



Customs (Singaporean Rules of Origin) Regulations 2017

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 16 November 2017

Peter Cosgrove
Governor-General

By His Excellency's Command

Alex Hawke
Assistant Minister for Immigration and Border Protection
Parliamentary Secretary to the Minister for Immigration and Border Protection

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Part 1—Preliminary

1 Name

This instrument is the *Customs (Singaporean Rules of Origin) Regulations 2017*.

2 Commencement

- (1) Each provision of this instrument 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.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	At the same time as Schedule 1 to the <i>Customs Amendment (Singapore-Australia Free Trade Agreement Amendment Implementation) Act 2017</i> commences.	1 December 2017

Note: This table relates only to the provisions of this instrument as originally made.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

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

3 Authority

This instrument is made under the *Customs Act 1901*.

4 Definitions

In this instrument:

Act means the *Customs Act 1901*.

Agreement has the meaning given by section 153XD of the Act.

Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 means 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.

Note: The Marrakesh Agreement Establishing the World Trade Organization is in Australian Treaty Series 1995 No. 8 ([1995] ATS 8) and could in 2017 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

chapter means the first 2 digits in a tariff classification number under the Harmonized System.

Harmonized System has the meaning given by section 153XD of the Act.

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heading means the first 4 digits in a tariff classification number under the Harmonized System.

non-originating materials has the meaning given by section 153XD of the Act.

originating materials has the meaning given by section 153XD of the Act.

production has the meaning given by section 153XD of the Act.

Singaporean originating goods has the meaning given by section 153XD of the Act.

subheading means the first 6 digits in a tariff classification number under the Harmonized System.

territory of Australia has the meaning given by section 153XD of the Act.

territory of Singapore has the meaning given by section 153XD of the Act.

Part 2—Tariff change requirement

5 Change in tariff classification requirement for non-originating materials

For the purposes of subsection 153XG(3) of the Act, a non-originating material used in the production of goods that does not satisfy a particular change in tariff classification is taken to satisfy the change in tariff classification if:

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

Part 3—Regional value content requirement

6 Build-down method

- (1) For the purposes of subsection 153XG(6) of the Act, the regional value content of goods under the build-down method is worked out using the formula:

$$\frac{\text{Customs value} - \text{Value of non-originating materials}}{\text{Customs value}} \times 100$$

where:

customs value means the customs value of the goods worked out under Division 2 of Part VIII of the Act.

value of non-originating materials means the value, worked out under Part 6, of the non-originating materials used in the production of the goods.

- (2) Regional value content must be expressed as a percentage.

7 Build-up method

- (1) For the purposes of subsection 153XG(6) of the Act, the regional value content of goods under the build-up method is worked out using the formula:

$$\frac{\text{Value of originating materials}}{\text{Customs value}} \times 100$$

where:

customs value means the customs value of the goods worked out under Division 2 of Part VIII of the Act.

value of originating materials means the value, worked out under Part 6, of the originating materials used in the production of the goods.

- (2) Regional value content must be expressed as a percentage.

Part 4—Requirements for goods that are oils, chemicals, plastics or rubber

8 Requirements for goods that are oils, chemicals, plastics or rubber

- (1) For the purposes of subparagraph 153XG(1)(c)(ii) of the Act, an alternative requirement that applies in relation to goods is that at least one of subsections (2), (5), (7), (9), (10), (11), (12) and (14) is satisfied in relation to the goods.

Chemical reaction rule

- (2) This subsection is satisfied in relation to the goods if:
- (a) the goods are classified to any of Chapters 27 to 40 of the Harmonized System; and
 - (b) the goods are the product of a chemical reaction.
- (3) For the purposes of subsection (2), a **chemical reaction** is a process (including a biochemical process) which results in a molecule with a new structure by breaking intramolecular bonds and by forming new intramolecular bonds, or by altering the spatial arrangement of atoms in a molecule.
- (4) For the purposes of subsection (2), the following are not chemical reactions:
- (a) dissolving in water or other solvents;
 - (b) the elimination of solvents including solvent water;
 - (c) the addition or elimination of water of crystallization.

Distillation rule

- (5) This subsection is satisfied in relation to the goods if:
- (a) the goods are classified to heading 27.10 of the Harmonized System; and
 - (b) the goods were produced using atmospheric distillation or vacuum distillation.
- (6) For the purposes of subsection (5):
- (a) **atmospheric distillation** means a separation process in which petroleum oils are converted, in a distillation tower, into fractions according to boiling point and the vapour then condensed into different liquefied fractions; and
 - (b) **vacuum distillation** means distillation at a pressure below atmospheric but not so low that it would be classed as molecular distillation.

Direct blending rule

- (7) This subsection is satisfied in relation to the goods if:
- (a) the goods are classified to heading 27.10 of the Harmonized System; and
 - (b) the goods were produced using direct blending.
- (8) For the purposes of subsection (7), **direct blending** means a process where various petroleum streams from processing units or petroleum components from

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holding or storage tanks are combined to produce goods with pre-determined parameters, where the non-originating materials of heading 27.10 of the Harmonized System constitute no more than 25% by volume of the goods.

Purification rule

- (9) This subsection is satisfied in relation to the goods if:
- (a) the goods are classified to any of Chapters 28 to 35 or to Chapter 38 of the Harmonized System; and
 - (b) purification of the goods has resulted in the elimination of at least 80% of the content of existing impurities.

Mixtures and blends rule

- (10) This subsection is satisfied in relation to the goods if:
- (a) the goods are classified to Chapter 30 or 31, heading 33.02, subheading 3502.20 or heading 35.06, 35.07 or 37.07 of the Harmonized System; and
 - (b) the deliberate and proportionally controlled mixing or blending (including dispersing) of materials to conform to predetermined specifications has resulted in the production of the goods which have physical or chemical characteristics which are:
 - (i) relevant to the purposes or uses of the goods; and
 - (ii) different from the input materials.

Change in particle size rule

- (11) This subsection is satisfied in relation to the goods (the **final goods**) if:
- (a) the final goods are classified to Chapter 30 or 31, subheading 3204.17 or heading 33.04 of the Harmonized System; and
 - (b) the deliberate and controlled modification in particle size of goods occurs, (including micronizing by dissolving a polymer and subsequent precipitation), other than by merely crushing or pressing, resulting in the final goods:
 - (i) having a defined particle size, defined particle size distribution or defined surface area that is relevant to the purposes of the final goods; and
 - (ii) having different physical or chemical characteristics from the input materials.

Standard materials or solutions rule

- (12) This subsection is satisfied in relation to the goods if:
- (a) the goods are classified to any of Chapters 28 to 38 of the Harmonized System (other than headings 35.01 to 35.05 and subheading 3824.60); and
 - (b) the goods are standard materials or solutions.
- (13) For the purposes of subsection (12), **standard materials or solutions** are preparations:
- (a) that have precise degrees of purity or proportions which are certified by the manufacturer; and
 - (b) that are suitable for analytical, calibrating or referencing uses.

Isomer separation rule

- (14) This subsection is satisfied in relation to the goods if:
- (a) the goods are classified to any of Chapters 28 to 38 of the Harmonized System; and
 - (b) the goods were produced from the isolation or separation of isomers from mixtures of isomers.

Part 5—Other rules of origin requirements

9 Goods classified to heading 27.09 of the Harmonized System

- (1) For the purposes of section 153XK of the Act, in determining whether goods classified to heading 27.09 of the Harmonized System are Singaporean originating goods, the origin of diluent referred to in subsection (2) is disregarded, provided that the diluent constitutes no more than 40% by volume of the goods.
- (2) The diluent is diluent of heading 27.09 or 27.10 of the Harmonized System that is used to facilitate the transportation between the territory of Singapore and the territory of Australia of:
 - (a) crude petroleum oils of heading 27.09 of the Harmonized System; or
 - (b) crude oils of heading 27.09 of the Harmonized System obtained from bituminous minerals.

Part 6—Determination of value

10 Value of goods that are originating materials or non-originating materials

- (1) For the purposes of subsection 153XD(3) of the Act, this section explains how to work out the value of originating materials or non-originating materials used in the production of goods.
- (2) The value of the materials is as follows:
 - (a) for materials imported into Singapore by the producer of the goods—the value of the materials worked out under a law of Singapore that implements the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994;
 - (b) for materials acquired in the territory of Singapore:
 - (i) the price paid or payable for the materials by the producer of the goods; or
 - (ii) the value of those materials worked out under paragraph (a) on the assumption that those materials had been imported into Singapore by the producer of the goods; or
 - (iii) the earliest ascertainable price paid or payable for the materials in the territory of Singapore;
 - (c) for materials that are produced by the producer of the goods—the sum of:
 - (i) all the costs incurred in the production of the materials, including general expenses; and
 - (ii) an amount that is the equivalent of the amount of profit that the producer would make for the materials in the normal course of trade or of the amount of profit that is usually reflected in the sale of goods of the same class or kind as the materials.
- (3) If the materials are originating materials, in working out the value of the originating materials under subsection (2), the following may be included:
 - (a) the costs of freight, insurance, packing and all other costs incurred to transport the materials to the producer of the goods;
 - (b) duties, taxes and customs brokerage fees on the materials that:
 - (i) have been paid in either or both of the territory of Singapore and the territory of Australia; 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) the costs of waste and spoilage resulting from the use of the materials in the production of the goods, reduced by the value of reusable scrap or by-products.
- (4) If the materials are non-originating materials, in working out the value of the non-originating materials under subsection (2), disregard the following:

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- (a) the costs of freight, insurance, packing and all other costs incurred in transporting the materials, within the territory of Singapore or the territory of Australia, to the producer of the goods;
- (b) duties, taxes and customs brokerage fees on the materials that:
 - (i) have been paid in either or both of the territory of Singapore and the territory of Australia; 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) the costs of waste and spoilage resulting from the use of the materials in the production of goods, reduced by the value of reusable scrap or by-products.

11 Value of accessories, spare parts or tools

If paragraphs 153XG(7)(a), (b), (c) and (d) of the Act are satisfied in relation to goods:

- (a) the value of the accessories, spare parts, tools or instructional or other information materials must be taken into account as originating materials or non-originating materials, as the case may be, for the purposes of working out the regional value content of the goods; and
- (b) for the purposes of subsection 153XD(3) of the Act, the value of the accessories, spare parts, tools or instructional or other information materials must be worked out under section 10 as if the accessories, spare parts, tools or instructional or other information materials were materials used in the production of the goods.

12 Value of packaging material and container

If paragraphs 153XH(1)(a) and (b) of the Act are satisfied in relation to goods and the goods must have a regional value content of not less than a particular percentage worked out in a particular way:

- (a) the value of the packaging material or container for the goods must be taken into account as originating materials or non-originating materials, as the case may be, for the purposes of working out the regional value content of the goods; and
- (b) for the purposes of subsection 153XD(3) of the Act, the value of the packaging material or container must be worked out under section 10 as if the packaging material or container were materials used in the production of the goods.