

Chapter 1

Introduction

Referral of the bills

1.1 On 16 September 2015, the Minister for Trade and Investment, the Hon Andrew Robb AO MP, introduced the following bills into the House of Representatives:

- Customs Amendment (China-Australia Free Trade Agreement Implementation) Bill 2015 (Customs bill); and
- Customs Tariff Amendment (China-Australia Free Trade Agreement Implementation) Bill 2015 (Tariff bill).¹

1.2 As their titles indicate, the bills implement parts of the China-Australia Free Trade Agreement (ChAFTA). ChAFTA was signed by Minister Robb and the Chinese Commerce Minister, Mr Gao Hucheng, on 17 June 2015 in Canberra. The treaty text was tabled in the Parliament on the same day.²

1.3 The Senate Selection of Bills Committee considered the bills on 16 September 2015, but was unable to reach agreement on referral.³ On 17 September 2015, the Senate referred the provisions of the bills to the Foreign Affairs, Defence and Trade Legislation Committee for inquiry and report on the next working day after the tabling of the report of the Foreign Affairs, Defence and Trade References Committee on the Proposed China-Australia Free Trade Agreement.⁴ Under the terms of reference of its inquiry, the References Committee was to report within one month of the tabling of the Joint Standing Committee on Treaties (JSCOT) report on ChAFTA.

1.4 On 19 October 2015, JSCOT tabled its report on ChAFTA. The majority report made five recommendations, including that binding treaty action be taken. The report stated:

The Committee acknowledges the widespread community disquiet that has been generated by ChAFTA but considers that many of the concerns are unfounded. The Committee recognises that broad sections of Australian business and industry are expected to receive substantial benefit from greater access to one of the world's largest economies.⁵

1 House of Representatives, *Votes and Proceedings*, 16 September 2015, p. 1600.

2 House of Representatives, *Votes and Proceedings*, 17 June 2015, p. 1397.

3 Selection of Bills Committee, *Report No. 12 of 2015*, 16 September 2015, p. 4.

4 *Journals of the Senate*, 17 September 2015, p. 3147.

5 Joint Standing Committee on Treaties, Treaty tabled on 17 June 2015, *Report 154*, October 2015, p. 66.

1.5 On 21 October 2015, Minister Robb and the Minister for Immigration and Border Protection, the Hon Peter Dutton MP, announced that support had been secured from the Opposition to ensure the passage of the implementing legislation for ChAFTA.⁶

Other committee consideration

1.6 On 14 October 2015, the Senate Standing Committee for the Scrutiny of Bills raised concerns in regard to Item 1, Schedule 1 of the Customs Bill. It noted that proposed section 153ZOB(6) provides that the regulations may adopt or incorporate, with or without modification, any matter contained in an instrument or other writing as in force or existing from time to time in the context of defining 'Chinese originating goods'. The Scrutiny Committee drew the attention of senators to this provision as it may be considered to delegate legislative power inappropriately and sought the Minister's advice on this issue.⁷

Conduct of inquiry

1.7 The committee advertised the inquiry on its website and in *The Australian* newspaper. The committee also wrote to individuals and organisations likely to have an interest in the bill, drawing their attention to the inquiry and inviting them to make written submissions.

1.8 The committee received 16 submissions to the inquiry. These submissions are listed at Appendix 1, and are available on the committee's website: www.aph.gov.au/senate_fadt.

Structure of report

1.9 Chapter 2 provides an overview of the bills. Chapter 3 discusses key issues raised during the inquiry and contains the committee's view and recommendation.

Acknowledgements

1.10 The committee thanks all those who assisted the inquiry by providing submissions and other material.

6 Minister for Trade and Investment, the Hon Andrew Robb AO MP and the Minister for Immigration and Border Protection, the Hon Peter Dutton MP, 'Government and Opposition reach agreement on support for China-Australia free trade deal', *Joint Media Release*, 21 October 2015.

7 Senate Standing Committee for the Scrutiny of Bills, *Alert Digest No. 11 of 2015*, 14 October 2015, pp 2-3.