

ASEAN – Korea (AKFTA)

The ASEAN Korea Free Trade Agreement (AKFTA) was proposed by Korean President Roh Moo Hyun in October 2003 at the ASEAN-Republic of Korea Summit held in Bali, Indonesia.

Negotiations began in 2005 and the Trade in Goods chapter of the AKFTA entered into force in June 2007. It was agreed that ASEAN-6 and Korea shall eliminate tariffs for 90 per cent of all products by 2010. Thailand signed the Accession Protocols to the Trade in Goods and the Trade in Services Agreements under the AKFTA on 27 February 2009.

Benefits to Singapore Exporters to Korea

Singapore exporters could leverage on tariff concessions to Korea by either using the bilateral FTA with Korea or the AKFTA.

The AKFTA will be useful for an exporter who has substantial regional content value as opposed to a bilateral FTA where the emphasis is on substantial transformation within the FTA partner markets.

Another benefit is the Back-to-Back Arrangement and the Third Party Invoicing provided for in AKFTA. The Back-to-Back process involves a Certificate of Origin issued by an intermediate exporting Party based on the Certificate of Origin issued by the first exporting Party. For Third Party Invoicing, the Customs authority in the importing Party may accept Certificates of Origin in cases where the sales invoice is issued either by a company located in a third country or by an exporter for the account of the said company, provided that the good meets the requirements.

Such flexibility will assist Singapore exporters to gain from the tariff concessions.

Trade in Goods

The product list for concession is classified under:

- 1) Normal Track, which is further divided into Normal Track 1 and 2
- 2) Sensitive Track
- 3) Highly Sensitive Track

ASEAN-Korea, similar to ASEAN-China, adopts the tariff band reduction approach. Gradual tariff elimination is contingent upon the applied MFN rate. The tariff elimination schedule is different for ASEAN-6 & Korea, Vietnam and the rest of the CLMV countries —Cambodia, Laos and Myanmar.

The Normal Track covers approximately 90 per cent of all goods. For Normal Track 1, the tariffs will be eliminated by 1 January 2010 for ASEAN-6 and Korea. For Normal Track 2, the timeline involving the ASEAN-6 is 1 January 2012. Korea does not have any products under Normal Track 2.

Within the Sensitive Track, the products are subdivided into two lists:

- 1) Sensitive List
- 2) Highly Sensitive List

For products placed in the Sensitive List, the ASEAN-6 and Korea are committed to reduce the tariff to not more than 20 per cent by 1 January 2012 and subsequently reduce to between zero to five percent by 1 January 2016.

For products placed in Highly Sensitive List, the ASEAN 6 and Korea are committed to reduce the tariff according to the different Group:

- Group A : Tariff rate to be not more than 50 per cent by 1 January 2016
- Group B : Tariff rate to be reduced by not less than 20 per cent by 1 January 2016
- Group C : Tariff rate to be reduced by not less than 50 per cent by 1 January 2016
- Group D : Application of tariff-rate quotas
- Group E : Products excluded from granting any concessions

It should be noted that products listed under Group E is capped at 40 tariff lines at HS six-digit level.

Rules of Origin

Rule 2 clearly defines the Origin criteria. A good shall be deemed to be originating and eligible for preferential tariff treatment if it meets any one of the following:

- 1) Wholly obtained or produced entirely in the territory of the exporting party; or
- 2) A good not wholly obtained or produced in the territory of the exporting Party, provided that the said good is eligible under Rule 4, 5, 6 or 7.

The definition of wholly obtained is clearly outlined in Rule 3.

Not Wholly Obtained or Produced Goods

In Rule 4, a good shall be deemed to be originating if:

- 1) The Regional Value content (RVC) is at least 40 per cent; or
- 2) There is a change in tariff classification at four-digit level (change of tariff heading) of the Harmonized System.

The formula for calculating the RVC shall be:

- 1) Build-Up Method

$$\text{RVC} = \frac{\text{VOM}}{\text{FOB}} \times 100\%$$

VOM means value of originating materials, which includes the value of originating materials, direct labour cost, direct overhead cost, transportation cost and profit.

- 2) Build-Down Method

$$\text{RVC} = \frac{\text{VOM} - \text{VNM}}{\text{FOB}} \times 100\%$$

VNM means value of non-originating materials, which shall be (i) the CIF value at the time of importation of the materials, parts or goods; or (ii) the earliest ascertained price paid for the materials, parts or goods of undetermined origin in the territory of the Party where the working or processing has taken place.

Product-Specific Rules

For the purposes of Rule 2 of the Rules of Origin, goods which satisfy the Product-Specific Rules shall be considered to be originating in the territory of the Party where working or processing of the goods have taken place. A good not wholly obtained or produced in the territory of the exporting Party could satisfy the origin requirements under the Product-Specific Rules stated in Rule 5.

Product-Specific Rules are the rules that specify that the materials have undergone a change in tariff classification or a specific manufacturing or processing operation, or satisfy a regional value content or a combination of any of these criteria.

Treatment of Certain Goods

Rule 6 stipulates that certain goods shall be considered to be originating even if the production process or operation has been undertaken in an area outside the territories of Korea and ASEAN Member Countries (i.e. industrial zone) on materials exported from a Party and subsequently re-imported to that Party. The application of this Rule shall be mutually agreed upon by the Parties.

Accumulation

According to Rule 7, a good originating in the territory of a Party, which is used in the territory of another Party as material for a finished good eligible for preferential tariff treatment, shall be considered to be originating in the territory of the latter Party where working or processing of the finished good has taken place.

Except as provided for in Rule 7, the conditions for acquiring originating status must be fulfilled without interruption in the territory of the exporting Party.

Steps to Checking for Concession

To export to Republic of Korea, Singapore exporters should consider using the AKFTA if there is regional content.

Pre-export preparations are as follows:

- Step 1: Check with your importer in Korea or the Korean Customs Authority on the HS product code.
- Step 2: After obtaining the HS product code, look up the MFN rate and see if there is a duty. A product with 0 per cent duty will not benefit from the AKFTA.
- Step 3: If there is an MFN duty rate, then refer to the following located at: <http://www.aseansec.org/akfta.htm>
- Step 4: Look up the following annexes:
- Annex 1. Modality for Tariff Reduction and Elimination for Tariff Lines Placed in the Normal Track. The tariff concessions under the Normal Track are found in Page 1 of Annex 1.
 - Annex 2. Modality for Tariff Reduction/Elimination for Tariff Lines Placed in the Sensitive Track
 - a. Appendix 1. Sensitive List
 - b. Appendix 2. High Sensitive List
- Step 5: The applied preferential tariff rate depends on the MFN rate and the year of exporting. To qualify for the FTA preferential rate, check that the product satisfies the Rules of Origin (ROO). Check if your product has a product-specific rule in Appendix 2 to Annex 3. Or, the product needs to satisfy the General Rules of Origin: a Regional Value Content (RVC) of 40 per cent ASEAN-Korea content or a Change in Tariff Heading (first 4 digits of HS code).

Comply with the documentation procedures for your Singapore-origin product. This involves factory registration with the Documentation Specialists Branch (DSB) of Singapore Customs, submission for approval of Manufacturing Cost Statement (MCS) to DSB for each product model to be exported (once approved and verified, the MCS is valid for one year) and application for the Form AK Certificate of Origin (CO) and Export Permit.

De Minimis Rule Is Available

De minimis rule provides for non-originating raw materials that does not meet the required change in tariff classification.

For goods under Chapter 50 to 63, non-originating materials will be exempted from required change if it does not exceed 10 per cent of the total weight of the product.

For other goods, non-originating materials will be exempted from required change if it does not exceed 10 per cent of the FOB value of the final product.

Back-to-Back Arrangement

AKFTA allows for back-to-back arrangement in that goods brought into Singapore from ASEAN countries or South Korea and re-exported (without processing in Singapore) to other ASEAN countries or South Korea can still enjoy concessions.

This process involves a Certificate of Origin issued by an intermediate exporting Party based on the Certificate of Origin issued by the first exporting Party.

The issuing authority of the intermediate Party may issue a back-to-back Certificate of Origin, if an application is made by the exporter while the good is passing through its territory, provided that:

- 1) a valid original Certificate of Origin is presented;
- 2) the importer of the intermediate Party and the exporter who applies for the back-to-back Certificate of Origin in the intermediate Party are the same; and
- 3) verification procedures as set out in Rule 14 are applied.

Hence, for back-to-back arrangement, the importing and exporting party in Singapore must be the same entity.

Validity period of back-to-back form AK will be 6 months*.

**Note that originating status of the goods can be retained for as long as 12 months with this specific arrangement. Original Form AK (6 months) plus back-to-back Form AK (6 months)*

Third-Party Invoicing

AKFTA allows for third party invoicing arrangements. This means that the Customs authority in the importing Party may accept a CO in cases where the sales invoice is issued either by a company located in a third country or by an exporter for the account of the said company, provided that the good meets the requirements. The exporter of the goods shall indicate "third country invoicing" and such information as name and country of the company issuing the invoice in the CO. The invoice can come from countries not within ASEAN-Korea.

Trade in Services

The Trade in Services Agreement under AKFTA was signed on 21 November 2007.

It enters into force on 1 May 2009 after Korea and at least one ASEAN Member Country have completed the necessary ratification procedures.

Investment

The Investment Agreement under the Framework Agreement on Comprehensive Economic Cooperation among ASEAN Member Countries and the Republic of Korea was signed on 2 June 2009.

Dispute Settlement

Any dispute concerning the interpretation, implementation or application of this Agreement shall be resolved through the procedures and mechanism as set out in the Agreement on Dispute Settlement Mechanism under the Framework Agreement.