



PERU- AUSTRALIA

FREE TRADE AGREEMENT

**GUIDE TO OBTAINING
PREFERENTIAL TARIFF
TREATMENT WHEN EXPORTING
AND IMPORTING GOODS
USING PAFTA**



Australian Government



More information on the Peru-Australia Free Trade Agreement is available at <https://dfat.gov.au/trade/agreements/in-force/pafta/Pages/peru-australia-fta.aspx>

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Users of this guide should note that where reference is made to the DFAT website and FTA text and schedules, they should visit the following webpage and navigate to the relevant part of the text on the electronic version of the guide here:

<https://dfat.gov.au/trade/agreements/in-force/pafta/Pages/peru-australia-pta.aspx>

GUIDE TO OBTAINING PREFERENTIAL TARIFF TREATMENT WHEN EXPORTING AND IMPORTING GOODS USING PAFTA

THE PERU-AUSTRALIA FREE TRADE AGREEMENT (PAFTA) ENTERED INTO FORCE ON 11 FEBRUARY 2020. PAFTA EXPANDS OPPORTUNITIES FOR AUSTRALIAN BUSINESSES TO ENGAGE WITH PERU'S GROWING MARKET AND LAUNCHES A NEW CHAPTER IN ECONOMIC RELATIONS BETWEEN AUSTRALIA AND LATIN AMERICA.

PAFTA provides a gateway to Latin America, and will strengthen our economic relationships and help facilitate value chains between the Americas and Asia.

Peru is a growing market for Australian goods exporters. Tariffs and customs duties are taxes imposed by governments on goods arriving from overseas. PAFTA's entry into force saw Peru eliminate tariffs on 93.5 per cent of goods lines. Peru will ultimately eliminate 99.4 per cent of all its tariffs. Major new market access opportunities are available for Australia to export beef, sheep meat, wine, pharmaceuticals, medical devices, paper products and machinery.

This step-by-step guide aims to assist Australian exporters and importers to take advantage of preferential tariff treatment under PAFTA by assisting them to understand and apply tariff classifications and the Rules of Origin (ROO) under the agreement. While it does contain information for importers and exporters, this is of a general nature. This guide is based on the PAFTA legal text, but is not a substitute for the text of the agreement. The guide should be read in conjunction with Chapter 3 and Chapter 4 of PAFTA and the associated

documents, which are available at <https://dfat.gov.au/trade/agreements/in-force/pafta/full-text/Pages/fta-text-and-associated-documents.aspx>. For specific information on claiming preferential tariff treatment for PAFTA originating goods imported into Australia, the Australian Border Force (ABF) publishes a guide and other information materials to assist importers. The ABF guide for Peru is available from (<https://www.abf.gov.au/importing-exporting-and-manufacturing/free-trade-agreements>).

This guide **will help you answer four key questions**:

Step 1: WHAT goods am I exporting or importing? (p. 4)

Step 2: HOW are these goods treated under PAFTA? (p. 5)

Step 3: WHERE are my goods produced (are they 'originating' goods that will qualify for lower tariffs under PAFTA)? (pp. 6-8)

Step 4: CERTIFY the origin of your goods to ensure you get the lower tariff rate (p. 13)

Step 1: Identify the tariff classification of your goods

The first step to determining whether a good receives preferential tariff treatment under PAFTA is to correctly identify that good.

In PAFTA, goods are identified by reference to an internationally recognised system known as the *Harmonized Commodity Description and Coding System*, commonly referred to as the **Harmonized System (HS)**. The HS is a common goods classification system of more than 5200 six-digit product categories. It is arranged into 97 chapters covering all tradeable products. Each Chapter is divided into Headings, which can be divided into Subheadings.

HS Chapter, Heading, Subheading example

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

Heading 6205: Men's or boys' shirts

Subheading 6205.20: Of cotton

Typically countries further sub-divide the six-digit HS product categories into eight-digit (or more) tariff codes, for greater specificity. Tariff codes beyond the HS six-digit level are generally not comparable between countries.

Classification

To find out the HS code applicable to your product, visit the FTA Portal at www.ftaportal.dfat.gov.au, type in your product name, and click through to the HS code that best fits your product.

The FTA Portal – online help for traders

To help apply this guide to your specific product, a useful online portal is available to assist you to make the most of PAFTA. It is recommended you read this guide first and then visit the portal here:
<https://ftaportal.dfat.gov.au/>

Full tariff schedules can be found at

<https://dfat.gov.au/trade/agreements/in-force/pafta/full-text/Pages/fta-text-and-associated-documents.aspx>

For Australian exporters, to be certain you have identified the correct tariff code for your good, we recommend you consult either:

- the Peruvian customs authority (Superintendencia Nacional de Aduanas y de Administración Tributaria also known as SUNAT:
<http://www.sunat.gob.pe/index.html>); or
- a professional customs broker or freight forwarder.

Advance rulings

If, after reviewing this guide, you are still unsure how your product will be treated under PAFTA, you can seek an advance ruling from the Importing Party. Parties are obliged to provide written advance rulings on tariff classifications and origin in

response to requests by importers, exporters or producers. Advance rulings can cover:

- tariff classification;
- the application of customs valuation criteria for a particular case in accordance with the Customs Valuation Agreement; and
- whether a good is originating in accordance with PAFTA, Chapter 3 (Rules of Origin and Origin Procedures).

Advance rulings are binding on the importing customs authority and give greater certainty, in advance of trade taking place, to businesses that wish to know how their product will be treated under PAFTA.

Exports from Australia

Australian exporters and producers may seek advance rulings from SUNAT. Your importer or your customs broker may be able to assist you with this process.

Imports to Australia

Advance rulings for goods being imported into Australia may be obtained from the Australian Border Force. More information can be found at:

<https://www.abf.gov.au/importing-exporting-and-manufacturing/free-trade-agreements>

- Application for Advance Ruling (Tariff Classification)**
<https://www.abf.gov.au/form-listing/forms/b102.pdf>
- Application for Advance Ruling (Origin)**
<https://www.abf.gov.au/form-listing/forms/b659.pdf>
- Application for Advance Ruling (Valuation)**
<https://www.abf.gov.au/form-listing/forms/b174.pdf>

Step 2: Understand how your goods will be treated under PAFTA

Once you have the tariff code, you can determine how your goods will be treated under PAFTA. Lists called Tariff Schedules (based on the Harmonized System) set out Australia's and Peru's commitments to reduce duty rates on goods.

The FTA Portal is a user-friendly Australian Government website that provides easy access to information for exporters, importers, and other stakeholders seeking to access the benefits from all of Australia's free trade agreements (FTA). The FTA Portal is the easiest way to determine the preferential FTA tariff rate on your product. The portal can be accessed at www.ftaportal.dfat.gov.au. It is searchable by key word or HS code, and contains current and future tariff rates for both imports and exports. The FTA Portal also contains information about whether your product is likely to meet Rules of Origin (ROO) requirements.

Users of the FTA Portal can, for instance, search for the goods they want to export or import using keywords, find reduced FTA tariff rates, and learn about origin certification requirements associated with an FTA. The portal also includes guidance on selling services to customers in FTA partner countries, travelling overseas to supply services, and establishing an overseas presence.

Where more than one FTA is available to an exporter or importer, such as PAFTA and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), the FTA Portal helps identify which agreement offers greater benefits. (As at December 2019, Peru is a signatory to the CPTPP, but has not yet ratified the Agreement.)

Reading the Tariff Schedule

Each tariff line in a party's Tariff Schedule contains the following details:

- the tariff code (8 digits in the case of Australia, and 10 digits in the case of Peru);
- a description of the products covered by the tariff code;
- a 'base rate' column showing the base duty rate or tariff applied on 1 January 2017. This is the starting point from which tariff reductions occur;
- the staging category for tariff reductions; and
- the tariff that will be applied for each good from the year PAFTA enters into force (EIF).

The Tariff Schedules for each Party can be found at: <https://dfat.gov.au/trade/agreements/in-force/pafta/full-text/Pages/fta-text-and-associated-documents.aspx>

Exporters

When exporting to Peru, you will need to check Peru's Tariff Schedule, including its General Notes, for an explanation of the specific staging categories. Staging categories deal with the timing and limitations of tariff elimination. They include EIF (indicating tariffs eliminated immediately from the date of entry into force), five and ten year staging (indicating gradual elimination of the tariff over time). In addition, there is a tariff rate quota (TRQ) category (indicating duty-free imports for TRQ products within a set quota, with out-of-quota products being

exempt from tariff elimination) and a category X (where tariff elimination is not offered).

Tariff Rate Quotas

Some Australian products exported to Peru which would otherwise be subject to a tariff, may be imported duty free through a TRQ. Access to each TRQ under PAFTA is on a first-come, first-served basis. Further details of the tariff rates and volumes are listed in Peru's General Notes, which can be found at: <https://dfat.gov.au/trade/agreements/in-force/pafta/full-text/Pages/annex-2-b-schedule-of-peru-general-notes.aspx>

Australian exporters should contact their Peruvian importer to ensure that their products are able to enter Peru under a TRQ.

The following is a summary of PAFTA TRQs:

- **Sugar:** on entry into force of the agreement, Australia will have duty free access of 30,000 tonnes of sugar into Peru, growing to 60,000 tonnes in five years and 90,000 tonnes in 18 years;
- **Dairy:** on entry into force of the agreement, Australia will have duty free access of 7,000 tonnes of dairy products into Peru, growing to 10,000 tonnes in ten years;
- **Rice:** on entry into force of the agreement, Australia will have duty free access of 9,000 tonnes of rice products into Peru, growing to 14,000 tonnes in five years;
- **Sorghum:** on entry into force of the agreement, Australia will have duty free access of 15,000 tonnes of sorghum products into Peru, growing to 20,000 tonnes in five years.

Importers

If you are importing from Peru, you will need to check Australia's Tariff Schedule, including its General Notes. Australian staging categories range from EIF, indicating tariffs immediately eliminated on entry into force of PAFTA, to specific staging categories where tariffs are eliminated over annual periods (three and four years on some products). Australia's Tariff Schedule can be found at: <https://dfat.gov.au/trade/agreements/in-force/pafta/full-text/Pages/fta-text-and-associated-documents.aspx>

Applied tariffs

You should be aware that the "base rate" under PAFTA is the tariff that applied on 1st January 2017 and was used as the basis for negotiations. It is the base for tariff reductions under PAFTA.

Traders should be aware that (as at the time of publication, December 2019) Peru is a signatory to the CPTPP, but has not completed its ratification process. Should the CPTPP enter into force for Peru, it is a commercial decision for businesses to decide which agreement they will use. Importers and exporters will have the option of selecting which agreement is best suited to them.

Step 3: Determine whether your goods meet Rules of Origin (ROO) requirements

PAFTA Rules of Origin (ROO) are agreed criteria used to determine the originating status of a good and its eligibility for preferential treatment under the agreement. Only goods that meet the PAFTA origin criteria receive PAFTA preferential rates of customs duty set out in the importing Party's Tariff Schedule. This prevents countries other than Australia and Peru from gaining preferential benefits under PAFTA.

Imports into Australia or Peru that do not comply with the ROO as set out in Chapter 3 (Rules of Origin and Origin Procedures) and Annex 3-B (Product-Specific Rules of Origin) may be subject to the applied MFN rate of duty (or an applicable alternative FTA rate, such as under CPTPP), instead of the preferential rates available under PAFTA. The Rules of Origin chapter can be found at <https://dfat.gov.au/trade/agreements/in-force/pafta/full-text/Pages/chapter-3-rules-of-origin-and-origin-procedures.aspx>

What is an originating good?

A good may be considered to be PAFTA originating if it is:

- wholly obtained or produced entirely in the territory of one or both Parties as established in Article 3.3 (Wholly Obtained or Produced Goods); or
- produced entirely in the territory of one or both Parties, exclusively from originating materials; or
- produced entirely in the territory of one or both Parties using non-originating materials, provided the good satisfies all applicable requirements of Annex 3-B (Product-Specific Rules of Origin).

Goods must also meet all other applicable requirements of Chapter 3. For example, goods transiting through countries other than Australia or Peru must comply with Article 3.16, which covers transport through non-Parties.

What are non-originating goods?

Non-originating goods are those:

- imported from a country that is not a Party to the FTA;
- produced in one of the Parties to the FTA, but which do not meet the Rules of Origin under the FTA; or
- whose origin cannot be determined.

Wholly obtained or produced (WO) Goods

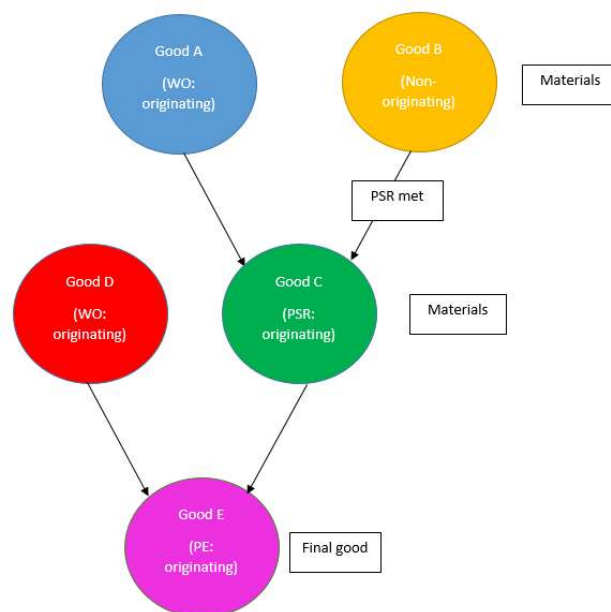
Wholly obtained or produced goods are typically agricultural goods and natural resources. The table on page 12 sets out the categories of goods that are treated as wholly obtained or produced under PAFTA.

Goods made in Australia and Peru exclusively from goods that are wholly obtained or produced in one or both Parties are also considered wholly obtained or produced.

Goods produced exclusively from originating materials (PE)

This covers goods produced exclusively from originating materials, whether those materials qualify as originating because they are wholly obtained or produced, or because they

meet other origin criteria (e.g. Product Specific Rules of Origin - see below). Production must take place entirely in the territory of one or both of the Parties.



For example, a Peruvian business can import superfine Australian merino wool of 5101.11 from Australia and produce wool jackets (of 6103.31 and 6104.31) or wool dresses (of 6104.41).

These clothing products, if exported back to Australia, will qualify as originating under PE criterion, and traders can access preferential tariffs under PAFTA.

Product Specific Rules of Origin (PSRs) – for goods containing inputs from outside of PAFTA Parties

Goods that include some non-PAFTA originating materials may still qualify as PAFTA originating, as long as the non-originating materials have undergone a substantial transformation in the territory of one or both Parties.

For situations like this, Product-Specific Rules (PSRs) are set out in Annex 3-B Product-Specific Rules of Origin. These enable Australia's and Peru's customs authorities to determine whether a good has undergone sufficient transformation for it to become an 'originating' good.

If your product contains materials from outside Australia or Peru, you will need to check the applicable PSR to determine whether your good qualifies as PAFTA originating. See table on page 9 for an example of how to find your PSR.

The PSR methods used to measure substantial transformation under PAFTA are:

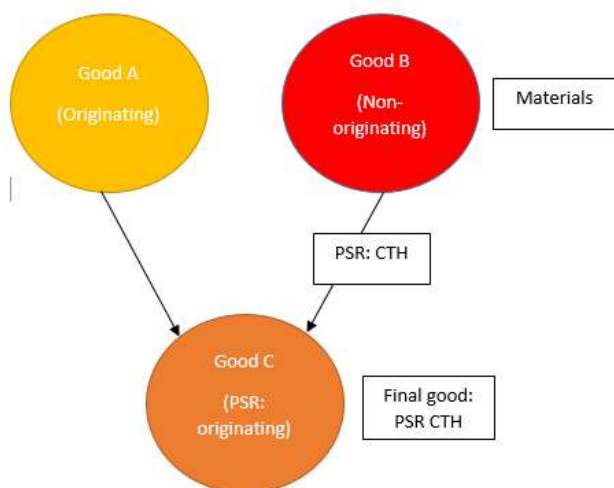
- Change in Tariff Classification (CTC);
- Regional Value Content (RVC); or,
- Product specific process rules.

These and other approaches are explained in more detail below. Some PSRs provide the option of a RVC rule or a process

rule as an alternative to a CTC rule, while others require a RVC or a process rule in addition to a CTC rule.

Change in tariff classification (CTC)

Most PSRs in PAFTA apply a Change in Tariff Classification approach. A CTC rule requires that any non-originating materials incorporated into a final good undergo a Change in Tariff Classification (HS code) in a PAFTA Party in the process of being incorporated into the final good.



For example, non-originating pure gold (HS 7108) is processed in Australia to make gold jewellery which has a different HS Heading (7113).

The PSR for HS Heading 7113-7114 is:

- a change to a good of heading 7113 through 7114 from any other heading; or
- a regional value content of 45 per cent.

In turning the gold into jewellery, the tariff classification changes from HS Heading 7108 for pure gold to HS Heading 7113 for jewellery. This good would meet the PAFTA PSR because the gold jewellery was manufactured in Australia from imported pure gold, regardless of where the gold came from.

Different products may be subject to different CTC rules, which can be applied at three levels of the HS:

- **Change in Chapter (CC)** – The non-originating material and the finished product have to be classified under different HS chapters (first two digits of the HS code). E.g. importing steel of HS Chapter 72 and making railway tracks of HS Chapter 73.
- **Change in Tariff Heading (CTH)** – The non-originating material and the finished product have to be classified under different HS headings (first four digits of the HS code). E.g. manufacturing gold jewellery of HS Heading 7113 from imported gold of HS Heading 7108.
- **Change in Tariff Subheading (CTSH)** – The non-originating material and the finished product have to be classified under different HS subheadings (six digits of the HS code). E.g. importing fresh ginger of HS Subheading 0910.11 and using it to produce a crushed ginger of HS Subheading 0910.12.

Some CTC rules specifically exclude the possibility of applying a CTC rule to certain inputs. This is done by excluding specific HS Chapters, Headings or Subheadings.

Example 1:

The PSRs for virgin olive oil (1509.10) and other olive oil (1509.90) are “CC” and “CC except Chapter 7”, respectively. Olives are classified in Chapter 7, under subheading 0709.92.

This rule means that if a business imports non-originating olives and uses them to make both virgin olive oil and other types of olive oil in Australia, the virgin oil would be considered originating under PAFTA and would be eligible for a preferential duty when subsequently imported into Peru. The other types of olive oil would not.

Example 2:

Importing non-originating fresh asparagus of subheading 0709.20 and using it to produce preserved asparagus of subheading 2005.60 would not make the end product PAFTA-originating. That is because the PSR for 2005.60 (asparagus, prepared or preserved otherwise than by vinegar or acetic acid, not frozen) is “CC except 0709.20.”

A business may, instead, import Peruvian fresh asparagus and preserve it in Australia. The end product, when exported back to Peru, could be considered originating under the WO or PE criteria.

Example 3:

A wire of stainless steel of HS 7223.00 which has a PSR of ‘CTH except 72.21 or 72.22’. Heading 72.21 includes *bars and rods, hot-rolled, in irregularly wound coils, of stainless steel* and Heading 72.22 includes *other bars and rods of stainless steel; angles, shapes and sections of stainless steel*.

This rule means that if you import non-originating bars and rods of stainless steel and use this to make wire of stainless steel in Australia, the final product would not be considered originating under PAFTA and would not be eligible for a preferential duty when subsequently imported into Peru.

Regional value content

Some PSRs require a product to have undergone a specific amount of value-add in one or both Parties, measured by the Regional Value Content (RVC) of the good. Some PSRs provide the option of a RVC rule as an alternative to a CTC rule, others require a RVC in addition to a CTC rule.

An RVC approach stipulates that originating materials and processes must represent a specific proportion of the product’s final value. More information about calculating RVC is provided on page 12.

For example, a manufacturer in Australia makes radiators for vehicles (classified as HS 8708.91) from cooling fins, core tubes and transmission oil coolers (also 8708.91) that are imported from China (a non-party to PAFTA) and Australian manufactured radiator engine outlets. The radiators are sold to a Peruvian importer for AU \$200.00 each (excluding international shipment costs).

The cooling fins, core tubes and transmission oil coolers costs the manufacturer AU \$90 per each radiator manufactured. The value of originating materials used in production is AU \$110 per radiator.

The PSR for HS Heading 8708.91 is:

- A regional value content of 40 per cent (RVC40).

To determine whether the radiators meet the PAFTA PSR a trader can calculate the Regional Value Content of the good through two different methods:

The Build Down Method:

$$RVC = \frac{\text{Final Good (AU \$200)} - \text{Non originating materials (AU \$90)}}{\text{Value of the Good (AU \$200)}} \times 100$$

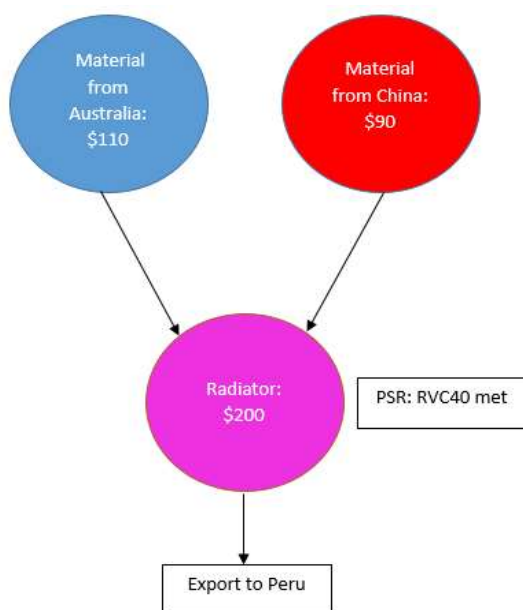
$$RVC = \frac{200 - 90}{200} \times 100 = 55$$

The Build Up Method:

$$RVC = \frac{\text{Value of originating materials (AU \$110)}}{\text{Value of the Good (AU \$200)}} \times 100$$

$$RVC = \frac{110}{200} \times 100 = 55$$

Using either methodology the Regional Value Content for the radiators is 55 per cent. This is equal to or above the RVC40 (40 per cent) threshold for HS 8708.91, therefore the radiators meet the PAFTA PSR and are considered originating goods under PAFTA, if all other relevant requirements under the Chapter are met.



Production Process Rules

Some PSRs allow for a good to become originating if the non-originating materials undergo a specific manufacturing or production process that fundamentally changes the nature of the input materials, for example:

- processes that involve non-originating chemicals undergoing various chemical reactions may confer origin on the resulting new chemicals; and
- for certain aquaculture products, smoking of non-originating fresh produce may confer origin.

Note: It is important to remember that ROO requirements do not replace any other import requirements such as import licences and biosecurity approvals. If you would like more detailed information on process rules, please see the ABF – guide to claiming preferential tariff treatment for PAFTA www.abf.gov.au/importing-exporting-and-manufacturing/free-trade-agreements.

Example 1:

A manufacturer in Australia makes the chemical compound, diethylamine hydrochloride (classified as HS 2921.11), for use as a corrosion inhibitor and exports the product to Peru.

The diethylamine hydrochloride is manufactured through the reaction of diethylamine that is also classified in HS 2921.11 with hydrochloric acid that is classified in HS 2806.10. This process transforms the input substances into a new molecule with a new structure by breaking intramolecular bonds and fomenting new bonds.



This process meets the Chemical Reaction Rule specified in the Chapter Note to Chapter 29 of the PAFTA PSR schedule.

Chapter Note 1: Chemical Reaction Rule

Notwithstanding the applicable product-specific rules of origin, a good of Chapter 29 that is the product of a chemical reaction is an originating good if the chemical reaction occurs in the territory of one or both Parties.

For the purposes of this rule, a chemical reaction is a process (including a biochemical process) which results in a molecule with a new structure by breaking intramolecular bonds and fomenting new intramolecular bonds or by altering the spatial arrangement of atoms in a molecule.

The following are not chemical reactions:

- dissolving in water or other solvents;
- the elimination of solvents, including solvent water; or
- the addition or removal of water of crystallization.

The diethylamine hydrochloride is considered an originating good under PAFTA, if all other relevant requirements under the Chapter are met.

Example 2:

Non-originating saffron threads are imported and processed in Australia to make saffron powder (0910.20). The PSR for 0910.20 is “CC or crushing/grinding”

As both saffron threads and saffron powder are classified under 0910.20, the end product would not meet the CC requirement. However, since the grinding process occurs in Australia, the end product would still meet the PSR requirement and be regarded as originating.

How to find the PSR applicable to your product

Using the tariff classification from step 1, you can check Chapter 3, Annex 3-B: Product Specific Rules of Origin.

<https://dfat.gov.au/trade/agreements/in-force/pafta/full-text/Pages/fta-text-and-associated-documents.aspx>

Using your good's HS code, you can identify the relevant entry in the schedule. Note that PSRs are listed at the chapter (two digit), heading (four digit) or subheading (six-digit) level. It is only necessary to use the first six digits of the HS Code – the subheading - when identifying goods in the PSR, as this is the level at which they are internationally standardised. Once you have found the relevant entry, the third column will identify the PSR for that product. For example:

HS Classification (HS2017)	Product Specific Rule
HS 0406.20 (Grated cheese)	CC- A change to a good of subheading 02001.1 from any other chapter.
HS 1704.10 (Sugar Confectionery-chewing gum)	CTH- A change to a good of subheading 1704.10 from any other heading.
HS 4106.22 (Tanned or crust hides and skins of other animals)	CTSH- A change to a good of subheading 4106.22 from any other subheading.

In the above example, non-originating inputs into grated cheese, must undergo a change in chapter (change in the first two digits of the HS classification).

Sugar confectionary, on the other hand, must have all non-originating materials used in production undergo a change in tariff classification at the 4-digit level.

Tanned Hides, must have all non-originating materials used in production undergo a change in tariff classification at the 6-digit level.

Further information can be found in the headnotes Annex 3-B Product Specific Rules of Origin or by contacting your customs broker/freight forwarder.

Other factors to determine origin

There are other important factors to take into account when determining whether your good qualifies as PAFTA originating.

De Minimis

Where a good fails to meet the PSR requirements it may still be considered PAFTA originating if the non-originating materials make up only a small amount of the total material inputs. If the value of all non-originating materials does not exceed 10 per cent of the value of the good, the product will qualify under the *de minimis* rule.

In the case of goods classified in Chapters 50 through 63 of the HS, the product will qualify under the *de minimis* rule if the total weight of all non-originating materials does not exceed 10 per cent of the total weight of the good.

Accumulation

The rule of accumulation under PAFTA provides that a good is originating if the good is produced in the territory of one or both Parties by one or more producers. This can include non-originating inputs from non-Parties to PAFTA as long as the PSR is met. For example, a product is manufactured in Australia from Peruvian originating inputs, along with non-originating inputs from China:

- the Peruvian inputs would be treated as if they originated in Australia; and
- the final product would be accepted as originating from Australia, as long as the Chinese input meets the relevant PSR.

This would allow the final Australian product to be exported back to Peru and take advantage of the preferential tariff treatment.

The good still needs to satisfy the requirements in Article 3.2 (Originating Goods) and all other applicable requirements of the Chapter. The accumulation provisions can be found in PAFTA Chapter 3, Articles 3.5 and 3.8.

Fungible materials

Fungible materials are goods or materials that are interchangeable for commercial purposes and whose properties are essentially identical. Examples include natural gas, grains, or simple parts (e.g. rivets). Specific accounting rules apply to exporters wishing to demonstrate that fungible goods are originating under PAFTA. More information is available in PAFTA Chapter 3, Article. 3.10.

Accessories, spare parts tools and instructional material

The origin of accessories, spare parts, tools and instructional materials is not taken into account when determining if a good is wholly obtained, or satisfies a process requirement or change in tariff classification, provided they are customarily supplied with those finished goods and are not invoiced separately. The value of accessories, spare parts, tools and instructional materials is considered, however, in assessing a good for the purposes of a RVC rule.

Packaging materials and containers for retail sale

Packaging materials and containers in which a good is packaged for retail sale, are disregarded in determining whether all the non-originating materials used in the production of the good have satisfied the applicable process or change in tariff classification requirement set out in the

PSR. These packaging materials and containers are also disregarded in determining whether a good is wholly obtained or produced entirely.

For example, in the case of wine bottled in non-originating bottles for retail sale, the bottles would not be taken into account in assessing whether the wine itself was originating. However, retail packaging materials are considered in assessing the value of originating or non-originating content, as the case may be, for the purposes of an RVC rule.

Packing materials and containers for shipment

Packing materials and containers for shipment are disregarded in determining whether a good is originating.

Indirect materials

An indirect material is considered to be originating without regard to where it is produced. Indirect materials are those used in the production, testing or inspection of a good but not physically incorporated into the good; or materials used in the maintenance of buildings or the operation of equipment, associated with the production of a good, including:

- (a) fuel, energy, catalysts and solvents;
- (b) equipment, devices and supplies used to test or inspect the good;
- (c) gloves, glasses, footwear, clothing, safety equipment and supplies;
- (d) tools, dies and moulds;
- (e) spare parts and materials used in the maintenance of equipment and buildings;
- (f) lubricants, greases, compounding materials and other materials used in production or used to operate equipment and buildings; and
- (g) any other material that is not incorporated into the good but the use of which in the production of the good can reasonably be demonstrated to be a part of that production.

Transport through non-Parties

PAFTA is designed to reflect modern trading practices, including the use of transport and distribution hubs in one or more non-Parties for consignments of goods. A good will retain its originating status, despite being transported through a non-Party, if:

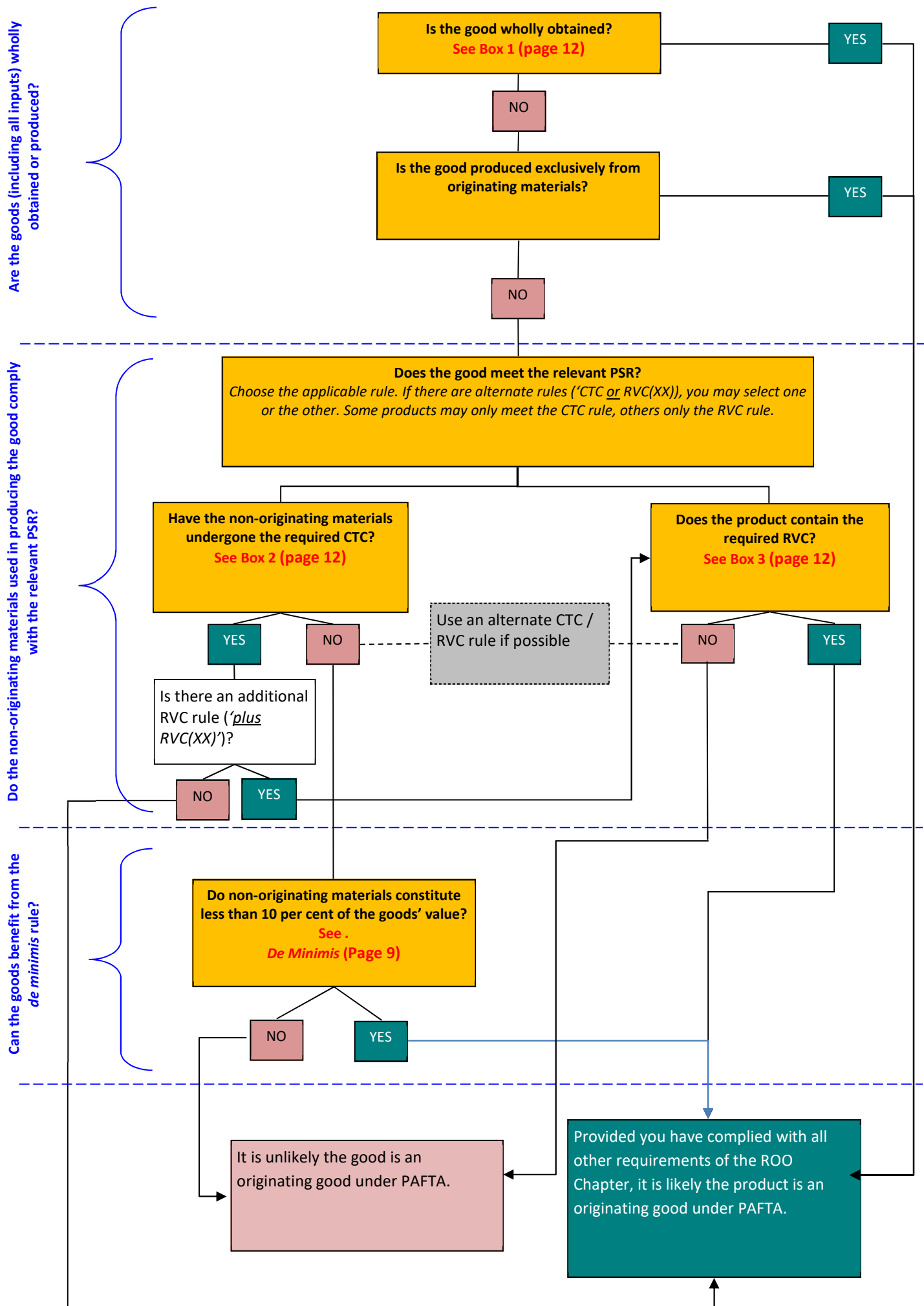
- a) the good does not undergo subsequent production or any other operation in non-Parties, other than unloading, reloading, storing, separating from a bulk shipment, labelling or any other operation necessary to preserve it in good condition or to transport the good to the territory of the importing Party; and
- b) the good remains under customs control in the territory of that or those non-Parties.

For example, as part of their logistics arrangements Peruvian shirt manufacturer, Camisas Pty Ltd, sends its Peruvian originating shirts to a distribution facility located in the United States from where they are distributed to its North American, European and, now, Australian markets. While in the facility, anti-theft security tags are attached to the shirts. As a result of this activity, the shirts would not be entitled to

preferential tariff treatment under PAFTA in Australia because they underwent an activity that does not fall under those permitted by Article 3.16.

For the shirts to be entitled to preferential tariff treatment, they would therefore only be able to undergo the activities listed under a) and remain under customs control in the United States, or in any other non-Party they transit or are transhipped through. Once the goods have been given approval to enter home consumption they are considered to have left customs control. Therefore, the Australian importer needs to have sufficient evidence to demonstrate the shirts remained under the control. This evidence would only need to be presented if requested by ABF.

FLOW CHART OF PAFTA RULES ORIGIN



FLOW CHART OF PAFTA RULES ORIGIN

Box 1. Is the good wholly obtained or produced?	Box 2. Does the good meet the relevant Change in Tariff Classification (CTC) rule?	Box 3. Does the good comply with the Regional Value Content rule?
Wholly obtained or produced goods from the territory of one or both of the parties (see PAFTA Chapter 3, Article 3.3):	Check the CTC rule applicable to the tariff classification for your goods at Annex 3-B: Product Specific Rules of Origin, for example:	Working out the RVC
a) a plant or plant good, grown, cultivated, harvested, picked or gathered there;	<p>CC – do the non-originating inputs that went into the product now come under a different chapter as part of the finished product (change in any of the first two digits of the tariff classification)?</p> <p>CTH – do the non-originating inputs that went into the good now come under a different tariff heading as part of the finished product (change in any of the first four digits of the tariff classification)?</p> <p>CTSH— do the non-originating inputs that went into the product now come under a different tariff subheading as part of the finished product (change in any of the six digits of the tariff classification)?</p> <p>If not all of the non-originating inputs satisfy the applicable change in tariff classification, <i>de minimis</i> allows goods where the inputs have not undergone the requisite CTC to still qualify as originating if the value of non-originating materials does not exceed 10 per cent of the value of the final good (or 10 per cent of the total weight of the good, in the case of goods classified in Chapters 50 through 63 of the HS).</p> <p>The good still needs to meet all other applicable provisions of the Chapter.</p>	<p>Depending on the Product Specific Rules of Origin, the RVC percentage of a good can be assessed using the following methods (acronyms described in detail below):</p> <p>Further information is available in Article 3.4:</p> <p>Build Down Method - Article 3.4 (a):</p> $RVC = \frac{\text{Value of the Good} - VNM}{\text{Value of the Good}} \times 100$ <p>Build Up Method - Article 3.4 (b):</p> $RVC = \frac{VOM}{\text{Value of the Good}} \times 100$ <p>RVC is the regional value content of a good, expressed as a percentage;</p> <p>VNM is the value of non-originating materials, including materials of undetermined origin, used in the production of the good;</p> <p>VOM is the value of originating materials used in the production of the good in the territory of one or more of the Parties.</p> <p>Further information is available in Article 3.4</p>
b) a live animal born and raised there;		
c) a good obtained from a live animal there;		
d) an animal obtained by hunting, trapping, fishing, gathering or capturing there;		
e) a good obtained from aquaculture there;		
f) a mineral or other naturally occurring substance, not included in subparagraphs (a) through (e), extracted or taken from there;		
g) fish, shellfish and other goods of sea-fishing and other marine life taken from the sea, seabed or subsoil outside the territories of the Parties and, in accordance with international law, outside the territorial sea of non-Parties by vessels that are registered or recorded with a Party and entitled to fly the flag of that Party;		
h) a good produced from goods referred to in subparagraph (g) on board a factory ship that is registered or recorded with a Party and entitled to fly the flag of that Party;		
i) a good other than fish, shellfish and other goods of sea-fishing and other marine life taken by a Party or a person of a Party from the seabed or subsoil outside the territories of the Parties, and beyond areas over which non-Parties exercise jurisdiction provided that Party or person of that Party has the right to exploit that seabed or subsoil in accordance with international law;		
j) a good that is:		
(i) waste or scrap derived from production there, provided that such goods are fit only for the recovery of raw materials; or		
(ii) waste or scrap derived from used goods collected there, provided that those goods are fit only for the recovery of raw materials; and		
k) a good produced there, exclusively from goods referred to in subparagraphs (a) through (j), or from their derivatives.		

Step 4: Prepare a Certificate of Origin for your goods

Once you have gone through the first three steps and determined that your good will qualify for preferential tariff treatment under PAFTA, you will need to complete the appropriate documentation to demonstrate this to the importing customs authority. This is done by completing a Certificate of Origin.

Certificate of Origin

Under PAFTA, an importer may make a claim for preferential tariff treatment based on a Certificate of Origin completed by:

- the exporter;
- the producer; or
- an authorised representative of the exporter or producer.

There is no requirement for third party certification under PAFTA. However, as noted above, exporters and producers may choose to have an authorised representative complete a Certificate of Origin. A Certificate of Origin under PAFTA does not need to follow a prescribed format. However, it must be in writing and satisfy the data requirements set out in PAFTA Chapter 3, Annex 3-A. (See **Attachment A**).

The data requirements include the Certificate of Origin being signed, dated and accompanied by a written statement. This written statement could be included on a company letterhead or an invoice, or it could be part of a standalone certificate document. **Attachment B** sets out a series of examples of certificates that could be provided on an invoice or company letterhead – the examples cover situations where the certificate is completed by the exporter, producer or an authorised representative. **Attachment C** provides a sample template for a standalone Certificate of Origin, including guidance on how to complete it to meet the data requirements.

A Certificate of Origin can be in English or Spanish. The importing Party may require the importer to submit a translation in the language of the importing Party.

A Certificate of Origin can apply to a single shipment or multiple shipments of identical goods (within any period not exceeding one year).

A Certificate of Origin is valid for one year after the date it was issued or for such longer period specified by the laws and regulations of the Importing Party.

Record keeping

Under PAFTA, an importer, exporter or producer who provides a Certificate of Origin must maintain documentation relating to the Certificate of Origin and all records necessary to demonstrate that the good is originating for a period of no less than five years from:

- the date of importation of the good in the case of an importer; and
- the date of issuance of the Certificate of Origin in the case of an exporter or producer.

Records can be retained in hard copy or electronic format, provided they can be promptly retrieved if required. PAFTA Chapter 3, Article 3.22 provides details on record keeping requirements.

Waiver of Certificate of Origin

A Certificate of Origin is not required when the customs value of the importation does not exceed AUD\$1000 for Australia or US\$800 for Peru, or any higher amount as the importing Party may establish. A party can also unilaterally waive the requirement for a Certificate of Origin.

Verification

Customs authorities of a PAFTA Party may need to verify that a good is originating and entitled to preferential tariff treatment. The approach they follow for such verification is outlined in PAFTA, Chapter 3, Article 3.23, and may involve:

- a written request for information from the importer of the good;
- a written request for information from the exporter or producer of the good;
- a verification visit to the premises of the exporter or producer of the good.

Refunds and claims for preferential tariff treatment after importation

Under PAFTA, importers may apply for preferential tariff treatment after the import has taken place. In that case, importers can seek a refund of any excess duties already paid, provided the good would have qualified for preferential tariff treatment at the time of importation. Importers have at least one year to apply for a refund.

As a condition of claiming preferential tariff treatment after import, the Importing Party may require that the importer:

- a) make a claim for preferential tariff treatment;
- b) provide a statement that the good was originating at the time of importation;
- c) provide a copy of the certificate of origin; and
- d) provide such other documentation relating to the import of the good as the Importing Party may require.

Contacts for further information

Department of Foreign Affairs and Trade (DFAT)

For general enquiries

Email: pafta@dfat.gov.au

Web: <https://dfat.gov.au/trade/agreements/in-force/pafta/Pages/peru-australia-fta.aspx>

FTA Portal: www.ftaportal.dfat.gov.au

Australian Border Force

For specific enquiries on ROO and customs procedures

Email: origin@abf.gov.au

Website: www.abf.gov.au/importing-exporting-and-manufacturing/free-trade-agreements

Department of Agriculture

For specific information on sanitary and phytosanitary certification requirements for agricultural products

Website: <https://www.agriculture.gov.au>

Certificate of Origin

Attachment A - Data Requirements

A certificate of origin under PAFTA must include the following elements:

1. Exporter, producer or the authorised representative of the exporter or producer as certifier of the Certificate of Origin

Indicate whether the certifier is the exporter, producer, or both. In the case of an authorised representative, indicate whether the certificate has been completed on behalf of the exporter, producer or both.

2. Certifier

Provide the certifier's name, address (including country), telephone number and e-mail address. The address of the certifier shall be in the exporting Party.

3. Exporter

Provide the exporter's name, address (including country), e-mail address and telephone number if different from the certifier. This information is not required if the producer is completing the certificate of origin and does not know the identity of the exporter. The address of the exporter shall be in the exporting Party.

4. Producer

Provide the producer's name, address (including country), e-mail address and telephone number, if different from the certifier or exporter or, if there are multiple producers, state "Various" or provide a list of producers. A person that wishes for this information to remain confidential may state "Available upon request by the importing authorities". The address of a producer shall be in the exporting Party.

5. Importer

Provide the importer's name, address (including country), e-mail address and telephone number. The address of the importer shall be in the importing Party.

6. Description and HS Tariff Classification of the Good

Provide a description of the good and the HS tariff classification of the good to the 6-digit level. The description may include number and kinds of packages, marks and numbers on the packages, invoice number(s) and date(s), or sufficient details to identify the good.

If the certificate of origin covers a single shipment of a good, indicate the invoice number and date related to the exportation.

7. Origin Criterion

Specify the rule of origin under which the good qualifies.

Origin Criteria	Insert in Box 8
The good is 'wholly obtained or produced entirely' in the territory of one or both Parties as established in Article 3.3 (Wholly Obtained or Produced Goods).	WO
The good is produced entirely in the territory of one or both Parties, exclusively from originating materials in accordance with Article 3.2 (b) (Originating Goods)	PE
The good is produced entirely in the territory of one or both Parties using non-originating materials provided the good satisfies all applicable requirements of Article 3.2 (c) (Originating Goods) i.e. the Product Specific Rules of Origin.	PSR

8. Blanket period

Indicate the period if the certificate of origin covers multiple shipments of identical goods for a specified period of up to 12 months as set out in Article 3.17.3.

9. Authorised signature and date

If the exporter or producer is the certifier, the certificate of origin must be signed, dated and accompanied by the following statement:

I certify that the goods described in this document qualify as originating according to the Free Trade Agreement between Australia and Peru and the information contained in this document is true and accurate. I assume responsibility for proving such representations and agree to maintain and present upon request or to make available during a verification, documentation necessary to support this certificate.

If the authorised representative is the certifier, the certificate of origin must be signed, dated and accompanied by the following statement:

I certify that the goods described in this document qualify as originating according to the Free Trade Agreement between Australia and Peru and the information contained in this document is true and accurate. The exporter or the producer, as the case may be, assumes responsibility for providing such representations and agrees to maintain and present upon request or to make available during verification, documentation necessary to support this certificate.

Attachment B - Certificate of Origin on an invoice or company letterhead

In the case of a Certificate of Origin provided on an invoice or company letterhead, the majority of the information required would normally already be contained in the document. It is important to provide the HS Code, a description of the goods and the origin criteria as well as the name, address, phone number and email address.

Below are examples of different Certificates of Origin that can be used on an invoice or company letterhead. Be sure to check that the completed Certificate of Origin on the invoice or company letterhead contains all the Data Requirements.

For each sample Certificate of Origin below, you will also need to check that the following details also appear on the invoice or company letterhead:

- Details of importer, exporter, producer and if applicable, authorised representative as specified in Attachment A
- HS code of the goods (6-digit level)
- Description of the goods
- Origin criteria of goods (WO, PE or PSR)
- If it is covering a blanket period for multiple shipments of identical goods, state the period covered by the certificate (maximum 12 months from the date of certification)
- If the certificate of origin covers a single shipment of goods, indicate the invoice number related to the exportation.

If these details are not already included on the invoice or company letterhead, you will need to add them.

ATTACHMENT B

Attachment B.1 - Certificate of Origin by the exporter who is also the producer

I certify that the goods described in this document qualify as originating according to the Free Trade Agreement between Australia and Peru and the information contained in this document is true and accurate. I assume responsibility for proving such representations and agree to maintain and present upon request or to make available during a verification, documentation necessary to support this certificate.

Authorised Signature of Certifier (Producer and Exporter)

Date of Signature

Certifier Name: _____

Certifier Address (including country): _____

Certifier Telephone Number: _____

Certifier E-mail Address: _____

*Check the additional details described above also appear on the invoice or company letterhead

Attachment B.2 - Certificate of Origin by the exporter who is not the producer

Where the producer details are not specified.

I certify that the goods described in this document qualify as originating according to the Free Trade Agreement between Australia and Peru and the information contained in this document is true and accurate. I assume responsibility for proving such representations and agree to maintain and present upon request or to make available during a verification, documentation necessary to support this certificate.

Authorised Signature of Certifier (Exporter)

Date of Signature

Certifier Name: _____

Certifier Address (including country): _____

Certifier Telephone Number: _____

Certifier E-mail Address: _____

Producer's details available upon request by the importing authorities.

*Check the additional details described above also appear on the invoice or company letterhead

Attachment B.3 - Certificate of Origin by the exporter who is not the producer

Where the producer details are specified.

I certify that the goods described in this document qualify as originating according to the Free Trade Agreement between Australia and Peru and the information contained in this document is true and accurate. I assume responsibility for proving such representations and agree to maintain and present upon request or to make available during a verification, documentation necessary to support this certificate.

Authorised Signature of Certifier (Exporter)

Date of Signature

Certifier Name: _____

Certifier Address (including country): _____

Certifier Telephone Number: _____

Certifier E-mail Address: _____

Producer Name: _____

Producer Address (including country): _____

Producer Telephone: Number: _____

Producer E-mail Address: _____

*Check the additional details described above also appear on the invoice or company letterhead

Attachment B.4 - Certificate of Origin by the producer

I certify that the goods described in this document qualify as originating according to the Free Trade Agreement between Australia and Peru and the information contained in this document is true and accurate. I assume responsibility for proving such representations and agree to maintain and present upon request or to make available during a verification, documentation necessary to support this certificate.

Signature of Certifier (Producer)

Date of Signature

Certifier Name: _____

Certifier Address (including country): _____

Certifier Telephone Number: _____

Certifier E-mail Address: _____

*Check the additional details described above also appear on the invoice or company letterhead

ATTACHMENT B

Attachment B.5 - Certificate of Origin by the authorised representative

I certify that the goods described in this document qualify as originating according to the Free Trade Agreement between Australia and Peru and the information contained in this document is true and accurate. The exporter or the producer, as the case may be, assumes responsibility for providing such representations and agrees to maintain and present upon request or to make available during verification, documentation necessary to support this certificate.

Signature of Certifier (Authorised Representative)

Date of Signature

Certifier Name: _____

Certifier Address (including country): _____

Certifier Telephone Number: _____

Certifier E-mail Address: _____

Acting on behalf of: Exporter ☐ Producer ☐ or Both ☐ (tick one)

Complete applicable:

Producer Name: _____

Producer Address (including country): _____

Producer Telephone: Number: _____

Producer E-mail Address: _____

Exporter Name: _____

Exporter Address (including country): _____

Exporter Telephone: Number: _____

Exporter E-mail Address: _____

*Check the additional details described above also appear on the invoice or company letterhead

ATTACHMENT C

Attachment C - Certificate of Origin Using a Template

(EXAMPLE ONLY)

The following is an example of a Certificate of Origin template that would meet the PAFTA Data Requirements.

This template could be modified to suit the needs of the exporter, producer or authorised representative, as long as it continues to meet the Data Requirements.

Guidance on completing the template is set out on the following page.

1. Certifier <input type="checkbox"/> Exporter <input type="checkbox"/> Producer <input type="checkbox"/> Authorised Representative		CERTIFICATE OF ORIGIN Peru-Australia Free Trade Agreement	
2. Certifier's details: Name: _____ Address: _____ Telephone Number: _____ E-mail Address: _____		3. Exporter details (if different from certifier): Name: _____ Address: _____ Telephone Number: _____ E-mail Address: _____	
4. Producer details (if different from certifier and exporter): Name: _____ Address: _____ Telephone Number: _____ E-mail Address: _____		5. Importer details: Name: _____ Address: _____ Telephone Number: _____ E-mail Address: _____	
6. HS Tariff Classification (6-digit level)	7. Description of the Good		8. Origin criterion: WO, PE, PSR
9. Period covered by certificate (if applicable) or invoice number and date for a single shipment.			
10. (Delete certification that is not applicable) Certification by Exporter and/or Producer: I certify that the goods described in this document qualify as originating according to the Free Trade Agreement between Australia and Peru and the information contained in this document is true and accurate. I assume responsibility for proving such representations and agree to maintain and present upon request or to make available during a verification, documentation necessary to support this certificate. Signature: _____ Date: _____ OR Certification by Authorised Representative: I certify that the goods described in this document qualify as originating according to the Free Trade Agreement between Australia and Peru and the information contained in this document is true and accurate. The exporter or the producer, as the case may be, assumes responsibility for providing such representations and agrees to maintain and present upon request or to make available during verification, documentation necessary to support this certificate. Signature: _____ Date: _____			

Guidance to completing the Certificate of Origin

DO NOT ATTACH GUIDANCE TO COMPLETED CERTIFICATE OF ORIGIN TEMPLATE

Box 1: Tick the appropriate box indicating whether the certifier is the exporter and/or producer or authorised representative.

Box 2: State the certifier's name, address (including country), telephone number and email address.

Box 3: Provide the exporter's name, address (including country), e-mail address and telephone number if different from the certifier. This information is not required if the producer is completing the certification of origin and does not know the identity of the exporter. The address of the exporter shall be in the exporting Party.

Box 4: Provide the producer's name, address (including country), e-mail address and telephone number, if different from the certifier or exporter. If there are multiple producers, state "Various" or provide a list of producers. A person that wants this information to remain confidential may state "Available upon request by the importing authorities". The address of a producer shall be in the exporting Party.

Box 5: Provide the importer's name, address (including country), e-mail address and telephone number. The address of the importer shall be in the importing Party.

Box 6: Provide the HS tariff classification of the good to the 6-digit level.

Box 7: Provide a description of the good. The description may include number and kinds of packages, marks and numbers on the packages, invoice number (s) and date (s), or sufficient details to identify the good.

Box 8: Specify the origin criteria under which the good qualifies (see table below).

Origin Criteria	Insert in Box 8
The good is 'wholly obtained or produced entirely' in the territory of one or both Parties as established in Article 3.3 (Wholly Obtained or Produced Goods).	WO
The good is produced entirely in the territory of one or both Parties, exclusively from originating materials in accordance with Article 3.2 (b) (Originating Goods)	PE
The good is produced entirely in the territory of one or both Parties using non-originating materials provided the good satisfies all applicable requirements of Article 3.2 (c) (Originating Goods) i.e. the Product Specific Rules.	PSR

Box 9: If it is a Certificate of Origin covering a blanket period for multiple shipments of identical goods, state the period covered by the certification (max 12 months). If the Certificate of Origin covers a single shipment of goods, indicate the invoice number and date related to the exportation.

Box 10 The certifier must sign and date the applicable certification.

DO NOT ATTACH GUIDANCE TO COMPLETED CERTIFICATE OF ORIGIN TEMPLATE



Australian Government

