

EXPLANATORY STATEMENT

Select Legislative Instrument 2012 No. 318

Issued by the Authority of the Minister for Home Affairs

Customs Act 1901

Customs (Malaysian Rules of Origin) Regulation 2012

Subsection 270(1) of the *Customs Act 1901* (the Act) provides, in part, that the Governor-General may make regulation not inconsistent with the Act prescribing all matters which by the Act are required or permitted to be prescribed or as may be necessary or convenient to be prescribed for giving effect to the Act or for the conduct of any business relating to Customs.

The *Customs Amendment (Malaysia-Australia Free Trade Agreement Implementation and Other Measures) Act 2012* (the MAFTA Act) amends the Act to fulfil Australia's obligations under Chapter 3 of the Malaysia-Australia Free Trade Agreement (the Agreement), which deals with rules of origin. These rules determine whether goods imported into Australia from Malaysia are Malaysian originating goods and are thereby eligible for preferential rates of customs duty. These rules are contained in new Division 1H of Part VIII of the Act (new Division 1H).

Relevant provisions of the MAFTA Act which amend the Act are expressed to commence on the later of 1 January 2013 or the day the Malaysia-Australia Free Trade Agreement enters into force.

The purpose of the regulation is to prescribe matters relating to the rules of origin that will be required to be prescribed under new Division 1H (Malaysian originating goods). The relevant provisions of new Division 1H are set out in Attachment A.

The regulation:

- sets out a table in Schedule 1 detailing the product-specific requirements relevant to each tariff classification for goods;
- explains the method used to determine the regional value content of goods for the purposes of some of the product-specific requirements set out in Schedule 1;
- specifies the valuation rules for different kinds of goods;
- sets out the record keeping requirements that apply to Australian exporters or producers who export goods to Malaysia and obtain preferential tariff treatment in Malaysia; and
- prescribes other matters that are required to be prescribed under new Division 1H.

Details of the regulation are set out in Attachment B.

The regulation commences on commencement of Schedule 1 to the MAFTA Act which is the later of 1 January 2013 and the day the Agreement enters into force for Australia.

No particular consultation was undertaken with regard to this regulation; however, consultation regarding the Malaysia-Australia Free Trade Agreement was undertaken as part of the Joint Standing Committee on Treaty's consideration of the Agreement.

1216850A

Statement of Compatibility with Human Rights

(Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*)

Customs (Malaysian Rules of Origin) Regulation 2012

This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in the definition of human rights in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the regulation

The *Customs Amendment (Malaysia-Australia Free Trade Agreement Implementation and Other Measures) Act 2012* (the MAFTA Act) amends the *Customs Act 1901* to fulfil Australia's obligations under Chapter 3 of the Malaysia-Australia Free Trade Agreement (the Agreement), which deals with rules of origin. These rules determine whether goods imported into Australia from Malaysia are Malaysian originating goods and are thereby eligible for preferential rates of customs duty. These rules are contained in new Division 1H of Part VIII of the Act (new Division 1H).

The purpose of the regulation is to prescribe matters relating to the rules of origin that will be required to be prescribed under new Division 1H (Malaysian originating goods).

Human Rights implications

This legislative instrument does not engage, impact on or limit in any way, the human rights and freedoms recognised or declared in the international instruments listed in the definition of human rights at section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Conclusion

This legislative instrument does not raise any human rights issues.

Minister for Home Affairs

ATTACHMENT A

DETAILS OF PROVISIONS IN NEW DIVISION 1H OF PART VIII OF THE *CUSTOMS ACT 1901* RELEVANT TO THE *CUSTOMS (MALAYSIAN RULES OF ORIGIN) REGULATION 2012*

The *Customs Amendment (Malaysia-Australia Free Trade Agreement Implementation and Other Measures) Act 2012* (the MAFTA Act) will insert new Division 1H of Part VIII into the *Customs Act 1901* (the Act). New Division 1H of Part VIII of the Act (new Division 1H) will contain the rules of origin set out in Chapter 3 of the Malaysia-Australia Free Trade Agreement (the Agreement). These rules determine whether goods imported into Australia from Malaysia are Malaysian originating goods and are thereby eligible for preferential rates of customs duty.

Subdivision B of new Division 1H will relate to goods wholly obtained or produced entirely in Malaysia or in Malaysia and Australia and Subdivision D of new Division 1H will relate to goods that are produced wholly or partly from non-originating materials (relevant goods).

Under new subsection 153ZLB(1) of the Act, 'non-originating materials' will mean goods that are not originating materials. 'Originating materials' will be further defined to mean:

- (a) Malaysia originating goods that are used in the production of other goods;
- (b) Australian originating goods that are used in the production of other goods (Australian originating goods are goods that are Australian originating goods under a law of Malaysia that implements the Agreement); or
- (c) indirect materials.

Indirect materials is defined in subsection 153ZLB(1) as:

- (i) goods or energy used in the production, testing or inspection of goods, but not physically incorporated in the goods; or
- (ii) goods or energy used in the maintenance of buildings or the operation of equipment associated with the production of goods.

New section 153ZLE of the Act will provide that goods are Malaysia originating goods if:

- (a) they are classified to a heading or subheading of the Harmonized System that is specified in column 1 or 2 of the table in Schedule 1 to the *Customs (Malaysian Rules of Origin) Regulation 2012* (the regulation); and
- (b) they are produced entirely in Malaysia, or entirely in Malaysia and Australia, from non-originating materials only or from non-originating and originating materials;
- (c) each requirement specified in the regulation to apply in relation to the goods is satisfied; and
- (d) the importer of the goods has, at the time the goods are imported, a Certificate of Origin or Declaration of Origin, or a copy of one, for the goods.

One of the requirements that may be specified in the regulation is a change in tariff classification requirement. Under new subsections 153ZLE(2) and (3) of the Act, the regulations may make it a requirement that each non-originating material used to produce goods must satisfy a particular change in tariff classification and when the material will be taken to satisfy the change. The regulation includes this requirement and also specifies each particular change in tariff classification for each relevant heading, subheading or split subheading of the Harmonized System.

Another of the requirements that may be specified in the regulation is a regional value content (RVC) requirement. New subsection 153ZLE(6) of the Act will provide that the regulations may make it a requirement that the goods must satisfy an RVC requirement. Under new subsection 153ZLB(2) of the Act, the regulations may prescribe different RVC requirements for different kinds of goods. The regulation sets out the RVC requirements and specifies two methods of calculating RVC.

For the purposes of new Division 1H, new subsection 153ZLB(3) will provide that the value of goods is to be worked out in accordance with regulation, and the regulations may prescribe different valuation rules for different kinds of goods.

The regulation prescribes how the value of materials is to be worked out for the purposes of new Division 1H and the regulation.

Under new subsection 153ZLE(7) of the Act, the regulation must require the value of standard accessories, spare parts, tools or instructional or other information materials imported together with goods to be taken into account as originating or non-originating materials, as the case may be, for the purposes of any RVC requirement applicable to the goods. For the purposes of new subsection 153ZIE(7) of the Act, the regulation requires that the value of such accessories, spare parts, tools or instructional or other information materials be taken into account for the purposes of any RVC requirement applicable to goods, and prescribe how such value is to be worked out and taken into account.

Under new subsection 153ZLF(2) of the Act, the regulation must require the value of certain packaging materials or containers used to package goods for retail sale to be taken into account as originating or non-originating materials, as the case may be, for the purposes of any RVC requirement applicable to the relevant goods. For the purposes of new subsection 153ZLF(2) of the Act, the regulation requires that the value of such packaging materials or containers be taken into account for the purposes of any RVC requirement applicable to goods, and prescribe how such value is to be worked out and taken into account.

ATTACHMENT B

DETAILS OF THE *CUSTOMS (MALAYSIAN RULES OF ORIGIN) REGULATION 2012*

PART 1 – PRELIMINARY

Section 1.1 - Name of regulation

Section 1.1 provides that the regulation is the *Customs (Malaysian Rules of Origin) Regulation 2012*.

Section 1.2 - Commencement

Section 1.2 provides that the regulation commences on the commencement of Schedule 1 to the *Customs Amendment (Malaysia-Australia Free Trade Agreement Implementation and Other Measures) Act 2012* (the MAFTA Act). Schedule 1 to the MAFTA Act will commence on the later of 1 January 2013 or the day the Malaysia-Australia Free Trade Agreement comes into force for Australia.

Section 1.3 - Definitions

Section 1.3 provides that in the regulation:

‘Act’ means the *Customs Act 1901* (the Act); and

the following words and expressions have the meanings as in new Division 1H of Part VIII of the Act (new Division 1H):

- (a) Agreement;
- (b) Australian originating goods;
- (c) Certificate of Origin;
- (d) Declaration of Origin
- (e) Harmonized System;
- (f) Malaysian originating goods;
- (g) non-originating materials;
- (h) originating materials; and
- (i) produce.

New Division 1H will be inserted into the Act by Schedule 1 to the MAFTA Act.

PART 2

TARIFF CHANGE REQUIREMENTS

Section 2.1 Tariff change requirement for non-originating materials

Subsection 2.1(1) provides that for subsection 153ZLE(2) of the Act, each non-originating material used in the production of the goods is required to satisfy a specified change in tariff classification. The particular change in tariff classification for each relevant heading or subheading of the Harmonized Commodity Description and Coding System (the Harmonized System) is included in the table in Schedule 1 to the regulation.

Under new subsection 153ZLB (1) of the Act, ‘non-originating materials’ will mean goods that are not originating materials. ‘Originating materials’ will be further defined to mean:

- (a) Malaysia originating goods that are used in the production of other goods;
- (b) Australian originating goods, that are used in the production of other goods; or
- (c) indirect materials.

Indirect materials is defined in subsection 153ZLB(1) as:

- (i) goods or energy used in the production, testing or inspection of goods, but not physically incorporated in the goods; or
- (ii) goods or energy used in the maintenance of buildings or the operation of equipment associated with the production of goods.

Subsection 2.1(2) provides that each non-originating material that does not satisfy the change in tariff classification mentioned in subsection 2.1(1) is taken to satisfy a particular change in tariff classification if:

- (a) it was produced entirely in Malaysia or in Malaysia and Australia from other non-originating materials; and
- (b) each of those materials satisfies the change in tariff classification mentioned in subsection (1), including by one or more applications of this subsection.

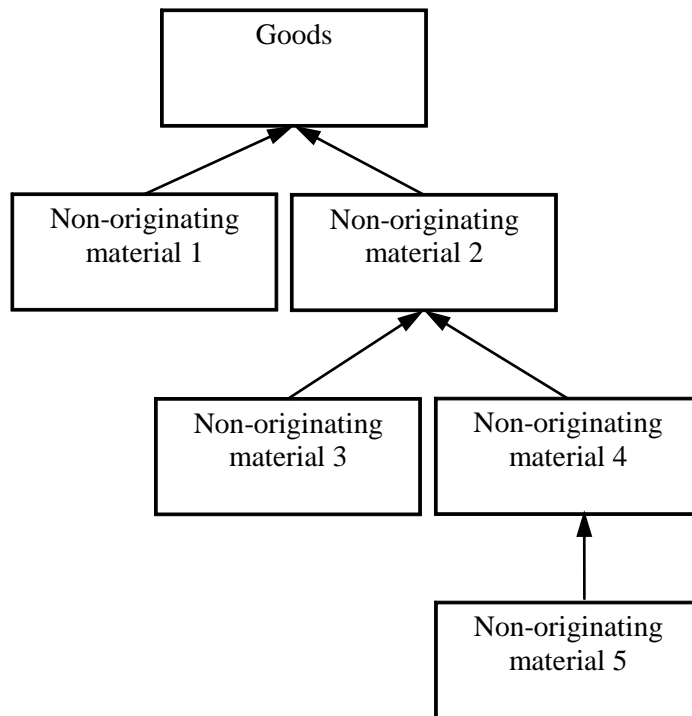
Paragraph (b) gives effect to the cumulation provisions contained in Article 3.4 of the Agreement and applies where the non-originating materials that are used to directly produce the final good do not satisfy the change in tariff classification.

In producing a final good, a producer may use goods that are produced in Malaysia by another producer. The components of these goods may be produced by yet another producer in Malaysia or imported into Malaysia. It is possible that the change in tariff classification rule may not be satisfied at each step in the production process from the imported component to the final goods which may mean that the final goods are non-originating.

In such circumstances, it may be possible to examine each step in the production process of each non-originating material that occurs in Malaysia or Australia in order to determine whether each step satisfies the change in tariff classification rule for the

final goods directly from that step to the final goods. If this does occur, the material will be an originating material and the final goods may be originating goods (subject to satisfying all other requirements of new Division 1H of Part VIII of the Act). This is how paragraph 2.1(2)(b) of the regulation operates.

Example: The following diagram relates to the production of particular goods that occurred entirely in Malaysia. The diagram and the accompanying text illustrate the application of paragraph 2.1(2)(b).



The goods are produced from non-originating materials 1 and 2.

First application of paragraph (b)

Non-originating materials 1 and 2 must satisfy the change in tariff classification. Under paragraph 2.1(2)(a), non-originating material 1 does satisfy the relevant change in tariff classification. Under paragraph 2.1(2)(b), non-originating material 2 does not satisfy the relevant change in tariff classification, but it has been produced by non-originating materials 3 and 4.

Second application of paragraph (b)

Non-originating materials 3 and 4 must satisfy the change in tariff classification. Under paragraph 2.1(2)(a), non-originating material 3 does satisfy the relevant change in tariff classification. Under paragraph 2.1(2)(b), non-originating material 4 does not satisfy the relevant change in tariff classification, but it has been produced by non-originating material 5.

Third application of paragraph (b)

Non-originating material 5 must satisfy the change in tariff classification. Under paragraph 2.1(2)(a), non-originating material 5 does satisfy the relevant change in tariff classification.

Final result

The result of the 3 applications of paragraph (b) is that non-originating material 2 does satisfy substantial transformation.

PART 3

REGIONAL VALUE CONTENT REQUIREMENT

Section 3.1 Regional value content

New subsection 153ZLE(6) of the Act will provide that the regulations may specify that goods are required to have a regional value content of at least a specified percentage. The regional value content for each relevant heading, subheading or split subheading of the Harmonized System is included in the table in Schedule 1 to the regulation. New subsection 153ZLB(2) of the Act will provide that the sections may prescribe different regional value content requirements for different kinds of goods.

Section 3.1 provides that for the purposes of the table in Schedule 1, this Part explains how ‘regional value content’ is worked out using the build-down method and the build-up method. For Part 3, ‘RVC’ means regional value content.

Section 3.2 Build-down method

Section 3.2 provides that the build-down method is the formula:

$$\text{RVC} = \frac{\text{value} - \text{value of non-originating materials}}{\text{value}} \times 100$$

where:

value means the customs value of the goods, as worked out under Division 2 of Part VIII of the Act; and

value of non-originating materials means the value of non-originating materials, including materials of undetermined origin, that are worked out under Part 4 of the regulation that are acquired and used by the producer in the production of the goods.

Subsection 3.2(2) provides that RVC is to be expressed as a percentage.

Under the build-down method, the RVC calculation requires the determination of the percentage of non-originating materials used in the production of goods.

For example, an electric toaster is made from non-originating toaster housings. Each toaster is sold for \$5.00 and the value of the non-originating parts is \$2.00. Using the build-down method, the RVC is calculated as follows:

$$\text{RVC} = \frac{\$5.00 - \$2.00}{\$5.00} \times 100$$

Therefore, the RVC equals 60%.

Section 3.3 Build-up method

Subsection 3.3(1) provides that the build-up method is the formula:

$$\text{RVC} = \frac{\text{value of originating materials}}{\text{value}} \times 100$$

where:

value means the customs value of the goods, worked out under Division 2 of Part VIII of the Act; and

value of originating materials means the value of originating materials worked out under Part 4 that are acquired, or self-produced, and used, or consumed, by the producer in the production of the goods.

Subsection 3.3(2) provides that RVC is to be expressed as a percentage.

Under the build-up method, the RVC calculation determines the percentage of originating materials used in the production of goods.

For example, wooden cabinets are made from originating timbers. Each piece of furniture is sold for \$100 and the value of the originating materials used to produce the furniture is \$43. Using the build-up method, the RVC is calculated as follows:

$$\text{RVC} = \frac{\$43}{\$100} \times 100$$

Therefore, the RVC equals 43%.

PART 4 DETERMINATION OF VALUE

For the purposes of new Division 1H, new subsection 153ZLB (3) will provide that the value of goods is to be worked out in accordance with sections, and the sections may prescribe different valuation rules for different kinds of goods.

Part 4 deals with the determination of the value of different kinds of goods that are materials used in the production of the relevant goods for the purposes of new Division 1H and the regulation.

Section 4.1 Definitions for Part 4

For Part 4, section 4.1 defines materials to mean originating materials and non-originating materials. The section also defines the *Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994* to mean the Agreement of that name set out in Annex 1A of the Marrakesh Agreement Establishing the World Trade Organization, done at Marrakesh on 15 April 1994.

Section 4.2 Value of materials

Section 4.2, for the purposes of new subsection 153ZLB(3) and the regulation, sets out how the value of materials is to be worked out.

Subsection 4.2(1) provides that for the purposes of subsection 153ZLB(3) of the Act, section 4.2 explains how to work out the value of goods that are originating materials or non-originating materials.

Subsection 4.2(2) provides that the value of materials is to be worked out as follows:

- (a) for a material imported into Malaysia by the producer of the good—the value of the material worked out under a law of Malaysia that implements the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994;
- (b) for a material acquired in the territory of Malaysia—the earliest ascertainable cost of acquisition of the material;
- (c) for a material that is that is produced by the producer of the good and used in the production of that good—the sum of:
 - (i) the expenses incurred in the production of the material, including general expenses; and
 - (ii) an amount for profit equivalent to the profit that the producer would make for the materials in the normal course of trade.

Subsection 4.2(3) provides that for materials that are originating materials, their value may include the costs of the following matters, to the extent that they have not been taken into account under subsection 4.2(2):

- (a) freight, insurance, packing and any other transportation of the materials to the producer:

- (i) in Malaysia; or
- (ii) between Australia and Malaysia;
- (b) duties, taxes and customs brokerage fees on the materials that:
 - (i) have been paid in either or both of Australia and Malaysia; and
 - (ii) have not been waived or refunded; and
 - (iii) are not refundable or otherwise recoverable, including any credit against duties or taxes that have been paid or that are payable;
- (c) waste and spoilage resulting from the use of the materials in the production of goods, reduced by the value of renewable scrap or by-products.

Subsection 4.2(4) provides that for materials that are non-originating materials, their value may exclude the costs of the following matters, to the extent that they have been taken into account under subsection 4.2(2):

- (a) freight, insurance, packing and any other transportation of the materials to the producer:
 - (i) in Malaysia; or
 - (ii) between Australia and Malaysia;
- (b) duties, taxes and customs brokerage fees on the materials that:
 - (i) have been paid in either or both of Australia and Malaysia; and
 - (ii) have not been waived or refunded; and
 - (iii) are not refundable or otherwise recoverable, including any credit against duties or taxes that have been paid or that are payable;
- (c) waste and spoilage resulting from the use of the materials in the production of goods, reduced by the value of renewable scrap or by-products;
- (d) originating materials that are used or consumed in the production of the non-originating materials in Australia or Malaysia; and
- (e) other costs incurred in Australia or the Malaysia in the production of the non-originating materials.

Section 4.3 Value of accessories, spare parts, tools or instructional or other information materials

Under new section 153ZLH of the Act, if goods are imported into Australia with accessories, spare parts, tools or instructional or other information materials, then the accessories, spare parts, tools or instructional or other information material will be Malaysian originating goods if:

- (a) they are accessories, spare parts, tools or instructional or other information materials in relation to other goods; and
- (b) the other goods are imported into Australia with the accessories, spare parts, tools or instructional or other information materials; and

- (c) the other goods are Malaysian originating goods; and
- (d) the accessories, spare parts, tools or instructional or other information materials are not invoiced separately from the other goods; and
- (e) the quantities and value of the accessories, spare parts, tools or instructional or other information materials are customary for the other goods.

However, new subsection 153ZLE(7) will provide that, in working out if goods are Malaysian originating goods, if the goods must have a RVC of at least a particular percentage, the regulations may require the value of the accessories, spare parts, tools or instructional or other information materials to be taken into account as originating or non-originating materials, as the case may be, for the purposes of working out the RVC requirement.

Section 4.3 provides that for subsection 153ZLE(7) of the Act, if goods imported in the circumstances mentioned in that subsection are required to have a RVC of at least a particular percentage mentioned in Schedule 1:

- (a) in working out the RVC of the goods:
 - (i) the value of accessories, spare parts, tools or instructional or other information material that are imported with the goods and are Malaysia originating goods must be included in the value of originating materials used in the production of the goods; and
 - (ii) the value of accessories, spare parts, tools or instructional or other information material that are imported with the goods and are not Malaysia originating goods must be included in the value of non-originating materials used in the production of the goods; and
- (b) the value of accessories, spare parts, tools or instructional or other information material is to be worked out under section 4.2 as if the accessories, spare parts, tools or instructional or other information materials were materials used in the production of the goods.

Section 4.4 Value of packaging material and container

Under new subsection 153ZLF(1) of the Act, if:

- (a) goods are packaged for retail sale in packaging material or a container; and
- (b) the packaging material or container is classified with the goods in accordance with Rule 5 of the Interpretation Rules of the Harmonized System;

then the packaging material or container is to be disregarded for the purposes of new Subdivision D of Division 1H, with 2 exceptions.

Under new subsection 153ZLF(2), in working out whether the goods are Malaysian originating goods, if the goods are required to have a RVC of at least a particular percentage, the regulation must require the value of the packaging material or container to be taken into account as originating or non-originating materials, as the case may be, for the purposes of that RVC requirement.

New subsection 153ZLF(3) provides that if the packaging material or container is not customary for the goods, the regulation must require the value of the packaging material or container to be taken into account as non-originating materials for the purposes of working out the regional content of the goods.

Section 4.4 provides that for section 153ZLF of the Act, if goods mentioned in subsection 153ZLF(1) of the Act are required to have a RVC under Subdivision D of Division 1H of Part VIII of the Act:

- (a) in working out the RVC of the goods:
 - (i) if the packaging material or container in which the goods are packaged are a Malaysian originating goods, then the value of the packaging material or container in which the goods are packaged, must be included in the value of originating materials used in the production of the goods; and
 - (ii) if the packaging material or container in which the goods are packaged are not a Malaysian originating good, then the value of the packaging material or container in which the goods are packaged must be included in the value of non-originating materials used in the production of the goods; and
- (b) the value of the packaging material or container in which the goods are packaged must be worked out under section 4.2 as if the packaging material or container were a material used in the production of the goods.

PART 5 RECORD KEEPING OBLIGATIONS

Section 5.1 Exportation of goods to Malaysia—record keeping by exporter who is not the producer of the goods

Section 5.1 provides that for new section 126ALB of the Act, an exporter of goods mentioned in that subsection, who is not also the producer of the goods, must keep the following records:

- (a) records of the purchase of the goods by the exporter;
- (b) records of the purchase of the goods by the person to whom the goods are exported;
- (c) evidence that payment has been made for the goods;
- (d) evidence of the classification of the goods under the Harmonized System;
- (e) if the goods include any spare parts, accessories, tools or instructional or other information materials that were purchased by the exporter—records of the purchase of the spare parts, accessories, tools or instructional or other information material and evidence of their value;
- (f) if the goods include any spare parts, accessories, tools or instructional or other information material that were produced by the exporter—records of the purchase of all materials that were purchased for use or consumption in the production of such goods, evidence of the value of these materials and records of the production of the spare parts, accessories, tools or instructional or other information material;
- (g) if the goods are packaged for retail sale in packaging material or a container that was purchased by the exporter—records of the purchase of the packaging material or container and evidence of their value; and
- (h) if the goods are packaged for retail sale in packaging material or a container that was produced by the exporter—records of the purchase of all materials that were purchased for use or consumption in the production of such goods, evidence of the value of these materials and records of the production of the packaging material or container.

The goods mentioned in subsection 126ALB(1) are goods that are exported to Malaysia and are claimed to be Australian originating goods for the purpose of obtaining a preferential tariff in Malaysia.

Subsection 5.1(2) provides that the records must be kept for a period of at least 5 years starting on the date the Declaration of Origin for the goods is signed.

Subsection 5.1(3) sets out the manner in which a record is to be kept. A record may be kept in any place, whether or not in Australia, and the exporter must ensure that:

- (a) the record is kept in a form that would enable a determination of whether the goods are Australian originating goods in accordance with the Agreement; and
- (b) if the record is not in English—the record is kept in a place and form that would enable an English translation to be readily made; and
- (c) if the record is kept by mechanical or electronic means—the record is readily convertible into a hard copy in English.

Section 5.2 Exportation of goods to Malaysia—record keeping by the producer of the goods

Section 5.2 provides that for section 126ALB of the Act, the producer of goods mentioned in that subsection, whether or not the producer is the exporter of the goods, must keep the following records:

- (a) records of the purchase of the goods;
- (b) if the producer or principal manufacturer is the exporter of the goods—evidence of the classification of the goods under the Harmonized System;
- (c) evidence that payment has been made for the goods;
- (d) evidence of the value of the goods;
- (e) records of the purchase of all materials that were purchased for use or consumption in the production of the goods and evidence of the classification of the materials under the Harmonized System;
- (f) evidence of the value of those materials;
- (g) records of the production of the goods;
- (h) if the goods include any spare parts, accessories, tools or instructional or other information material—records of the purchase of these materials and evidence of their value;
- (i) if the goods include any spare parts, accessories, tools or instructional or other information materials that were produced by the producer—records of the purchase of these materials, evidence of the value of these materials and records of the production of the spare parts, accessories, tools or instructional or other information material;
- (j) if the goods are packaged for retail sale in packaging material or a container that was purchased by the producer or principal manufacturer—records of the purchase of the packaging material or container and evidence of their value; and
- (k) if the goods are packaged for retail sale in packaging material or a container that was produced by the producer—records of the purchase of all materials that were purchased for use or consumption in the production of such goods, evidence of the value of these materials and records of the production of the packaging material or container.

Subsection 5.2(2) provides that the records must be kept for a period of at least 5 years starting on the date the Declaration of Origin for the goods is signed.

Subsection 5.2(3) sets out the manner in which a record is to be kept. A record may be kept in any place, whether or not in Australia, and the exporter must ensure that:

- (a) the record is kept in a form that would enable a determination of whether the goods are Australian originating goods in accordance with the Agreement; and
- (b) if the record is not in English—the record is kept in a place and form that would enable an English translation to be readily made; and
- (c) if the record is kept by mechanical or electronic means—the record is readily convertible into a hard copy in English.

SCHEDULE 1 **PRODUCT-SPECIFIC RULES OF ORIGIN FROM**
ANNEX 2 TO THE AGREEMENT

Schedule 1 sets out the table, which specifies the different product-specific rules of origin applicable to goods for each heading, subheading and split subheading in the Harmonized System. Schedule 1 also sets out interpretation provisions relevant to the product-specific requirements in the table. Schedule 1 is based on Annex 2 to the Agreement.

Part 1 of Schedule 1 sets out the Interpretation provisions relevant to the product-specific rules of origin specified in the table. Part 2 of Schedule 1 sets out the table.