Demystifying FTAs: "What's in it for me?"

Free Trade Agreements with our key Northern Asian trading partners present a unique opportunity to Australian manufacturers. FTAs both reduce your material costs and make your products cheaper for your customers. The challenge for industry is to make the most of the opportunity.

Overview of the FTAs

	China	Korea
Rationale for the FTA	China is Australia's largest export market and trading partner	Korea is Australia's third-largest export market and fourth-largest overall trading partner
Application to the Australian marine industry	Without the FTA duty on vessels to China ranges from 3% - 9% All vessels will be duty free by 1 January 2019	Without the FTA duty on vessels to Korea range from 0% to 8% All vessels are now duty free

FTAs Not Automatic – Qualifying for the FTAs

The benefits of the FTAs do not apply to all Australian exports. Your products need to satisfy the relevant rules of origin. This is easy to do where the goods are made from 100% Australian materials. Where this is not the case you will need to review the Product Specific Rules (**PSRs**).

Under China Australia FTA (**ChAFTA**) the relevant PSRs for vessels/components are Change in Tariff Classification (**CTC**) and Regional Value Content (**RVC**). The vessel/component's tariff classification will determine which rule applies. All vessel headings under the Korea Australia FTA (**KAFTA)** stipulate the CTC rule.

The CTC rule requires a change in the tariff classification of imported content compared to the exported good. The following examples provide some practical indication of how it applies:

- 100% imported content will qualify provided what was undertaken in Australia was not simple assembly
- A vessel imported into Australia and merely refurbished in Australia will not qualify
- An imported vessel where a motor is added in Australia will not qualify
- A vessel made in Australia from mostly imported material will qualify

For ChaFTA, the RVC rule can be used as an alternative to the CTC rule in respect of vessels. The RVC focuses on a minimum percentage of local content. Generally, the threshold requirement is 45%. Value is generally based on the customs value of the export.

Certification

In addition to the origin rules, there are documentation requirements. What documents are required depends on the FTA.

ChAFTA

Generally, a COO issued by an authorised body will be required. A Certificate of Origin (COO) certifies that your goods are FTA compliant. Alternatively, a Declaration of Origin (DOO) may be issued by an exporter or producer (there is no need for it to be approved by an authorised body). This will be accepted in place of a COO for any consignment of goods covered by an advance ruling from Chinese Customs. The additional red-tape is bound to mean that more exporters rely on COOs.

KAFTA

KAFTA is less restrictive and the COO can be self-certified (issued) by the exporter or producer.

COO	ChAFTA	KAFTA
Who can issue?	Authorised body. It also needs to be signed by the exporter or the producer	Self-certified by the exporter or producer
No COO Threshold	6,000 RMB	US$1,000
Record keeping requirements for exporters or producers	Must maintain all records necessary to demonstrate goods' origin for five years after signing COO	Must maintain all records necessary to demonstrate goods' origin for five years after signing COO
Does the COO cover multiple shipments?	No – a new COO is required for each shipment	Yes - can cover multiple exports of the same good within two years

Australian Government
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Your Imports

Under **ChAFTA**, all manufactured imports into Australia will be duty free by 1 January 2019. Under **KAFTA**, this occurs on 1 January 2018. Cheaper imports of materials into Australia will enable lower cost of manufacture. It is also likely to mean that more Chinese and Korean competitors will emerge. Without the FTAs the duty rate is generally 5%.

There are other methods to reduce duty on imported goods. Importers should assess the extent to which tariff concession orders, duty drawback and the Tradex Scheme can be used to reduce duty costs. It will not always be the case that using the FTA is the most effective method.

Managing Risk

Free trade does not mean risk free trade. Exporters will be best placed to take advantage of the FTAs if they are proactive in managing risk. Key issues to consider are:

- How will you ensure payment – duty savings are irrelevant if you are not paid
- Which party will be liable for duty if FTA preferential status is rejected by Chinese or Korean Customs
- Actively protect your intellectual property. Register your intellectual property in both China and Korea as early as possible
- Due diligence is important – visit your customer, build the relationship – it will be crucial if a dispute arises
- Some disputes cannot be resolved – for these cases we recommend contracts contain an arbitration clause. Navigating the Chinese and Korean legal systems may present difficulties. International arbitration is therefore preferable and equally enforceable
- Bribery and corruption is still a problem in many countries. Implementing robust anti-bribery and corruption policies is crucial to limit risk

What To Do Now

FTAs are traditionally underutilised because of the complexities with assessing eligibility. Exporters are encouraged to take a strategic approach to FTA utilisation. Part of this is to appoint a person to manage and monitor FTA utilisation. This role could involve establishing a system to obtain COOs and monitor levels of local content.

If you are importing, you will want to ensure that your supplier has procedures for meeting the origin rules and holding the right documentation. Additionally, they will need to maintain a reliable record keeping system.

Companies may also seek to obtain retrospective COOs for previous shipments. This could entitle you to a refund for the amount that exceeds the duty rate set in the FTA.

It is important to use the FTAs. Your Australian competitors will be.

Resources

AIMEX FTA Hotline: 03 9867 6625

AIMEX FTA resource page: www.aimex.asn.au/FTA

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