
- Compliance Division

**APPROVAL**

Approved on 6 July 2009 by:

Sue Pitman  
National Director Trade  
Australian Customs and Border Protection Service

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