

Chapter 2

Overview of the bills

The Customs bill

2.1 The Customs Amendment (China-Australia Free Trade Agreement Implementation) Bill 2015 (Customs bill) amends the *Customs Act 1901* (Customs Act) to implement Australia's obligations under Chapter 3 of ChAFTA.

2.2 Chapter 3 of ChAFTA sets out the criteria for determining the eligibility of goods to obtain preferential tariff entry into Australia (whether a good 'originates' in Australia or China), known as the 'rules of origin'.¹ Chapter 3 also sets out the process for production of Certificates of Origin including by 'authorised bodies' and the process for self-certification in specified circumstances.²

2.3 The key provisions of the Customs bill are contained in the three parts of Schedule 1.

2.4 Part 1 of Schedule 1 inserts a new Division 1L into Part VIII of the Customs Act. Titled 'Chinese originating goods', the new division will set out the rules for determining whether goods are Chinese originating goods and therefore eligible for a preferential rate of customs duty under the Tariff Act.

2.5 Part 2 of Schedule 1 inserts new Division 4J, 'Exportation of goods to China' into Part VI of the Customs Act. The new division will impose obligations on people who export goods to China and who wish to obtain preferential treatment.

2.6 Proposed new section 126AOB provides that the regulations may prescribe recording keeping obligations on exporters or producers of goods exported to China and claimed to be Australian originating goods for the purpose of obtaining a preferential tariff in China.

2.7 Proposed sections 126AOC and 126AOD would allow an authorised officer to require a person subject to the record keeping obligations to produce records and answer questions to verify the origin of goods. Authorised officers may, for the purpose of verifying a claim for a preferential tariff in China, disclose records and answers to Chinese customs officials.

2.8 It is noted that failure to produce a record or answer a question when required to do so by an officer may be an offence under the Customs Act. However, a person does not have to produce a record or answer a question if it would incriminate the person.

1 Mr Andrew Robb AO MP, Minister for Trade and Investment, *House of Representatives Hansard*, 16 September 2015, p.12.

2 DFAT, *China-Australia Free Trade Agreement: Summary of Chapters and Annexes*, p. 2.

2.9 Part 3 provides for the application of Parts 1 and 2.

The Tariff bill

2.10 The Customs Tariff Amendment (China-Australia Free Trade Agreement Implementation) Bill 2015 (Tariff bill) amends the *Customs Tariff Act 1995* (Tariff Act). According to the Second Reading Speech, the Tariff bill will implement ChAFTA by:

- providing duty-free access for certain goods and preferential rates of customs duty for other goods that are Chinese originating goods;
- creating a new Schedule 12 to provide for phasing rates of duty for those goods and to specify excise-equivalent duties on certain alcohol, tobacco and petroleum products;
- phasing these preferential rates of customs duty to be 'free' of customs by the fifth year of phasing; and
- amending Schedule 4 to maintain customs duty rates for certain Chinese originating goods in accordance with the applicable concessional item.³

Financial impact

2.11 The removal of tariffs on imports under ChAFTA will lead to reductions in tariff revenue. The financial impact statement for the bills estimates that tariff revenue would decline by \$4,150 million over the forward estimates.⁴ However, this figure does not include the second-round effects on government revenue from increased economic activity, which are expected to be positive.⁵

3 The Hon Andrew Robb AO MP, Minister for Trade and Investment, *House of Representatives Hansard*, 16 September 2015, p. 15.

4 *Explanatory Memorandum*, Customs Bill, p. 2.

5 *China-Australia Free Trade Agreement Regulation Impact Statement*, 23 March 2015, p. 29.