



Customs Amendment (Product Specific Rule Modernisation) Regulations 2018

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 13 December 2018

Peter Cosgrove
Governor-General

By His Excellency's Command

Linda Reynolds
Assistant Minister for Home Affairs
Parliamentary Secretary to the Minister for Home Affairs

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1 Name

This instrument is the *Customs Amendment (Product Specific Rule Modernisation) Regulations 2018*.

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 the <i>Customs Amendment (Product Specific Rule Modernisation) Act 2018</i> commences.	14 December 2018

Note: This table relates only to the provisions of this instrument as originally made.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 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Part 1—Singaporean originating goods

Customs (Singaporean Rules of Origin) Regulations 2017

1 Section 4

Repeal the following definitions:

- (a) definition of *chapter*;
- (b) definition of *heading*;
- (c) definition of *Singaporean originating goods*;
- (d) definition of *subheading*.

2 Parts 4 and 5

Repeal the Parts.

Part 2—ASEAN-Australia-New Zealand originating goods

Customs (ASEAN–Australia–New Zealand Rules of Origin) Regulations 2009

3 Regulation 1.3

Repeal the regulation, substitute:

1.3 Authority

These Regulations are made under the *Customs Act 1901*.

1.4 Definitions

In these Regulations:

Act means the *Customs Act 1901*.

Agreement has the meaning given by section 153ZKB 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 2018 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

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

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

Party has the meaning given by section 153ZKB of the Act.

produce has the meaning given by section 153ZKB of the Act.

4 Parts 2 to 5

Repeal the Parts, substitute:

Part 2—Tariff change requirement

2.1 Change in tariff classification requirement for non-originating materials

For the purposes of subsection 153ZKE(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 a Party 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 regulation.

Part 3—Regional value content requirement

3.1 Direct method

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

$$\frac{\text{AANZFTA material cost} + \text{Labour cost} + \text{Overhead cost} + \text{Profit} + \text{Other costs}}{\text{Customs value}} \times 100$$

where:

AANZFTA material cost means the value, worked out under Part 4, of the originating materials used in the production of the goods.

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

labour cost includes wages, remuneration and other employee benefits.

other costs means the costs incurred in placing the goods in the ship or other means of transport for export including, but not limited to, domestic transport costs, storage and warehousing, port handling, brokerage fees and service charges.

overhead cost means the total overhead expense.

profit has the same meaning as it has in Article 5 of Chapter 3 of the Agreement.

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

3.2 Indirect/build-down method

- (1) For the purposes of subsection 153ZKE(6) of the Act, the regional value content of goods under the indirect/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 4, of the non-originating materials used in the production of the goods.

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

Part 4—Determination of value

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

- (1) For the purposes of subsection 153ZKB(3) of the Act, this regulation 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 non-originating materials imported into a Party by the producer of the goods—the value of the materials worked out in accordance with the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994;
 - (b) for originating materials acquired, or produced, by the producer of the goods—the value of the materials worked out in accordance with the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 on the assumption that those materials had been imported into a Party by the producer of the goods;
 - (c) for non-originating materials acquired by the producer of the goods—the earliest ascertained price paid for the materials by that producer.
- (3) For the purposes of paragraph (2)(a), in working out the value of particular non-originating materials, the following must be included:
- (a) the cost of freight of the non-originating materials to the port or place of entry into the Party;
 - (b) the cost of insurance related to that freight.

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

If paragraphs 153ZKE(7)(a), (b), (c), (d) and (e) 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 for the purposes of working out the regional value content of the goods under Part 3; and
- (b) if the accessories, spare parts, tools or instructional or other information materials are originating materials—for the purposes of regulations 3.1 and 4.1, those accessories, spare parts, tools or instructional or other information materials are taken to be originating materials used in the production of the goods; and
- (c) if the accessories, spare parts, tools or instructional or other information materials are non-originating materials—for the purposes of regulations 3.2 and 4.1, those accessories, spare parts, tools or instructional or other information materials are taken to be non-originating materials used in the production of the goods.

4.3 Value of packaging material and container

If paragraphs 153ZKH(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 in which the goods are packaged must be taken into account for the purposes of working out the regional value content of the goods under Part 3; and
- (b) if that packaging material or container is an originating material—for the purposes of regulations 3.1 and 4.1, that packaging material or container is taken to be an originating material used in the production of the goods; and
- (c) if that packaging material or container is a non-originating material—for the purposes of regulations 3.2 and 4.1, that packaging material or

Schedule 1 Amendments

Part 2 ASEAN-Australia-New Zealand originating goods

container is taken to be a non-originating material used in the production of the goods.

5 Schedule 1

Repeal the Schedule.

Part 3—Japanese originating goods

Customs (Japanese Rules of Origin) Regulation 2014

6 Section 4

Repeal the following definitions:

- (a) definition of *Area of Australia or Japan*;
- (b) definition of *chapter*;
- (c) definition of *heading*;
- (d) definition of *Japanese originating goods*;
- (e) definition of *subheading*.

7 Parts 2 to 4

Repeal the Parts, substitute:

Part 2—Tariff change requirement

5 Change in tariff classification requirement for non-originating materials

For the purposes of subsection 153ZNE(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 Japan, or entirely in Japan and 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—Qualifying value content

6 Qualifying value content

- (1) For the purposes of subsection 153ZNE(6) of the Act, the qualifying value content of goods 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 4, of the non-originating materials used in the production of the goods.

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

Part 4—Determination of value

7 Value of goods that are non-originating materials

- (1) For the purposes of subsection 153ZNB(3) of the Act, the value of non-originating materials used in the production of goods is:
 - (a) for non-originating materials imported into Japan—the value of the non-originating materials worked out in accordance with the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994; or
 - (b) for non-originating materials acquired in Japan—the first ascertainable price paid for the non-originating materials in Japan.
- (2) For the purposes of paragraph (1)(a), in working out the value of particular non-originating materials, the following must be included:
 - (a) the costs of freight, packing and all other costs incurred in transporting the non-originating materials to the importation port in Japan;
 - (b) the cost of insurance related to that freight.
- (3) For the purposes of paragraph (1)(b), in working out the value of particular non-originating materials, the following may be deducted:
 - (a) the costs incurred in Japan of freight, packing and all other costs incurred in transporting the non-originating materials from the warehouse of the supplier of the materials to the place where the producer is located;
 - (b) the cost of insurance related to that freight.

8 Value of accessories, spare parts or tools

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

- (a) the value of the accessories, spare parts or tools covered by paragraph 153ZNE(7)(e) of the Act must be taken into account for the purposes of working out the qualifying value content of the goods under section 6 of this instrument; and
- (b) for the purposes of sections 6 and 7 of this instrument, those accessories, spare parts or tools are taken to be non-originating materials used in the production of the goods.

9 Value of packaging material and container

If paragraphs 153ZNF(2)(a) and (b) of the Act are satisfied in relation to goods:

- (a) the value of the packaging material or container in which the goods are packaged must be taken into account for the purposes of working out the qualifying value content of the goods under section 6 of this instrument; and
- (b) for the purposes of sections 6 and 7 of this instrument, that packaging material or container is taken to be a non-originating material used in the production of the goods.

8 Schedule 1

Repeal the Schedule.

Part 4—Chinese originating goods

Customs (Chinese Rules of Origin) Regulation 2015

9 Section 4

Repeal the following definitions:

- (a) definition of *chapter*;
- (b) definition of *Chinese originating goods*;
- (c) definition of *heading*;
- (d) definition of *regional rubber content*;
- (e) definition of *subheading*;
- (f) definition of *total rubber content*.

10 Parts 2 to 6

Repeal the Parts, substitute:

Part 2—Tariff change requirement

5 Change in tariff classification requirement for non-originating materials

For the purposes of subsection 153ZOE(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 China, or entirely in the territory of China 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

6 Regional value content

- (1) For the purposes of subsection 153ZOE(5) of the Act, the regional value content of goods 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 4, of the non-originating materials used in the production of the goods.

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

Part 4—Determination of value

7 Value of goods that are non-originating materials

- (1) For the purposes of subsection 153ZOB(3) of the Act, the value of non-originating materials used in the production of goods is:
 - (a) for non-originating materials imported into the territory of China—the value of those materials worked out in accordance with the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994; or
 - (b) for non-originating materials acquired in the territory of China—the value of those materials worked out under paragraph (a) on the assumption that those materials had been imported into the territory of China.
- (2) For the purposes of paragraph (1)(a), in working out the value of particular non-originating materials, the following must be included:
 - (a) the cost of freight and all other costs incurred in transporting the non-originating materials to the port or place of entry in the territory of China;
 - (b) the cost of insurance related to that freight.
- (3) For the purposes of paragraph (1)(b), in working out the value of particular non-originating materials, the following are to be deducted:
 - (a) the cost of freight and packing and all other costs incurred in transporting the non-originating materials within the territory of China to the location of the producer of the goods;
 - (b) the cost of insurance related to that freight.

8 Value of accessories, spare parts or tools

If paragraphs 153ZOE(6)(a), (b), (c), (d), (e) and (f) of the Act are satisfied in relation to goods:

- (a) the value of the accessories, spare parts or tools covered by paragraph 153ZOE(6)(f) of the Act must be taken into account for the purposes of working out the regional value content of the goods under section 6 of this instrument; and
- (b) for the purposes of sections 6 and 7 of this instrument, those accessories, spare parts or tools are taken to be non-originating materials used in the production of the goods.

9 Value of packaging material and container

If paragraphs 153ZOF(2)(a) and (b) of the Act are satisfied in relation to goods:

- (a) the value of the packaging material or container in which the goods are packaged must be taken into account for the purposes of working out the regional value content of the goods under section 6 of this instrument; and
- (b) for the purposes of sections 6 and 7 of this instrument, that packaging material or container is taken to be a non-originating material used in the production of the goods.

11 Schedule 1

Repeal the Schedule.