

Tariff (AANZFTA) Amendment Bill

Government Bill

As reported from the committee of the whole
House

This bill was formerly part of the ASEAN–Australia–New Zealand Free Trade Area Bill reported from the Foreign Affairs, Defence and Trade Committee. The committee of the whole House has further amended the bill and divided it into the following bills:

- This bill comprising Part 1 and the Schedule
 - The Customs and Excise (AANZFTA) Amendment Bill comprising Part 2
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Tariff (AANZFTA) Amendment Bill

Key to symbols used in reprinted bill

**As reported from the committee of the whole
House**

text inserted

~~text deleted~~

Hon Tim Groser

Tariff (AANZFTA) Amendment Bill

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Schedule
New note 3 inserted in Schedule 1

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The Parliament of New Zealand enacts as follows:**1 Title**

This Act is the Tariff (AANZFTA) Amendment Act **2009**.

2 Commencement

This Act comes into force on a date appointed by the Governor-General by Order in Council. 5

Part 1**Amendments to Tariff Act 1988****3 Principal Act amended**

This Part Act amends the Tariff Act 1988. 10

*Implementation of preferential tariffs***4 Purpose of sections 5, 6, and 10**

The purpose of **sections 5, 6, and 10** is to amend the principal Act to enable the implementation of preferential tariffs in accordance with the Agreement Establishing the ASEAN–Australia–New Zealand Free Trade Area done at Cha-am, Phetchaburi, Thailand on 27 February 2009. 15

5 Interpretation

- (1) The definition of **least developed country** in section 2(1) is amended by omitting “section 7 of this Act” and substituting “**section 7A(1)(c)**”. 20
- (2) The definition of **less developed country** in section 2(1) is amended by omitting “section 7 of this Act” and substituting “**section 7A(1)(d)**”.
- (3) The definition of **specified TPA party** is amended by inserting “under **section 7A(1)(b)**” after “Order in Council”. 25

- (4) Section 2(1) is amended by inserting the following definitions in their appropriate alphabetical order:
- “**AANZFTA** means the Agreement Establishing the ASEAN–Australia–New Zealand Free Trade Area done at Cha-am, Phetchaburi, Thailand on 27 February 2009 5
- “**ASEAN** means the Association of South East Asian Nations
- “**preferential abbreviation** has the meaning given to it by **section 7(3)**
- “**preferential country** has the meaning given to it by **section 7(3)** 10
- “**specified AANZFTA party** means a country that is for the time being declared by Order in Council under **section 7A(1)(a)** to be a specified AANZFTA party for the purposes of this Act”.
- 6 New sections 7 to 7B substituted** 15
- Sections 7 and 7A are repealed and the following sections substituted:
- “**7 Application of Tariff**
- “(1) ~~The Tariff applies to goods in a Tariff item that are the product or manufacture of a preferential country at the rate specified either—~~ 20
- “~~(a) in the column of the Tariff headed Preferential Tariff after a preferential abbreviation; or~~
- “~~(b) in some other way in the Tariff by reference to a preferential abbreviation or to a preferential country (for example, in a footnote or other indicator).~~ 25
- “(1) The Tariff applies to goods in a Tariff item that are the product or manufacture of a preferential country at the rate—
- “(a) specified after the preferential abbreviation (if any) in the column of the Tariff headed Preferential Tariff; or 30
- “(b) specified in some other way (for example, in a footnote or other indicator) in the Tariff by reference to the preferential country or the preferential abbreviation.
- “(2) The liability to duty of any goods that are the produce or manufacture of a country must, for the purposes of this section, be 35 determined according to the status of that country at the time when the goods are imported into New Zealand.

~~“(3) In this section, unless the context otherwise requires,—~~

~~“**preferential abbreviation** means an abbreviation listed in **note 3** of Schedule 1 that relates to a country~~

~~“**preferential country** means a country listed in **note 3** of Schedule 1.~~ 5

“(3) In this section, unless the context otherwise requires,—

“**preferential abbreviation**, in relation to a preferential country listed or described in the first column of **note 3** of Schedule 1, means the abbreviation specified opposite that country in the second column of that note 10

“**preferential country** means a country listed or described in the first column of **note 3** of Schedule 1.

“7A Orders in Council about preferential countries

“(1) The Governor-General may, by Order in Council, do all or any of the following: 15

“(a) declare a country that is a party to the AANZFTA to be a specified AANZFTA party for the purposes of this Act:

“(b) declare a country to be a specified TPA party for the purposes of this Act if the country—

“(i) is a party to the TPA; or 20

“(ii) is provisionally applying the terms of the TPA:

“(c) declare a country to be, or not to be, a least developed country for the purposes of this Act:

“(d) declare a country to be, or not to be, a less developed country for the purposes of this Act. 25

“(2) The Governor-General may, by an Order in Council making a declaration under **subsection (1)** about a country or any other Order in Council relating to that country,—

“(a) declare that, in relation to any specified Tariff items, any rate of duty or exemption from duty otherwise applicable to that country is not to apply to that country: 30

“(b) modify, in whole or in part, the Tariff rates of duty applicable to goods from that country.

“(3) No modification under **subsection (2)(b)** relating to a specified TPA party or a specified AANZFTA party may have the effect of imposing on any goods a higher duty than that set out 35

- in respect of those goods in the Normal Tariff, unless the Governor-General is satisfied that the modification is—
- “(a) necessary or advisable in the public interest; and
 - “(b) consistent with New Zealand’s international obligations. 5
- “(4) No modification under **subsection (2)(b)** relating to a less developed country or a least developed country may have the effect of imposing on any goods a higher duty than that set out in respect of those goods in the Normal Tariff.
- “**7B Evidence of whether South Pacific Regional Trade and Economic Co-operation Agreement is in force in relation to country** 10
- “(1) A certificate given by the Secretary of Foreign Affairs and Trade to the effect that any country is or is not one in relation to which, at the time of the importation or entry of the goods into New Zealand, the South Pacific Regional Trade and Economic Co-operation Agreement was in force for the purposes of this Act is conclusive evidence of that fact. 15
- “(2) Any court or any person acting judicially to which or to whom, in any proceeding, any certificate under **subsection (1)** is produced must take judicial notice of the signature on it of the Secretary of Foreign Affairs and Trade. 20
- “(3) For the purposes of this section,—
- “**court** includes the Supreme Court, the Court of Appeal, the High Court, and any District Court 25
 - “**District Court** includes—
 - “(a) a Family Court; and
 - “(b) a Youth Court
 - “**person acting judicially** means any person having in New Zealand by law authority to hear, receive, and examine evidence 30
 - “**proceeding** means—
 - “(a) a proceeding conducted by a court; and
 - “(b) any interlocutory or other application to a court connected with a proceeding.” 35

*Application of transitional safeguard measures
and provisional transitional safeguard measures*

- 7 Purpose of sections 8 and 9**
The purpose of **sections 8 and 9** is to amend the principal Act to provide for the application of transitional safeguard measures and provisional transitional safeguard measures in relation to the Agreement Establishing the ASEAN–Australia–New Zealand Free Trade Area done at Cha-am, Phetchaburi, Thailand on 27 February 2009. 5
- 8 Interpretation** 10
The definition of **free trade agreement** in section 15A is amended by adding “; or” and also by adding the following paragraph:
“(c) the AANZFTA and AANZFTA side instruments that relate to safeguards” 15
- 9 Provisional transitional safeguard measure**
Section 15H(1)(b)(ii) is amended by inserting “or the AANZFTA” after “the China FTA”.
- 10 Schedule 1 amended**
(1) Note 2 of Schedule 1 is amended by omitting the last paragraph and substituting the following paragraph: 20
“The rate of duty of Free, appearing by itself in the Preferential Tariff duty column, means that goods from the following countries are entered free of duty (goods that are the produce or manufacture of countries in respect of which the following preferential abbreviations apply: AAN, AU, CA, CN, LDC, LLDC, Pac, SG, TH, or TPA).” 25
(2) Note 2 of Schedule 1 is amended by adding the following paragraph:
“The rate of duty of Free applies under the Tariff to all goods that are the produce or manufacture of Singapore.” 30
(3) Schedule 1 is amended by inserting the note set out in the Schedule of this Act after note 2.

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Schedule**s 10****New note 3 inserted in Schedule 1****3 Preferential countries and preferential abbreviations**

Preferential country	Preferential abbreviation
Country that is a specified AANZFTA party (<i>see</i> section 2(1))	AAN
Australia	AU
Canada	CA
China	CN
United Kingdom of Great Britain and Northern Ireland, the Isle of Man, or the Channel Islands and the Channel Islands	GB
Country that is a less developed country (<i>see</i> section 2(1))	LDC
Country that is a least developed country (<i>see</i> section 2(1))	LLDC
Malaysia	MY
Country in relation to which the South Pacific Regional Trade and Economic Co-operation Agreement is in force	Pac
Singapore	SG
Thailand	TH
Country that is a specified TPA party (<i>see</i> section 2(1))	TPA

Legislative history

25 June 2009

Divided from ASEAN–Australia–New Zealand Free Trade Area Bill (Bill 26–1) by committee of the whole House as Bill 26–2A