

Chapter 1

Introduction

The referral

1.1 On 4 September 2014, the following bills were introduced into the House of Representatives by the Minister for Immigration and Border Protection, the Hon Scott Morrison MP:¹

- the Customs Amendment (Korea-Australia Free Trade Agreement Implementation) Bill 2014 (the Customs Bill); and
- the Customs Tariff Amendment (Korea-Australia Free Trade Agreement Implementation) Bill 2014 (the Tariff Bill).

1.2 Together, these will be referred to as 'the Bills'.

1.3 On the same day and on the recommendation of the Selection of Bills Committee,² the Senate referred the provisions of the Bills to the Legal and Constitutional Affairs Legislation Committee (the committee) for inquiry and report by 2 October 2014.³

The Korea-Australia Free Trade Agreement and related parliamentary inquiries

1.4 Negotiations for a free trade agreement between Australia and the Republic of Korea, which commenced in 2009,⁴ were concluded in early December 2013.⁵ The full text of the Korea-Australia Free Trade Agreement (KAFTA) was publicly released on 17 February 2014⁶ and the agreement was signed on 8 April 2014.⁷ KAFTA was tabled in Parliament on 13 May 2014.⁸

1 House of Representatives, *Votes and Proceedings*, No. 65, 4 September 2014, p. 810.

2 *Journals of the Senate*, No. 52—4 September 2014, p 1421.

3 *Journals of the Senate*, No. 52—4 September 2014, p 1423.

4 Explanatory Memorandum to the Customs Bill (Customs Bill EM), p. 2.

5 The Hon Tony Abbott MP, Prime Minister of the Commonwealth of Australia and the Hon Andrew Robb AO MP, Minister for Trade and Investment of the Commonwealth of Australia, 'Australia concludes FTA negotiations with the Republic of Korea', Joint Media Release, 5 December 2013.

6 The Hon Andrew Robb AO MP, Minister for Trade and Investment of the Commonwealth of Australia, 'Public release of Korea-Australia FTA text', Media Release, 17 February 2013.

7 The Hon Andrew Robb AO MP, Minister for Trade and Investment of the Commonwealth of Australia, 'Korea-Australia FTA signed in Seoul', Media Release, 8 April 2013.

8 Joint Standing Committee on Treaties, *Report 142: Treaty tabled on 13 May 2014: Free Trade Agreement between the Government of Australia and the Government of the Republic of Korea (Seoul, 8 April 2014)*, September 2014.

1.5 This is the third parliamentary inquiry that has related to the final text of KAFTA. The other two were as follows:

- An inquiry by the Joint Standing Committee on Treaties (JSCoT), which received written submissions from 78 individuals and organisations, and heard from 37 witnesses during the course of four days of public hearings in Canberra, Sydney and Brisbane. The report of JSCoT,⁹ which ran to 93 pages, was tabled on 4 September 2014.¹⁰
- An inquiry by the Senate Foreign Affairs, Defence and Trade References Committee, which is due to table its report one month after the tabling of the report of JSCoT (that is, on 4 October 2014).¹¹

1.6 Both the report of JSCoT and the two days of public hearings conducted by the Senate Foreign Affairs, Defence and Trade References Committee¹² examined—in some detail—(a) the negotiating process by which the agreement was brought about and the consultation that occurred during that process, (b) the specific provisions of the agreement, (c) issues arising from those provisions, and (d) the anticipated impact of the agreement, particularly on the Australian economy and individual industries within it.

1.7 This committee's inquiry is of a somewhat different nature. The committee has been asked to report, not on KAFTA itself, but rather on the two Bills that have been introduced to give domestic effect to certain customs-related provisions of it.

1.8 Given that the merits of KAFTA have been considered extensively by two other committees, this committee does not propose to traverse that ground again. Instead, this report will examine the more focused question of whether the Bills faithfully implement the relevant obligations that Australia has assumed under KAFTA.

Overview of the Bills

The Customs Bill

1.9 The Customs Bill, if passed, would amend the *Customs Act 1901* with the aim of implementing Australia's obligations under Chapter 3 of KAFTA.¹³ That chapter, which is entitled 'Rules of Origin and Origin Procedures', sets out the definitions and procedures that are to be used to determine whether a particular good originated in Australia or Korea. This matters because the parties to KAFTA have agreed that such

9 Joint Standing Committee on Treaties, *Report 142: Treaty tabled on 13 May 2014: Free Trade Agreement between the Government of Australia and the Government of the Republic of Korea (Seoul, 8 April 2014)*, September 2014.

10 *Journals of the Senate*, No. 52—4 September 2014, p. 1439; House of Representatives, *Votes and Proceedings*, No. 65, 4 September 2014, p. 810.

11 *Journals of the Senate*, No. 26—27 March 2014, p. 744.

12 See *Committee Hansard*, 8 September 2014 and *Committee Hansard*, 9 September 2014.

13 The Hon Scott Morrison MP, Minister for Immigration and Border Protection, *House of Representatives Hansard*, 4 September 2014, p. 8.

goods shall receive preferential rates of customs duty. The actual changes to the rates are contained in the Tariff Bill.

1.10 The exact provisions of the Customs Bill and the relevant articles in Chapter 3 of KAFTA will be considered in chapter 2 of this report.

The Tariff Bill

1.11 The Tariff Bill seeks to amend the *Customs Tariff Act 1995* to amend the duties payable on goods that originate in Korea in accordance with Annex 2-A of KAFTA. The exact provisions of the Tariff Bill and the relevant provisions of KAFTA will also be considered in chapter 2 of this report.

Conduct of this inquiry

1.12 As per the usual practice, the committee advertised the inquiry on its website and wrote to a number of stakeholders inviting submissions by 15 September 2014. Details of the inquiry were also placed on the committee's website (http://www.aph.gov.au/senate_legalcon).

1.13 The committee received seven written submissions, which have been listed at Appendix 1. All of these were published on the committee's website.

1.14 In light of the inquiries by JSCoT and the Senate Foreign Affairs, Defence and Trade References Committee, the committee did not hold a public hearing.

Acknowledgement

1.15 The committee acknowledges the short period of time available to provide a submission and the effort required to do so. The committee thanks those organisations that participated in the inquiry.

