

EXPLANATORY STATEMENT

Select Legislative Instrument 2006 No. 331

Issued by the Authority of the Minister for Justice and Customs

Customs Tariff Act 1995

Customs Tariff Amendment Regulations 2006 (No. 1)

Section 20A of the *Customs Tariff Act 1995* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed or necessary or convenient to be prescribed for giving effect to the Act.

Sections 15 and 16 of, and Schedule 5 to, the Act implement Australia's obligations under the Australia-United States Free Trade Agreement (the Agreement) by imposing lower rates of customs duty for imported goods that are US originating goods. US originating goods are goods imported from the United States of America that satisfy the rules of origin in Division 1C of Part VIII of the *Customs Act 1901*.

For most US originating goods, the rate of customs duty is 'Free'. However, for certain classes of goods, the rate of customs duty is phased down to 'Free' from their current rate over a period of time. The phasing rates for these goods are specified in Schedule 5 to the Act with the goods identified by reference to their 8-figure tariff classification under Schedule 3 to the Act (the Australian Tariff).

In the Agreement itself, some US originating goods that are subject to phased preferential duty rates are specified by reference to their 8-figure tariff classification under the Harmonized US Tariff Schedule of the United States (the US Tariff).

In a small number of circumstances, the classifications under the Australian Tariff (the Australian classification) mentioned in an item in Schedule 5 to the Act do not exactly match the corresponding tariff classifications under the US Tariff (the US classifications). In these circumstances, to correctly implement the Agreement, goods that are classified to the Australian classifications in the relevant items in Schedule 5 are subject to the phased preferential rates of duty only if these goods are also prescribed.

Regulation 4 of, and Schedule 1 to, the *Customs Tariff Regulations 2004* (the Principal Regulations) prescribe the goods, for the purposes of the relevant items in Schedule 5 of the Act, which are subject to the phased preferential duty rates by reference to their US classification. Relevant goods that are not so prescribed have a duty rate of 'Free'.

The purpose of the amending Regulations is to amend the Principal Regulations to update Schedule 1, as a result of amendments to the Australian Tariff and the US Tariff. The amendments to the Australian Tariff and the US Tariff in turn result from changes to the Harmonized Commodity Description and Coding System, commonly referred to as the Harmonized System (HS).

The Australian Tariff and the US Tariff are both based on the HS. The HS is subject to cyclic review, approximately every five years, and the present (third) review has resulted in several hundred changes to the classifications. Both Australia and the US are currently implementing these changes (the HS 2007 changes) in the Australian Tariff and the US Tariff.

The changes to the Australian Tariff arising from the HS 2007 changes come into effect from 1 January 2007. However, at the time of writing, the changes to the US Tariff arising from the HS 2007 changes come into effect either from 1 January 2007 (in the US) or at a later date. The changes to the US Tariff commence at a later time than the changes to the Australian Tariff. To take into account the different times at which the changes to the Australian Tariff and the US Tariff come into effect, two schedules of amendments have been prepared that commence and apply to goods imported into Australia at different times.

Regulations 1 to 4 and the amendments set out in Schedule 1 to the amending Regulations commence on 1 January 2007. These amendments apply to goods imported into Australia:

- on or after 1 January 2007 and before the commencement of Schedule 2; and
- goods imported before 1 January 2007, where the time for working out the rate of import duty occurs on or after 1 January 2007 and before the commencement of Schedule 2.

These amendments relate to the interim period where the changes to the Australian Tariff have come into effect but the changes to the US Tariff have not yet commenced.

The amendments set out in Schedule 2 to the proposed Regulations relate to the circumstance where the changes to both the Australian Tariff and US Tariff have come into effect. These amendments and associated regulations 5 to 7 commence at the same time the changes to the US Tariff come into effect. The Minister must publish a notice in the Commonwealth Gazette stating the date and time on which Schedule 2 commenced and will do so when these details are confirmed. These amendments apply to goods imported into Australia:

- on or after the commencement of Schedule 2; and
- goods imported into Australia before 1 January 2007, where the time for working out the rate of import duty on the goods occurs after the commencement of Schedule 2.

Associated amendments to the *Customs Regulations 1926* and the *Customs (Australia-US Free Trade Agreement) Regulations 2004*, resulting from the third review of the Harmonized System, are the subject of separate regulations.

No consultation was undertaken specifically in relation to the amendments as they are of a minor or machinery nature and do not substantially alter existing arrangements.

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