



**This Digest replaces an earlier version dated 11 November 2008, including some additional contextual material.**

## Customs Amendment (Australia-Chile Free Trade Agreement Implementation) Bill 2008

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## Customs Amendment (Australia-Chile Free Trade Agreement Implementation) Bill 2008

**Date introduced:** 16 October 2008

**House:** Representatives

**Portfolio:** Home Affairs

**Commencement:** Sections 1 to 3 on Royal Assent, Schedule 1 on 1 January 2009 or when the Australia-Chile Free Trade Agreement comes into force, whichever is the later date. The Minister must announce by notice in the Gazette the day on which the Agreement comes into force for Australia. If the Agreement does not come into force in Australia the Bill does not commence at all.

**Links:** The [relevant links](#) to the Bill, Explanatory Memorandum and second reading speech can be accessed via BillsNet, which is at <http://www.aph.gov.au/bills/>. When Bills have been passed they can be found at ComLaw, which is at <http://www.comlaw.gov.au/>.

### Purpose

To amend the *Customs Act 1901* to incorporate the new rules of origin for goods imported into Australia from Chile so as to implement the provisions of the Australia-Chile Free Trade Agreement.

### Background

#### The Two Customs Bills

This Bill together with Customs Tariff Amendment (Australia-Chile Free Trade Agreement Implementation) Bill 2008 will amend the *Customs Act 1901* and the *Customs Tariff Act 1995* to implement the provisions of the Australia-Chile Free Trade Agreement. The former Bill will amend the *Customs Tariff Act 1995* to provide for Free rates and preferential rates of customs duty. This Bill proposes amendments to the *Customs Act 1901* to insert a new Division 1F of Part VIII to define the new rules of origin for Chilean originating goods.

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The reader is referred to the companion [Bills Digest](#) to this Bill: Customs Tariff Amendment (Australia-Chile Free Trade Agreement Implementation) Bill 2008.<sup>1</sup>

Formal negotiations between Australia and Chile to develop a free trade agreement began in February 2007. These negotiations concluded in May 2008 and the Agreement was signed on 30 July 2008.<sup>2</sup> The Agreement has not yet been ratified by Australia.

The Regulation Impact Statement, tabled in the Joint Standing Committee on Treaties on 17 June 2008, comments that the highest priority of Australia's trade policy is to achieve successful outcomes from the WTO Doha Round and [that] in this environment many countries are pursuing the conclusion of free trade agreements to advance their export interests.<sup>3</sup> Many countries have negotiated free trade agreements (FTAs) as a means of enhancing their export interests. Australia has negotiated a number of free trade agreements with other countries,<sup>4</sup> including Agreements with Singapore, Thailand and the United States and is currently negotiating FTAs with Japan, China, Malaysia, ASEAN and New Zealand<sup>5</sup> and the Gulf Cooperation Council. A joint non-government feasibility study commenced with the Republic of Korea in April 2007<sup>6</sup>, and joint feasibility studies will commence in 2008 with Indonesia and India.<sup>7</sup>

#### Doha Round and Cairns Group Coalition

The World Trade Organization (WTO) deals with the rules of trade between nations at a global or near-global level. The WTO is an organization for liberalizing trade, a forum for governments to negotiate trade agreements and to settle trade disputes. The WTO developed out of negotiations between governments.

The bulk of the WTO's current work comes from the 1986-94 negotiations called the Uruguay Round and earlier negotiations under the General Agreement on Tariffs and Trade (GATT). The WTO is currently the host to new negotiations, under the "Doha Development Agenda" launched in 2001.

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1. Moira Coombs, 'Customs Tariff Amendment (Australia-Chile Free Trade Agreement Implementation) Bill 2008' *Bills Digest* 57, 2008–09, Parliamentary Library, Canberra.
  2. Explanatory Memorandum, Customs Amendment (Australia-Chile Free Trade Agreement Implementation) Bill 2008, p. 2.
  3. Regulation Impact Statement, 17 June 2008, p. 3.
  4. *ibid*, p. 3.
  5. The ASEAN, Australia and New Zealand Free Trade Agreement was concluded in Singapore on 28 August 2008.
  6. The Australia-Republic of Korea Free Trade Agreement Feasibility Study was completed with the release of the [report](#) on 17 April 2008.
  7. *op. cit.*, p. 3.

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At its heart are the WTO agreements, negotiated and signed by the bulk of the world's trading nations. These documents provide the legal ground-rules for international commerce. They are essentially contracts, binding governments to keep their trade policies within agreed limits. Although negotiated and signed by governments, the goal is to help producers of goods and services, exporters, and importers conduct their business, while allowing governments to meet social and environmental objectives.<sup>8</sup>

Australia is a member country and joined the WTO on 1 January 1995.

Both Australia and Chile are members of the Cairns Group Coalition. This Group consists of

19 agricultural exporting countries which account for over 25 per cent of the world's agricultural exports. During the current WTO Doha Round of negotiations the Group has continued to push for the liberalization of trade in agricultural exports, a cause that unites the Group across language, cultural and geographic boundaries. Made up of developed and developing countries across five continents, the Group is committed to achieving free and fair trade in agriculture that provides real and sustainable benefits for the developing world.<sup>9</sup>

Australia currently chairs this group, which continues 'its campaign to end discrimination against agriculture in the world trading system'.<sup>10</sup> The Cairns Group consists of Argentina, Australia, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Guatemala, Indonesia, Malaysia, New Zealand, Pakistan, Paraguay, Peru, the Philippines, South Africa, Thailand and Uruguay.

### Mortimer Report

In September 2008, the Minister for Trade Simon Crean released the [Review of Export Policies and Programs](#)<sup>11</sup> undertaken by Mr David Mortimer AO and Dr John Edwards. The Mortimer Review was designed to review Australian trade policies and provide a blueprint for future trade policy. The Mortimer Review provides a chapter on FTAs, which outlines recommendations on their use. This includes benchmarks for future FTAs. Broadly, the issues considered in this chapter in relation to Australia's FTAs include:

- global trends

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8. World Trade Organization website accessed on 29 October 2008, [http://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/fact1\\_e.htm](http://www.wto.org/english/thewto_e/whatis_e/tif_e/fact1_e.htm)

9. Cairns Group Coalition website, accessed on 29 October 2008, <http://www.cairnsgroup.org/introduction.html>

10. Hon Simon Crean (Minister for Trade), Statement by the Minister for Trade, Conclusion of negotiations on Australia-Chile Free Trade Agreement, 27 May 2008.

11. D. Mortimer and J. Edwards, *Winning in World Markets: meeting the competitive challenge of the new global economy*, *Review of Export Policies and Programs*, 1 September 2008.

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- assessing the benefits of Australia’s FTAs
- building FTAs that strengthen the multilateral trade system, and
- benchmarks for Australia’s future FTAs.<sup>12</sup>

The Mortimer Review states that government should determine whether an FTA has the potential to:

- counter trade diversion or deliver substantial commercial and wider economic benefits more quickly than would be possible through other efforts
- be fully consistent with WTO provisions
- deliver ‘WTO-plus’ outcomes in the form of liberalising commitments that are broader and deeper than those undertaken in the WTO
- provide for substantial liberalisation including by eliminating virtually all tariffs and delivering new and significant access opportunities for services and investment—within a reasonable time period
- allow, where possible, for the accession of third countries and be consistent with the goal of regional free and open trade and investment
- promote Australia’s foreign and security policy interests.

While negotiations were initiated under the previous Coalition government, the Australia-Chile FTA broadly reflects the benchmarks for FTAs outlined in the Mortimer Review.

### Australia-Chile Free Trade Agreement

The Minister for Trade, Hon Simon Crean when announcing the conclusion of negotiations on the free trade agreement said that “the first FTA concluded by the Rudd Government was the most comprehensive FTA Australia has ever negotiated.”<sup>13</sup> The Agreement covers goods, services and investments.

The commitments go beyond what each country has committed at the WTO...As such, it will reinforce the contribution of both countries to the multilateral trading system and serve as an excellent model for other APEC economies as they work towards deeper economic integration.<sup>14</sup>

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12. *ibid.*

13. Hon Simon Crean (Minister for Trade, *Australia and Chile conclude Free Trade Agreement*, media release, Parliament House, Canberra, 27 May 2008.

14. *ibid.*

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It is envisaged that the Agreement will benefit Australia's trading potential into Latin America generally. The Australia-Chile Free Trade Agreement was signed on 30 July 2008.

Key aspects of the Agreement include:-

- Tariffs will be eliminated on 97% of existing merchandise trade upon entry into force and 100% of existing merchandise trade in each direction by 2015.
- Chile and Australia have locked in their liberal services and investment regimes for each other—these are WTO GATS plus commitments.
- Suppliers of goods and services from each country will gain guaranteed access to government procurement markets in the other.
- Transparent, high-standard protection has been locked in for intellectual property rights including patents, trademarks, geographical indications and copyright.”<sup>15</sup>

Further information on the investment relationship with Chile, and the potential benefits for Australian business is detailed in the National Interest Analysis tabled with the Agreement.

Australia is the fourth largest source of foreign direct investment in Chile with investments amounting to approximately US\$3 billion in 2007. Bilateral trade, however, with Chile is modest (\$856 million in 2007), but growing rapidly. There is strong support for a free trade agreement (FTA) from Australian business with an interest in Chile. The mining and energy sectors have a particular interest, seeing enhanced opportunities in supplying Chile's growing market for energy (coal and LNG) and participating in Chile's buoyant mining industry (copper and gold), including by supplying services. The meat and dairy industries believe that an FTA would increase Australia's competitiveness in the Chilean market and Australian services suppliers generally see Chile as a growing market. Industry, especially but not exclusively in those sectors, views Chile as the logical stepping stone into other significant markets in South America, particularly Brazil. Further, an FTA puts Australia on an equal footing with competitors from the USA, the European Union, Canada, Japan, and New Zealand and other Latin American countries, which currently benefit from Chile's expansive network of preferential trade agreements involving 54 countries.<sup>16</sup>

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15. Hon Simon Crean (Minister for Trade, *Australia and Chile conclude Free Trade Agreement*, media release, Parliament House, Canberra, 27 May 2008.

16. National Interest Analysis, Australia-Chile Free Trade Agreement, para. 5, accessed on 11 November 2008.  
[http://www.aph.gov.au/house/committee/jsct/17june2008/treaties/chile\\_nia.pdf](http://www.aph.gov.au/house/committee/jsct/17june2008/treaties/chile_nia.pdf)

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## Implementing a Treaty

‘The general position under Australian law is that treaties which Australia has joined are not directly and automatically incorporated into Australian law.’<sup>17</sup> To implement a treaty in order to make its provisions or articles apply in Australian domestic law, legislation is required. ‘Signature and ratification do not of themselves make treaties operate domestically. In the absence of legislation, treaties cannot impose obligations on individuals nor create rights in domestic law. Nevertheless, international law, including treaty law, is a legitimate and important influence on the development of the common law and may be used in the interpretation of statutes. Many treaties do not require new or prior legislation as they can be implemented through executive action, for example trade cooperation, defence logistics and procurement treaties.’<sup>18</sup>

In order to implement the Australia-Chile Free Trade Agreement, the *Customs Act 1901* requires amendment to incorporate new rules of origin for Chilean goods imported into Australia so that they will attract preferential rates of customs duties.

## Certificate of Origin

An exporter, in order to claim preferential tariff treatment, must support the export of those goods with a Certificate of Origin. A Certificate of Origin as defined in the Customs Amendment (Australia-Chile Free Trade Agreement Implementation) Bill 2008 must comply with the requirements of Article 4.16 of the Australia-Chile Free Trade Agreement. Article 4.16 of the Free Trade Agreement provides that a claim for an originating good to be accepted for a preferential tariff, the good must be supported by a Certificate of Origin. The Certificate of Origin is completed by the exporter and contains a set of minimum requirements. The minimum requirements are listed as follows:

### **Exporter name and address;**

- Consignee name and address
- Marks and numbers
- Number and kind of packages
- Description of goods
- Harmonized System Code
- The applicable rule of origin
- Declaration certifying goods meet the applicable rule of origin

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17. Negotiating and Implementing Treaties in Treaty making process: Information and resources, Department of Foreign Affairs and Trade, accessed on 28 October 2008, <http://www.dfat.gov.au/treaties/making/making3.html>

18. *ibid.*

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- Name, title and signature of person completing the Certificate of Origin
- Date of issue, and
- Number of Certificate of Origin.

The Certificate is to be completed in English or Spanish and will remain valid for a period of one year from the date it was issued. If the exporter is not the producer of the good referred to in the Certificate of Origin, the exporter may complete and sign the Certificate on the basis of his knowledge that the good is an originating good or the producer's statement that the good qualifies as an originating good.<sup>19</sup>

### **Harmonization System**

The Harmonized System refers to the Harmonized Commodity Description and Coding System established under the International Convention on the Harmonized Commodity Description and Coding System done at Brussels on 14 June 1983. The Convention entered into force for Australia on 1 January 1988.

The Harmonized Commodity Description and Coding Systems generally referred to as "Harmonized System" or simply "HS" is a multipurpose international product nomenclature developed by the World Customs Organization (WCO). It comprises about 5,000 commodity groups; each identified by a six digit code, arranged in a legal and logical structure and is supported by well-defined rules to achieve uniform classification. The system is used by more than 200 countries and economies as a basis for their Customs tariffs and for the collection of international trade statistics. Over 98 % of the merchandise in international trade is classified in terms of the HS.<sup>20</sup>

### **Committee consideration**

The Joint Standing Committee on Treaties inquires into matters arising from treaties and proposed treaty actions. It is also concerned with any question relating to a treaty or other international instrument referred to the Committee by either House or a Minister. The Committee may also deal with such other matters referred to it by the Minister for Foreign Affairs.<sup>21</sup> Discussion of matters raised in submissions to the Joint Standing Committee on Treaties in relation to the Australia-Chile Free Trade Agreement can be found on pp.28-35

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19. Australia-Chile Free Trade Agreement, 30 July 2008, Canberra, accessed on 28 October 2008. The treaty is not yet in force until the Minister by notice in the Gazette nominates the day on which the Agreement comes into force.  
<http://www.austlii.edu.au/au/other/dfat/treaties/notinforce/2008/6/index.html>
  20. World Customs Organization, *What is the Harmonized System (HS)?*,  
[http://www.wcoomd.org/home\\_wco\\_topics\\_hsoverviewboxes\\_hsharmonizedsystem.htm](http://www.wcoomd.org/home_wco_topics_hsoverviewboxes_hsharmonizedsystem.htm),  
accessed on 7 November 2008.
  21. Joint Standing Committee on Treaties, Resolution of Appointment, Report 95, Treaties tabled on 4 June, 17 June, 25 June and 26 August 2008.

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of [Report Number 95 on Treaties](#) tabled on 4 June, 17 June, 25 June and 26 August 2008. The report itself was tabled on 16 October 2008 and to date there has been no Government response issued.

The Joint Committee made the following recommendations in relation to the Australia-Chile Free Trade Agreement:

### **Recommendation 3**

The Committee recommends that, prior to commencing negotiations for bilateral or regional trade agreements, the Government table in Parliament a document setting out its priorities and objectives. The document should include independent assessments of the costs and benefits. Such assessments should consider the economic regional, social, cultural, regulatory and environmental impacts which are expected to arise.

### **Recommendation 4**

The Committee recommends that the Department of Foreign Affairs and Trade undertake and publish a review of the operation of the Australia – Chile Free Trade Agreement no later than two years after its commencement in order to assess the ongoing relevance of concerns expressed about the Agreement, such as the maintenance of sanitary and phytosanitary measures, impact on the horticulture industries, intellectual property, 457 visas, and labour and environmental standards.

### **Recommendation 5**

The Committee supports the *Australia – Chile Free Trade Agreement* and recommends that binding treaty action be taken.

## **Press commentary**

The Free Trade Agreement with Chile has been described as ‘the first such deal with South America and the most comprehensive in Australian and Chilean history.’<sup>22</sup> It has been reported that the Chilean Minister for Foreign Affairs and Trade, Mr Alejandro Foxley said the Agreement with Chile could provide a bridge-head for Australia into South America because Chile heads the union of South American nations which represents a huge market where there is a growing middle class demanding all sorts of things and products.<sup>23</sup>

Another media report stated that the Minister for Trade, Simon Crean commented that it is important to use the multilateral system to lay the most ambitious platform we can for

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22. Dennis Shanahan, ‘FTA with Chile ‘opens bridge’’, *The Australian*, 31 July 2008, p. 4.

23. *ibid*, p. 4.

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continuing trade reform at the regional and bilateral levels.<sup>24</sup> He also stressed that the Rudd government's priority is the conclusion of the World Trade Organisation's Doha round, with a second tier emphasis on a string of FTA talks either underway or under consideration.<sup>25</sup>

Opposition Trade spokesman Ian Mcfarlane stated that the Government has focussed more on the WTO talks to the detriment of FTAs, saying the Rudd government has taken a policy approach that dismisses the benefits of FTAs and compromises the many opportunities available to Australian exporters.<sup>26</sup> Andrew Stoler, Executive Director of the Institute of International Trade in the University of Adelaide, was quoted in a media report as saying that

assuming the ASEAN deal comes through and assuming that one day we have deals with China, Japan, Korea, India and Indonesia, I think Australia's got it pretty much covered... FTAs have been a useful complement to the multilateral system— if we relied on the WTO the last time, we would have had results in 1997 when we had financial services and telecommunications liberalisation. [But] that was the last liberalising thing the WTO has done so we've had 11 years of nothing.<sup>27</sup>

## Financial implications

The Explanatory Memorandum indicates that the customs duty forgone as a result of implementing the Agreement will be approximately:

- 2008-09 \$1.9 million
- 2009-2012 between \$4 million and \$4.5 million per year.

## Main provisions

### Schedule 1

Schedule 1 of the Bill amends Part VIII of the *Customs Act 1901* to include provisions relating to Chilean originating goods. **Item 1** inserts **new Division 1F** – Chilean originating goods. **Proposed subsection 153ZJC(1)** provides that Chilean originating goods are goods wholly obtained within Chile and the importer has a Certificate of Origin for the goods.

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24. Tracy Sutherland, Free-trade talks take centre stage, *Australian Financial Review*, 28 August 2008, p. 69.

25. *ibid*, p. 69.

26. Hon Ian Macfarlane (Shadow Minister for Trade), Time for Crean to get Serious on Free Trade, media release, Parliament House, Canberra, 26 August 2008.

27. *op. cit.*, p. 69

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### Wholly obtained goods of Chile

**Proposed subsection 153ZJC(2)** provides that goods are *wholly obtained goods of Chile* if and only if the goods are:-

- Minerals extracted in and from the territory of Chile
- Goods listed in Section II of the Harmonized System – Vegetable products<sup>28</sup>
- Live animals born and raised in Chile
- Goods obtained from such live animals
- Goods obtained from hunting, trapping, fishing, gathering, capturing or aquaculture in Chile
- Marine life taken from the high seas by Chilean registered ships
- Goods derived from marine life harvested by Chilean registered ships
- Goods from the seabed or beneath the seabed outside Chilean territorial sea but taken in accordance with international law by Chile or a person of Chile
- Waste and scrap derived from production operations in Chile, or
- Goods obtained or produced in Chile exclusively from those listed above.

### Goods produced in Chile from originating materials

**Proposed section 153ZJD** provides that goods are Chilean originating goods if they are made entirely in Chile from materials that originate only in Chile and the importer of the goods has a Certificate of Origin.

### Goods produced in Chile, or Chile and Australia, from non-originating materials

**Proposed subsection 153ZJE(1)** provides that goods are Chilean originating goods if they comply with the following conditions; they are classified to a heading or subheading of the Harmonized System set out in Schedule 1 of the Customs (Chilean Rules of origin) Regulations 2008 (yet to be made), they are made in Chile or Chile and Australia from originating and non-originating goods, the goods meet the specified requirements of the regulations and the importer has a Certificate of Origin. This subsection is subject to the operation of subsections (9) and (10) relating to goods sold as sets and composite goods.

**Proposed 153ZJE(2)** provides that the regulations may specify that non-originating materials used to produce goods is required to satisfy a tariff classification change. The regulations may also specify situations when a non-originating material is taken to satisfy the change in tariff classification (**Proposed subsection 153ZJE(3)**). The Explanatory

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28. This refers to Section II of Schedule 3 of the *Customs Tariff Act 1995*.

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Memorandum states that these provisions give effect to the cumulation provision in Article 4.4 of the Agreement, which says that when a good is an originating good of a Party and is used in the making of goods in the territory of the other Party, then those goods shall be considered to originate in the territory of the other Party.<sup>29</sup>

**Proposed subsection 153ZJE(4)** provides that if there are one or more non-originating materials that do not satisfy the change in the tariff classification requirement stated in subsection 153ZJE(2), then the requirement is satisfied if the total value of the non-originating goods doesn't exceed 10% of the customs value of the goods. The regulations may specify a regional value content of a specified percentage (**proposed subsection 253ZJE(5)**). According the Explanatory Memorandum, the method for calculating the regional value content will be set out in the Chilean regulations.<sup>30</sup> **Proposed subsection 153ZJE(6)** provides that if goods are required to have a regional value content and the goods are accompanied by accessories, spare parts, tools or instructional materials and are not invoiced separately and the quantity and value is customary for those goods, then the regulations must require that the value of those accessory goods be taken into account when working out the regional value content.

Goods that comprise a set for retail sale and are classified according to Rule 3 of the Interpretation Rules<sup>31</sup>, are to be considered as Chilean originating goods if they individually originate in Chile or the total value of goods that do not originate in Chile, does not exceed 25% of the customs value of the set of goods. The regulations will specify how the value of the goods in the set is to be worked out (**proposed subsection 153ZJE(9)**). A similar provision relates to composite goods in **proposed subsection 153ZJE(10)**.

**Proposed section 153ZJG** provides that goods are Chilean originating goods if they are imported into Australia with accompanying accessories, spare parts, tools or other instructional information, are invoiced together not separately to the Chilean originating goods and the quantities and value of the accessories etc are customary for those other goods. Certain operations do not qualify goods to be regarded as Chilean originating goods. Such operations include preserving goods for storage during transport, changes to packaging, disassembly of goods, placing goods in bottles, cases or boxes, making up sets of goods or any combination of these processes (**proposed section 153ZJH**).

**Proposed section 153ZJI** provides that goods are not Chilean originating goods if they have been transported through a country other than Chile or Australia and have undergone subsequent production processes. This section does not refer to goods being unloaded,

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29. Explanatory Memorandum, Customs Amendment (Australia-Chile Free Trade Agreement Implementation) Bill 2008, p.18–19.

30. *ibid*, p. 20.

31. These refer to the General Rules for the Interpretation of the Harmonized System and are to be found in Schedule 2 of the *Customs Tariff Act 1995*.

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reloaded, stored, repacked, relabelled, on exhibition or necessary operations undertaken to preserve the goods to transport them.

### Exporting Goods to Chile

Part 2 of Schedule 1 deals with verification powers. **Item 2** in the Bill incorporates new provisions into the *Customs Act 1901* relating to the export of goods to Chile from Australia. **Proposed subsection 126AKB(1)** provides that regulations may prescribe the records required to be kept concerning goods exported to Chile from Australia and are claimed to be Australian originating goods in order to obtain a preferential tariff in Chile. The regulations may also impose obligations on the producer or exporter of the goods (**proposed subsection 126AKB(2)**).

**Proposed subsection 126AKC(1)** provides that an authorised officer may require to see the records of a person who has record keeping obligations under the regulations. An offence may be committed under section 243SB of the *Customs Act 1901* if the person fails to produce the records when requested, for which there is a fine of 30 penalty units or \$3300. However under existing section 243SC if the person in producing the records would tend to incriminate him or herself or result in further attempts to obtain evidence that would tend to incriminate the person, the person need not comply with the request. If the person has waived his or her rights under this section, however, the person must comply with the requirement. To verify a claim for preferential tariff treatment in Chile, the authorised officer may disclose these records to a Chilean customs official (**proposed subsection 126AKC(2)**).

**Proposed subsection 126AKD(1)** empowers an authorised officer to ask questions of an exporter or producer of goods exported to Chile and that are claimed to be Australian originating goods to verify the origin of the goods. Failing to answer such questions may be an offence under section 243SA of the *Customs Act 1901* for which there is a penalty of 30 penalty units. The self-incrimination provisions of section 243SC apply as for the previous proposed section 126AKC. An authorised officer may disclose the answers to these questions to a Chilean customs official to verify a claim for preferential tariff treatment in Chile (**proposed subsection 126AKD(2)**).

### Part 3 – Application provisions

**Part 3 of Schedule 1 contains Applications provisions. Item 3 (1)** provides that the amendment proposed in item 1 would apply to goods imported into Australia from Chile on or after commencement and to goods imported into Australia before the commencement of the item where the import duty has not been worked out prior to the commencement. Item 3(2) provides that the amendment proposed in item 2 would apply to goods exported to Chile on or after commencement.

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