

Customs Trade and Transport Update

September 2011



“Let’s party like its HS2012”

Those responsible for the reporting of the import and export of goods to border agencies may not be enjoying the usual New Year’s Eve festivities on 31 December 2011 as they excitedly await the implementation of “HS2012” for import goods and the updated Australian Harmonized Export Commodity Classification (“**AHECC**”) for export goods.

While industry has been busily transacting business based on existing tariff classifications and the 2007 version of the AHECC, the World Customs Organisation (“**WCO**”) has been diligently working on its fourth review of the Harmonized System. The Harmonized System is the basis for WCO members to administer the tariff classification of import goods. This review included an assessment of which items in the Harmonized System were not being used frequently and which parts of the Harmonized System needed additional or revised sub-headings to reflect change trading patterns or new International Conventions on trade in goods.

Having voted on the new Harmonized System, the WCO tribe has now issued the “HS2012” to have effect from 1 January 2012. As a consequence, the Australian Bureau of Statistics (“**ABS**”) has released a completed update of the AHECC to also take effect from 1 January 2012.

According to the Explanatory Memorandum associated with the HS2012 legislation, the major amendments arising from HS2012 can be summarised as follows.

- » Amendments concentrating on environmental and social issues that are of global concern including the use of the Harmonized System for identifying goods of specific importance to the food security program of the Food and Agricultural Organisation of the United Nations.
- » New sub-headings for hazardous chemicals and pesticides associated with the Rotterdam Convention and for Ozone-Depleting substances controlled by the Montreal Protocol on Substances that Deplete the Ozone Layer.

- » To reflect changes to international trade patterns.
- » A number of amendments aiming to clarify text to ensure uniform application of the Harmonized System terminology.

From a legislative perspective, the HS2012 amendments are effected by the *Customs Tariff Amendment (2012 Harmonized Changes) Act 2011* (“**2012 Act**”) which will commence as of 1 January 2012. This implements amendments to Schedule 3 to the Customs Tariff Act 1995 (“**Tariff Act**”) associated with new tariff classifications as well as amendments to Schedule 5 to the Tariff Act (which deals with preferential entry under various free trade agreements) as the preferential treatment is driven by tariff classifications.

While the amendments may seem minor and obscure to many, the amendments associated with HS2012 and the new AHECC warrant close attention. Use of incorrect classifications may stop the passage of Import Declarations and Export Declarations and movement of goods as Customs has the power to stop goods pending clarification of Declarations. Further, the use of incorrect tariff classifications may lead to exposure to penalties to border agencies or action to recover underpaid duty. It also needs to be noted that other countries will be changing their tariff classifications and as a result, if readers or their clients are responsible for Import Declarations in destination countries, appropriate amendments also need to be made.

For these purposes, we recommend that readers pay careful attention to the impending changes. At the least, this should include the following.

- » Review of the 2012 Act and the AHECC 2012

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- » Review the "Concordance" in relation to HS2012 available on the Customs' website to determine whether the amendments associated with HS2012 affect your business or that of your clients (here or overseas).
- » Review the information paper on the changes to the AHECC and the Tariff Act to be published by the ABS on 8 December 2011 which will cover Free Standing Descriptors and concordances to other classifications.
- » Check for seminars to be conducted by the Australian Customs and Border Protection Service ("**Customs**").
- » Review Customs' Notice number 2011/12 which sets out the procedural changes to be adopted by Customs including the revocation of Tariff Concession Orders ("**TCO**") Tariff Precedents, Tariff Advices and Origin Advices and the process to apply for new replacement instruments and advices.
- » Reviewing whether existing instruments and advices used by readers, such as TCOs, Tariff Precedents, Tariff Advices and Origin Advices will need to be renewed and applying for new versions.
- » Approach the provider of software associated with the reporting of Import Declarations and Export Declarations to ensure that the new software associated with HS2012 and the AHECC changes are available and tested prior to 1 January 2012.
- » Advise clients of the proposed amendments and advise them of what is required to implement those amendments.
- » Arrange for training within your organisation to ensure that implementation is conducted properly and in good time for 1 January 2012.

These proposals are not meant to be exclusive of other usual compliance work to be undertaken by those involved in the import or export of goods. However, my firm view is that steps taken to assist compliance in advance of implementation of changes such as these represent a good investment. Those in industry should not be waiting for Santa to deliver a comprehensive compliance and implementation arrangement for this exciting development.

Contact us

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