

Today, Friday 27 February 2009

Customs, Trade and Transport Law ealert

Australia and New Zealand sign FTA with ASEAN Nations

In August 2008, there were announcements that Australia and New Zealand had struck a deal to establish a Free Trade Agreement with the ASEAN nations ("AANZFTA"). We issued an E-alert which can be found on our website.

In the ensuing period, there have been additional negotiations to try and resolve outstanding issues and finalise the document. From media reports, it seems most of those negotiations surrounded Australia's efforts to secure additional tariff reductions for those in the Australian automotive industry. More recent reports now suggest that while tariff reductions have been secured within ASEAN for Australian car component and small vehicle manufacturers, Australia will still need to separately press for concessional treatment for large passenger cars in Indonesia and Malaysia. Those concessions will be sought in the current Free Trade Agreement negotiations with Malaysia and through separate trade negotiations with Indonesia. In very recent times, Australia has increased its efforts to engage with Indonesia on trade matters including the forum conducted by Government officials in Australia last week.

However, the deal has now been completed with the AANZFTA scheduled to be signed in Thailand today, 27 February 2009.

While details of concessions granted to Australia have only now been released and have yet to be reviewed in detail, according to material provided by DFAT, the AANZFTA will include the following.

- The ability for Australian pharmaceutical companies across the region to export to ASEAN countries with almost total reduction in tariffs.
- Significant reductions in tariffs on Australian beef, live cattle exports, sheep and goat meat to countries such as the Philippines, Indonesia and Vietnam.
- Lower tariffs on Australian aluminium exports to Indonesia and reduction of Malaysian tariffs on aluminium tanks, vats, nails and screws (over the next four years).
- A dispute resolution provision so that Australian firms investing in ASEAN countries will have access to arbitration against ASEAN countries if their investments are adversely affected by action by those countries in breach of AANZFTA commitments. This will expand current protection currently made available in Indonesia, Laos, the Philippines and Vietnam.
- A general commitment to certainty and transparency for Australia service providers. In addition, a number of Australian service industries have received specific commitments to improve their market access including benefits for lawyers.
- Rules of origin generally constructed on "co-equal" access to rules based on either "Change in Tariff Classification" ("CTC") or a "Regional Value Content" ("RVC") tests. For most goods, there will be the option of using either test although some goods will need to fit one test.
- The use of a "Certificate of Origin" regime for those wishing to claim preference. These Certificates will be issued by relevant approved bodies (as in our Thai Free Trade Agreement).

As at the date of publication of this E-alert, I have yet to review details of Australia's concessions to ASEAN nations. However, as many would be aware, current Australian tariffs are already low on nearly all imports from all countries.

We will continue to provide details on the AANZFTA as they become available. These will be by way of publication and through my various speaking engagements. These include the CBFCA Member Forums being conducted in Sydney (4 March 2009) and in Melbourne (18 & 19 March 2009).

Our relationships through the Interlaw network of legal firms (www.interlaw.org) will enable us to assist you and your clients with advice on all aspects of the AANZFTA in all affected countries as well as providing assistance on all other trade and investment-related issues. Interlaw has member firms across the ASEAN region and during our recent Asia-Pacific Regional Meeting, member firms committed to ensure that clients of Interlaw member firms will be provided with the best and most efficient advice throughout the region to secure the best benefits.

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