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Federal Member for Wills

**CUSTOMS AMENDMENT (AUSTRALIA-CHILE FREE TRADE  
AGREEMENT IMPLEMENTATION) BILL 2008  
CUSTOMS TARIFF AMENDMENT (AUSTRALIA-CHILE FREE  
TRADE AGREEMENT IMPLEMENTATION) BILL 2008  
11/11/2008 Second Reading**

**Mr KELVIN THOMSON** (Wills) (5.46 p.m.)—Having chaired the Joint Standing Committee on Treaties inquiry into the Australia-Chile Free Trade Agreement, I am delighted to have the opportunity to speak to the Customs Amendment (Australia-Chile Free Trade Agreement Implementation) Bill 2008 and cognate bill in a little more detail. In the course of the evidence we received it struck me that there are a number of features of the present trade negotiations arrangements which need to be discussed in some detail. I want to go through some of those. Firstly, I will go to the question of transparency. The parliamentary Joint Standing Committee on Treaties has recommended that the government, before commencing negotiations for any future trade agreement, should 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.

I believe that such an arrangement would improve transparency in trade agreement negotiations and address the legitimate concern that people have that the community gets presented with faits accomplis when it comes to trade agreements. Trade negotiations at present are a bit like a train going into a dark tunnel. We do not know what is going on in there, and when something magically emerges out the other side it is a bit late to change any aspects that we might disagree with.

I mentioned the question of labour rights and environmental standards. The Labor Party national platform says that there should be an obligation in all trade agreements to respect core labour standards. It further states that all major trade agreements into which Australia enters—bilateral or multilateral—should be assessed to ensure that they are consistent with the principles of sustainable development and environmental protection for all regions of Australia. We need to ensure that trade agreements respect this; otherwise environmental protections can be challenged and overturned by the World Trade Organisation. As an example, in 1996 the World Trade Organisation ruled against a provision in the United States Clean Air Act on the grounds that the application of domestic emission standards to imported fuel discriminated against countries whose fuel did not meet those standards.

Of particular importance and salience are efforts to tackle the challenge of global warming. Measures such as emissions trading, carbon taxes and emissions labelling are all capable of being challenged in the WTO. The Bush administration, when pressuring the European Union to drop provisions in its cap and trade scheme that would require importers of carbon intensive goods to buy credits, referred to the possibility of WTO violations. I believe that Australia must not undermine its ability to tackle climate change by way of trade agreements. We should lobby the WTO to recognise the primacy of United Nations agreements on climate change and other environment protection treaties and to acknowledge that governments have the right to regulate to mitigate climate change.

Another specific area needing attention in trade agreements is the question of migrant workers. There is clear evidence that the Howard government's section 457 visa arrangements have led to the exploitation of vulnerable temporary workers. The parliament's treaties committee was told of workers not getting paid at all, of owing migration or labour hire agents large fees, of inadequate occupational health and safety standards. Trade agreements should not fetter the power of government to put in place proper labour standards. As the Australian Fair Trade and Investment Network has pointed out, workers are not commodities and the rules that govern trade in goods and services should protect their rights. The position of the previous government that workers rights should be excluded from trade agreements is wrong and should be overturned.

Furthermore, arrangements to allow in temporary workers should not be part of trade agreements. I understand that China wants an expansion of the 457 visa entry to broader categories of unskilled workers as part of a trade agreement with Australia. It is a recipe for exploitation. It has been suggested that we should not be in the business of regulating the 457 visa scheme as this is an important thing for us to trade off in trade negotiations, given that we have so little left in the way of tariffs to give away. I do not agree with such an approach.

I further believe that we will need to look more critically in future at the general tendency of trade agreements to hamstring and limit the power of governments. We have seen recent crises such as the global financial crisis, the climate crisis and the food crisis. They have all forced governments to act and, in many cases, to take drastic action hitherto considered unthinkable. Governments need to have the flexibility and capacity to take strong and decisive action. Trade agreements should not stand in the way of governments being strong and decisive when the times and circumstances demand it.

The Australia-Chile Free Trade Agreement will remove most barriers to Australia's exports of goods to Chile and provide economic integration for markets through commitments in a range of areas, including trade in services, investment, government procurement, intellectual property, electronic commerce and competition policy. As previous speakers have noted, Horticulture Australia has expressed concern about the potential impact of the free trade agreement on their industries, including the risk of added pressure from Chile for Australia to weaken our biosecurity measures or to expedite Chilean requests for biosecurity assessments. The trade union movement has expressed concern that short-term labour movements from Chile under Australia's 457 visas conditions, which have attracted controversy and which are currently under review, could be locked in by the free trade agreement.

To address these concerns, the treaties committee has recommended that the department undertake and publish a review of the operation of the agreement no later than two years after its commencement to assess the ongoing relevance of

the concerns expressed. Furthermore, we have recommended that the government before commencing negotiations for any future trade agreement should table in parliament a document setting out its priorities and objectives. As I indicated earlier, this sort of assessment should consider economic, regional, social, cultural, regulatory and environmental impacts which are expected to arise. I think that would represent a significant improvement in terms of transparency.

The committee heard evidence that, while the Australia-United States Free Trade Agreement contains chapters that refer to ILO and United Nations standards on labour rights and the environment, the agreement with Chile does not and that environmental and labour standards in the Australia-United States Free Trade Agreement were inserted at the insistence of the United States. During the hearing, I asked the department's trade development assistant secretary whether we had an objection to ILO conventions such as the abolition of child labour being included in free trade agreements. She said:

It is not our preferred position that they be included.

I think members of the House can expect that the question of relevant ILO conventions in future free trade agreements will be the subject of detailed scrutiny.

The governments of Australia and Chile signed this agreement back on 30 July this year. It is scheduled to enter into force on 1 January 2009. It is the first free trade agreement with a Latin American country. It is expected to deliver new trade and investment opportunities to Australia, and it should provide us with growing links with the Latin American market. Tariffs on all existing merchandise trade will be eliminated by 2015. The vast majority of goods exported in both directions will enter duty free once the free trade agreement comes into force. It will secure a liberal services regime, it will lock in a liberal investment regime and it will guarantee both sides high standards of intellectual property protection for patents, trade marks, geographical indicators and copyright. The free trade agreement secures national treatment for Australian goods, services and suppliers in the Chilean market for procurements above agreed value thresholds.

I think it has been noted in debate already that trade between Australia and Chile is growing rapidly. Two-way trade was \$856 million in 2007, up from \$574 million in 2006. Australian exports to Chile include coal, civil engineering equipment, specialised machinery and vehicles. Our merchandise exports to Chile in 2007 were valued at \$200 million and our services exports in 2007 reached \$120 million.

The Customs Amendment (Australia-Chile Free Trade Agreement Implementation) Bill will provide the rules for determining whether goods originate in Chile and will introduce powers to allow Customs to obtain manufacturing records from Australian exporters and producers. The amendments will give effect to Australia's obligations under chapter 4 of the free trade agreement. This provides the rules for determining whether goods originate in Australia or Chile. The rules are essential for the purposes of determining whether imported goods from Chile are eligible for preferential Customs duty rates under the agreement.

This bill is being complemented by the Customs Tariff Amendment (Australia-Chile Free Trade Agreement Implementation) Bill 2008, which amends the Customs Tariff Act 1995 by creating free and preferential phasing rates of duty

for goods that are Chilean originating goods. Goods will be considered to originate in Chile for the purposes of providing a preferential duty rate if they are wholly obtained or wholly produced in Chile or if they meet the product specific rules of annex 4-C of the agreement. Those product-specific rules use the 'change in tariff classification' concept as used in previous Australian free trade agreements. Under the change in tariff classification rules, origin will be conferred on a product where the tariff classification of each non-originating material used in the manufacture of the product is different from the tariff classification of the goods. Those rules are a means of demonstrating that there has been substantial transformation of the non-originating material inputs. Customs will also have the powers to obtain manufacturing records of Australian exporters and producers to verify that the goods that they export to Chile were produced in Australia.

The free trade agreement contains commitments on both sides going beyond the commitments both countries have made in the WTO. It is an important step forward in Australia's relations with Chile and, more broadly, with the Latin American region. It eliminates, on entry into force, Chile's tariffs on lines covering something like 97 per cent of trade, including for coal and priority dairy tariffs, all meat and wine tariffs and all other industrial tariffs of interest to Australian industry. It will provide a harmonised and simplified system of customs procedures which aims to facilitate trade and a system of advanced rulings which will enable exporters to ascertain whether their exports will qualify for preferential tariff treatment before shipment. Areas I have talked about which will potentially benefit include energy, such as coal and LNG. I have made the point a number of times in the House that Australia's vast natural gas resources have a potentially vital role to play in reducing greenhouse gas emissions in the region. All of these areas will potentially increase as a result of the agreement.

I ought to note that there were concerns raised with the treaties committee by the trade union movement and the Australian Fair Trade and Investment Network. It was noted that there is concern in the community about inconsistency in policy which allowed issues like labour standards to be included in the US free trade agreement but not in other bilateral agreements. In particular, there was strong support, in submissions to the treaties committee, for some of the International Labour Organisation's declarations on fundamental principles and rights at work. These standards include the right of workers and employers to freedom of association and the effective right to collective bargaining, ILO conventions 87 and 98; the elimination of all forms of forced or compulsory labour, ILO conventions 29 and 105; the effective abolition of child labour, ILO conventions 138 and 182; and the elimination of discrimination against women in respect of employment and occupation, ILO conventions 100 and 111.

Concerns were also raised about the inclusion of 457 visas in the agreement, particularly given some of the concerns that have more generally been expressed about the application and operation of 457 visas. In outlining these concerns, it is my intention, as I have mentioned before in the parliament when presenting the treaties committee reports, to encourage the government to table in parliament a document setting out its priorities and objectives before commencing negotiations for any future trade agreements. These priorities should be looking at the inclusion of relevant ILO conventions in future trade agreements.

This particular free trade agreement represents a significant achievement for the government. I believe that it will facilitate trade and investment between Australia and Chile and that it creates a framework of cooperation that builds on existing relationships and facilitates further opportunities for trade and

investment that will promote economic growth and development. I commend the bills to the House.