

OCTOBER 2019



Australian Government  
Department of Foreign Affairs and Trade

## INQUIRY INTO THE CUSTOMS AMENDMENT (PRODUCT SPECIFIC RULE MODERNISATION) BILL 2019 [PROVISIONS]

### DEPARTMENT OF FOREIGN AFFAIRS AND TRADE SUBMISSION TO THE SENATE LEGAL AND CONSTITUTIONAL AFFAIRS LEGISLATION COMMITTEE

The Customs Amendment (Product Specific Rules Modernisation) Bill 2019 will help to facilitate the ongoing smooth implementation of Australia's existing free trade agreements (FTAs) with Chile, Malaysia, New Zealand, Republic of Korea, Thailand and the United States and ensure predictability for Australian businesses using them. The proposed amendments will expedite updates to the agreements but will not affect how businesses use FTAs.

Since these FTAs entered into force, total goods and services exports to these countries have increased. For example in 2018, Australia's total goods and services exports to the Republic of Korea increased by over 20 per cent since the Korea-Australia FTA entered into force in December 2014.

The Department of Foreign Affairs and Trade (DFAT) supports the Customs Amendment (Product Specific Rules Modernisation) Bill 2019. The bill contains amendments to the *Customs Act 1901* (the Customs Act) to streamline the way product-specific rules of origin (PSRs) are given effect in domestic legislation.

The proposed amendments are similar to those made by the *Customs Amendment (Product Specific Rule Modernisation) Act 2018*, which streamlined how PSRs are given effect for the ASEAN-Australia-New Zealand FTA, and our FTAs with China, Japan, and Singapore.

PSRs are agreed rules for determining a product's origin for the purposes of accessing preferential tariff treatment under an FTA. PSR schedules (or annexes) are based on the Harmonized System (HS). The HS is an international nomenclature for classifying traded products. It covers thousands of commodity groups, and is supported by well-defined rules to achieve uniform classification. More than 200 economies use the system as a basis for customs tariffs and the collection of international trade statistics.

The World Customs Organization updates the Harmonized System every five years to keep it relevant to the needs of modern international trade. The latest update was in 2017. Established FTAs should update their PSR schedules by agreement between Parties to reflect HS changes.

Australia's system of transposing into customs legislation HS updates to PSR schedules is burdensome for established FTAs. It requires the costly and time-consuming duplication of FTA PSR annexes into analogous standalone Rules of Origin (RoO) Regulations. The bill seeks to simplify this process by amending the Customs Act to reference agreed FTA PSR annexes and remove the need to replicate them in RoO Regulations, thereby expediting transposition.

The passage of the Customs Amendment (Product Specific Rule Modernisation) Bill 2019 will not amend the PSR annexes of any FTAs, or change the product specific rules negotiated under Australia's FTAs with Chile, Malaysia, New Zealand, Republic of Korea, Thailand and the United States. HS transpositions for these FTAs will occur in accordance with the specific provisions of each agreement and Australia's domestic treaty-making process.

The bill will enable the revised PSR schedules for our FTAs with Chile, Malaysia, New Zealand, Republic of Korea, Thailand and the United States to enter into force as quickly as possible, and in concert with our FTA partners.