

Chapter 2

Overview of the bills

The Customs bill

2.1 The Customs Amendment (Japan-Australia Economic Partnership Agreement Implementation) Bill 2014 (Customs bill) amends the *Customs Act 1901* (Customs Act) to implement Australia's obligations under Chapter 3 of JAEPA.

2.2 Chapter 3 of JAEPA (and the Schedule of Product Specific Rules in Annex 2) sets out the criteria for determining whether a good qualifies for preferential tariff treatment under the agreement (whether a good 'originates' in Australia or Japan) known as the 'rules of origin'. Chapter 3 also outlines the procedures and documentation for demonstrating that a good qualifies for preferential treatment under JAEPA and, if necessary, the process for verification.¹

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 1K into Part VIII of the Customs Act. Titled 'Japanese originating goods', the new division will set out the rules for determining whether goods are Japanese 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 4H—Exportation of goods to Japan' into Part VI of the Customs Act. The new division will impose obligations on people who export goods to Japan and who wish to obtain preferential treatment.

2.6 In particular, proposed new section 126ANB provides that the regulations may prescribe recording keeping obligations on exporters or producers of goods exported to Japan and claimed to be Australian originating goods for the purpose of obtaining a preferential tariff in Japan.

2.7 Proposed sections 126ANC and 126AND would allow an authorised officer to require a person subject to the record keeping obligations to produce records and answer questions in order to verify the origin of goods. Authorised officers may, for the purpose of verifying a claim for a preferential tariff in Japan, disclose records and answers to Japanese 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 tend to incriminate the person.

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

1 DFAT, *Japan-Australia Economic Partnership Agreement: Summary of Chapters and Annexes*, p. 3.

The Tariff bill

2.10 The Customs Tariff Amendment (Japan-Australia Economic Partnership Agreement Implementation) Bill 2014 (Tariff bill) amends the *Customs Tariff Act 1995* (Tariff Act). According to the Minister's Second Reading Speech, the Tariff bill will implement JAEPA by:

- providing duty-free access for certain goods and preferential rates of customs duty for other goods that are Japanese originating goods;
- phasing these preferential rates to zero by 2021;
- amending schedule 4 to maintain customs duty rates for certain Japanese originating goods in accordance with the applicable concessional item; and
- creating a new Schedule 11 to specify excise-equivalent duties on certain alcohol, tobacco, and petroleum products and to provide for phasing rates of duty on certain goods as specified in JAEPA.²

Financial impact

2.11 The removal of tariffs on imports under JAEPA will lead to reductions in tariff revenue. The financial impact statement for the bills estimates that tariff revenue would decline by \$1,590 million over the forward estimates.³ However, this figure does not include the second-round effects on government revenue from increased economic activity, which are expected to be positive.⁴

2 Mr Andrew Robb AO MP, Minister for Trade and Investment, *House of Representatives Hansard*, 29 October 2014, p. 2.

3 EM, Customs Bill, p. 2.

4 JAEPA Regulatory Impact Statement, 12 March 2014, p. 32.