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The ASEAN-Hong Kong, China Free Trade Agreement (AHKFTA): A Business Guidebook to Increasing Trade Competitiveness Using the AHKFTA





**The ASEAN – Hong Kong, China Free Trade Agreement (AHKFTA):
A Business Guidebook to Increasing Trade Competitiveness Using the AHKFTA**

The ASEAN Secretariat
Jakarta

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For general inquiries, contact:

The ASEAN Secretariat
Community Relations Division (CRD)
70A Jalan Sisingamangaraja
Jakarta 12110, Indonesia
Phone: (62 21) 724-3372, 726-2991
Fax: (62 21) 739-8234, 724-3504
E-mail: public@asean.org

For AHKFTA-related matters, contact:

External Economic Relations Division (EERD)
Email: eerd@asean.org

General information on ASEAN appears online at
the ASEAN Website: www.asean.org.

Catalogue-in-Publication Data

A Business Guidebook to Increasing Trade Competitiveness Using the AHKFTA
Jakarta, ASEAN Secretariat, June 2022

382.71

1. Economic Relations – Trading – Free Trade
2. ASEAN – Hongkong

ISBN 978-623-5429-01-4



ASEAN: A Community of Opportunities for All

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In aid of understanding, some examples have been provided but these are mere illustrations and do not provide judgment and do not constitute commercial advice. Views or conclusions may have also been expressed but these should not be taken as legal or commercial advice.

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FOREWORD

The ASEAN-Hong Kong, China Free Trade Agreement (AHKFTA), and related Investment Agreement, is the sixth free trade agreement that ASEAN has welded with an external trading partner. The Agreement, which entered into force on 11 June 2019, marked the commitment of ASEAN and Hong Kong, China to deepen the economic relations, promote trade and investment in the AHKFTA region, and to enhance partnership and collaboration through economic co-operation activities.

Hong Kong, China plays an important role as one of the strategic trading and logistic hubs in the region. As part of a global ASEAN strategy for post-pandemic recovery and regional integration, utilisation of AHKFTA is the key for business to emerge stronger in the post-pandemic era. The AHKFTA can help companies in the region be more competitive by facilitating the reduction of trade and compliance costs, increasing production quality, and minimising delays and uncertainties along the regional supply chain, in a more transparent and predictable trade and investment environment.

The first crucial factor in reaping the benefits offered under the AHKFTA, however, lies in businesses' deep understanding and technical know-how on how to leverage them. Lack of business awareness on tangible benefits of FTAs remain the top hindrance in utilising FTAs.

As an outreach effort to promote the AHKFTA, a business guidebook to increasing trade competitiveness by using the AHKFTA ("the Guidebook") has been developed to guide stakeholders, particularly enterprises operating in ASEAN and Hong Kong, China, on how to navigate the AHKFTA. The Guidebook highlights salient provisions in the AHKFTA and the benefits and trade and investment opportunities that the business community can tap from utilising the AHKFTA. The Guidebook also provides step-by-step guide in claiming preferential tariffs under AHKFTA, accompanied by the applicable rules and qualification procedures.

Fully aware of the economic impact that the AHKFTA will contribute to the region, and as part of a continued effort to further integrate ASEAN into the global economy, I welcome this undertaking and I invite you to fully maximise the benefits and opportunities that the AHKFTA can offer to businesses. Share the information with your relevant stakeholders and business partners. Help us build awareness and facilitate a better understanding of the implementation and utilisation of the AHKFTA, with a view to strengthening the competitiveness of businesses in the AHKFTA markets.



Satvinder Singh

Deputy Secretary General of ASEAN
For ASEAN Economic Community

FOREWORD

Hong Kong, China and ASEAN have long been sharing close and strong bilateral economic, trade and investment relations. ASEAN has been our second largest merchandise trading partner since 2010 and the total value of our merchandise trade rose to an all-time high of HK\$1,247 billion (US\$160 billion) in 2021. ASEAN was also our third largest trade in services partner and ranked fourth among our destinations of outward direct investment in 2020.

The continued growth in our bilateral relations is due in no small part to the gradual entry into force of the ASEAN – Hong Kong, China Free Trade Agreement (AHKFTA) and its related Investment Agreement since June 2019. The Agreements establish a solid framework to pursue free and open trade and investment in the region, providing better market access and certainty through elimination or reduction of tariffs on trade in goods, broad liberalisation commitments in services trade, facilitation in customs procedures and business travel as well as comprehensive investment protection.

This Guidebook provides a succinct overview of the Agreements as well as a pragmatic step-by-step guide with examples to illustrate the application of relevant rules and procedures. It translates the technical concepts of phased reduction of tariffs, rules of origins, customs procedures, trade facilitation measures as well as cross-border services trade into a comprehensive compendium using our day-to-day language. The Guidebook will serve as a useful tool to the business community, in particular micro, small and medium enterprises, in reaping the full benefits of the Agreements.

We commend the ASEAN Secretariat for the timely and thoughtful initiative to compile this Guidebook under the aegis of the Economic and Technical Co-operation (ECOTECH) Work Programme – a unique feature of the AHKFTA which showcases the joint commitment of Hong Kong, China and ASEAN to enhancing capacity building and contributing to the sustainable growth in the region. Much encouraged by the positive responses of the Parties, Hong Kong, China is actively driving the ECOTECH Work Programme forward and looks forward to the continued support from all Parties in taking forward various capacity building initiatives such as research, seminars and workshops.

At a time when trade is facing severe headwinds, the Agreements underline our mutual determination in pushing for regional economic integration and leveraging the Agreements to propel post-pandemic economic recovery. I hope you will find this Guidebook useful and help spread the words to your business partners and stakeholders.



Maggie Wong

Director-General of Trade and Industry
Hong Kong, China

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LIST OF ACRONYMS AND ABBREVIATIONS

ATIGA	ASEAN Trade in Goods Agreement
AANZFTA	ASEAN-Australia-New Zealand Free Trade Agreement
ACFTA	ASEAN-China Free Trade Agreement
AHKFTA	ASEAN-Hong Kong, China Free Trade Agreement
AHKIA	ASEAN-Hong Kong Investment Agreement
AIFTA	ASEAN-India Free Trade Agreement
AJCEPA	ASEAN-Japan Comprehensive Economic Partnership Agreement
AKFTA	ASEAN-Korea Free Trade Agreement
CC	Change in Chapter
CO	Certificate of Origin
CTC	Change in Tariff Classification
CTH	Change in Tariff Heading
CTSH	Change in Tariff Subheading
HS Code	Harmonized Commodity Description and Coding System
NTB	Non-Tariff Barrier
NTM	Non-Tariff Measure
OCF	Operational Certification Procedures
RCEP	Regional Comprehensive Economic Partnership
ROO	Rules of Origin
RVC	Regional Value Content
SPS	Sanitary and Phytosanitary Measures
STRACAP	Standards, Technical Regulations, and Conformity Assessment Procedures
TBT	Technical Barriers to Trade
WO	Wholly Obtained

■ EXECUTIVE SUMMARY

In November 2017, ASEAN and Hong Kong, China (HKC) signed a Free Trade Agreement (FTA) and a related Investment Agreement to enhance trade and investment flows between ASEAN and HKC in order to boost economic growth in the long run. The said agreements, which gradually came into force since June 2019, cover several major areas, including tariff reduction for traded goods, reduction or removal of restrictions for trade in services, longer stay for business travellers, and better investment protection.

Together, they are set to generate new trade and investment opportunities for businesses through greater and more preferential market access. Moreover, they are set to increase trade competitiveness of micro, small and medium enterprises (MSMEs), by removing or lowering trade barriers. This enables them to operate more freely between ASEAN and HKC, and compete more confidently with local businesses and businesses from other economies, especially those without an FTA with ASEAN or HKC.

The ASEAN - Hong Kong, China Free Trade Agreement (AHKFTA)¹ particularly offers comprehensive approaches for companies to potentially benefit from lower trade costs:

- (1) Substantial tariff reduction under flexible rules of origin (ROO) criteria;
- (2) Trade facilitative mechanisms for more streamlined customs clearance; and
- (3) An enhanced chapter on non-tariff measures for a more transparent and consultative trade regulatory environment.

In addition, the AHKFTA promotes the participation of MSMEs in regional value and supply chains, both directly and indirectly, as it provides the flexibility for businesses to source cheaper and better-quality raw materials and intermediate inputs from any other AHKFTA Parties. This, in turn, can increase productivity of firms and improve quality of finished goods.

MSMEs are well-positioned to take advantage of the AHKFTA and can benefit greatly by expanding into new markets under a more preferential and cost-effective trading environment that is more transparent, predictable, equitable and fair.

This Guidebook aims to help businesses located in ASEAN and HKC to navigate the AHKFTA landscape and successfully build an AHKFTA trade strategy for cross-border trade operations. In particular, this Guidebook provides a comprehensive reference for traders to explore AHKFTA markets by answering some frequently asked questions, including:

- (1) What are the benefits of the AHKFTA to businesses, in real and practical terms?
- (2) What are the requirements and procedures to qualify and use AHKFTA benefits?
- (3) What are trade facilitation mechanisms available under the AHKFTA to further ease and reduce cross-border trade costs and expand into AHKFTA markets?
- (4) What should businesses do and who to contact for any queries and concerns on using the AHKFTA, including non-tariff measures (NTMs) imposed by ASEAN and HKC?

¹ Trade and Industry Department, HKC (2021). AHKFTA Text [Online]. Available at: https://www.tid.gov.hk/english/ita/fta/hkasean/text_agreement.html.

I. INTRODUCTION



A. ASEAN – HKC Economic Relations

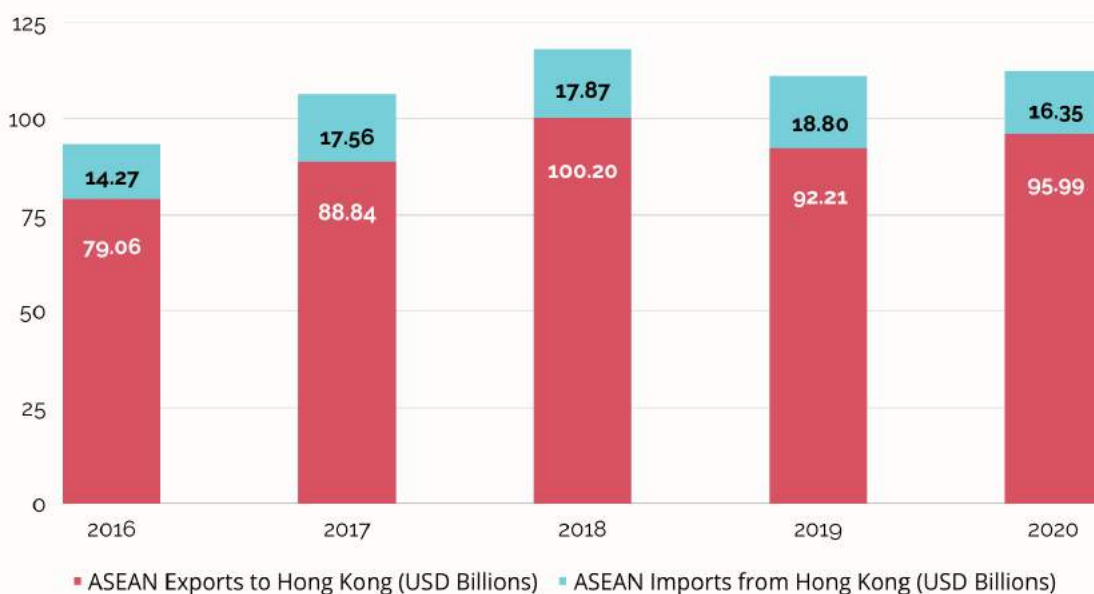
Merchandise Trade

Since 2016, ASEAN's trade with HKC has been stable at an average of USD 110 billion for five years. Bilateral trade reached USD 117.9 billion in 2018 when ASEAN's exports to HKC amounted to more than USD 100 billion, while imports from HKC stood at USD 17.9 billion. Despite the downturn brought about by the COVID-19 pandemic on international trade, ASEAN statistics show that the total bilateral merchandise trade between ASEAN and HKC reached USD 112.3 billion in 2020, representing 4.2% of ASEAN's total trade. This made HKC ASEAN's sixth largest trading partner. Moreover, ASEAN consistently has a trade surplus with HKC, which amounted to USD 79.6 billion in 2020.

For HKC, on the other hand, ASEAN is its second largest trading partner, after the Mainland of China. In 2020, the trade between HKC and ASEAN accounted for 12.6% of HKC's global trade, registering an annual average growth rate of 5.5% per annum between 2016 and 2020. ASEAN was also HKC's second largest supplier of goods in 2020. According to HKC's statistics, HKC's imports from ASEAN grew at 7.2% per annum on average between 2016 and 2020. In 2020, 17.6% of HKC's total imports (or around HKD 751.0 billion) were sourced from ASEAN. ASEAN, on the other hand, was the second largest market of HKC's goods, after the Mainland of China. HKC's domestic exports to ASEAN in 2020 amounted to HKD 6.3 billion (or 13.2% of HKC's total domestic exports).

ASEAN's major exports to HKC are electrical machinery and equipment; nuclear reactors, boilers and machinery; pearls and precious stones; mineral fuels and oils; and optical products. ASEAN's major imports from HKC, on the other hand, are electrical machinery and equipment; pearls and precious stones; nuclear reactors, boilers and machinery; optical products; and fabrics.

Chart 1: ASEAN Trade with HKC (2016-2020)



Source: ASEAN Trade Statistics Database, August 2021

Below is HKC's trade with each ASEAN Member State (AMS) in 2020:

Table 1: HKC's Merchandise Trade with ASEAN and Individual Member States in 2020

Ranking	Member States	Value of Total Trade (in HKD million)	Value of Imports (in HKD million)	Value of Domestic Exports (in HKD million)	Value of Re-exports (in HKD million)
1	Singapore	373,515	314,144	1,730	57,641
2	Malaysia	196,348	163,904	845	31,599
3	Viet Nam	185,126	100,642	1,479	83,005
4	Thailand	135,220	86,458	1,192	47,570
5	The Philippines	99,120	70,094	321	28,705
6	Indonesia	31,812	13,393	633	17,787
7	Cambodia	8,756	1,490	55	7,211
8	Myanmar	3,597	686	11	2,900
9	Brunei Darussalam	284	158	17	109
10	Laos	146	15	3	129
ASEAN		1,033,924 (12.6%)	750,983 (17.6%)	6,286 (13.2%)	276,655 (7.1%)
All trading partners		8,197,270	4,269,752	47,442	3,880,075

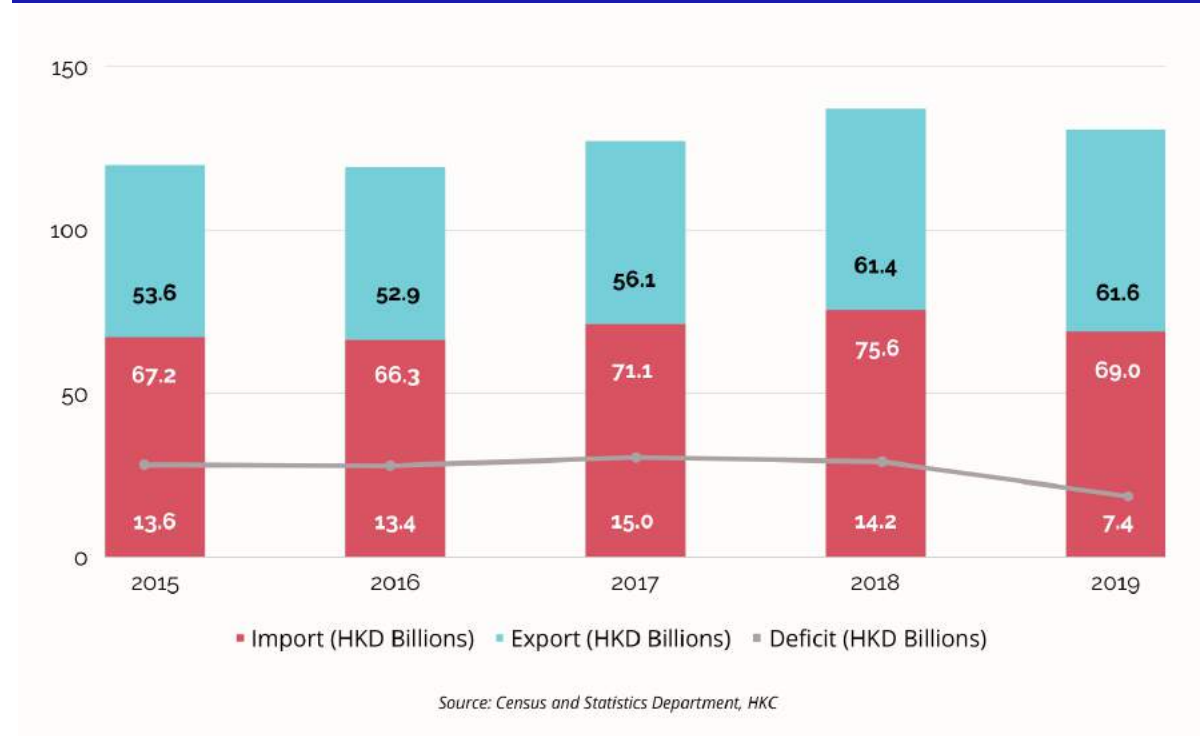
Source: Trade and Industry Department, HKC

Trade in Services

ASEAN – HKC trade in services have increased in recent years. According to HKC's statistics, the bilateral trade in services reached HKD 131 billion in 2019, with ASEAN's exports to HKC amounting to more than HKD 61.6 billion and its imports from HKC standing at HKD 69.0 billion. Meanwhile, HKC's trade in services with ASEAN accounted for around 10% of its total trade in services, making ASEAN HKC's fourth largest partner for trade in services, after the Mainland China, the European Union and the U.S.

ASEAN has previously had deficit in trade in services with HKC, which has narrowed over the years as the growth rate of ASEAN's exports has been higher than the growth rate of ASEAN's imports. For example, ASEAN's trade in services deficit with HKC stood at HKD 13.6 billion in 2015, accounting for 11.3% of the total ASEAN – HKC trade in services. Nonetheless, these numbers dropped to HKD 7.4 billion in 2019 (or 5.6% of the total bilateral trade in services). Among AMS, Singapore has been the largest partner of HKC in trade in services, accounting for around 45% ASEAN's trade in services with HKC in 2019.

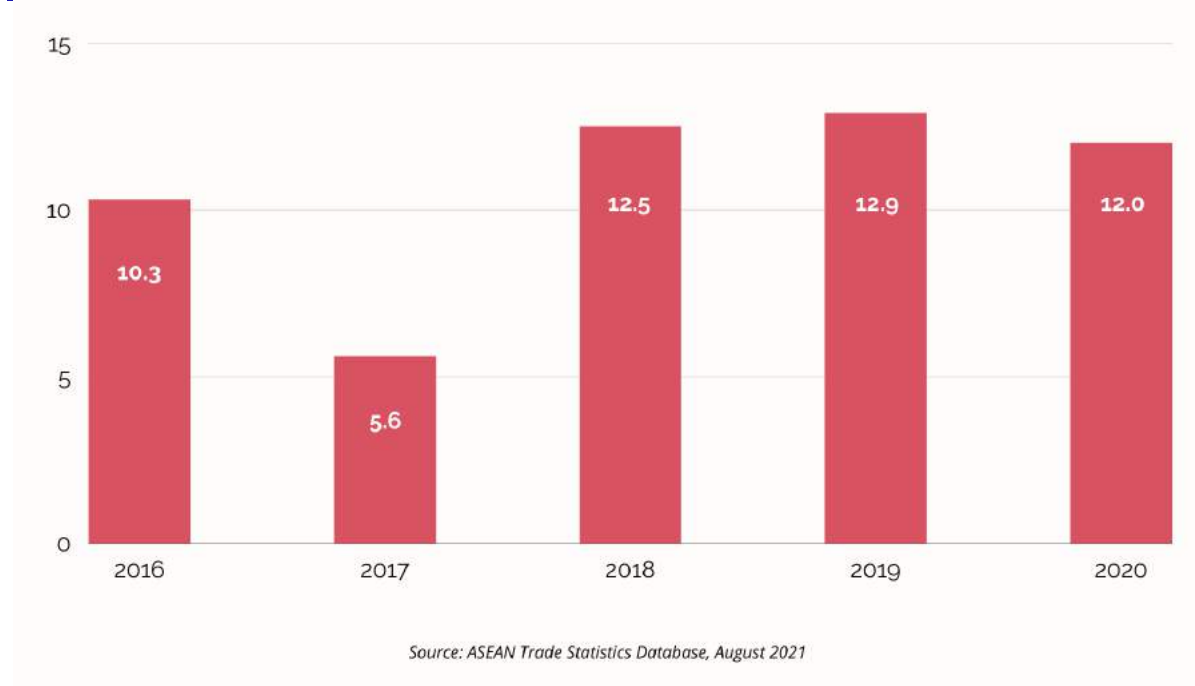
Chart 2: ASEAN Trade in Services with HKC (2015-2019)



Investment

HKC is a major foreign direct investment (FDI) source of ASEAN. Over recent years, FDI from HKC has reached above USD 10 billion, except in 2017 when it only amounted to USD 5.6 billion. FDI from HKC has been above USD 12 billion since 2018, making HKC among ASEAN's top five biggest investors. In 2020, FDI flows from HKC to ASEAN amounted to USD 12 billion (or 8.7% of ASEAN's total FDI), making HKC the second largest source of FDI for ASEAN.

Chart 3: FDI Inflow from HKC to ASEAN in USD Billions



B. General Overview of the AHKFTA and the AHKIA

Background of the AHKFTA and the AHKIA

Sharing a strong mutual commitment to support a rules-based international trade system and to strengthen trade flows, ASEAN and HKC agreed to negotiate an FTA in April 2013. Both sides also agreed to simultaneously negotiate a separate investment agreement.

Negotiations for the AHKFTA and ASEAN – HKC Investment Agreement (AHKIA) commenced in July 2014. After ten rounds of negotiations, ASEAN and HKC concluded the AHKFTA and AHKIA negotiations in September 2017.

Comprehensive in scope, the AHKFTA and the AHKIA are set to strengthen trade and investment linkages between ASEAN and HKC. The agreements cover several significant areas, including tariff reduction for traded goods, removal or reduction of restrictions for trade in services, longer stay for business travellers, and better investment protection. These bring legal certainty, better market access and fair and equitable treatment to cross-border trade and investments between ASEAN and HKC, thereby creating new trade and business opportunities, especially for MSMEs.

Both agreements were signed on 12 November 2017 in the Philippines, and entered into force on 11 June 2019 and 17 June 2019, respectively. All Parties fully implemented the agreements on 12 February 2021.

The dates of entry into force (EIF) of the AHKFTA and the AHKIA for HKC and the ten (10) AMS are as follows:

Table 2: EIF Dates of the AHKFTA and the AHKIA for HKC and the AMS		
Parties	AHKFTA	AHKIA
HKC	11 June 2019	17 June 2019
Brunei Darussalam	20 October 2020	20 October 2020
Cambodia	12 February 2021	12 February 2021
Indonesia	4 July 2020	4 July 2020
Laos	11 June 2019	17 June 2019
Malaysia	13 October 2019	13 October 2019
Myanmar	11 June 2019	17 June 2019
The Philippines	12 May 2020	17 June 2019
Singapore	11 June 2019	17 June 2019
Thailand	11 June 2019	17 June 2019
Viet Nam	11 June 2019	17 June 2019

Key Features of the AHKFTA and the AHKIA

The [AHKFTA](#) contains fourteen (14) chapters, covering broad areas of market access liberalisation, trade facilitation, rules to promote confidence in trade, and co-operation. All of these are aimed at facilitating trade in goods and services in the region.

The concluded text of the AHKFTA consists of a Preamble and fourteen (14) chapters, as follows:

- (i) Establishment of the Free Trade Area, Objectives, General Definitions and Interpretations;
- (ii) Trade in Goods;
- (iii) Rules of Origin (ROO);
- (iv) Customs Procedures and Trade Facilitation (CPTF);
- (v) Sanitary and Phytosanitary Measures (SPS);
- (vi) Standards, Technical Regulations and Conformity Assessment Procedures (STRACAP);
- (vii) Trade Remedies;
- (viii) Trade in Services;
- (ix) Economic and Technical Co-operation (ECOTECH);
- (x) Intellectual Property (IP);
- (xi) General Provisions and Exceptions;
- (xii) Institutional Provisions;
- (xiii) Consultations and Dispute Settlement; and
- (xiv) Final Provisions.

A summary of the relevant provisions under the AHKFTA is annexed to this Guidebook. Below are the salient features and expected benefits of the AHKFTA to manufacturers and traders operating in ASEAN and HKC:

- [Trade in Goods \(Chapter 2\)](#) and other related chapters, including tariff liberalisation, ROO (Chapter 3), CPTF (Chapter 4), SPS (Chapter 5), STRACAP (Chapter 6), and trade remedies (Chapter 7).

- HKC and Singapore committed to eliminate customs duties on all products upon entry into force. Other ASEAN countries have made the following tariff elimination and reduction commitments:

ASEAN Member States	Tariff Elimination	and	Tariff Reduction
Brunei, Malaysia, the Philippines, and Thailand	About 85% of all tariff lines within 10 years	(+)	About another 10% of all tariff lines within 14 years
Indonesia and Viet Nam	About 75% of all tariff lines within 10 years	(+)	About another 10% of all tariff lines within 14 years
Cambodia, Laos, and Myanmar	About 65% of all tariff lines within 15 years	(+)	About another 20% of all tariff lines within 20 years

Details of the tariff commitments of all ASEAN countries and HKC are set out in [Annex 2-1 \(Schedules of Commitments\)](#) of the AHKFTA.

- Businesses can enjoy significant ‘tariff savings’ under the AHKFTA for products that meet the ROO ([Chapter 3 of the AHKFTA](#)). The AHKFTA contains a list of Product Specific Rules (PSRs) that traders can easily refer to, and check the ROO criteria of their specific products (at the 6-digit HS Code level).
- The AHKFTA also promotes mutual co-operation in customs administration as outlined in the CPTF provisions ([Chapter 4 of the AHKFTA](#)). This is to ensure that customs procedures and practices applied to cross-border trade of goods between ASEAN and HKC are predictable, consistent, transparent and trade facilitating.
- Moreover, ASEAN and HKC commit to strengthen co-operation in SPS and STRACAP ([Chapters 5 and 6](#) of the Agreement, respectively).
- ASEAN and HKC reaffirm their rights and obligations on trade remedies under the World Trade Organization (WTO) Agreements ([Chapter 7 of the AHKFTA](#)).

- [Trade in Services \(Chapter 8\)](#)

- The AHKFTA includes general obligations to facilitate trade in services, such as transparency, non-discriminatory treatment to service suppliers and investors of both sides, and fair domestic regulations. These increase legal certainty and regulatory predictability for businesses, as well as promote reforms to open new areas for businesses.
- ASEAN and HKC also commit to establishing rules for granting temporary entry and temporary stay, expeditious processing of applications and reasonable fees for the movement of natural persons which comprise business visitors, intra-corporate transferees and other categories of persons.

- The AHKFTA also guarantees market access on a wide range of service sectors, such as professional services, business services, telecommunications services, construction and related engineering services, education services, financial services, tourism and travel-related services, transport and arbitration services. Details of Specific Commitments made by ASEAN and HKC are set out in [Annex 8-1 \(Schedules of Specific Commitments\)](#).
- The AHKFTA provides a regular review mechanism for future negotiations aimed at improving market access commitments and progressive liberalisation.

- **[Economic and Technical Co-operation \(ECOTECH\) \(Chapter 9\)](#)**

- The ECOTECH Chapter seeks to enhance the benefits of the AHKFTA through capacity building programmes and technical assistance. HKC has committed to contributing HKD 25 million (or USD 3.2 million) to initiate a plan of economic collaboration in five (5) priority areas, namely: (i) trade facilitation/logistics, (ii) SMEs, (iii) e-commerce, (iv) customs, and (v) professional services. In 2021, the list was expanded to include five (5) additional areas, namely: (i) SPS, (ii) STRACAP, (iii) IP, (iv) digital technology to facilitate trade, and (v) investment promotion and facilitation.
- The [ECOTECH Work Programme](#), which was finalised in September 2017, will be implemented for a period of five years, starting from 1 January 2020. A total of 14 projects were approved by the AHKFTA Joint Committee (JC) in 2020 and 2021.

- **[Intellectual Property Rights \(IPR\) \(Chapter 10\)](#)**

- In addition to reaffirming their rights and obligations under the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), ASEAN and HKC have also agreed to promote and strengthen co-operation in the areas of Intellectual Property Rights (IPRs). This will enhance economic and trade relations between both sides.

- **[Dispute Settlement \(Chapter 13\)](#)**

- ASEAN and HKC have agreed to establish a transparent mechanism for consultations and settlement of potential disputes. An [Arbitral Tribunal](#) may be established if consultations fail to resolve disputes.

In addition to the FTA, ASEAN and HKC signed the [AHKIA](#) to complement the AHKFTA, particularly the Trade in Services Chapter. It contains provisions to further liberalise, promote and facilitate investments among Parties.

The AHKIA provides ASEAN and HKC investors with non-discriminatory treatment of investments in non-services sectors and protection of investments in all sectors, which include the following:

- Fair and equitable treatment of investments;
- Full protection and security of investments;
- Compensation according to the agreed standard in case of expropriation of investments;

- Non-discriminatory treatment in compensation for investment losses or damages owing to war, armed conflict, civil strife, or similar events; and
- Free transfer of investments and returns.

ASEAN and HKC have also agreed on a Work Programme to further discuss a few issues, including investment liberalisation and the mechanism for settling investment disputes between an investor and the host party.

II. UNLOCKING NEW TRADE AND INVESTMENT OPPORTUNITIES FOR BUSINESSES IN ASEAN AND HKC THROUGH THE AHKFTA



A. Tangible Benefits on Trade in Goods under the AHKFTA for Businesses in ASEAN and HKC

This section discusses how the AHKFTA can help businesses, particularly MSMEs, reduce trade costs and expand into other AHKFTA markets in real and practical terms. Moreover, it tackles how non-tariff challenges businesses face when exporting and importing products between ASEAN and HKC.

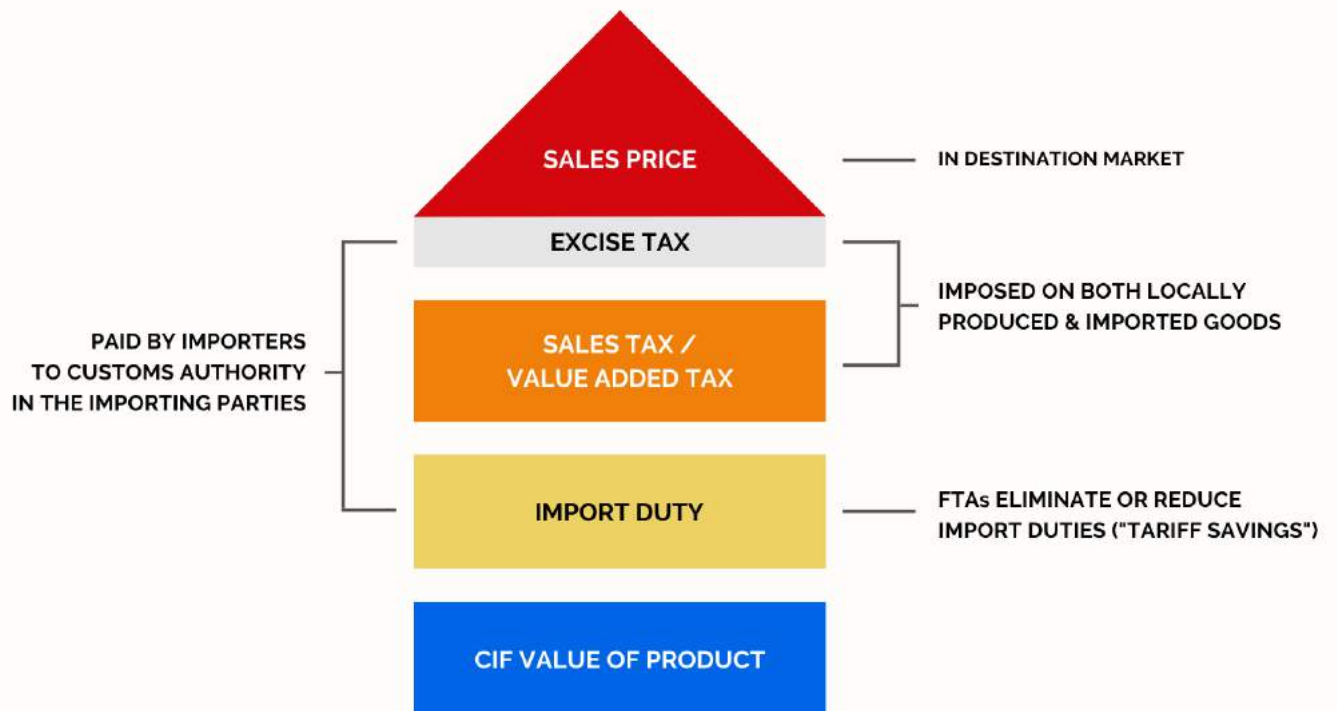
1) Potential "Tariff Savings" under the AHKFTA

Businesses can enjoy substantial "tariff savings" due to tariff reduction or elimination under the AHKFTA². Generally, FTAs substantially reduce or eliminate duties on imported goods, thereby increasing price competitiveness of a product through tariff savings. Under the Agreement, Parties have committed to progressively reduce or even eliminate customs duties on at least 80% of goods traded in the region. This means traders can now enjoy tariff-free or lower rates for traded goods, instead of paying the regular import duties, usually in the form of most-favoured-nation (MFN) rates that lead to added costs for businesses.

These 'tariff savings' can potentially lower the costs of exporting or importing products among AHKFTA Parties, thus increasing productivity and price competitiveness.

² A summary of the tariff reduction commitments by commodity can be found from the website of the HKC's Trade and Industry Department (<https://www.tid.gov.hk/english/ita/fta/hkasean/tig.html>).

Figure 1: "Tariff Savings" through FTAs



Example: A company from HKC exports HKC-origin toys, with a trade value of USD 1,000,000, to ASEAN countries.

Table 3: Tariff savings through the AHKFTA

HS Code	Product Description	AMS	Import Duties			Margin of Preference	Potential Tariff Savings	
			MFN Rate	AHKFTA Category	AHKFTA Rate			
9503.00.21	Dolls, whether or not dressed	Brunei Darussalam	0%	NT1		0%	0%	-
		Cambodia	7%	NT1	2019	6%	1%	USD 10,000
					2020	5%	2%	USD 20,000
					2022	3%	4%	USD 40,000
					2023	2%	5%	USD 50,000
					2024	1%	6%	USD 60,000
					2025	0%	7%	USD 70,000
		Indonesia	15%	EL	No tariff reduction/elimination commitment			
		Laos	5%	NT1	2019	4%	1%	USD 10,000
					2022	3%	2%	USD 20,000
					2024	2%	3%	USD 30,000
					2026	0%	5%	USD 50,000
		Malaysia	0%	NT1	2019	0%	0%	-
		Myanmar	7.5%	SL	2027	7%	0.5%	USD 5,000
					2032	6%	1.5%	USD 15,000
					2035	5%	2.5%	USD 25,000
		The Philippines	10%	NT2	2019	8%	2%	USD 20,000
					2021	6%	4%	USD 40,000
					2023	4%	6%	USD 60,000
					2025	2%	8%	USD 80,000
					2027	1%	9%	USD 90,000
					2028	0%	10%	USD 100,000
		Singapore	0%	0% from its EIF (June 2019)				-
		Thailand	20%	HSL		20%	0%	-
		Viet Nam	10%	NT2	2019	8%	2%	USD 20,000
					2021	6%	4%	USD 40,000
					2023	4%	6%	USD 60,000
					2025	2%	8%	USD 80,000
					2027	0%	10%	USD 100,000



- **Bound rates (tariff binding):** commitment not to increase a rate of duty beyond an agreed level. Once a rate of duty is bound, it may not be raised without compensating the affected parties.
- **Applied rates:** MFN duties that are actually charged on imports. These can be below the bound rates.
- **Margin of Preference** = MFN rate – FTA rate
- **Potential Tariff Savings** = Trade Value x Margin of Preference

In the example above, instead of paying the applied MFN rate for the importation of HKC-origin toys into Cambodia, Laos, Myanmar, the Philippines and Viet Nam, a trader can potentially save costs associated with import tariffs under the AHKFTA. For instance, exportation of HKC-origin dolls (worth USD 1,000,000) to Cambodia in 2020 can enjoy ‘tariff savings’ of USD 20,000. Instead of paying a 7% import duty (or USD 70,000), the importer in Cambodia will only have to pay USD 50,000. The ‘tariff savings’ will increase by increments of USD 10,000 per year. By 2025, the amount to be saved by the importer will be 70,000.

Concurrently, the potential ‘tariff savings’ are higher for the exportation of dolls to the Philippines and Viet Nam, as both apply a 10% MFN rate, which shall be gradually reduced and eliminated by 2028 and 2027, respectively, under the AHKFTA. This means that doll traders can enjoy a ‘tariff savings’ of USD 100,000 (for an export value of USD 1,000,000) starting 2028 for the Philippines and 2027 for Viet Nam. Similar to Cambodia, the ‘tariff savings’ for importers in the Philippines and Vietnam will grow as the ‘margin of preference’ increases.

FTAs provide businesses with a more stable and predictable environment. The COVID-19 pandemic has taken a heavy toll on the economy of many countries and regions since early-2020. Some have resorted to increasing their MFN rates in order to raise revenue for procuring vaccines and paving the way for their post-COVID-19 economic recovery. Nevertheless, Parties under the AHKFTA are constrained from “backtracking” of their tariff commitments (Article 3 – Standstill of [Chapter 2](#)), preventing them from increasing the import tariffs they committed under the AHKFTA (as set out in their tariff reduction schedules). In the event that a Party needs to backtrack on their tariff commitments under the AHKFTA due to unforeseen and unavoidable circumstances, it will need to compensate for such tariff modification with respect to other goods.

The AHKFTA allows a more transparent implementation of trade measures. In accordance with their respective internal laws and to the extent possible, all Parties must publicly make available on the internet any laws, regulations, decisions and rulings. The AHKFTA also provides a consultation mechanism where a Party can request for detailed information, through the designated contact points under the AHKFTA, on any proposed or actual measures of other Parties that may materially affect trade in goods. These initiatives will provide more support to traders in the AHKFTA implementation.

The AHKFTA allows the acceleration of tariff commitments (Article 4 of Chapter 2). This provision allows Parties, at any time, to unilaterally accelerate or improve their tariff commitments as set out in their tariff reduction schedules. Any such acceleration or improvement of tariff commitments shall be extended to all Parties.

The AHKFTA allows regional accumulation. Raw materials from any other AHKFTA Parties used in processed/finished products will be considered as “originating” content. This regional accumulation mechanism provides the key advantage to processed products traded between ASEAN and HKC. It particularly provides businesses located in ASEAN countries the flexibility to source cheaper and quality inputs from HKC, thereby increasing productivity and improving the quality of final goods.

2) Trade-facilitative / Cost-Efficient Mechanisms under the AHKFTA

[Chapter 4 of the AHKFTA \(“Customs Procedures and Trade Facilitation”\)](#) contains mechanisms to promote a predictable, transparent, efficient administration of customs procedures and expeditious clearance of goods. It also encourages the simplification and harmonisation of said customs procedures.

Specifically, it includes mechanisms to help businesses reduce costs in exporting and importing their products between ASEAN and HKC, as follows:

a) Advance rulings on tariff classification, ROO and customs valuation

Traders are often confronted with inconsistent product classification, origin and value decisions, depending on Customs offices or authorities. This leads to uncertainty in the entire trade transaction as these different decisions impact the amount of duties to be paid, and ultimately, the final price of the product. To address this, the AHKFTA provides for written advance rulings for the origin, classification and valuation of goods. These advance rulings are binding for at least three years, subject to Party’s internal law and administrative determinations. This initiative ensures certainty, predictability, reliability and consistency in exporting and importing goods between ASEAN and HKC.

b) Authorized Economic Operators (AEO) Programme

The AHKFTA includes an AEO scheme, where Parties committed to establishing a programme in accordance with the SAFE Framework of Standards to Secure and Facilitate Global Trade of the World Customs Organization (WCO). Parties will endeavour to work towards mutual recognition of AEOs to allow businesses to significantly cut down time and costs associated with customs clearance. This will also minimise delays of products at the border which can negatively affect the quality and safety, and even result in spoilage, of perishable goods.

3) Opportunities to Address Business Concerns on Non-Tariff Measures (NTMs) under the AHKFTA

To complement tariff reduction and elimination outcomes, [Chapter 2 of the AHKFTA \(“Trade in Goods”\)](#) contains rules governing the implementation by AHKFTA Parties of quantitative restrictions (QRs), non-tariff measures (NTMs), and import licensing measures, in line with WTO rights and obligations.

Additionally, the AHKFTA has an entire chapter governing SPS ([Chapter 5](#)), and another chapter on STRACAP ([Chapter 6](#)).

- a) [Chapter 5 \(“Sanitary and Phytosanitary Measures”\)](#) sets out the basic framework for developing, adopting and applying SPS measures to protect human, animal or plant life or health, whilst minimising the adverse effects of SPS measures on trade.

This Chapter upholds and enhances the implementation of the WTO SPS Agreement, including incorporating relevant international standards, guidelines and recommendations concerning equivalence, adaptation to regional conditions (including pest-free or disease-free areas and areas of low pest or disease prevalence), and transparency. It also includes provisions for technical co-operation and consultations.

Table 4: Relevant Websites with Details of SPS Measures Imposed by AMS and HKC	
Party	Website(s)
Brunei Darussalam	ASEAN Trade Repository – Brunei Darussalam <ul style="list-style-type: none"> https://atr.asean.org/
Cambodia	Cambodia National Trade Repository – SPS Enquiry Points <ul style="list-style-type: none"> https://www.cambodiantr.gov.kh/
Indonesia	Indonesia SPS Notification <ul style="list-style-type: none"> https://karantina.pertanian.go.id/page-75-notifikasi-sps-indonesia.html
Lao PDR	Lao PDR Trade Portal – SPS Enquiry Points <ul style="list-style-type: none"> https://www.laotradeportal.gov.la/
Malaysia	Malaysia National Trade Repository <ul style="list-style-type: none"> http://mytraderepository.customs.gov.my/en/ntm/sps/Pages/sps.aspx
Myanmar	Myanmar National Trade Portal <ul style="list-style-type: none"> https://myanmartradeportal.gov.mm/en ASEAN Trade Repository <ul style="list-style-type: none"> https://atr.asean.org/links/result?level=3&id_topic1=44&id_topic2=62&id%20topic3=&country_code=mm&key= Ministry of Agriculture, Livestock, and Irrigation <ul style="list-style-type: none"> https://www.moali.gov.mm/en/ Department of Agriculture <ul style="list-style-type: none"> http://www.doa.gov.mm/doa/
The Philippines	Philippine National Trade Repository <ul style="list-style-type: none"> https://www.pntr.gov.ph/ Philippine TradeNet <ul style="list-style-type: none"> http://info.tradenet.gov.ph/ Department of Agriculture <ul style="list-style-type: none"> https://www.da.gov.ph/laws-and-issuances/ Bureau of Animal Industry <ul style="list-style-type: none"> https://www.bai.gov.ph/index.php/regulatory/itemlist/category/87-%20regulatory Bureau of Plant Industry <ul style="list-style-type: none"> https://www.buplant.da.gov.ph/ Food and Drug Administration <ul style="list-style-type: none"> https://www.fda.gov.ph/

Table 4: Relevant Websites with Details of SPS Measures Imposed by AMS and HKC

Party	Website(s)
	<p>Bureau of Fisheries and Aquatic Resources</p> <ul style="list-style-type: none"> • https://www.bfar.da.gov.ph/ <p>Fertilizer and Pesticide Authority</p> <ul style="list-style-type: none"> • http://fpa.da.gov.ph/ <p>National Tobacco Administration</p> <ul style="list-style-type: none"> • http://nta.da.gov.ph/ <p>National Meat Inspection Service</p> <ul style="list-style-type: none"> • http://nmis.gov.ph/ <p>Philippine Drug Enforcement Agency</p> <ul style="list-style-type: none"> • http://pdea.gov.ph/ <p>Firearms and Explosives Office</p> <ul style="list-style-type: none"> • http://feo-system.com/ • https://www.pntr.gov.ph/feo/
Singapore	<p>Food Agency Legislation</p> <ul style="list-style-type: none"> • https://www.sfa.gov.sg/legislation/ • https://www.nparks.gov.sg/avs/resources/legislation/ <p>Animal & Veterinary Legislation</p> <ul style="list-style-type: none"> • https://www.nparks.gov.sg/avs/resources/legislation/ <p>Food Safety Standards</p> <ul style="list-style-type: none"> • https://www.sfa.gov.sg/regulatory-limits/ <p>Import Requirements for Food</p> <ul style="list-style-type: none"> • https://www.sfa.gov.sg/food-import-export/ <p>Import Requirements for Dogs and Cats</p> <ul style="list-style-type: none"> • https://www.nparks.gov.sg/avs/pets/bringing-animals-into-singapore-and-exporting/bringing-in-and-transshipping-dogs-and-cats/preparing-to-bring-dogs-and-cats-into-singapore/ <p>Import Requirements for Other Animals</p> <ul style="list-style-type: none"> • https://www.nparks.gov.sg/avs/pets/bringing-animals-into-singapore-and-exporting/import-export-and-transshipment-of-other-animals/assistance-dogs/ <p>Import Requirements for Plants</p> <ul style="list-style-type: none"> • https://www.nparks.gov.sg/services/plant-health-services/bringing-plants-and-plant-products-into-singapore • https://www.nparks.gov.sg/services/plant-health-services/bringing-plants-and-plant-products-into-singapore/guidelines-on-bringing-plants-into-singapore
Thailand	<p>National Bureau of Agricultural Commodity and Food Standards</p> <ul style="list-style-type: none"> • http://www.acfs.go.th/ • www.spsthailand.net/ <p>Department of Agriculture</p> <ul style="list-style-type: none"> • http://www.doa.go.th/

Table 4: Relevant Websites with Details of SPS Measures Imposed by AMS and HKC

Party	Website(s)
	Department of Livestock Development <ul style="list-style-type: none"> • http://www.dld.go.th/ Department of Fisheries <ul style="list-style-type: none"> • https://www4.fisheries.go.th/index.php/dof_en Food and Drug Administration <ul style="list-style-type: none"> • http://www.fda.moph.go.th/
Viet Nam	Vietnam Sanitary and Phytosanitary Notification Authority and Enquiry Point <ul style="list-style-type: none"> • http://www.spsvietnam.gov.vn/
HKC	Agriculture, Fisheries, and Conservation Department <ul style="list-style-type: none"> • https://www.afcd.gov.hk/ Centre for Food Safety <ul style="list-style-type: none"> • https://www.cfs.gov.hk/

b) Chapter 6 (“Standards, Technical Regulations, and Conformity Assessment Procedures”) includes provisions to enhance transparency in the development of technical barriers to trade (TBT) measures by AHKFTA Parties. It also promotes greater regulatory co-operation and good regulatory practice. Similar to the SPS Chapter, this Chapter also contains provisions to minimise the negative effects arising from regulations on trade, as well as mechanisms to address specific trade issues to remove unnecessary TBTs.

Likewise, the STRACAP Chapter promotes the implementation of the WTO TBT Agreement and mutual understanding of each Party’s STRACAP. The overall goal of this Chapter is to effectively reduce transaction costs for businesses by enhancing transparency in the development of TBT measures and encouraging greater regulatory co-operation and good regulatory practice. Specifically, this Chapter contains a provision strengthening information exchange among AHKFTA Parties on STRACAP through designated contact points.

In the area of co-operation, Article 8 of the STRACAP Chapter states that, on a mutually determined terms and conditions, AHKFTA Parties shall co-operate in the field of STRACAP, which may include:

- a) Advice or technical assistance relating to the development and application of STRACAP;
- b) Co-operation between both governmental and non-governmental conformity assessment bodies concerning use of accreditation to qualify conformity assessment bodies, as well as enhancing infrastructure in

calibration, testing, inspection, certification and accreditation to meet relevant international standards, recommendations and guidelines;

- c) Co-operation in areas of mutual interest in the work of relevant regional and international bodies relating to the development and application of STRACAP; and
- d) Enhancing co-operation in the development and improvement of technical regulations and conformity assessment procedures, e.g. development and promotion of good regulatory practice, transparency and promotion of improved access to information on STRACAP, and risk management on matters relating to health, safety, environment and deceptive practices.

Upon request of one Party, Parties may agree on particular sectors to be covered for co-operation.

Additionally, Article 10 of the STRACAP Chapter (“Agreements or Arrangements”) commits Parties to identify STRACAP-related trade-facilitating initiatives appropriate for particular issues or sectors. Such trade-facilitating initiatives may include agreements or arrangements on regulatory issues, e.g. alignment of standards, convergence or equivalence of technical regulations, conformity assessment procedures and compliance issues.

B. Better Business Opportunities for Trade in Services

Chapter 8 of the AHKFTA ("Trade in Services") aims to open up avenues to expand trade in services among Parties through the substantial removal of restrictive and discriminatory measures affecting trade in services. The scope and coverage of trade in services commitments under the AHKFTA are generally in line with Parties' commitments under the WTO's General Agreement on Trade in Services (GATS). Individual Parties, nonetheless, have made more commitments, i.e. GATS-plus, in terms of specific trade in services commitments.

These improved commitments for trade in services are also important to manufacturers and traders of goods, and investors, as they undertake services-related activities to support their international business. Such activities include establishing an in-market presence, forming commercial partnerships or providing after-sales services.

1) General Obligations

Service suppliers from AHKFTA Parties will benefit from general commitments made to enhance transparency and predictability of domestic regulations affecting trade in services. These commitments improve the business environment across Parties and provide plenty of opportunities for service providers to offer their services with legal protections that guarantee market access and non-discriminatory treatment in AHKFTA markets.

The AHKFTA also provides for a regular review mechanism, paving the way for future negotiations on improvements to market access commitments and further liberalisation.

2) Specific Commitments³

Chapter 8 further includes specific commitments to facilitate trade in services by establishing high-quality rules for the supply of services. These rules include the following obligations for all Parties, subject to listed specific exceptions:

- To treat local and foreign suppliers equally in similar circumstances (**national treatment**)
- To provide access to foreign service suppliers such as the removal or reduction of restrictions on foreign capital participation, the number of service providers or operations, the value of service transactions, the number of persons employed, and the types of legal entity or joint venture requirements (**market access**)

³ Summary tables of services commitments by sector can be found from the website of the HKC's Trade and Industry Department (<https://www.tid.gov.hk/english/ita/fta/hkasean/tis.html>).

Examples: Parties allow AMS and HKC enterprises to have foreign capital participation of up to 50% or even full ownership in many sectors. These include the tourism sector (for certain regions) and meal serving services with full restaurant services for Indonesia; marketing research services and scientific consulting services for Viet Nam; and oil and gas exploration development and construction for large-scale mining development projects for the Philippines.

- To grant temporary entry into relevant Parties, in accordance with their individual commitments, to business visitors, intra-corporate transferees, contractual services suppliers and independent specialists, experts or professionals of AMS and HKC (**temporary movement of natural persons**, particularly business persons engaged in trade in goods, the supply of services, and the conduct of investment activities)

Examples: Thailand committed to allow the temporary stay of AMS and HKC business visitors for up to 90 days, and intra-corporate transferees for up to one year which is extendable for up to another three years. Viet Nam's commitments, on the other hand, are extended to independent specialists/experts/ professionals and contractual services suppliers.

All AHKFTA Parties' specific commitments encompass a wide range of sectors, such as professional services, business services, telecommunications services, construction and related engineering services, educational services, financial services, tourism and travel related services, transport services and arbitration services. Said commitments of AMS and HKC under the AHKFTA can be found in their Schedules of Specific Commitments (Annex 8-1). [By-sector summary tables](#) are also provided, for ease of reference.

Below are some examples of specific commitments in national treatment and market access made by AHKFTA Parties:

Table 5: AMS Commitments in National Treatment and Market Access under AHKFTA	
Party	Specific Commitments
Brunei Darussalam	<ul style="list-style-type: none"> • Opens construction and related engineering services
Indonesia	<ul style="list-style-type: none"> • Opens restaurant services • Allows foreign equity participation not exceeding 51% (higher than the WTO's 49%) for construction and related engineering services
Lao PDR	<ul style="list-style-type: none"> • Opens specialty design services, retailing services, and certain services of trading for own account or for account of customers under financial services
Malaysia	<ul style="list-style-type: none"> • Opens urban planning and landscape architectural services and maritime freight forwarding services

Table 5: AMS Commitments in National Treatment and Market Access under AHKFTA

Party	Specific Commitments
	<ul style="list-style-type: none"> Allows an aggregate foreign interest up to 30% or RM10 million (USD 2.5 million) in value on mergers, acquisitions and take-overs, while the respective WTO commitment is RM5 million
Myanmar	<ul style="list-style-type: none"> Opens professional services such as engineering services and landscape architectural services, as well as insurance and insurance-related services (e.g. actuarial services)
The Philippines	<ul style="list-style-type: none"> Opens ship building services Allows, in the financial leasing sector, foreign nationals to own up to 50% (versus the WTO's 40%) of the voting stock. Also, foreign nationals may become members of the Board of Directors to the extent of the foreign participation in the equity of the enterprise, while the respective limit is one-third under the WTO commitment
Thailand	<ul style="list-style-type: none"> Opens arbitration services allowing foreign arbitrators to provide services in Thailand under domestic laws and regulations Allows foreign equity participation not exceeding 70% (higher than the WTO's 49%) of the registered capital in some sectors, such as electronic mail services, research and experimental development services in linguistics and languages, sales of internet advertising space (except on commission), and science and technology faculty
Singapore	<ul style="list-style-type: none"> Opens technical testing and analysis services and adult education services
Vietnam	<ul style="list-style-type: none"> Opens professional services such as accounting and auditing and bookkeeping services, and taxation services
HKC	<ul style="list-style-type: none"> Opens computer and related services, specialty design services, and spa services

C. Promotion and Protection of Investments

The AHKIA, which contains twenty-nine (29) articles and two (2) annexes (Annex 1 – Schedules of Reservations and Annex 2 – Expropriation and Compensation), is an important tool that further strengthens the robust investment ties between AMS and HKC. Apart from investment promotion (Article 15) and facilitation (Article 16), the AHKIA boosts investors' confidence in the AHKFTA markets.

It complements the AHKFTA, especially the Trade in Services Chapter, containing provisions on the treatment of investments in services sectors, among others. Furthermore, the AHKIA provides ASEAN and HKC investors with non-discriminatory treatment of investments in non-services sectors and protection of investments in all sectors, with respect to their investments in the other Party. Such protection is afforded to enterprises investing in AMS and HKC by obliging Parties to provide the following:

- Fair and equitable treatment;
- Full protection and security of investments;
- Compensation according to the agreed standard in case of expropriation of investments and in a freely usable currency as determined by the International Monetary Fund;
- Non-discriminatory treatment in compensation for investment losses or damages owing to war, armed conflict, civil strife, or similar events; and
- Free transfer of investments and returns.

Further, the AHKIA provides for a regular review mechanism, allowing future negotiations to broaden the scope of liberalisation and to further strengthen and enhance investment ties between ASEAN and HKC.

To ensure that all Parties fully implement their commitments under the AHKIA, a dispute settlement mechanism is established for consultations and settlements of possible disputes.

Parties have also agreed on a Work Programme to further discuss certain issues, including the mechanism for settling investment disputes between an investor and the host party.

D. Economic and Technical Co-operation (ECOTECH)

[Chapter 9 of the AHKFTA \(“Economic and Technical Co-operation”\)](#) sets out the commitment by all Parties to conduct economic and technical co-operation (ECOTECH) activities in specific priority areas. This Chapter aims to enhance the benefits of the FTA through capacity-building programs in priority areas as set out in the Work Programme, including customs co-operation, professional services, SMEs co-operation, trade facilitation and logistics, e-commerce co-operation, and the like.

In August 2020, Ministers during the 4th AEM-HKC Consultations welcomed the endorsement of six (6) projects for the ECOTECH Work Programme 2020 under the AHKFTA, namely:

- 1) Integrating SMEs in eco-friendly packaging to the global value chain;
- 2) Enhancing AHKFTA utilization through harmonized and sustainable operations in the digital era;
- 3) AEO expert mission and seminar on the benefits for Authorized Economic Operator (AEO) under Mutual Recognition;
- 4) Innovative products practices for food processing in Myanmar;
- 5) Capacity-building for the Frontline Officers and MSMEs of Cambodia, Lao PDR and Myanmar to implement AHKFTA tariffs and ROO; and
- 6) Workshop on strengthening the capacity of professional services particularly Accountancy Services.

A total of fourteen (14) projects have been approved by the AHKFTA-JC in 2020 and 2021.

The ECOTECH Chapter complements the expanded market access opportunities offered under the AHKFTA through providing capacity-building support and establishing market linkages among businesses in ASEAN and HKC. These targeted activities for the business sector will include seminars, workshops, exhibitions and on-site visits to help businesses enter the ASEAN and HKC markets.

III. LEVERAGING AHKFTA 'TARIFF SAVINGS' BENEFITS



A. Guide to Obtaining Preferential Tariff Treatment Using the AHKFTA

The AHKFTA offers substantial tariff concessions for various goods, especially by AMS for HKC goods. A summary of the Parties' tariff commitments can be found in Page 6 of this Guidebook.

To enjoy preferential tariff treatment under the AHKFTA, businesses should follow the practical steps below:

Figure 2: Four Key Steps to Apply for AHKFTA Preferential Tariffs

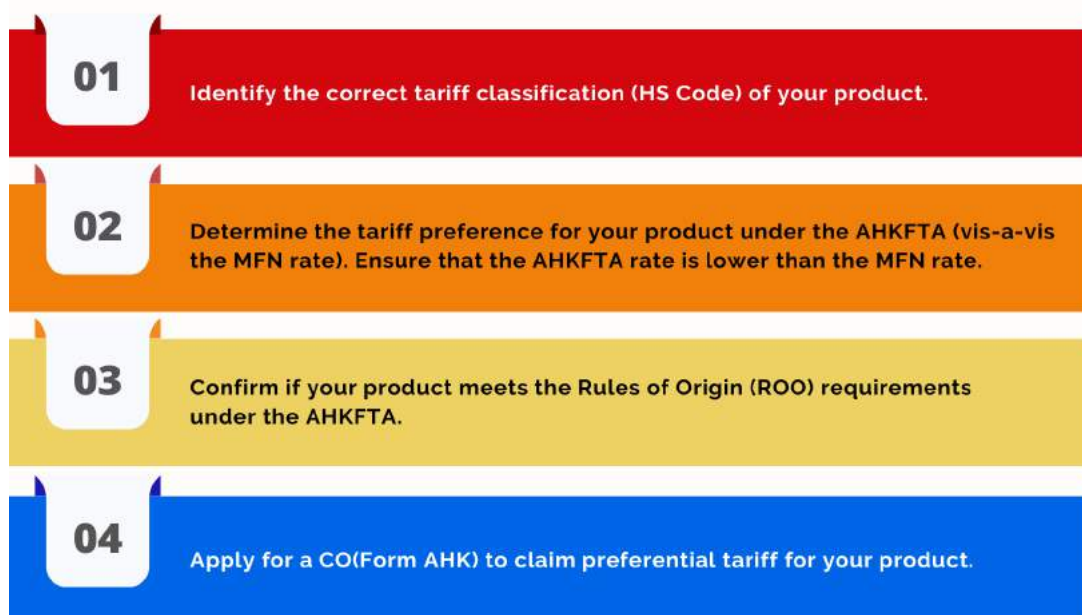
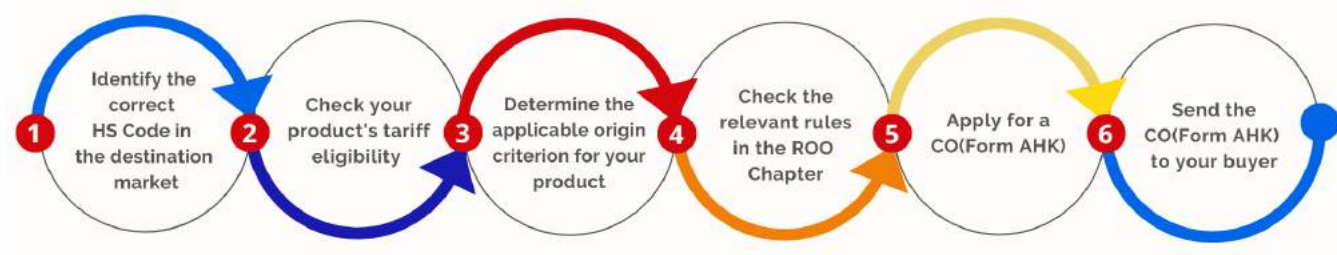


Figure 3: Practical Steps to Availing AHKFTA Preferential Tariffs



Step 1: Identify the correct tariff classification of your goods

Classification of Goods

To identify the correct customs tariff code for a good, businesses need to understand the **Harmonized Commodity Description and Coding System**, commonly referred to as the **Harmonized System (HS)**.

“HS” is a multipurpose international product nomenclature developed by the World Customs Organization (WCO). It is organized into twenty-one (21) sections, which are subdivided into ninety-seven (97) chapters. These chapters are further broken down into over 5,300 subheadings.

Section and chapter titles describe the broad categories of goods, while headings and subheadings describe products in more detail. Generally, HS sections and chapters are arranged in order of a product’s degree of manufacture or in terms of its technological complexity.

The international HS code consists of six (6) digits while domestic HS code consists of more than six (6) digits. The first two (2) digits designate the HS chapter. The second two (2) digits designate the HS heading. The third two (2) digits designate the HS subheading.

Example: HS Code 1006.30 (Semi-milled or wholly milled rice, whether or not polished or glazed)

10 06.30	Chapter 10 (Cereals)
10 06 .30	Heading 1006 (Rice)
1006. 30	Subheading 1006.30 (Semi-milled or wholly milled rice, whether or not polished or glazed)

More than 200 countries and economies use the system as a basis for their Customs tariffs and for the collection of international trade statistics. With over 98% of merchandise in international trade classified based on the HS, the Customs administration of the importing Party is responsible for determining the HS code of the goods.

Find out the HS code of your product

To find out the HS code applicable to your product, visit the AMS and HKC's Tariff Finders in the following list:

Table 6: AMS and HKC Tariff Finders	
Party	Website(s)
Brunei Darussalam	<ul style="list-style-type: none"> • https://login.bdnsw.gov.bn/bdnsw/publicjsf/tariff/PublicUserSearch.jsf
Cambodia	<ul style="list-style-type: none"> • http://v1.customs.gov.kh/publication-and-resources/customs-tariff-of-cambodia-2017/
Indonesia	<ul style="list-style-type: none"> • National Trade Repository: https://intr.insw.go.id/ • For Export: https://e-ska.kemendag.go.id/home.php/home/preferensi
Lao PDR	<ul style="list-style-type: none"> • https://laotradeportal.gov.la/index.php?r=tradeInfo/index
Malaysia	<ul style="list-style-type: none"> • http://mysstext.customs.gov.my/tariff/home
Myanmar	<ul style="list-style-type: none"> • National Trade Portal: http://www.myanmartradeportal.gov.mm/en • Customs Tariff: https://www.customs.gov.mm/sites/default/files/UpPDF/Customs%20Tariff%20of%20Myanmar%202017.pdf
The Philippines	<ul style="list-style-type: none"> • https://finder.tariffcommission.gov.ph/
Singapore	<ul style="list-style-type: none"> • Singapore FTAs – AHKFTA: https://www.enterprisesg.gov.sg/non-financial-assistance/for-singapore-companies/free-trade-agreements/ftas/Singapore-ftas/Ahkfta/ • Trade Net: http://www.tradenet.gov.sg/tradenet/portlets/search/searchHSCA/searchInitHSCA.do/ • Mendel Online: https://mendel-online.com/home#/?cid=ESG
Thailand	<ul style="list-style-type: none"> • http://itd.customs.go.th/igtf/en/main_frame.jsp
Viet Nam	<ul style="list-style-type: none"> • https://tongcuc.customs.gov.vn/index.jsp?pageId=24&id=NHAP_KHAU&name=Nh%E1%BA%ADp%20kh%E1%BA%A9u&cid=1201
HKC	<ul style="list-style-type: none"> • Tariff Codes: https://www.censtatd.gov.hk/en/index_hs_code.html • Tariff Rates: https://www.tid.gov.hk/english/import_export/tariffroo/tariffroo_maincontent.html

Type in your product name and click through the eight- or ten-digit HS code that best defines your product. You may refer to Annex 2-1 of the Agreement (“Schedules of Tariff Commitments”) which contains the respective tariff reduction schedules (TRS) committed by Parties under the AHKFTA.

For exporters, to be certain you have identified the correct tariff code for your good, we recommend you consult either the customs authority of the importing Party, or a professional customs broker or freight forwarder.

Advance rulings

If you are still unsure how your products will be treated under the AHKFTA, you can seek an advance ruling from the importing Party. AHKFTA Parties are obliged, subject to their internal law and administrative determinations, to provide written advance rulings on tariff classification and origin in response to requests by importers, exporters or producers.

Advance rulings may cover:

- Tariff classification of a specific product;
- Application of customs valuation criteria; and
- Determination whether a good is ‘originating’ in accordance with Chapter 3 (“Rules of Origin”).

Advance rulings are binding on the importing Customs authority and give greater certainty, in advance of trade taking place, to businesses who wish to know how their products will be treated under the AHKFTA.

Step 2: Understand how your goods will be treated under the AHKFTA

Once you have ascertained the tariff code of your product, you can determine how your goods will be treated under the AHKFTA, i.e. the AHKFTA tariff rate of your product, using the TRS of AHKFTA Parties. The TRS, which is based on the HS, contain Parties’ commitments to reduce customs duties on goods.

The AMS and HKC’s Tariff Finders listed in Table 6 of this Guidebook are online platforms that provide easy access to information for exporters, importers, and other stakeholders. Such information includes the preferential tariff rate on a product’s current and future tariff rates, the ROO requirements of a product, etc.

For ASEAN traders exporting their products to other AMS, where more than one FTA are available⁴, the Tariff Finders will help identify which FTA offers more significant tariff benefits.

⁴ These include the ASEAN Trade in Goods Agreement (ATIGA), ASEAN-Japan CEP Agreement (AJCEPA), ASEAN-Korea Free Trade Agreement (AKFTA), ASEAN-Australia-New Zealand Free Trade Agreement (AANZFTA), and the Regional Comprehensive Economic Partnership (RCEP).

Reading the Tariff Reduction Schedule (TRS)

Each tariff line in the TRS contains the following details:

- The tariff code (up to 8 – 10 digits);
- A description of the products covered by the tariff code;
- A ‘base rate’ column showing the base duty rate of tariff that applied in 2014. This is the starting point on which tariff reductions occur;
- The category for tariff reductions; and
- The tariff that will be applied according to the year of implementation.

The TRS for each Party can be found at:

https://www.tid.gov.hk/english/ita/fta/hkasean/text_agreement.html.

If you are exporting to AHKFTA Parties, you need to check the TRS of each importing Party, as well as Annex 2-1 of the AHKFTA which provides the general notes to AHKFTA TRS and an explanation of the specific staging categories for your specific products.

The staging categories include:

• Normal Track 1:	Immediate elimination of the tariff from the date of entry into force of the AHKFTA for that Party
• Normal Track 2:	Gradual elimination of the tariff over time
• Sensitive List:	Gradual reduction of the tariff to 0-5% over time
• Highly Sensitive List:	Gradual reduction of the tariff to no more than 50% over time
• Exclusion List:	Products remain at MFN rate, i.e. the tariff commitment that Party has made in the WTO

Applied tariffs

The “base rate” under the AHKFTA is the tariff used as the basis for negotiations on tariff reduction and/or elimination. Any Party may, nevertheless, unilaterally apply a lower tariff rate at any time, which could mean that it is applying a lower MFN tariff rate compared to the base rate set out in the AHKFTA TRS. For example, an AMS may temporarily reduce a tariff for a commodity in short supply.

ASEAN and HKC traders must assess whether it is more advantageous to import under the preferential AHKFTA tariff, the current applied MFN tariff or through other FTAs. Importers and exporters will have the option to select which arrangement best suits them. It is a commercial decision for businesses to decide which agreement to use. ASEAN traders exporting products to HKC should also note that HKC’s MFN tariffs for all products are already 0%.

Step 3: Determine whether your goods meet the ROO requirements

The AHKFTA preferential Rules of Origin (ROO) are agreed criteria used to ensure that only ‘originating’ goods will receive the AHKFTA preferential customs duties set out in the importing Party’s TRS. This prevents non-Parties to the Agreement from gaining preferential benefits under the AHKFTA. Imports into an AHKFTA Party that do not comply with the ROO as set out in Chapter 3 and its Annex 3-2 (Product Specific Rules) may be subject to either the applied MFN rate or an applicable alternative FTA rate (e.g. ATIGA) for AMS, instead of the preferential rates offered under the AHKFTA.

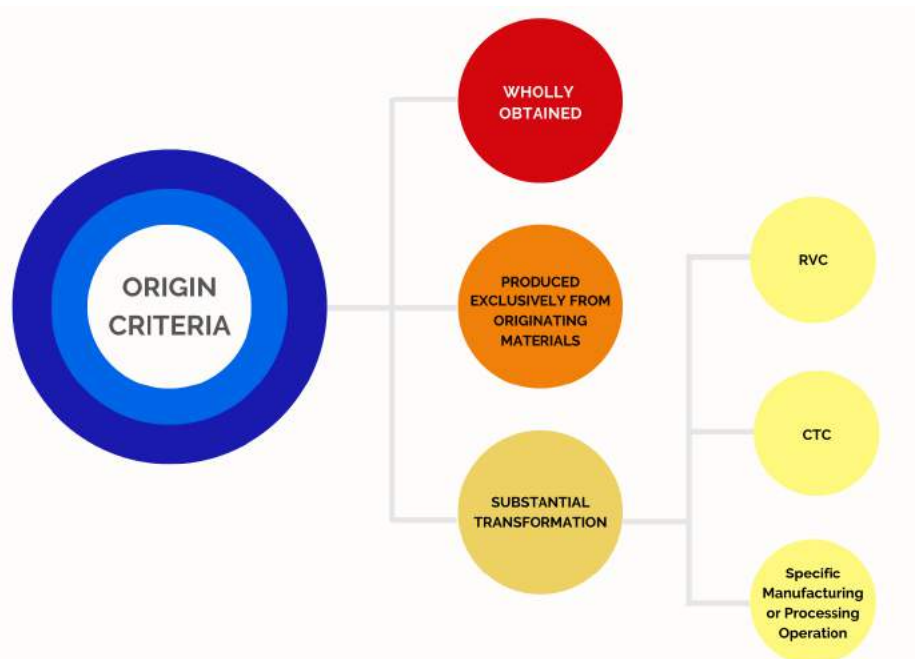
The ROO Chapter and its Annexes can be found at the link below:

- https://www.tid.gov.hk/english/ita/fta/hkasean/text_agreement.html

A good may be considered as ‘originating’ from an AHKFTA Party if the following requirements are fulfilled:

- It is wholly obtained or produced in the exporting Party as established in Article 4 (Wholly Obtained or Produced Goods); or
- It is produced in the exporting Party, exclusively from originating materials from one or more of the Parties; or
- It is manufactured using non-originating materials which have been subjected to “substantial transformation” following the requirements under Article 5 (Not Wholly Obtained or Produced Goods); and
- It also meets the other requirements set out in Chapter 3 (Rules of Origin) such as transit and transshipment rules.

Figure 4: Determining Origin Criteria



Wholly obtained or produced (WO) goods

“Wholly obtained or produced (WO)” is one of the basic origin criteria used to determine the ‘originating’ status of a good. In general, goods are considered to be WO when they are either obtained entirely in the exporting Party (e.g. goods grown, born and raised, gathered, or extracted there) or produced entirely in the Party from materials that are also WO in that same Party. This criterion is normally applied to mineral exports, most agricultural/aquaculture products, and waste and scraps.

Box 1 of Table 8 (Flow Chart of AHKFTA ROO) in Page 42 of this Guidebook sets out the categories of goods that are treated as WO under the AHKFTA.

Wholly Obtained or Produced Goods in an AHKFTA Party



Example 1

Corn is harvested and milled in Thailand to produce corn flour. The corn flour is **originating** because:

- (i) the corn, being harvested in Thailand, is a wholly obtained good; and
- (ii) the corn flour, which is a 100% derivative of the corn, is wholly produced in Thailand (an AHKFTA Party).



Example 2

Tin and lead mined in Indonesia are combined in Indonesia to produce pewter. The pewter is **originating** because both tin and lead are wholly obtained goods, given that they are minerals extracted in Indonesia (an AHKFTA Party).



Example 3

Rice and spices grown in Myanmar are mixed together to make spiced rice. The spiced rice is **originating** because both rice and spices used are WO goods, as they are produced or obtained from parts of plants grown in Myanmar (an AHKFTA Party).

Goods produced in a Party exclusively from originating materials from one or more Parties (PE)

Goods produced entirely in the exporting Party and exclusively from originating materials from one or more Parties are considered ‘originating’ and qualify for preferential tariff treatment. This means some of the materials could be obtained outside the exporting Party and made originating by satisfying requirements under the substantial transformation of ROO (Article 5).

In contrast with WO, PE allows the use of materials that qualify as originating in accordance with the provisions in Chapter 3 of the AHKFTA, instead of merely materials that are wholly obtained or produced in the same Party. Compared to the substantial transformation of ROO (Article 5), PE looks at the originating status of the materials of the good that is being exported, instead of the substantial transformation that the good itself has undergone.

Let’s take olive soap (HS 3401.11) manufactured in an AHKFTA Party as an example. The olive comes from Spain, which is a country outside of the AHKFTA, but is substantially transformed into olive oil in Thailand, thereby making the olive oil an “originating material.” If the olive soap manufacturer in Malaysia uses this olive oil and other originating materials, including sodium hydroxide and various fat, the olive soap will qualify as goods produced exclusively from originating materials under the PE provision.

However, should the manufacturer use sodium hydroxide from Mainland China, which is a non-AHKFTA Party, as one of the raw materials, the olive soap will not qualify under the PE provision.

Whether the olive soap is originating under the AHKFTA will have to be determined in accordance with the substantial transformation rule. For HS Code 3401.11, that means whether the regional value content (RVC) requirement could be met.

Goods that underwent substantial transformation – for goods manufactured from non-originating materials

Article 5 of Chapter 3 (“Not Wholly Obtained or Produced Goods”) explains how goods manufactured from non-originating materials shall be treated as originating goods and how the “General Rule” works within the AHKFTA.

A good covered by Product Specific Rules (PSRs) as specified in Annex 3-2 of the AHKFTA shall be treated as ‘originating’ if it meets the relevant product-specific rule. On the other hand, a good not covered by the AHKFTA’s PSRs shall be treated as an originating good if the good has a RVC of not less than 40% calculated using the formula set out in Article 6 (“Calculation of Regional Value Content”).

Under this Article, goods manufactured from non-originating materials are considered ‘originating’, provided the non-originating materials have undergone a substantial transformation that meets the prescribed requirements.

The General Rule under the AHKFTA is that originating materials and processes must represent a specific proportion of the product's final value, i.e. an RVC of not less than 40% or "RVC(40)". This General Rule is applied to all tariff lines under the AHKFTA, except for those listed in Annex 3-2.

RVC(40) is also a common rule in the ROO of the ATIGA, the RCEP and other ASEAN +1 FTAs. Thus, understanding the RVC Rule is very important for businesses to benefit from the AHKFTA and other available FTA.

Article 6: Calculation of Regional Value Content

1. For the purposes of Article 5 (Not Wholly Obtained or Produced Goods), the formula for calculating RVC is as follows:

- (a) **Direct / Build-up Method**

$$RVC = \frac{AHKFTA \text{ Material Cost} + \text{Direct Labour Cost} + \text{Direct Overhead Cost} + \text{Other Costs} + \text{Profit}}{FOB \text{ Price}} * 100\%$$

- (b) **Indirect / Build-down Method**

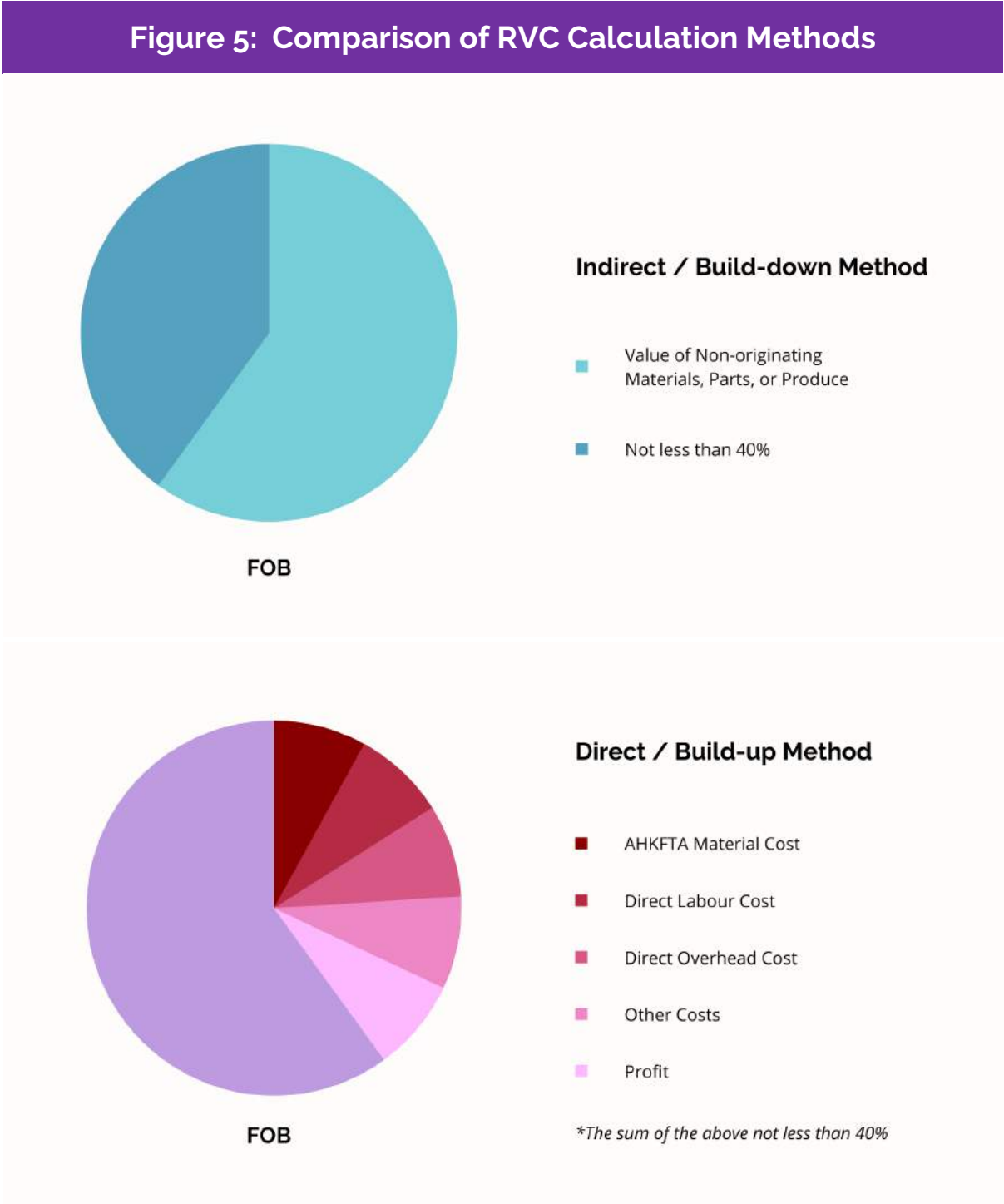
$$RVC = \frac{FOB \text{ Price} - \text{Value of Non - Originating Materials, Parts or Produce}}{FOB \text{ Price}} * 100\%$$

2. For the purposes of calculating the RVC provided in paragraph 1:

- (a) **AHKFTA Material Cost** is the value of originating materials, parts or produce that are acquired or self-produced by the producer in the production of the good;
- (b) **Value of Non-Originating Materials, Parts, or Produce** is the CIF value at the time of importation or the earliest ascertained price paid for all non-originating materials, parts or produce that are acquired by the producer in the production of the good; non-originating materials include materials of undetermined origin;
- (c) **Direct Labour Cost** includes wages, remuneration and other employee benefits associated with the manufacturing process;
- (d) **Direct Overhead Cost** includes, but is not limited to, real property items associated with the production process (insurance, factory rent and leasing, depreciation on buildings, repair and maintenance, taxes, interests on mortgage); leasing of and interest payments for plant and equipment; factory security; insurance (plant, equipment and materials used in the manufacture of the goods); utilities (energy, electricity, water and other utilities directly attributable to the production of the goods); research, development, design and engineering; dies, moulds, tooling and the depreciation, maintenance and repair of plant and equipment; royalties or licences (in connection with patented machines or processes used in the manufacture of the goods or the right to manufacture the goods); inspection and testing of materials and the goods; storage and handling in the factory; disposal of recyclable wastes; and cost elements in computing the value of raw materials, i.e. port and clearance charges and import duties paid for dutiable component; and
- (e) **Other Costs** are the costs incurred in placing the good in the ship or other means of transport for export including, but not limited to, domestic transport costs, storage and warehousing, port handling, brokerage fees and service charges.

3. The value of goods under this Chapter shall be determined in accordance with the Customs Valuation Agreement. The Parties shall harmonise, to the extent possible, administrative procedures and practices in the assessment of value of goods for customs purposes.

Like the ATIGA, RCEP or most of other ASEAN+1 FTAs, the AHKFTA provides the choice of two formula, i.e. Direct/Build-up Method or Indirect/Build-down Method, to demonstrate that the RVC requirement has been satisfied. This gives the manufacturer or exporter the flexibility to determine which method is more appropriate for their good or business model.



The succeeding pages further illustrate examples of the RVC Calculation under the AHKFTA.



Example 1: Table tennis bats (HS 9506.40) are produced in HKC and are sold for USD 10 FOB:

1. Rubber grips from the Mainland of China	USD 3
2. AHKFTA originating materials	USD 4
3. Labour cost	USD 1
4. Overhead cost	USD 0.5
5. Profit	USD 1
6. Transportation cost	USD 0.5

The ROO for subheading 9506.40 is RVC(40). Are the table tennis bats originating?

Answer:

- The RVC under the Direct/Build-up method is:

- $$RVC = \frac{AHKFTA \text{ Materials} + \text{Labour Cost} + \text{Overhead Cost} + \text{Transport Costs} + \text{Profit}}{FOB} * 100\%$$

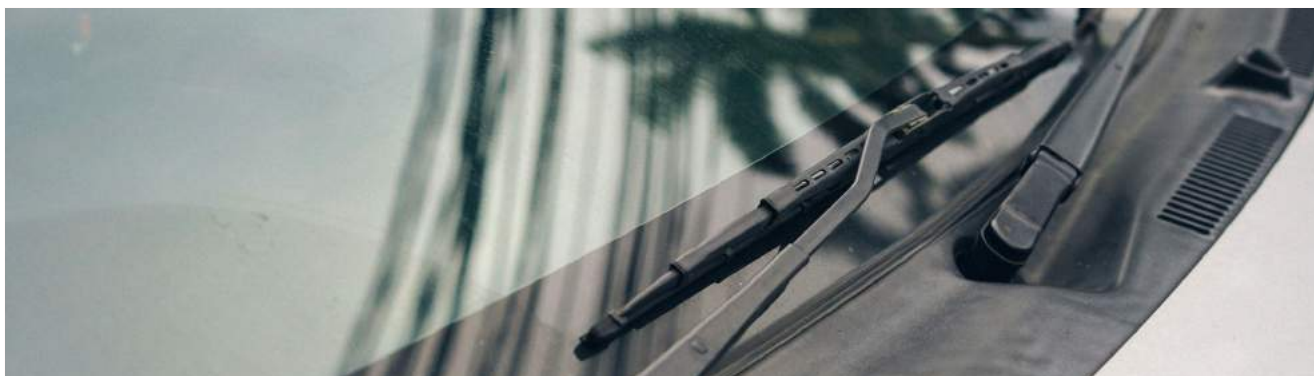
- $$RVC = \frac{USD 4 + USD 1 + USD 0.5 + USD 0.5 + USD 1}{USD 10.00} * 100\% = 70\%$$

- The RVC under the Indirect/Build-down method is:

- $$RVC = \frac{FOB - \text{Non-originating materials, parts or produce}}{FOB} * 100\%$$

- $$RVC = \frac{USD 10 - USD 3}{USD 10.00} * 100\% = 70\%$$

The table tennis bats are considered as 'originating' under both methods, since the required RVC(40) has been met.



Example 2: Parts for windscreen wipers (HS 8512.90) are produced in Thailand and sold for USD 100,000 FOB:

1. Materials imported from Japan	USD 45,000
2. AHKFTA materials cost	USD 30,000
3. Labour cost	USD 10,000
4. Overhead cost	USD 1,000
5. Profit	USD 14,000
6. Other costs	USD 0

Are the parts originating if the ROO for this sub-heading is RVC(40)?

Answer:

- The RVC under the Direct/Build-up method is:

- $$RVC = \frac{AHKFTA \text{ Materials} + \text{Labour Cost} + \text{Overhead Cost} + \text{Transport Costs} + \text{Profit}}{FOB} * 100\%$$

- $$RVC = \frac{USD 30,000 + USD 10,000 + USD 1,000 + USD 14,000}{USD 100,000} * 100\% = 55\%$$

- The RVC under the Indirect/Build-down method is:

- $$RVC = \frac{FOB - \text{Non-originating materials, parts or produce}}{FOB} * 100\%$$

- $$RVC = \frac{USD 100,000 - USD 45,000}{USD 100,000} * 100\% = 55\%$$

The parts are considered as 'originating' under both methods, since the required RVC(40) has been met.



Example 3: Pencils (HS 9609.10) are produced in Indonesia and sold for USD 1.3 FOB:

1. Materials imported from Japan	USD 0.50
2. AHKFTA originating materials	USD 0.50
3. Other costs and profit	USD 0.30
Are the pencils originating if the ROO is RVC(40)?	

Answer:

1. The RVC under the Direct/Build-up method is:

- $$RVC = \frac{AHKFTA \text{ Materials} + Labour \text{ Cost} + Overhead \text{ Cost} + Transport \text{ Costs} + Profit}{FOB} * 100\%$$

- $$RVC = \frac{USD 0.5 + USD 0.3}{USD 1.3} * 100\% = 61.5\%$$

2. The RVC under the Indirect/Build-down method is:

- $$RVC = \frac{FOB - Non-originating \text{ materials, parts or produce}}{FOB} * 100\%$$

- $$RVC = \frac{USD 1.3 - USD 0.5}{USD 1.3} * 100\% = 61.5\%$$

The pencils are considered as 'originating' under both methods, since the required RVC(40) has been met.

Example 4: Hub unit wheel bearings (HS 8482.10) are produced in Singapore.
The bearings are made from the following components:

1. Outer rings (8482.99)	EU	USD 27
2. Hub ring (8482.99)	US	USD 26
3. Inner ring (8482.99)	Japan	USD 5
4. Encode seal (8482.99)	Malaysia	USD 10
5. Ball sets (8482.99)	HKC	USD 5
6. Wheel studs (7318.29)	The Mainland of China	USD 4

The FOB Value of each bearing is USD 100. The additional costs are as follows:

1. Labour cost	USD 15
2. Overhead cost	USD 1
3. Transportation cost	USD 6
4. Profit	USD 1

The AHKFTA ROO criterion for subheading 8482.10 is the General Rule of RVC(40).

Answer:

1. The RVC under the Indirect/Build-down method is:

- $$RVC = \frac{FOB - \text{Non-originating materials, parts or produce}}{FOB} * 100\%$$

- $$RVC = \frac{USD 100 - (USD 27 + USD 26 + USD 5 + USD 4)}{USD 100} * 100\% = 38\%$$

2. The RVC under the Direct/Build-up method is:

- $$RVC = \frac{AHKFTA \text{ Materials} + \text{Labour Cost} + \text{Overhead Cost} + \text{Transport Costs} + \text{Profit}}{FOB} * 100\%$$

- $$RVC = \frac{(USD 10 + USD 5) + USD 15 + USD 1 + USD 6 + USD 1}{USD 100} * 100\% = 38\%$$

Since the RVC is 38%, it does not meet the RVC(40) criterion. Thus, the hub unit wheel bearings are **not originating**.

Product Specific Rules (PSRs)

The PSRs are detailed in Annexes 3-2 and 3-3 of Chapter 3 of the AHKFTA.

Annex 3-2 lists the origin criteria for 237 HS tariff lines, while Annex 3-3 lists 557 HS tariff lines of which the origin criteria are subject to further negotiations upon the entry into force of AHKFTA. For the products listed in Annex 3-3, WO, PE or the General Rule of RVC(40) currently applies.

The table below illustrates some of the PSRs under the AHKFTA:

Table 7: Product Specific Rules under the AHKFTA			
Serial No	HS Code (HS2012)	Product Description	Origin Criteria
230	8412.21	Hydraulic power engines and motors: linear acting (cylinders)	RVC(40) or CTH
231	8462.10	Forging or die-stamping machines (including presses) and hammers	RVC(40) or CTH
232	8486.40	Machines and apparatus specified in Note 9 (C) to this Chapter	RVC(40) or CTH
233	8523.41	Optical media: unrecorded	RVC(40) or CTH
234	8534.00	Printed circuits	RVC(40) or CTH
235	8542.39	Electronic integrated circuits: other	RVC(40) or CTH
236	8542.90	Parts	RVC(40) or CTH
237	8548.10	Waste and scrap of primary cells, primary batteries, and electric accumulators; spent primary cells, spent primary batteries, and spent electric accumulators	WO

The table above shows that Annex 3-2 includes WO, Change in Tariff Classification (CTC) and RVC rules. With the alternative option of an RVC or CTC criteria, goods do not have to satisfy both criteria. A manufacturer or exporter has the discretion to obtain the origin status of a specific product by fulfilling either the RVC or the CTC criteria. Based on their current business practices, the producer or exporter can assess which ROO rule is best suited to their production processes.

Change in Tariff Classification (CTC) Rules

Under the AHKFTA, the CTC approach only applies to several lines in Annex 3-2. A CTC rule requires **non-originating materials** incorporated into a final good undergo a change in tariff classification (using the HS code) in an AHKFTA Party.

Different products may be subject to different CTC rules, which are applicable at three levels of the HS Code:

1. Change in Chapter (CC)

Change in Chapter (CC) means that all non-originating materials used in the production of the good have undergone a change in tariff classification at the 2-digit level (i.e. a change in chapter) of the HS.

2. Change in Heading (CTH)

Change in Tariff Heading (CTH) means that all non-originating materials used in the production of the good have undergone a change in tariff classification at the 4-digit level (i.e. a change in heading) of the HS.

3. Change in Sub-heading (CTSH)

Change in Tariff Sub-heading (CTSH) means that all non-originating materials used in the production of the good have undergone a change in tariff classification at the 6-digit level (i.e. a change in subheading) of the HS.

De Minimis

If exporters of an AHKFTA Party use the CTC approach, the AHKFTA ROO provides additional flexibility through a *de minimis* provision (Article 10).

Under the *de minimis* provision, a good that does not satisfy a CTC requirement shall be considered as 'originating' if the value of all the non-originating materials used in its production that do not undergo the required CTC does not exceed 10% of the FOB value of the good. Additionally, the good must meet all other applicable criteria set out in Chapter 3 to qualify as an originating good.

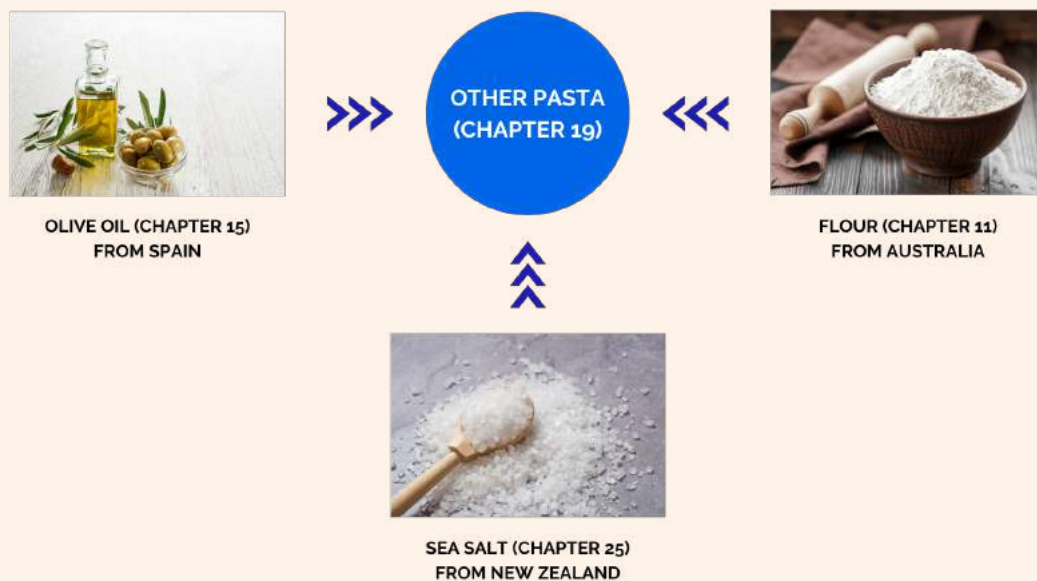
The *de minimis* principle is applied regardless of the CTC level (i.e. CC, CTH or CTSH) that is required by the ROO. The *de minimis* provision, however, does not prevent the value of non-originating materials from being counted in the value of non-originating materials for any applicable RVC requirement for the good.

Example: Other pasta (HS 1902.30) is produced in Malaysia using flour (HS 1101.00) imported from Australia, olive oil (HS 1509.90) imported from Spain, Malaysia chicken's egg (HS 0407.21) and sea salt (HS 2501.00) imported from New Zealand.

Is the pasta originating if the rule for the pasta is RVC(40) or CC?

Answer:

The non-originating ingredients (flour of Chapter 11, olive oil of Chapter 15, and sea salt of Chapter 25) are all classified to a Chapter that is different to that where the final good falls (Chapter 19), while there is no need to consider the HS of the chicken eggs because it is originating in Malaysia. Therefore, the CC requirement has been met and the pasta is considered to be originating under this method.



How to find the PSR applicable to your product:

Using the tariff classification from Step 1, you can check Chapter 3, Annex 3-2: Product Specific Rules of Origin:

https://www.tid.gov.hk/english/ita/fta/hkasean/files/AHKFTA_Chapter_3_Annex_3-2.pdf.

With your tariff code, identify the relevant entry in the schedule. Please note that PSRs are listed at subheading (six-digit) level. If you find your products listed in Annex 3-2, then the fourth column (Origin Criteria) will identify the PSR for that product.

In the following example, printed circuits must either meet the RVC(40) criterion or all non-originating materials used in production must undergo a change in tariff classification at the 4-digit level (i.e. CTH). On the other hand, other electronic integrated circuits must either meet the RVC(40) rule or all non-originating materials used in production must undergo a change in tariff classification at the 6-digit level (i.e. CTSH).

Serial No.	HS Code (HS2021)	Product Description	Origin Criteria
234	8534.00	Printed circuits	RVC(40) or CTH
235	8542.39	Electronic integrated circuits; other	RVC(40) or CTSH

If your product cannot be found in Annex 3-2, the General Rule of RVC(40) will be applied if it uses non-originating materials.

It should also be noted that the product descriptions in Annex 3-2 are extracts only and have to be read in the context of the full HS schedule in order to understand their meanings.

Please refer to the HS schedule at the website of the WCO for details:

<http://www.wcoomd.org/en/topics/nomenclature/instrument-and-tools/tools-to-assist-with-the-classification-in-the-hs/hs-online.aspx>.

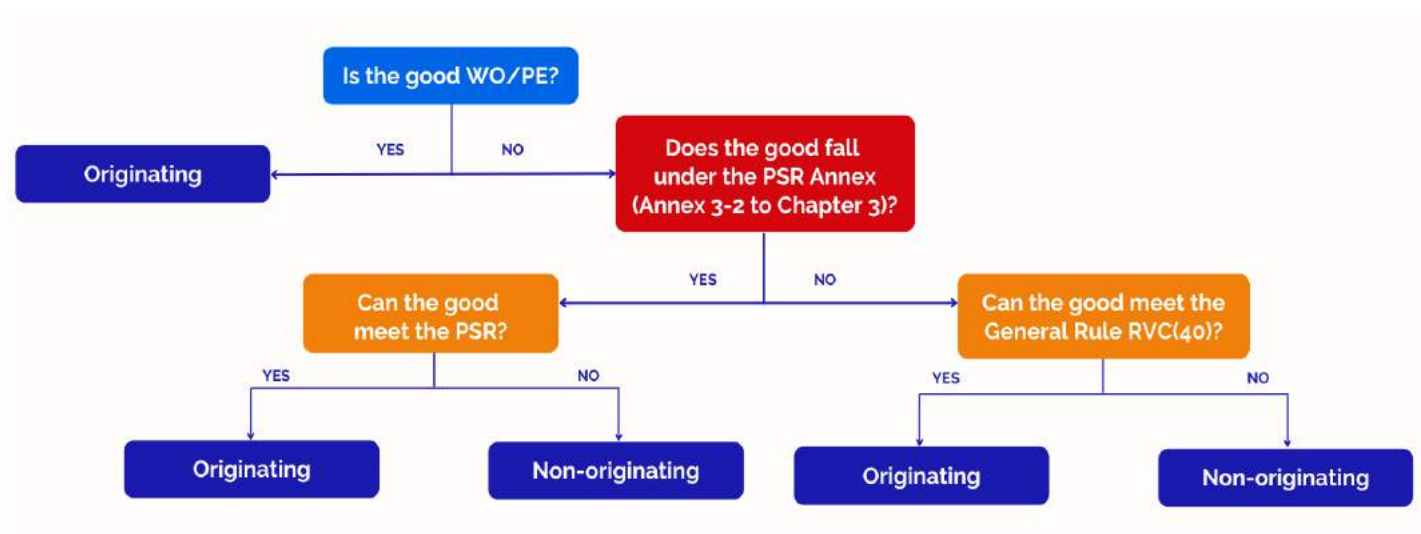
Table 8: Flow Chart of AHKFTA Rules of Origin

Box 1. Is the good wholly obtained or produced?	Box 2. Is the good produced exclusively from originating materials?	Box 3. Does the good meet PSR requirements, including CTC rules?	Box 4. Does the good meet the General Rule of RVC(40)?
Wholly obtained or produced goods from the territory of the exporting Party (see AHKFTA Chapter 3, Article 4):	A good produced in the exporting Party exclusively from originating materials from one or more of the Parties (see AHKFTA Chapter 3, Article 3).	Check the rule applicable to the tariff classification for your goods at Annex 3-2: Product Specific Rules, for example:	Working out RVC
(a) Plants and plant products, including fruits, flowers, vegetables, trees, seaweed, fungi, and live plants grown, harvested, picked, or gathered in a Party;		CC – Do the non-originating inputs that went into the product now come under a different <u>HS chapter</u> as part of the finished product (change in any of the first two digits of the tariff classification)?	Refer to the section under “Calculation of RVC is provided in Article 6” on page 32
(b) Live animals including mammals, birds, fish, crustaceans, mollusks, reptiles, bacteria, and viruses born and raised in a Party;			
(c) Goods obtained from live animals in a Party;		CTH – Do the non-originating inputs that went into the good now come under a different <u>HS heading</u> as part of the finished product (change in any of the first four digits of the HS classification)?	
(d) Goods obtained from hunting, trapping, fishing, farming, aquaculture, gathering, or capturing conducted in a Party;			
(e) Minerals and other naturally-occurring substances not included in (a) to (d), extracted or taken from the soil, waters, seabed, or beneath the seabed in a Party;			
(f) Products of sea-fishing extracted or taken by vessels registered with the exporting Party and entitled to fly the flag of that Party, as well as minerals and other naturally-occurring substances extracted or taken from the waters, seabed, or beneath the seabed outside the waters of the exporting Party, provided that the Party has the rights to exploit such waters, seabed, and beneath the seabed, in accordance with international law;		CTSH – Do the non-originating inputs that went into the product now come under a different <u>HS subheading</u> as part of the finished product (change in any of the six digits of the HS classification)?	

Table 8: Flow Chart of AHKFTA Rules of Origin

Box 1. Is the good wholly obtained or produced?	Box 2. Is the good produced exclusively from originating materials?	Box 3. Does the good meet PSR requirements, including CTC rules?	Box 4. Does the good meet the General Rule of RVC(40)?
<p>(g) Products of sea-fishing and other marine products taken from the high seas by vessels registered with a Party and entitled to fly the flag of that Party;</p> <p>(h) Products processed or made on board factory ships registered with a Party or entitled to fly the flag of that Party, exclusively from products referred to in (g);</p> <p>(i) Goods which are:</p> <p>i. Waste and scrap derived from production and consumption in a Party, provided that such goods are fit only for the recovery of raw materials or for recycling purposes; or</p> <p>ii. Used goods collected in a Party, provided that such goods are fit only for the recovery of raw materials or for recycling purposes; and</p> <p>(j) Goods obtained or produced in the exporting Party apart from products referred to in (a) to (i).</p>		<p>If certain non-originating inputs do not satisfy the applicable change in tariff classification, de minimis allows goods where the inputs have not undergone the requisite CTC to still qualify as originating if the value of such non-originating materials does not exceed 10% of the value of the final good.</p> <p>The good still needs to meet all other applicable provisions of the Chapter of Rules of Origin.</p>	

Figure 5: Step-by-Step AHKFTA Origin Determination



Other factors to determine origin

There are other important factors to consider when determining whether a good qualifies as 'originating' under the AHKFTA, as follows:

Accumulation

In practical terms, the AHKFTA accumulation provision allows for the geographical extension of accumulation to all Parties in the Agreement, i.e. regional accumulation. Allowable activities can occur in any of AHKFTA Parties to determine whether the final good is 'originating'.

The AHKFTA provides that once a good is determined to be originating from an AHKFTA Party, it can be counted as originating material in the manufacture of another good in another Party (originating materials accumulation). Therefore, if a material is originating under the AHKFTA and is then exported to another AHKFTA Party, it will be considered as 100% originating when used in the production of another good in that Party.

Full (or 100%) value of such originating material is included in the final RVC of the good regardless of the actual source of components used in the production of the material. However, processing activities undertaken in one or more AHKFTA Parties that result in non-originating materials exported to another AHKFTA Party cannot be counted towards the origin determination of a good produced with these non-originating materials (i.e. processing activities that are not sufficient to substantially transform non-originating materials into an originating good cannot be accumulated in subsequent production activities).



Example: A concrete pump (HS 8413.40) that is produced in Malaysia and sold for USD 50,000 FOB:

1. Engines (HS 8408.20) are imported from HKC, which was made by:	USD 25,000
• Steel (HS 7211.13) from the Mainland of China;	USD 10,000
• Other non-originating materials	USD 5,000
• HKC's value added to the engine (HKC's originating materials, labour cost, overhead cost, profit, etc.)	USD 10,000
2. Pumps (HS 8481.40) are imported from USA	USD 16,000
3. All other non-originating materials for the concrete pump	USD 2,000
4. Labour	USD 3,000
5. Overheads	USD 1,000
6. Profit	USD 3,000

Is the concrete pump originating if the ROO is RVC(40)?

Answer:

RVC of the engine

- The RVC under the Direct/Build-up method is:

- $$RVC = \frac{AHKFTA \text{ Materials} + \text{Labour Cost} + \text{Overhead Cost} + \text{Transport Cost} + \text{Profit}}{FOB} * 100\%$$

- $$RVC = \frac{USD 10,000}{USD 25,000} * 100\% = 40\%$$

- The RVC under the Indirect/Build-down method is:

- $$RVC = \frac{FOB - \text{Value of non-originating materials}}{FOB} * 100\%$$

- $$RVC = \frac{USD 25,000 - (USD 10,000 + USD 5,000)}{USD 25,000} * 100\% = 40\%$$

Therefore, the engine meets the ROO of RVC(40) and has the 'originating' status.

Origin of the concrete pump using the Direct/Build-up method is:

- $$RVC = \frac{AHKFTA \text{ Materials} + \text{Labour Cost} + \text{Overhead Cost} + \text{Transport Cost} + \text{Profit}}{FOB} * 100\%$$
- $$RVC = \frac{USD 25,000 + USD 3,000 + USD 1,000 + USD 3,000}{USD 50,000} * 100\% = 64\%$$

Therefore, the concrete pump meets the RVC(40) and has the 'originating' status.

Note: The concrete pump has originating status because the accumulation allowed the materials produced in another AHKFTA Party to be treated as originating materials. In this case, the engine imported from HKC is treated as originating materials and considered to be 100% originating. Therefore, when the RVC is calculated for the concrete pump, the 100% value of the engine, not HKC added value of the engine, is added.

If there was no accumulation under AHKFTA, the RVC of the concrete pump would be:

- $$RVC = \frac{AHKFTA \text{ Materials} + \text{Labour Cost} + \text{Overhead Cost} + \text{Transport Cost} + \text{Profit}}{FOB} * 100\%$$
- $$RVC = \frac{USD 3,000 + USD 1,000 + USD 3,000}{USD 50,000} * 100\% = 14\%$$

In this case, the concrete pump would not satisfy the RVC(40) criterion, and thus, cannot be granted an 'originating' status.

Non-Qualifying Operations (Minimal Operations)

Similar to RCEP, ATIGA or other ASEAN+1 FTAs, the AHKFTA also contains a provision on non-qualifying operations. This provision regulates which operations have only minor effect on the characteristics of the final goods, and thus, such operations do not confer originating status. In other words, non-qualifying operations are activities, which when these are the only activities that occur, are not sufficient to represent a substantial transformation of a product. Such operations cannot be counted on their own towards changing the originating status of the goods.

Minimal operations and processes carried out individually or in combination will not confer originating status to a final good. However, minimal operations and processes may confer originating status when conducted in association with other manufacturing activities which are more substantial than those listed in Article 8 of Chapter 3 ("Minimal Operations and Processes").

The AHKFTA has the longest list of non-qualifying operations among ASEAN+1 FTAs. Similar to ATIGA, ASEAN-India FTA (AIFTA) and ASEAN-Korea FTA (AKFTA), non-qualifying operations under the AHKFTA apply to all types of ROO, including CTC, RVC or specific rules. In comparison, under the ASEAN-Australia-New Zealand FTA (AANZFTA), non-qualifying operations only apply to RVC

rule but not to other ROO criteria. Under the ASEAN-Japan Comprehensive Economic Partnership Agreement (AJCEPA), non-qualifying operations (or minimal operations) only apply to CTC or specific rules; and under the ASEAN-China FTA (ACFTA), minimal operations only apply to WO.

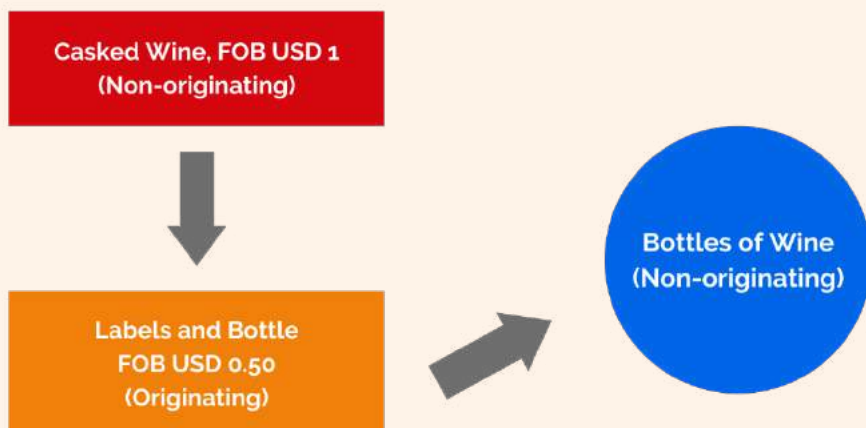


Example: An HKC exporter of wine imports casks of wine from Australia for USD 100 FOB. The HKC exporter bottles the wine into 100 bottles and labels each bottle. The labels and bottle cost USD 0.50 each. The bottles of wine then are exported to Viet Nam at the FOB price of USD 2/each.

Are the bottles of wine originating?

Answer:

According to sub-paragraph 1 (j) and (k) of Article 8, bottling and labelling and any combination of them are non-qualifying operations, therefore, the bottles of wine are not originating.



Direct Consignment

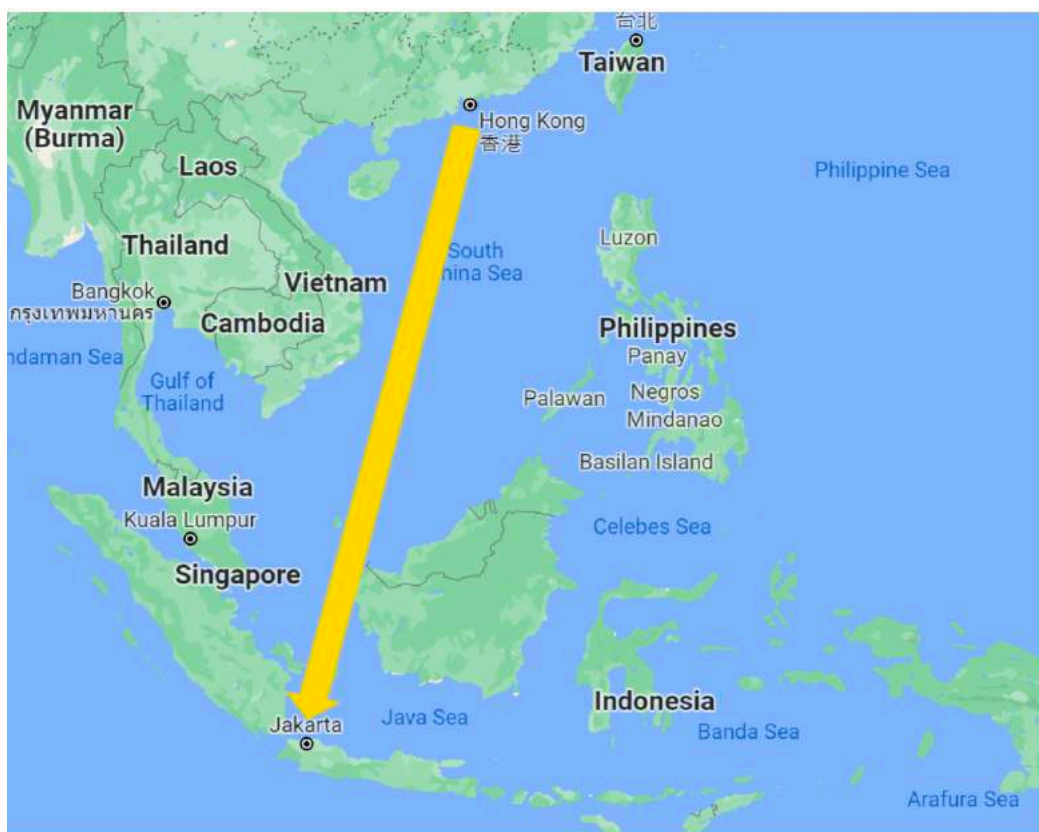
Article 9 of Chapter 3 of the AHKFTA (“Direct Consignment”) outlines the requirements for a good to be considered as direct consignment.

In particular, it stipulates that an originating good can retain its originating status and enjoy the preferential tariff treatment if it is transported in either of the following cases:

- 1) directly from an exporting Party; or
- 2) through one or more Parties or a non-Party provided certain conditions are met.

Direct consignment from the exporting Party to the Importing Party

Here is an example of direct consignment from the exporting Party to the importing Party. In this scenario, the originating goods from HKC are directly transported to Jakarta, Indonesia.



Direct consignment through one or more of the AHKFTA Parties or through a non-Party

On the other hand, here is an example of direct consignment through one or more Parties or through a non-Party. In this scenario, a good may be shipped from HKC to Indonesia via Singapore (through one or more Parties), or through the Philippines via Shanghai (through a non-Party). Such transportation arrangements may be necessary for geographical or transportation reasons or because of the cost of available transportation routes.



The AHKFTA requires that the following conditions be met for goods to retain their originating status when they are transported through one or more AHKFTA Parties or through a non-Party:

- The transit entry is justified for geographical reason or by consideration related exclusively to transport requirements;
- The goods have not entered into trade or consumption there; and
- The goods have not undergone any operation there other than unloading and reloading or any other operation to preserve them in good condition.

The Direct Consignment provision aims to ensure that the good which reaches the importing Party is the same originating good which was exported from the exporting AHKFTA Party. Therefore, the conditions are set out above to make sure that no manufacturing operations take place during the goods transported through one or more AHKFTA Parties or through a non-Party.

Proof of meeting consignment provisions

The onus of proof of compliance with consignment provisions rests with the importer. When transportation is effected through the area of one or more non-Parties, the importer must be able, if requested by the importing Party, to provide documentary evidence to verify that the good imported is the same good that was exported from another AHKFTA Party.

Rule 20 of Annex 3-1 (“Operational Certification Procedures”) states very clearly that three (3) documents shall be presented:

- Bill of Lading or other related transportation documents issued in the exporting Party;
- A CO(Form AHK) issued by the relevant Issuing Authority of the exporting Party; and
- A copy of the original commercial invoice in respect of the goods.

Rule 20 also specifies other relevant supporting documents to be presented to the Importing authority, evidencing that conditions outlined in subparagraphs 2(b) (i) to (iii) of Article 9 (Direct Consignment) of this Chapter have been complied with. These relevant documents may include:

- Manufacturing documents to verify exactly what the good produced was and what it looks like (packaging details and model numbers); and
- Documents detailing the activities that occurred in one or more intermediate countries/ places, such as loading, unloading or storage.

Upon receiving the documents, physical inspection of the good may be required to ensure that it tallies with the documentation obtained.

If these conditions are not met, the benefits of AHKFTA for transshipment will not apply.

Movement Confirmation

When the products exporting from an AHKFTA Party, passing through an intermediate Party, for the purpose of proving the origin status of the products, the exporter of the intermediate Party may apply for a Movement Confirmation (MC) from its Issuing Authorities. The Parties involved in the transaction, namely the first exporting Party, the intermediate exporting Party and the final importing Party, must be AHKFTA Parties.

The MC contains relevant information from the original CO(Form AHK), pursuant to required information listed in the Appendix (“List of Data Requirement”) under Annex 3-1 (Operational Certification Procedures) of Chapter 3. Moreover, the FOB value indicated in the MC shall be the FOB value of the goods exported from the intermediate exporting Party.

The period of validity of the MC must not exceed the period of validity of the original CO. For example, the original CO was issued on 1 January 2021 and has validity until 31 December 2021. The CO was used to issue the MC on 1 March 2021, then the validity period of that MC should not exceed 31 December 2021.

The AHKFTA does not regulate the quantity of the MC. In practice, the total quantity of each product covered in the MC does not exceed the total quantity of each product covered in the original CO.

Another important requirement for issuing an MC is that the goods under the MC should be under the supervision of the competent authority⁵ of the intermediate exporting Party and shall not undergo any further processing in the intermediate exporting Party, except for repacking or logistics activities such as unloading, reloading, storing or any other operations necessary to preserve them in good condition or transport to the importing Party.

Step 4: Prepare a proof of origin for your goods under the AHKFTA

Step-by-step guide to obtaining and using the CO(Form AHK)⁶

Step 1

Pre-export Examination

The exporter needs to submit an application to the Issuing Authority for a pre-export examination of the origin of the good to be exported. The result of the examination becomes part of the supporting evidence that the exporter will later use in its application for a CO(Form AHK).

Pre-export examinations do not need to be undertaken for goods that, by their nature, have origins that can be easily determined.

Step 2

Application for a CO(Form AHK)

The exporter then applies to the Issuing Authority for a CO(Form AHK). Supporting evidence proving that the good qualifies as originating may be required.

Step 3

Issuance of the CO(Form AHK)

The AHKFTA specifies that a CO(Form AHK) should be issued as soon as possible, but no later than three working days after the date of exportation of the goods it addresses. If there are valid reasons, the CO(Form AHK) may be issued retroactively – but no longer than twelve (12) months from the date of exportation.

A CO(Form AHK) must comply with information requirements detailed in the Overleaf Notes. If granted, the CO will be valid for a period of twelve (12) months and must be submitted to the Customs Authority in the importing Party within that period.

Step 4

Send the CO(Form AHK) to the importer

The exporter must forward the original copy of the CO (Form HK) to the importer for onward submission to the Customs Authority in the importing Party. Additionally, both the exporter and the Issuing Authority should keep copies of the document.

Declaring multiple goods on the same CO(Form AHK) is permitted, provided that each good is originating in its own right.

Step 5

Importer submits CO(Form AHK) with import declaration

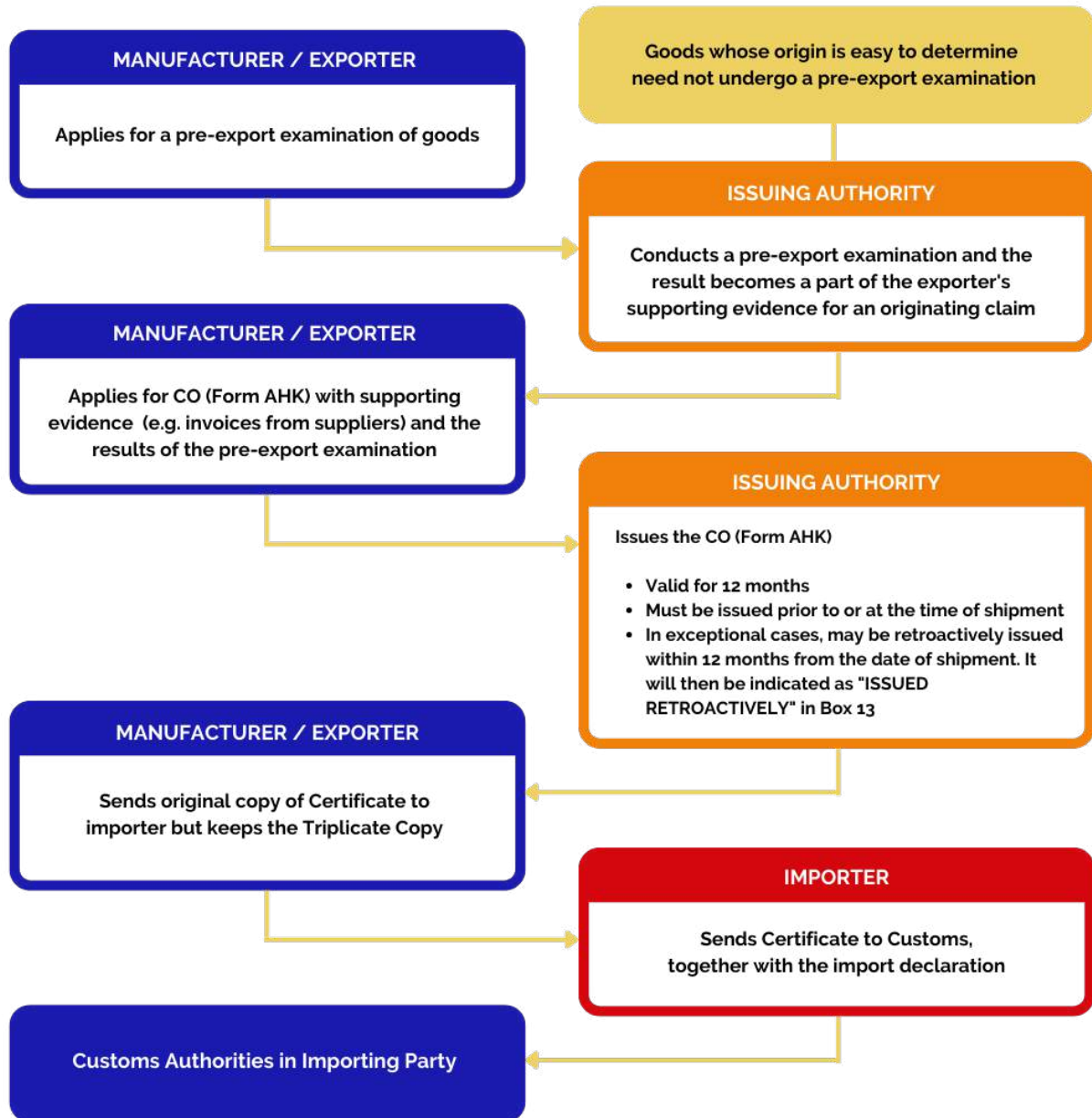
At the time of the import declaration, the importer must submit the CO(Form AHK) to the Customs Authority of the importing Party to claim preferential tariff treatment for the good under the AHKFTA.

⁵ The supervision of the competent authority of the intermediate exporting Party includes documentary controls or any risk management procedures as deemed necessary by that competent authority.

⁶ The certification arrangement may differ from Party to Party. The step-by-step guide and flowchart set out here provide an overview of the arrangement applicable to AMS. For information on certification arrangement adopted by HKC, please refer to the website of the Trade and Industry Department of HKC:

https://www.tid.gov.hk/english/ita/fta/hkasean/quick_reference_guide.html

Figure 6: Step-by-Step Guide to Obtaining & Using the CO (Form AHK)



Application of CO(Form AHK)

The Operational Certification Procedures (OCP) under the AHKFTA enable the exporter of the good or their authorised representative to apply for a CO(Form AHK) to the Issuing Authority. This ensures that the CO(Form AHK) will be completed by the person with the necessary information.

When required by the Issuing Authority, the applicant must provide appropriate supporting documents to prove that the good being exported qualifies as originating.

For example, if the good is claimed under an RVC-based ROO criterion, the applicant needs to provide information on the cost of production, including materials, labour, transportation costs, and profit if the Direct/Build up method is used in calculation. This information can be provided in the form of costing documents.

While the OCP specifies the information required to be presented to the Issuing Authority, it does not specify the source of that information. Traders are advised to check with the Issuing Authority in the exporting Party for the detailed requirements.

The required documents must be able to substantiate a claim for 'originating' status of a product. If sufficient proof is not provided, the CO(Form AHK) application may be deferred or rejected.

Rule 3 of the OCP Supporting Documents

For the purposes of determining originating status, the competent authorities shall have the right to request for supporting documentary evidence or to carry out checks considered appropriate in accordance with the internal laws and regulations of a Party.

CO(Form AHK) - Minimum Data Requirement and Issuance of the CO

CO Format

The CO(Form AHK) must follow the prescribed format agreed upon by all AHKFTA Parties. It contains a set of minimum data requirements as set out in the Appendix to Chapter 3.

The FOB value in Box 9 of the CO(Form AHK) is required when the RVC criterion is applied, except if the goods are exported from an AMS to HKC. If other criteria are applied, then there is no need to indicate the FOB value in Box 9.

Details to be included in each box of the CO (Form AHK)

Box 1: Exporter's Name, Address, and Country/Party

This box requires the contact details for the exporter to be provided such as the name, address and country/party.

Details to be included in each box of the CO (Form AHK)

Box 2: Consignee's Name, Address, and Country /Party

This box requires the consignee's details to be provided such as the name, address and country/party.

Box 3: Means of Transport and Route

This box requires sufficient transportation details to identify the consignment, including shipment date, vessel's name or aircraft, and port of discharge. Other information such as the importers purchase order number, invoice number and Air Waybill or Sea Bill of Lading can be indicated.

The Port of Discharge is only required if that information is known by the exporter at the time of exportation of the goods.

Box 4: For Official Use

This box is used by the Customs Authority of the importing Party.

Box 5: Item Number

This box is used to identify each different item by number on the CO(Form AHK). Multiple goods can be declared on the same CO(Form AHK). Each of the goods contained on the CO(Form AHK) must be an originating good in its own right.

Box 6: Marks and Numbers on Packages

This box requires details which correspond with the marks and numbers on the actual packages. They must be the same as the marks and numbers used on the invoice and the Air Waybill or Sea Bill of lading.

Box 7: Number and kind of packages, description of goods including HS code (6 digits); and brand name, names, and country / party of the company issuing the third party invoice, if applicable

Number of Packages: This is the count of the number of packages to be shipped, if shipment is bulk then indicate Bulk.

Full Description of the Goods: The description of the goods should correspond with supporting documents and provide enough detail to identify the CO(Form AHK) with the goods.

The Harmonized System: CO(Form AHK) requires to indicate 6-digit code.

Third Party Invoice: If the good is subject to third party invoicing then Box 7 must also include the name and the country/party of the company issuing the final invoice. For the case of third-party invoicing with more than three countries/parties involved, the name and country/party of the company issuing the final invoice, or if known, the name and country/party of all companies issuing the third-party invoice, should be provided in Box 7.

Box 8: Origin-conferring Criterion

This box contains the relevant origin conferring criteria for the good using the acronyms listed in the Overleaf Notes to the CO(Form AHK).

Paragraph 5 of the Overleaf Notes provides guidelines to assist in filling out Box 8.

Details to be included in each box of the CO (Form AHK)

Box 9: Quantity (Gross, Net, or Other Measurements) and Value (FOB), where RVC is applied

This box requires the weight and value of the goods which should correspond with the invoice and the Air Waybill or Sea Bill of Lading.

The AHKFTA requires the FOB value to be listed on the CO(Form AHK) for exports in the case where the RVC criterion is used. For goods exported to HKC, there is no need to indicate FOB value for all cases.

Box 10: Invoice Number(s) and Date of Invoice(s)

This box requires the invoice number and date of invoice which should correspond with the invoice issued for the importation of the good into the importing Country/Party.

For the case of third-party invoicing with more than three countries/parties involved, the number and date of the invoice issued by the manufacturers or the exporters and the number and date of the final invoice for importation, if known, should be indicated in Box 10 of the CO(Form AHK).

However, in the absence of such information, the number and date of the invoice from any last party that is known to the Issuing Authority, may be reflected.

In the case that the final invoice number and date are not shown on the CO(Form AHK), further information may be requested at time of importation in order to verify the linkage of the transactions involved.

Box 11: Declaration by the Exporter

This box contains the authorised signature (including place, date and company name) of the exporter. The exporter is declaring that all the details on the CO(Form AHK) are correct and that goods comply with the rules of origin of the AHKFTA, i.e. that the goods are eligible for preferential tariff treatment. The information of Box 11 should correspond to the information in Box 1.

Box 12: Certification

This box contains the place and date, signature and name, stamp of authorised Issuing Authority. The CO(Form AHK) can be signed manually or electronically, stamped and issued directly by the Issuing Authorities of the exporting Party.

Certificate of Origin Number: The CO(Form AHK) shall bear a unique reference number separately given by each place or office of issuance which appears on the top right of the form.

Box 13: Other Requirements

This box is used if the following is applicable:

- The CO(Form AHK) is issued retroactively or is subject to the requirements for a movement confirmation (Back-to-Back CO);
- Third-party invoicing;
- *De minimis*;
- Accumulation; or
- Exhibition

A tick should be placed in the relevant box, if applicable.

A CO(Form AHK) will be accepted if it is in English.

In addition, each CO(Form AHK) only applies to a single shipment of goods and it is valid for one year after its date of issuance. It shall be submitted within that period or for such longer period specified by the laws and regulations of the Importing Party.

Customs Clearance

Similar to other FTAs, the AHKFTA requires that a claim that goods are eligible for preferential tariff treatment be supported by a CO(Form AHK) (Article 15 on Certificate of Origin of Chapter 3). Therefore, at the time of importation, importers need to be able to present the CO(Form AHK) and other relevant documents to the Customs Authority in order to enjoy preferential tariff treatment under the AHKFTA.

Under normal circumstances, where the Customs Authorities do not question the legitimacy of the CO(Form AHK), the goods covered by the CO(Form AHK) are granted preferential tariff treatment. However, if origin verification action is being undertaken, preferential treatment may be suspended for the period of the investigation and it can be reinstated later if the investigation does not invalidate the CO(Form AHK).

Verification

Issuing Authority may conduct consignment checks before or after the issuance of the CO(Form AHK) to verify the accuracy of material particulars declared on the CO(Form AHK) applications. In particular, CO(Form AHK) applicants should note that if an application is selected for pre-issue check, it will normally take a relatively longer time to process the application. Traders should bear this in mind in drawing up their shipment schedules.

The importing Party may request the Issuing Authority of exporting Party to conduct retroactive checks on CO(Form AHK) at random, particularly when it has reasonable doubt as to the authenticity of the document, or as to the accuracy of the information regarding the true origin of the goods in question or of certain parts thereof. It may also request verification visits to the premises of the exporter or manufacturer, in accordance with the procedures set out in Rule 17 and Rule 18 respectively of Annex 3-1 to Chapter 3 of AHKFTA.

The importing Party may suspend the provisions of preferential tariff treatment to a good that is the subject of a retroactive check for the duration of that action or any part thereof. However, in accordance with the internal laws and regulations of the importing Party, the Competent Authority of the importing Party may release the good to the importer subject to any administrative measures deemed necessary, provided that it is not held to be subject to import prohibition or restriction and there is no suspicion of fraud.

In the event that a determination is made by the importing Party that the good qualifies as an originating good of the exporting Party, any suspended preferential tariff treatment shall be

reinstated. The importing Party may deny preferential tariff treatment if the origin of the goods concerned cannot be verified.

Waiver of CO(Form AHK)

If the FOB value of a consignment of goods originating in an AHKFTA Party does not exceed USD 200, the presentation of CO(Form AHK) will be waived. Instead, the exporter should make a simplified declaration that the goods in question have originated in an AHKFTA Party. Goods sent through the post not exceeding USD 200 FOB will also be treated similarly.

Record-keeping Requirements and Origin Verification

The manufacturer or exporter applying for a CO(Form AHK) should, subject to the internal laws and regulations of the exporting Party, keep its supporting records for application for not less than three years from the date of issuance of the CO(Form AHK) concerned.

The importing Party may request the Issuing Authority of the exporting Party to conduct retroactive checks on CO(Form AHK) at random or when it has reasonable doubt as to the authenticity of the document, or as to the accuracy of the information regarding the true origin of the goods in question or of certain parts thereof. It may also request verification visits to the premises of the exporter or manufacturer, in accordance with the procedures laid down in Rule 17 and Rule 18 respectively of Annex 3-1 to Chapter 3 of AHKFTA.

As with other types of CO applications, the Issuing Authority will conduct factory inspections and consignment.

B. Comparison of ROO Provisions of the AHKFTA vis-à-vis those under the RCEP and other ASEAN +1 FTAs

Most of AHKFTA ROO provisions are similar to those under the ATIGA, ASEAN+1 FTAs, and RCEP. However, due to the balance of negotiations, some AHKFTA ROO provisions are slightly different with those aforementioned.

General Rules

As indicated above, the AHKFTA has the General Rule of RVC(40). In contrast, the ATIGA and most ASEAN+1 FTAs have the General Rule of RVC(40) or CTH, except the ACFTA and AIFTA.

The ACFTA has a General Rule of RVC(40) and products under some chapters have the General Rule of RVC(40) or CTH. For the AIFTA, the General Rule is “RVC35 + CTSH”. Moreover, RCEP and AANZFTA do not have the General Rule but a comprehensive list of PSRs.⁷

Produced Exclusively (PE)

Similar to RCEP, AJCEPA, AANZFTA and ACFTA, the AHKFTA contains provisions on PE. In contrast, these provisions are not available in the ROO under the ATIGA, AIFTA and AKFTA.

Self-Certification or Self-Declaration of Origin

The AHKFTA, like other ASEAN +1 FTAs, does not contain any provision on self-certification (for certified exporters) or self-declaration of origin (for any exporters or producers). In contrast, the ATIGA contains provisions on self-certification, while RCEP has provisions on both self-certification and self-declaration of origin.

Under the self-certification scheme, based on their production capability and exporting record, exporters are qualified and certified by a Competent Authority to self-certify the ‘originating’ status of their products. Self-declaration, on the other hand, is applied for any exporters and they can do self-declaration of the origin status of their product without any certification from competent authority. Self-declaration is more liberal and trade facilitative to the business, especially for SMEs, but is more difficult for risk management.

Under the RCEP, the self-certification scheme is implemented upon the EIF of the Agreement, while the self-declaration will be implemented ten (10) years after EIF for twelve (12) countries, except that Cambodia, Laos and Myanmar (CLM countries) will have a grace period of 20 years.

⁷ For AANZFTA, there was a general rule of RVC(40) or CTH, but this general rule was transferred into the PSR list in the first Protocol.

Operational Certification Procedures (OCP)

The AHKFTA's provisions on OCP are similar to those of ATIGA and other ASEAN +1 FTAs. However, RCEP OCP provisions are slightly different with AHKFTA and other ASEAN + 1 FTAs. Certain differences are listed in the matrix below:

Table 9: Operational Certification Procedures Matrix			
No.	Issue	RCEP	AHKFTA and Other ASEAN +1 FTAs
1	Acceptance of origin documents in electronic format	Proofs of origin shall be in writing, or any other medium, including electronic format as notified by an importing Party. CO signature and seal shall be applied manually or electronically.	No provision on the acceptance of origin document in electronic format. CO signature and seal can be applied manually or electronically.
2	Digital exchange of origin information	Parties may develop an electronic system for origin information exchange to ensure the effective and efficient implementation of the chapter in a manner jointly determined by the relevant Parties (Article 3.29).	No provision on digital exchange of origin information.
3	Permitted operations when re-exporting under a Back-to-Back CO	RCEP provision on the consignment is more trade facilitative with more exceptions to processing of goods that should not be undergone in the intermediate Party: "... splitting up the consignment, or labelling only as required by the laws, regulations, procedures, administrative decision, and policies of the importing Party..." (Article 3.19.1(d)).	Does not allow the splitting up the consignment or labelling the products.
4	Post-importations claims for preferential tariff treatment and refund of import duties paid	An importer may, within a period specified under local laws and regulations, apply for a post-importation claim (Article 3.23).	No provision for post-importation claims.

IV. ADDITIONAL INFORMATION

Contact Information

Businesses may wish to contact the following Contact Points of individual Parties for any queries and concerns on using the AHKFTA:

Party	Contact Points / Details
Brunei Darussalam	Trade Division of the Ministry of Finance and Economy <ul style="list-style-type: none"> Email: tf@mofe.gov.bn
Indonesia	Directorate of ASEAN Negotiation, Directorate of General of International Trade Negotiation, Ministry of Trade <ul style="list-style-type: none"> Email: asean@kemendag.go.id; asean.dps@kemendag.go.id
Lao PDR	Regional and Sub-Regional Economic Integration Division, Department of Foreign Trade Policy, Ministry of Industry and Commerce <ul style="list-style-type: none"> Email: laos.aec.div@gmail.com Website: https://www.dftp.moic.gov.la
Malaysia	Ministry of International Trade and Industry <ul style="list-style-type: none"> Website: https://fta.miti.gov.my/index.php/pages/view/asean-hongkong-china
Myanmar	Foreign Economic Relations Department <ul style="list-style-type: none"> Website: http://www.mifer.gov.mm/en/about-ferd
The Philippines	Bureau of International Trade Relations (BITR), Department of Trade and Industry <ul style="list-style-type: none"> Email: bitr@dti.gov.ph
Thailand	Department of Trade Negotiations, Ministry of Commerce <ul style="list-style-type: none"> Website: https://www.dtn.go.th
Singapore	Enterprise Singapore <ul style="list-style-type: none"> Website: https://go.gov.sg/helloesg
Viet Nam	ASEAN Division, Multilateral Trade Policy Department, Ministry of Industry and Trade <ul style="list-style-type: none"> Website: https://fta.moit.gov.vn/
HKC	Trade and Industry Department <ul style="list-style-type: none"> Website: https://www.tid.gov.hk/english/ita/fta/hkasean/contact_us.html

Annex: Summary of the AHKFTA Chapters/Provisions

Chapter	Title	Content
1	Establishment of the Free Trade Area, Objectives, General Definitions, and Interpretations	Sets out objectives of the AHKFTA which include facilitating the expansion of regional trade and investment among the 11 Parties, considering the stage of development of the Parties especially for newer ASEAN Member States (AMS). This Chapter also includes general definitions.
2	Trade in Goods	Contains key elements that govern the implementation of goods related commitments to liberalise trade in goods among the Parties. Includes obligations for trade in goods (national treatment clause, elimination/reduction of customs duties, re-affirmation of World Trade Organization (WTO) commitments related to non-tariff measures, quantitative restrictions, and import licensing). Sets out the tariff modality for Parties' tariff elimination and reduction. Schedules of Tariff Commitments are set out in Annex 2-1.
3	Rules of Origin	Determines which goods are originating under the AHKFTA and therefore can benefit from preferential tariff treatment. There are three annexes: Annex 3-1 sets out specific procedures related to the certificate of origin and other administrative procedures; Annex 3-2 provides the Product-Specific Rules for 237 tariff lines at the HS 6-digit level; and Annex 3-3 contains 557 tariff lines at HS 6-digit level to be reviewed.
4	Customs Procedures and Trade Facilitation	Includes trade facilitation provisions, such as advance rulings, customs valuation; authorized economic operators, customs clearance of goods, risk management and post-clearance audits.
5	Sanitary and Phytosanitary Measures	Reaffirms rights and obligations under the WTO law and practices, as well as the work of the respective WTO Committee on SPS. Further emphasis is given to transparency, co-operation and consultation.
6	Standards, Technical Regulations, and Conformity Assessment Procedures	Reaffirms rights and obligations under the WTO law and practices as well as the work of the WTO Committee on TBT. Co-operation, transparency and consultation among parties are encouraged.
7	Trade Remedies	Contains only one Article to reaffirm WTO Rights and Obligations relating to Trade Remedies.
8	Trade in Services	Aims to open up avenues for greater services trade among the Parties through substantial removal of restrictive and discriminatory measures affecting trade in services. This Chapter contains comprehensive provisions including rules on

Chapter	Title	Content
		market access, national treatment, most-favoured-nation treatment, and local presence, which are subject to Parties' Schedules of Specific Commitments (Annex 8-1).
9	Economic and Technical Co-operation	Provides a framework concerning the development dimension of the AHKFTA. The Parties agreed that the economic and technical co-operation (ECOTECH) in the AHKFTA aims to support the effective and efficient implementation and utilisation of the AHKFTA. The Parties agreed to explore and undertake ECOTECH activities that are related to trade in goods, trade in services, investment, and other areas, as mutually agreed by the Parties. A Work Programme was developed to implement this Chapter.
10	Intellectual Property	Contains two Articles, one is to reaffirm WTO rights and obligations and the other is to encourage co-operation on Intellectual Property (IP) rights among the Parties.
11	General Provisions and Exceptions	Includes obligations regarding transparency with respect to each Party's laws, regulations, procedures and administrative rulings of general application with respect to matters covered by the AHKFTA. For the purpose of the relevant Chapters, this Chapter incorporates into the AHKFTA, the general exceptions contained in Article XX of GATT 1994 and Article XIV of GATS. Parties may also take action or measures which they consider necessary to protect essential security interest. With respect to taxation measures, the AHKFTA only grants rights or imposes obligations to the extent that the WTO Agreement also grants or imposes.
12	Institutional Provisions	Provides arrangements for and functions of the AHKFTA Joint Committee which will supervise the implementation of the AHKFTA and AHKIA.
13	Consultations and Dispute Settlement	Follows a standard approach with the possibility to convene a panel of experts to administrate an arbitration procedure. There are detailed rules about procedures, implementation and compliance. The Chapter also foresees rights for third parties. In cases involving Newer AMS, the complaining party has the obligation to exercise its rights with restraint allowing for special and differential treatment. Three chapters on Trade Remedies, ECOTECH and Intellectual Property are excluded from Dispute Settlement. Annex 13-1 sets out rules of procedures for arbitral tribunal proceedings.
14	Final Provisions	Sets out among other provisions, conditions and procedures for entry into force of the AHKFTA (HKC and at least four AMS have deposited their instruments of ratification, acceptance or approval) and a general review mechanism (within three years from entry into force, and every five years thereafter).



The ASEAN-Hong Kong, China Free Trade Agreement (AHKFTA):

**A Business Guidebook to Increasing Trade
Competitiveness Using the AHKFTA**

