





# **Customs Amendment (Product Specific Rule Modernisation) Act 2021**

**No. 4, 2021**

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

Note: An electronic version of this Act is available on the Federal Register of Legislation (<https://www.legislation.gov.au/>)



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# Customs Amendment (Product Specific Rule Modernisation) Act 2021

No. 4, 2021

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

[Assented to 16 February 2021]

The Parliament of Australia enacts:

### 1 Short title

This Act is the *Customs Amendment (Product Specific Rule Modernisation) Act 2021*.

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## 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. The whole of this Act	A single day to be fixed by Proclamation. However, if the provisions do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	9 April 2021 (F2021N00066)

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

## 3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## **Schedule 1—Amendments**

### **Part 1—US originating goods**

#### *Customs Act 1901*

##### **1 Division 4B of Part VI (heading)**

Repeal the heading, substitute:

#### **Division 4B—Exportation of textile or apparel goods to the US**

##### **2 Subsection 126AE(1)**

Omit “textile and clothing goods”, substitute “goods that are a textile or apparel good”.

##### **3 Subsection 126AE(4) (definition of *textile and clothing goods*)**

Repeal the definition.

##### **4 Subsection 126AE(4)**

Insert:

*textile or apparel good* has the meaning given by Article 1.2 of Chapter 1 of the Agreement.

##### **5 Section 153Y**

Omit:

- Subdivision D sets out when goods (except clothing and textiles) that are produced entirely in the US, or in the US and Australia, from non-originating materials only, or from non-originating materials and originating materials, are US originating goods.
- Subdivision E sets out when goods that are clothing or textiles that are produced entirely in the US, or in the US and Australia, from non-originating materials only, or from

non-originating materials and originating materials, are US originating goods.

substitute:

- Subdivision D sets out when goods that are produced entirely in the US, or in the US and Australia, from non-originating materials only, or from non-originating materials and originating materials, are US originating goods.

## 6 At the end of section 153Y

Add:

- Subdivision I allows regulations to make provision for and in relation to determining whether goods are US originating goods.

## 7 Subsection 153YA(1)

Insert:

*Harmonized Commodity Description and Coding System* means the Harmonized Commodity Description and Coding System that is established by or under the Convention.

## 8 Subsection 153YA(1) (definition of *Harmonized System*)

Repeal the definition, substitute:

*Harmonized System* means:

- (a) the Harmonized Commodity Description and Coding System as in force on 1 January 2007; or
- (b) if the table in Annex 4-A or 5-A of the Agreement is amended or replaced to refer to Chapters, headings and subheadings of a later version of the Harmonized Commodity Description and Coding System—the later version of the Harmonized Commodity Description and Coding System.

## 9 Subsection 153YA(1) (definition of *Schedule 1 tariff table*)

Repeal the definition.

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**10 Subsection 153YA(1) (definition of *Schedule 2 tariff table*)**

Repeal the definition.

**11 Subsection 153YA(1)**

Insert:

*textile or apparel good* has the meaning given by Article 1.2 of Chapter 1 of the Agreement.

*wholly formed*, in relation to elastomeric yarn, has the same meaning as it has in the Agreement.

**12 Subdivisions D and E of Division 1C of Part VIII**

Repeal the Subdivisions, substitute:

**Subdivision D—Goods produced in the US, or in the US and Australia, from non-originating materials**

**153YD Goods produced in the US, or in the US and Australia, from non-originating materials**

- (1) Goods are *US originating goods* if:
  - (a) they are classified to a Chapter, heading or subheading of the Harmonized System that is covered by the table in Annex 4-A or 5-A of the Agreement; and
  - (b) they are produced entirely in the US, or entirely in the US and Australia, from non-originating materials only or from non-originating materials and originating materials; and
  - (c) the goods satisfy the requirements applicable to the goods in Annex 4-A or 5-A of the Agreement.
- (2) Without limiting paragraph (1)(c), a requirement may be specified in the table in Annex 4-A or 5-A of the Agreement by using an abbreviation that is given a meaning for the purposes of that Annex.

*Change in tariff classification*

- (3) If a requirement that applies in relation to the goods is that all non-originating materials used in the production of the goods must have undergone a particular change in tariff classification, the

regulations may prescribe when a non-originating material used in the production of the goods is taken to satisfy the change in tariff classification.

*Rules for goods that are not a textile or apparel good*

(4) If:

- (a) a requirement that applies in relation to the goods is that all non-originating materials used in the production of the goods must have undergone a particular change in tariff classification; and
- (b) the goods are not a textile or apparel good; and
- (c) one or more of the non-originating materials used in the production of the goods do not satisfy the change in tariff classification;

then the requirement is taken to be satisfied if the total value of the non-originating materials covered by paragraph (c) does not exceed 10% of the customs value of the goods.

Note: See subsection (6) for goods that are a textile or apparel good.

(5) In applying subsection (4), disregard non-originating materials covered by paragraph 2 of Article 5.2 of Chapter 5 of the Agreement.

*Rules for goods that are a textile or apparel good*

(6) If:

- (a) a requirement that applies in relation to the goods is that all non-originating materials used in the production of the goods must have undergone a particular change in tariff classification; and
- (b) the goods are a textile or apparel good; and
- (c) if the component of the goods, that determines the tariff classification of the goods, contains elastomeric yarn—the yarn is wholly formed in the US or Australia; and
- (d) the component of the goods, that determines the tariff classification of the goods, contains fibres or yarns that are non-originating materials and that do not satisfy the change in tariff classification;

then the requirement is taken to be satisfied if the total weight of the fibres or yarns covered by paragraph (d) does not exceed 7% of the total weight of that component.

*Regional value content*

- (7) If a requirement that applies in relation to the goods is that the goods must have a regional value content of not less than a particular percentage worked out in a particular way:
- (a) the regional value content of the goods is to be worked out in accordance with the Agreement; or
  - (b) if the regulations prescribe how to work out the regional value content of the goods—the regional value content of the goods is to be worked out in accordance with the regulations.

(8) If:

- (a) a requirement that applies in relation to the goods is that the goods must have a regional value content of not less than a particular percentage worked out in a particular way; and
- (b) the goods are imported into Australia with standard accessories, standard spare parts or standard tools; and
- (c) the accessories, spare parts or tools are not invoiced separately from the goods; and
- (d) the quantities and value of the accessories, spare parts or tools are customary for the goods;

the regulations must provide for the value of the accessories, spare parts or tools to be taken into account for the purposes of working out the regional value content of the goods (whether the accessories, spare parts or tools are originating materials or non-originating materials).

Note: The value of the accessories, spare parts or tools is to be worked out in accordance with the regulations: see subsection 153YA(2).

- (9) For the purposes of subsection (8), disregard section 153YJ in working out whether the accessories, spare parts or tools are originating materials or non-originating materials.

*Goods put up in a set for retail sale*

(10) If:

- (a) goods are put up in a set for retail sale; and

- (b) the goods are classified in accordance with Rule 3 of the Interpretation Rules as a textile or apparel good;
- the goods are US originating goods under this section only if:
- (c) all of the goods in the set, when considered separately, are US originating goods; or
  - (d) the total customs value of the goods (if any) in the set that are not US originating goods does not exceed 10% of the customs value of the set of goods.

### **13 Subdivision F of Division 1C of Part VIII**

Repeal the Subdivision, substitute:

#### **Subdivision F—Goods that are standard accessories, spare parts or tools**

#### **153YJ Goods that are standard accessories, spare parts or tools**

Goods are *US originating goods* if:

- (a) they are standard accessories, standard spare parts or standard tools in relation to other goods; and
- (b) the other goods are imported into Australia with the accessories, spare parts or tools; and
- (c) the other goods are US originating goods; and
- (d) the accessories, spare parts or tools are not invoiced separately from the other goods; and
- (e) the quantities and value of the accessories, spare parts or tools are customary for the other goods.

### **14 Subsection 153YK(2)**

Repeal the subsection (including the note), substitute:

*Regional value content*

- (2) The exception is that, if a requirement that applies in relation to the goods is that the goods must have a regional value content of not less than a particular percentage worked out in a particular way, the regulations must provide for the value of the packaging material or container to be taken into account for the purposes of working out the regional value content of the goods (whether the packaging

material or container is an originating material or non-originating material).

Note: The value of the packaging material or container is to be worked out in accordance with the regulations: see subsection 153YA(2).

## **15 At the end of Division 1C of Part VIII**

Add:

### **Subdivision I—Regulations**

#### **153YM Regulations**

The regulations may make provision for and in relation to determining whether goods are US originating goods under this Division.

## Part 2—Thai originating goods

### *Customs Act 1901*

#### **16 At the end of section 153Z**

Add:

- Subdivision G allows regulations to make provision for and in relation to determining whether goods are Thai originating goods.

#### **17 Subsection 153ZA(1)**

Insert:

*Harmonized Commodity Description and Coding System* means the Harmonized Commodity Description and Coding System that is established by or under the Convention.

#### **18 Subsection 153ZA(1) (definition of *Harmonized System*)**

Repeal the definition, substitute:

*Harmonized System* means:

- (a) the Harmonized Commodity Description and Coding System as in force on 1 January 2005; or
- (b) if the table in Annex 4.1 of the Agreement is amended or replaced to refer to Chapters, headings and subheadings of a later version of the Harmonized Commodity Description and Coding System—the later version of the Harmonized Commodity Description and Coding System.

#### **19 Subsection 153ZA(1) (definition of *tariff table*)**

Repeal the definition.

#### **20 Sections 153ZC to 153ZE**

Repeal the sections, substitute:

**153ZC Goods produced entirely in Thailand or in Thailand and Australia**

- (1) Goods are *Thai originating goods* if:
- (a) they are classified to a Chapter, heading or subheading of the Harmonized System that is covered by the table in Annex 4.1 of the Agreement; and
  - (b) they are produced entirely in Thailand, or entirely in Thailand and Australia, from originating materials or non-originating materials, or both; and
  - (c) the goods satisfy the requirements applicable to the goods in that Annex; and
  - (d) either:
    - (i) the importer of the goods has, at the time the goods are imported, a Certificate of Origin, or a copy of one, for the goods; or
    - (ii) Australia has waived the requirement for a Certificate of Origin for the goods.
- (2) Without limiting paragraph (1)(c), a requirement may be specified in the table in Annex 4.1 of the Agreement by using an abbreviation that is given a meaning for the purposes of that Annex.

*Change in tariff classification*

- (3) If a requirement that applies in relation to the goods is that all non-originating materials used in the production of the goods must have undergone a particular change in tariff classification, the regulations may prescribe when a non-originating material used in the production of the goods is taken to satisfy the change in tariff classification.
- (4) If:
- (a) a requirement that applies in relation to the goods is that all non-originating materials used in the production of the goods must have undergone a particular change in tariff classification; and
  - (b) one or more of the non-originating materials used in the production of the goods do not satisfy the change in tariff classification;

then the requirement is taken to be satisfied if the total value of the non-originating materials covered by paragraph (b) does not exceed 10% of the customs value of the goods.

*Regional value content*

- (5) If a requirement that applies in relation to the goods is that the goods must have a regional value content of not less than a particular percentage worked out in a particular way:
- (a) the regional value content of the goods is to be worked out in accordance with the Agreement; or
  - (b) if the regulations prescribe how to work out the regional value content of the goods—the regional value content of the goods is to be worked out in accordance with the regulations.
- (6) If:
- (a) a requirement that applies in relation to the goods is that the goods must have a regional value content of not less than a particular percentage worked out in a particular way; and
  - (b) the goods are imported into Australia with standard accessories, standard spare parts or standard tools; and
  - (c) the accessories, spare parts or tools are not invoiced separately from the goods; and
  - (d) the accessories, spare parts or tools are not imported solely for the purpose of artificially raising the regional value content of the goods; and
  - (e) the quantities and value of the accessories, spare parts or tools are customary for the goods; and
  - (f) the accessories, spare parts or tools are non-originating materials;
- the regulations must provide for the value of the accessories, spare parts or tools covered by paragraph (f) to be taken into account for the purposes of working out the regional value content of the goods.
- Note: The value of the accessories, spare parts or tools is to be worked out in accordance with the regulations: see subsection 153ZA(2).
- (7) For the purposes of subsection (6), disregard section 153ZF in working out whether the accessories, spare parts or tools are non-originating materials.

## **21 Subdivision D of Division 1D of Part VIII**

Repeal the Subdivision, substitute:

### **Subdivision D—Goods that are standard accessories, spare parts or tools**

#### **153ZF Goods that are standard accessories, spare parts or tools**

Goods are *Thai originating goods* if:

- (a) they are standard accessories, standard spare parts or standard tools in relation to other goods; and
- (b) the other goods are imported into Australia with the accessories, spare parts or tools; and
- (c) the other goods are Thai originating goods; and
- (d) the accessories, spare parts or tools are not invoiced separately from the other goods; and
- (e) the accessories, spare parts or tools are not imported solely for the purpose of artificially raising the regional value content of the other goods; and
- (f) the quantities and value of the accessories, spare parts or tools are customary for the other goods.

## **22 Subsection 153ZG(2)**

Repeal the subsection (including the note), substitute:

*Regional value content*

- (2) The exception is that, if:
  - (a) a requirement that applies in relation to the goods is that the goods must have a regional value content of not less than a particular percentage worked out in a particular way; and
  - (b) the packaging material or container is a non-originating material;

the regulations must provide for the value of the packaging material or container to be taken into account for the purposes of working out the regional value content of the goods.

Note: The value of the packaging material or container is to be worked out in accordance with the regulations: see subsection 153ZA(2).

**23 At the end of Division 1D of Part VIII**

Add:

**Subdivision G—Regulations**

**153ZI Regulations**

The regulations may make provision for and in relation to determining whether goods are Thai originating goods under this Division.

## **Part 3—New Zealand originating goods**

### *Customs Act 1901*

#### **24 At the end of section 153ZIA**

Add:

- Subdivision I allows regulations to make provision for and in relation to determining whether goods are New Zealand originating goods.

#### **25 Subsection 153ZIB(1)**

Insert:

*Harmonized Commodity Description and Coding System* means the Harmonized Commodity Description and Coding System that is established by or under the Convention.

#### **26 Subsection 153ZIB(1) (definition of *Harmonized System*)**

Repeal the definition, substitute:

*Harmonized System* means:

- (a) the Harmonized Commodity Description and Coding System as in force on 1 September 2011; or
- (b) if the table in Annex G of the Agreement is amended or replaced to refer to Chapters, headings and subheadings of a later version of the Harmonized Commodity Description and Coding System—the later version of the Harmonized Commodity Description and Coding System.

#### **27 Subsection 153ZIB(2)**

Repeal the subsection.

#### **28 Section 153ZIE**

Repeal the section, substitute:

**153ZIE Goods produced in New Zealand or New Zealand and Australia from non-originating materials**

- (1) Goods are *New Zealand originating goods* if:
  - (a) they are classified to a Chapter, heading or subheading of the Harmonized System that is covered by the table in Annex G of the Agreement; and
  - (b) they are produced entirely in New Zealand, or entirely in New Zealand and Australia, from non-originating materials only or from non-originating materials and originating materials; and
  - (c) the goods satisfy the requirements applicable to the goods in that Annex.
- (2) Without limiting paragraph (1)(c), a requirement may be specified in the table in Annex G of the Agreement by using an abbreviation that is given a meaning for the purposes of that Annex.

*Change in tariff classification*

- (3) If a requirement that applies in relation to the goods is that all non-originating materials used or consumed in the production of the goods must have undergone a particular change in tariff classification, the regulations may prescribe when a non-originating material used or consumed in the production of the goods is taken to satisfy the change in tariff classification.
- (4) If:
  - (a) a requirement that applies in relation to the goods is that all non-originating materials used or consumed in the production of the goods must have undergone a particular change in tariff classification; and
  - (b) one or more of the non-originating materials used or consumed in the production of the goods do not satisfy the change in tariff classification;then the requirement is taken to be satisfied if the total value of the non-originating materials covered by paragraph (b) does not exceed 10% of the customs value of the goods.

*Regional value content*

- (5) If a requirement that applies in relation to the goods is that the goods must have a regional value content of not less than a particular percentage worked out in a particular way:
- (a) the regional value content of the goods is to be worked out in accordance with the Agreement; or
  - (b) if the regulations prescribe how to work out the regional value content of the goods—the regional value content of the goods is to be worked out in accordance with the regulations.
- (6) If:
- (a) a requirement that applies in relation to the goods is that the goods must have a regional value content of not less than a particular percentage worked out in a particular way; and
  - (b) the goods are imported into Australia with standard accessories, standard spare parts or standard tools; and
  - (c) the accessories, spare parts or tools are not invoiced separately from the goods; and
  - (d) the accessories, spare parts or tools are not imported solely for the purpose of artificially raising the regional value content of the goods; and
  - (e) the quantities and value of the accessories, spare parts or tools are customary for the goods;
- the regulations must provide for the value of the accessories, spare parts or tools to be taken into account for the purposes of working out the regional value content of the goods (whether the accessories, spare parts or tools are originating materials or non-originating materials).
- Note: The value of the accessories, spare parts or tools is to be worked out in accordance with the regulations: see subsection 153ZIB(3).
- (7) For the purposes of subsection (6), disregard section 153ZIG in working out whether the accessories, spare parts or tools are originating materials or non-originating materials.

**29 Subsection 153ZIF(2)**

Repeal the subsection (including the note), substitute:

*Regional value content*

- (2) The exception is that, if a requirement that applies in relation to the goods is that the goods must have a regional value content of not less than a particular percentage worked out in a particular way, the regulations must provide for the value of the packaging material or container to be taken into account for the purposes of working out the regional value content of the goods (whether the packaging material or container is an originating material or non-originating material).

Note: The value of the packaging material or container is to be worked out in accordance with the regulations: see subsection 153ZIB(3).

**30 At the end of Division 1E of Part VIII**

Add:

**Subdivision I—Regulations**

**153ZIKA Regulations**

The regulations may make provision for and in relation to determining whether goods are New Zealand originating goods under this Division.

## **Part 4—Chilean originating goods**

### *Customs Act 1901*

#### **31 At the end of section 153ZJA**

Add:

- Subdivision H allows regulations to make provision for and in relation to determining whether goods are Chilean originating goods.

#### **32 Subsection 153ZJB(1)**

Insert:

*Harmonized Commodity Description and Coding System* means the Harmonized Commodity Description and Coding System that is established by or under the Convention.

#### **33 Subsection 153ZJB(1) (definition of *Harmonized System*)**

Repeal the definition, substitute:

*Harmonized System* means:

- (a) the Harmonized Commodity Description and Coding System as in force on 6 March 2009; or
- (b) if the table in Annex 4-C of the Agreement is amended or replaced to refer to Chapters, headings and subheadings of a later version of the Harmonized Commodity Description and Coding System—the later version of the Harmonized Commodity Description and Coding System.

#### **34 Subsection 153ZJB(2)**

Repeal the subsection.

#### **35 Section 153ZJE**

Repeal the section, substitute:

**153ZJE Goods produced in Chile, or Chile and Australia, from non-originating materials**

- (1) Goods are *Chilean originating goods* if:
- (a) they are classified to a Chapter, heading or subheading of the Harmonized System that is covered by the table in Annex 4-C of the Agreement; and
  - (b) they are produced entirely in the territory of Chile, or entirely in the territory of Chile and the territory of Australia, from non-originating materials only or from non-originating materials and originating materials; and
  - (c) the goods satisfy the requirements applicable to the goods in that Annex; and
  - (d) either:
    - (i) the importer of the goods has, at the time the goods are imported, a Certificate of Origin, or a copy of one, for the goods; or
    - (ii) Australia has waived the requirement for a Certificate of Origin for the goods.
- (2) Without limiting paragraph (1)(c), a requirement may be specified in the table in Annex 4-C of the Agreement by using an abbreviation that is given a meaning for the purposes of that Annex.

*Change in tariff classification*

- (3) If a requirement that applies in relation to the goods is that all non-originating materials used in the production of the goods must have undergone a particular change in tariff classification, the regulations may prescribe when a non-originating material used in the production of the goods is taken to satisfy the change in tariff classification.
- (4) If:
- (a) a requirement that applies in relation to the goods is that all non-originating materials used in the production of the goods must have undergone a particular change in tariff classification; and

- (b) one or more of the non-originating materials used in the production of the goods do not satisfy the change in tariff classification;

then the requirement is taken to be satisfied if the total value of the non-originating materials covered by paragraph (b) does not exceed 10% of the customs value of the goods.

*Regional value content*

- (5) If a requirement that applies in relation to the goods is that the goods must have a regional value content of not less than a particular percentage worked out in a particular way:
  - (a) the regional value content of the goods is to be worked out in accordance with the Agreement; or
  - (b) if the regulations prescribe how to work out the regional value content of the goods—the regional value content of the goods is to be worked out in accordance with the regulations.
- (6) If:
  - (a) a requirement that applies in relation to the goods is that the goods must have a regional value content of not less than a particular percentage worked out in a particular way; and
  - (b) the goods are imported into Australia with accessories, spare parts, tools or instructional or other information resources; and
  - (c) the accessories, spare parts, tools or instructional or other information resources are not invoiced separately from the goods; and
  - (d) the quantities and value of the accessories, spare parts, tools or instructional or other information resources are customary for the goods; and
  - (e) the accessories, spare parts, tools or instructional or other information resources are non-originating materials;the regulations must provide for the value of the accessories, spare parts, tools or instructional or other information resources covered by paragraph (e) to be taken into account for the purposes of working out the regional value content of the goods.

Note: The value of the accessories, spare parts, tools or instructional or other information resources is to be worked out in accordance with the regulations: see subsection 153ZJB(3).

- (7) For the purposes of subsection (6), disregard section 153ZJG in working out whether the accessories, spare parts, tools or instructional or other information resources are non-originating materials.

*Goods put up in a set for retail sale*

- (8) If:
- (a) goods are put up in a set for retail sale; and
  - (b) the goods are classified in accordance with Rule 3 of the Interpretation Rules;
- the goods are Chilean originating goods under this section only if:
- (c) all of the goods in the set, when considered separately, are Chilean originating goods; or
  - (d) the total customs value of the goods (if any) in the set that are not Chilean originating goods does not exceed 25% of the customs value of the set of goods.

*Composite goods*

- (9) If:
- (a) goods are composite goods; and
  - (b) the goods are classified in accordance with Rule 3 of the Interpretation Rules;
- the goods are Chilean originating goods under this section only if:
- (c) all of the components of the composite goods, when considered separately, are Chilean originating goods; or
  - (d) the total customs value of the components (if any) of the composite goods that are not Chilean originating goods does not exceed 25% of the customs value of the goods.

**36 Subsection 153ZJF(2)**

Repeal the subsection (including the note), substitute:

*Regional value content*

- (2) The exception is that, if:
- (a) a requirement that applies in relation to the goods is that the goods must have a regional value content of not less than a particular percentage worked out in a particular way; and

(b) the packaging material or container is a non-originating material;

the regulations must provide for the value of the packaging material or container to be taken into account for the purposes of working out the regional value content of the goods.

Note: The value of the packaging material or container is to be worked out in accordance with the regulations: see subsection 153ZJB(3).

### **37 At the end of Division 1F of Part VIII**

Add:

## **Subdivision H—Regulations**

### **153ZJJ Regulations**

The regulations may make provision for and in relation to determining whether goods are Chilean originating goods under this Division.

## Part 5—Malaysian originating goods

### *Customs Act 1901*

#### **38 At the end of section 153ZLA**

Add:

- Subdivision G allows regulations to make provision for and in relation to determining whether goods are Malaysian originating goods.

#### **39 Subsection 153ZLB(1)**

Insert:

*Harmonized Commodity Description and Coding System* means the Harmonized Commodity Description and Coding System that is established by or under the Convention.

#### **40 Subsection 153ZLB(1) (definition of *Harmonized System*)**

Repeal the definition, substitute:

*Harmonized System* means:

- (a) the Harmonized Commodity Description and Coding System as in force on 1 January 2013; or
- (b) if the table in Annex 2 of the Agreement is amended or replaced to refer to Chapters, headings and subheadings of a later version of the Harmonized Commodity Description and Coding System—the later version of the Harmonized Commodity Description and Coding System.

#### **41 Subsection 153ZLB(2)**

Repeal the subsection.

#### **42 Section 153ZLE**

Repeal the section, substitute:

**153ZLE Goods produced in Malaysia, or in Malaysia and Australia, from non-originating materials**

- (1) Goods are *Malaysian originating goods* if:
- (a) they are classified to a Chapter, heading or subheading of the Harmonized System that is covered by the table in Annex 2 of the Agreement; and
  - (b) they are produced entirely in the territory of Malaysia, or entirely in the territory of Malaysia and the territory of Australia, from non-originating materials only or from non-originating materials and originating materials; and
  - (c) the goods satisfy the requirements applicable to the goods in that Annex; and
  - (d) either:
    - (i) the importer of the goods has, at the time the goods are imported, a Declaration of Origin or a Certificate of Origin, or a copy of one, for the goods; or
    - (ii) Australia has waived the requirement for a Declaration of Origin or a Certificate of Origin for the goods.
- (2) Without limiting paragraph (1)(c), a requirement may be specified in the table in Annex 2 of the Agreement by using an abbreviation that is given a meaning for the purposes of that Annex.

*Change in tariff classification*

- (3) If a requirement that applies in relation to the goods is that all non-originating materials used in the production of the goods must have undergone a particular change in tariff classification, the regulations may prescribe when a non-originating material used in the production of the goods is taken to satisfy the change in tariff classification.
- (4) If:
- (a) a requirement that applies in relation to the goods is that all non-originating materials used in the production of the goods must have undergone a particular change in tariff classification; and
  - (b) one or more of the non-originating materials used in the production of the goods do not satisfy the change in tariff classification;

then the requirement is taken to be satisfied if the total value of the non-originating materials covered by paragraph (b) does not exceed 10% of the customs value of the goods.

(5) If:

- (a) a requirement that applies in relation to the goods is that all non-originating materials used in the production of the goods must have undergone a particular change in tariff classification; and
- (b) the goods are classified to any of Chapters 50 to 63 of the Harmonized System; and
- (c) one or more of the non-originating materials used in the production of the goods do not satisfy the change in tariff classification;

then the requirement is taken to be satisfied if the total weight of the non-originating materials covered by paragraph (c) does not exceed 10% of the total weight of the goods.

*Regional value content*

- (6) If a requirement that applies in relation to the goods is that the goods must have a regional value content of not less than a particular percentage worked out in a particular way:
- (a) the regional value content of the goods is to be worked out in accordance with the Agreement; or
  - (b) if the regulations prescribe how to work out the regional value content of the goods—the regional value content of the goods is to be worked out in accordance with the regulations.

(7) If:

- (a) a requirement that applies in relation to the goods is that the goods must have a regional value content of not less than a particular percentage worked out in a particular way; and
- (b) the goods are imported into Australia with accessories, spare parts, tools or instructional or other information materials; and
- (c) the accessories, spare parts, tools or instructional or other information materials are not invoiced separately from the goods; and

- (d) the quantities and value of the accessories, spare parts, tools or instructional or other information materials are customary for the goods;

the regulations must provide for the value of the accessories, spare parts, tools or instructional or other information materials to be taken into account for the purposes of working out the regional value content of the goods (whether the accessories, spare parts, tools or instructional or other information materials are originating materials or non-originating materials).

Note: The value of the accessories, spare parts, tools or instructional or other information materials is to be worked out in accordance with the regulations: see subsection 153ZLB(3).

- (8) For the purposes of subsection (7), disregard section 153ZLH in working out whether the accessories, spare parts, tools or instructional or other information materials are originating materials or non-originating materials.

#### **43 Subsections 153ZLF(2) and (3)**

Repeal the subsections (including the note), substitute:

##### *Regional value content*

- (2) However, if a requirement that applies in relation to the goods is that the goods must have a regional value content of not less than a particular percentage worked out in a particular way, the regulations must provide for the value of the packaging material or container to be taken into account for the purposes of working out the regional value content of the goods (whether the packaging material or container is an originating material or non-originating material).
- (3) If the packaging material or container is not customary for the goods, the regulations must provide for the packaging material or container to be taken into account as a non-originating material for the purposes of working out the regional value content of the goods.

Note: The value of the packaging material or container is to be worked out in accordance with the regulations: see subsection 153ZLB(3).

#### **44 At the end of Division 1H of Part VIII**

Add:

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## **Subdivision G—Regulations**

### **153ZLJ Regulations**

The regulations may make provision for and in relation to determining whether goods are Malaysian originating goods under this Division.

## **Part 6—Korean originating goods**

### *Customs Act 1901*

#### **45 Subsection 153ZMB(1)**

Insert:

*Harmonized Commodity Description and Coding System* means the Harmonized Commodity Description and Coding System that is established by or under the Convention.

#### **46 Subsection 153ZMB(1) (definition of *Harmonized System*)**

Repeal the definition, substitute:

*Harmonized System* means:

- (a) the Harmonized Commodity Description and Coding System as in force on 12 December 2014; or
- (b) if the table in Annex 3-A of the Agreement is amended or replaced to refer to Chapters, headings and subheadings of a later version of the Harmonized Commodity Description and Coding System—the later version of the Harmonized Commodity Description and Coding System.

#### **47 Subsection 153ZMB(2)**

Repeal the subsection.

#### **48 Section 153ZME**

Repeal the section, substitute:

#### **153ZME Goods produced in Korea, or in Korea and Australia, from non-originating materials**

- (1) Goods are *Korean originating goods* if:
  - (a) they are classified to a Chapter, heading or subheading of the Harmonized System that is covered by the table in Annex 3-A of the Agreement; and
  - (b) they are produced entirely in the territory of Korea, or entirely in the territory of Korea and the territory of

- Australia, from non-originating materials only or from non-originating materials and originating materials; and
- (c) the goods satisfy the requirements applicable to the goods in that Annex; and
  - (d) either:
    - (i) the importer of the goods has, at the time for working out the rate of import duty on the goods, a Certificate of Origin, or a copy of one, for the goods; or
    - (ii) Australia has waived the requirement for a Certificate of Origin for the goods.
- (2) Without limiting paragraph (1)(c), a requirement may be specified in the table in Annex 3-A of the Agreement by using an abbreviation that is given a meaning for the purposes of that Annex.

*Change in tariff classification*

- (3) If a requirement that applies in relation to the goods is that all non-originating materials used in the production of the goods must have undergone a particular change in tariff classification, the regulations may prescribe when a non-originating material used in the production of the goods is taken to satisfy the change in tariff classification.
- (4) If:
- (a) a requirement that applies in relation to the goods is that all non-originating materials used in the production of the goods must have undergone a particular change in tariff classification; and
  - (b) one or more of the non-originating materials used in the production of the goods do not satisfy the change in tariff classification;
- then the requirement is taken to be satisfied if the total value of the non-originating materials covered by paragraph (b) does not exceed 10% of the customs value of the goods.
- (5) Subsection (4) does not apply in relation to goods covered by paragraph 3 of Article 3.6 of Chapter 3 of the Agreement.
- (6) If:

- (a) a requirement that applies in relation to the goods is that all non-originating materials used in the production of the goods must have undergone a particular change in tariff classification; and
- (b) the goods are classified to any of Chapters 50 to 63 of the Harmonized System; and
- (c) one or more of the non-originating materials used in the production of the goods do not satisfy the change in tariff classification;

then the requirement is taken to be satisfied if the total weight of the non-originating materials covered by paragraph (c) does not exceed 10% of the total weight of the goods.

*Regional value content*

- (7) If a requirement that applies in relation to the goods is that the goods must have a regional value content of not less than a particular percentage worked out in a particular way:
  - (a) the regional value content of the goods is to be worked out in accordance with the Agreement; or
  - (b) if the regulations prescribe how to work out the regional value content of the goods—the regional value content of the goods is to be worked out in accordance with the regulations.
- (8) If:
  - (a) a requirement that applies in relation to the goods is that the goods must have a regional value content of not less than a particular percentage worked out in a particular way; and
  - (b) the goods are imported into Australia with accessories, spare parts or tools; and
  - (c) the accessories, spare parts or tools are not invoiced separately from the goods; and
  - (d) the quantities and value of the accessories, spare parts or tools are customary for the goods;

the regulations must provide for the value of the accessories, spare parts or tools to be taken into account for the purposes of working out the regional value content of the goods (whether the accessories, spare parts or tools are originating materials or non-originating materials).

Note: The value of the accessories, spare parts or tools is to be worked out in accordance with the regulations: see subsection 153ZMB(3).

#### **49 Subsection 153ZMF(2)**

Repeal the subsection (including the note), substitute:

*Regional value content*

- (2) However, if a requirement that applies in relation to the goods is that the goods must have a regional value content of not less than a particular percentage worked out in a particular way, the regulations must provide for the value of the packaging material or container to be taken into account for the purposes of working out the regional value content of the goods (whether the packaging material or container is an originating material or non-originating material).

Note: The value of the packaging material or container is to be worked out in accordance with the regulations: see subsection 153ZMB(3).

#### **50 At the end of Subdivision F of Division 1J of Part VIII**

Add:

#### **153ZMJ Regulations**

The regulations may make provision for and in relation to determining whether goods are Korean originating goods under this Division.

## **Part 7—Application provision**

### **51 Application provision**

The amendments of Divisions 1C, 1D, 1E, 1F, 1H and 1J of Part VIII of the *Customs Act 1901* made by this Schedule apply in relation to:

- (a) goods imported into Australia on or after the commencement of this Schedule; and
- (b) goods imported into Australia before the commencement of this Schedule, where the time for working out the rate of import duty on the goods had not occurred before the commencement of this Schedule.

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*[Minister's second reading speech made in—  
House of Representatives on 12 September 2019  
Senate on 11 November 2019]*

(161/19)

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