

**DUTY- AND QUOTA-FREE ENTRY FOR LEAST-DEVELOPED
COUNTRIES AND EAST TIMOR**

Notification from Australia

The following communication, dated 9 December 2003, is being circulated at the request of the Delegation of Australia.

The Permanent Mission of Australia in Geneva hereby notifies to the World Trade Organization Committee on Trade and Development of the duty- and quota-free entry which the Government of Australia has extended to imports from the 49 countries designated by the United Nations as "least-developed countries" (LDCs) and East Timor with effect from 1 July 2003.

The initiative is comprehensive and unqualified. It does not exclude sensitive sectors or provide phasing-in arrangements.

For manufactured goods, the rules of origin require local content to be 50 per cent or more of total factory cost, and that the last process of manufacture take place in an LDC. A very broad definition of local content is provided to assist LDCs meet the 50 per cent target. An LDC can include input from other LDCs, developing countries, Pacific Forum island countries and Australia (the "qualifying area") in calculating the 50 per cent local content. Within this, non-LDC developing country content is subject to a maximum of 25 per cent of manufacturing costs. Manufacturers are required to keep cost records and make a declaration as to origin.

Changes to Australia's Legislation

The Customs Tariff Act 1995, as amended by the *Customs Tariff Amendment Act (No.1) 2003*, provides for the duty free entry of goods originating in "Least-Developed Countries", defined as including the 49 LDCs and East Timor.

Australia's *Customs Act 1901* was amended to reflect the rules of origin applying under the LDC initiative. Schedule 1 of the *Customs Amendment Act (No.1) 2003* (Annex A) incorporates the above definition of qualifying area for manufactured goods and the 25 per cent non-LDC developing country cap. "Least-Developed Country" has the same meaning as in the *Customs Tariff Act 1995*. The local content for goods manufactured in Least-Developed Countries is otherwise calculated in the same manner as it is calculated for goods manufactured in most other preference countries under existing provisions of *the Customs Act 1901*.

Australian Customs Notice No. 2003/48 outlines the rules for determining whether goods originate in an LDC or East Timor, as well as the evidence of origin requirements (Annex B).

ANNEX A
CUSTOMS AMENDMENT ACT (NO.1) 2003
No. 62, 2003

An Act to amend the *Customs Act 1901*, and for related purposes

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CUSTOMS AMENDMENT ACT (NO.1) 2003
No. 62, 2003

An Act to amend the *Customs Act 1901*, and for related purposes

[Assented to 30 June 2003]

The Parliament of Australia enacts:

1. Short title

This Act may be cited as the *Customs Amendment Act (No. 1) 2003*.

2. Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent	30 June 2003
2. Schedule 1	1 July 2003	1 July 2003

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table is for additional information that is not part of this Act. This information may be included in any published version of this Act.

- (3) If a provision commences as a result of item 3 of the table, the Minister must announce by notice in the *Gazette* the day on which the provision commenced.

3. Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

SCHEDULE 1 — LEAST-DEVELOPED COUNTRIES

Customs Act 1901

4. Section 153B

Insert:

Least-Developed Country has the same meaning as in the *Customs Tariff Act 1995*.

5. Section 153B (after paragraph (f) of the definition of *qualifying area*)

Insert:

- (fa) if goods are claimed to be the manufacture of a Least-Developed Country—the Developing Countries, the Forum Island Countries and Australia; or

6. After subsection 153D(2)

Insert:

Goods claimed to be the manufacture of a Least-Developed Country—special rule

(2A) If:

- (a) goods claimed to be the manufacture of a Least-Developed Country contain materials that, in the form they were received by the factory, were manufactured or produced in Developing Countries that are not Least-Developed Countries; and
- (b) the allowable expenditure of the factory on those materials in aggregate would, but for this subsection, exceed 25 per cent of the total factory cost of the goods;

that allowable expenditure on those materials is taken to be 25 per cent of the total factory cost of the goods.

7. After paragraph 153D(3)(b)

Insert:

- (ba) the goods are claimed to be the manufacture of Papua New Guinea or a Forum Island Country; and

8. After section 153N

Insert:

153NA Manufactured goods originating in a Least-Developed Country

Goods claimed to be the manufacture of a Least-Developed Country are the manufacture of that country if:

- (a) the last process in their manufacture was performed in that country; and
- (b) having regard to their qualifying area, their allowable factory cost is at least 50 per cent of their total factory cost.

*[Minister's second reading speech made in—
House of Representatives on 15 May 2003
Senate on 16 June 2003]*

ANNEX B

AUSTRALIAN CUSTOMS NOTICE NO. 2003/48

Least-developed countries – rules of origin

From 1 July 2003, goods that originate in Least-Developed Countries (LDCs) and in East Timor will be eligible for duty-free entry. The Prime Minister announced the decision in Los Cabos, Mexico on 25 October 2002. The purpose of this Notice is to outline the rules for determining whether goods originate in a LDC or in East Timor.

Legislation

Duty-free entry

The *Customs Tariff Act 1995* (the Tariff) allows the entry of goods manufactured or produced in LDCs and East Timor free of import duty from 1 July 2003. The countries eligible for duty-free entry are listed in Part 2 of Schedule 1 to the Tariff, which is reproduced at Attachment A to this notice.

Other duties and taxes

While goods from LDCs and East Timor are free of import duty from 1 July 2003, excise-equivalent duties, goods and services tax, dumping duties and other taxes and levies, including cost recovery charges, if relevant, are still payable.

Rules of origin for duty-free entry

Under Division 1A of Part VIII of the *Customs Act 1901* (Customs Act), two categories of goods will be considered to be manufactured or produced in an LDC or East Timor for the purposes of duty-free entry: unmanufactured raw products and manufactured goods.

(i) Unmanufactured raw products

Under section 153H of the Customs Act, goods are the produce of an LDC or East Timor if they are its unmanufactured raw products, as defined in section 4 of that Act.

(ii) Manufactured goods

Under section 153NA, goods are the manufacture of an LDC if:

- (a) the last process in the manufacture of the goods was performed in an LDC; and
- (b) the allowable factory cost of the goods is not less than 50 per cent of the total factory cost of the goods.

The above provisions, and the methods for calculating allowable factory costs and total factory costs, are similar to those for most other preference countries.

Allowable expenditure on materials

Section 153D of the Customs Act sets out the method for calculating the allowable expenditure on materials sourced from within a qualifying area.

The allowable expenditure on materials is the value of materials originating within a qualifying area (less the value of any inputs to those materials that originate outside the qualifying area).

For LDCs, the qualifying area consists of the Developing Countries (DCs), the Forum Island Countries (FICs) and Australia. FICs and DCs are listed in Parts 1, 3 and 4 of Schedule 1 to the Tariff.

The total value of materials originating in DCs that are not LDCs that can be included in the allowable expenditure on materials is limited to 25 per cent of the total factory cost of the goods. This provision is aimed at ensuring that the benefits of the Government's decision flow primarily to LDCs, rather than to other DCs.

Other preferential arrangements for LDCs

Where goods manufactured in an LDC do not meet the rules of origin for LDCs, the goods may still be eligible for a preferential rate of duty where they meet the rules of origin for other preference countries, as set out in Division 1A of Part VIII of the Customs Act.

For those goods manufactured in an LDC that do not meet the rules of origin for any relevant preference scheme, the general rate of duty will be payable.

Administration

Evidence of origin

Before claiming duty-free entry, importers need to obtain sufficient evidence that the goods meet the rules of origin for LDCs. For example, importers could obtain a declaration from the producer or manufacturer of the goods. Examples of such declarations are provided at Attachment B to this Notice.

A declaration from a supplier that is not the producer or manufacturer of the goods will **not** be sufficient evidence that the goods meet the rules of origin for LDCs.

Import entry requirements

For each import entry, the appropriate country code for the LDC must be input in the origin field, even if the goods do not qualify for preference.

One of the following preference codes must then be input in the preference indicator field:

- "L" when claiming duty-free entry because the rules of origin for LDCs are met
- "F" when claiming duty-free entry because the rules of origin for FICs are met
- "A" when claiming the five percentage point margin of preference because the rules of origin for DCs are met or
- "X" when preference is not claimed because the relevant preferential rules of origin are not met.

Incorrect claims for preference

Importers should take reasonable care to ensure, before claiming preference, that their goods meet the relevant rules of origin.

Where preference is claimed and the Australian Customs Service finds that the imported goods do not meet the relevant rules of origin, Customs will demand the duty short-paid and may impose penalties. Additional action may be taken where fraud is indicated.

Contacts

Any inquiries in relation to this Notice should be directed by email to origin@customs.gov.au or to the Manager Origin, Trade Branch on (02) 6275 6551.

John Arndell
Acting National Manager
Trade
For Chief Executive Officer

July 2003

Attachment A

LEAST-DEVELOPED COUNTRIES

Afghanistan	Madagascar
Angola	Malawi
Bangladesh	Maldives
Benin	Mali
Bhutan	Mauritania
Burkina Faso	Mozambique
Burundi	Myanmar, Union of
Cambodia	Nepal
Cape Verde	Niger
Central African Republic	Rwanda
Chad	Sao Tome and Principe
Comoros	Senegal
Congo, Democratic Republic of	Sierra Leone
Djibouti	Solomon Islands
Equatorial Guinea	Somalia
Eritrea	Sudan
Ethiopia	Tanzania, United Republic of
Gambia	Togo
Guinea	Tuvalu
Guinea-Bissau	Uganda
Haiti	Vanuatu
Kiribati	Western Samoa
Lao People's Democratic Republic	Yemen, Republic of
Lesotho	Zambia
Liberia	

COUNTRIES TREATED AS LEAST-DEVELOPED COUNTRIES

East Timor (Timor Leste)

Attachment B

**EXAMPLES OF DECLARATIONS BY PRODUCERS AND MANUFACTURERS
UN-MANUFACTURED RAW PRODUCTS**

“I declare that the goods described below* are the un-manufactured raw products of
....., (*name of Least-Developed Country*).”

Item Nos.	Marks and Numbers of packages	Quantity of goods	Description	Number and date of invoices
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Signature:
Name:
Position in production business:
Name of production business:
Date:

MANUFACTURED GOODS

“I declare that:

- (a) the last process in the manufacture of the goods described below* was performed in (*name of Least-Developed Country*); and
- (b) not less than 50% of their total factory cost is represented by the sum of the allowable expenditure of the factory on materials, labour and overheads and the cost of inner containers of (*names of relevant Least-Developed Countries, Developing Countries, Forum Island Countries and/or Australia*); and
- ** (c) expenditure of the factory on materials produced or manufactured in (*names of all relevant Developing Countries that are not Least-Developed Countries*) that has been included, in aggregate, in the allowable expenditure of the factory on materials does not exceed 25% of the total factory cost of the goods.”

*Description of goods:

Item Nos.	Marks and Numbers of packages	Quantity of goods	Description	Number and date of invoices
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Signature:
Name:
Position in manufacturing business:
Name of manufacturing business:
Date:

* If the declaration is on the invoice for the goods, a reference in the body of the declaration to the invoice lines covered by the declaration is an acceptable alternative to completing the “Description of goods” table.
** Only include if a Developing Country that is not a Least-Developed Country is cited in (b).