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Export Market Development Grants Amendment Bill 2004

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Export Market Development Grants Amendment Bill 2004

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Export Market Development Grants Amendment Bill 2004

Date Introduced: 13 May 2004

House: House of Representatives

Portfolio: Foreign Affairs and Trade

Commencement: On Royal Assent

Purpose

The Bill amends the *Export Market Development Grants Act 1997* (the Act) to introduce a 'not fit and proper' person test to be applied by Austrade in accordance with Ministerial guidelines when assessing an entitlement to payment of a grant under the Export Market Development Grants (EMDG) Scheme.

Background

The objective of the EMDG Scheme is set down in the *Export Market Development Grants Act 1997*:

> **3. Object of Act**
>
> The object of this Act is to bring benefits to Australia by encouraging the creation, development and expansion of foreign markets for Australian goods, services, intellectual property and know-how. It does so by providing for an assistance scheme under which small and medium Australian exporters committed to and capable of seeking out and developing export business are repaid part of their expenses incurred in promoting those products.

More specifically, the Scheme is intended to encourage small and medium Australian businesses to develop overseas markets through the 50 per cent reimbursement of expenditure incurred on export promotional activities. The Scheme is open to Australian companies which meet an expenditure threshold of $15,000 over a two-year period and have an annual turnover of less than $30 million. Funding for the Scheme is capped at $150 million a year until 2005-06.

In the 2002-03 financial year, $143.9 million in grants were distributed to 3,843 exporters. For grants relating to the 2001-02 grant year, the average grant was $36,280. The businesses that received grants during this same period generated $5.5 billion in export income.[1]

According to the Australian Chamber of Commerce and Industry, the Scheme accounts for more than one-third of the export income from smaller to medium sized businesses participating in the program, and without such support these firms would reduce their export efforts.[2]

Summary of changes

Under the current provisions of the Act, an EMDG grant is not payable if the applicant is not a resident of Australia, does not have an Australian Business Number, has outstanding disqualifying convictions, is under insolvency administration, or is the provider of courses to overseas students and is not a registered provider of such courses.

As noted in the Minister's Second Reading Speech, the changes in the Bill add a further test, namely, whether the applicant or an associate of the applicant is 'not fit and proper' to receive a grant:

> What the legislation does not presently allow for is the non-payment of a grant to an applicant who may be viewed by the Australian community as an inappropriate person to represent and promote the public interest of Australia in relation to trade outside Australia, whether by reference to his or her trading history or otherwise.
>
> This Government does not condone behaviour considered by the Australian electorate to be inconsistent with accepted community standards or commercial or personal propriety. We have a duty to taxpayers to ensure that grants paid via Government schemes are not paid to recipients other than those who meet these standards.
>
> Austrade will only be able to make such decisions with reference to Ministerial guidelines, which I will table shortly. The consent of an applicant or his or her associates will be required prior to Austrade undertaking criminal or other relevant checks.

The Minister's Speech, however, does not indicate whether the guidelines to be followed by Austrade will be disallowable instruments and, therefore, subject to parliamentary scrutiny.

Australia-US Free Trade Agreement and the EMDG Scheme

On 8 February 2004, Australia's Trade Minister and the United States Trade Representative (USTR) announced that agreement had been reached on the text of a Free

Trade Agreement between Australia and the United States (AUSFTA). In terms of Australia's merchandise trade with the US, the AUSFTA allows for the removal of almost all tariffs on manufactured exports and substantial reductions in tariffs on agricultural goods (the exception being sugar and dairy where tariff rate quota arrangements will remain).

This is seen as a major gain by Australian industry because the volume of trade in manufactured goods is significant and duty-free access to the US market will be available for a number of very competitive sectors once the AUSFTA comes into force.

Australia's main exports to the US are durable manufacturing products which account for one-third of total exports. Exports of machinery and equipment, which includes medical instruments and appliances ($1.2 billion), manufactures ($1.2 billion), metals ($1 billion) and automotive products ($0.9 billion), are among the top six commodities exported from Australia to the US.[3]

In the past the USTR regarded Australia's domestic industry support programs, such as the EMDG Scheme, as little more than export subsidies and a barrier to freer trade. The 2003 and previous US National Trade Estimate Reports on Foreign Trade Barriers listed the following trade barrier:

> **Export Subsidies**
>
> The Australian Government uses the Export Market Development Grants scheme (EMDG) to encourage Australian exporters to develop overseas markets for its goods, services, tourism, industrial property rights and technology. These grants are available only to small-and-medium-sized Australian firms to reimburse partially (up to 50 per cent) eligible expenditures (primarily marketing costs) while they are developing overseas markets. In August 2000, the Australian Government committed to continue the scheme until 2005. Automotive and textile, clothing and footwear (TCF) producers benefit from industry specific grants which replaced schemes that previously provided export-contingent benefits. Automotive and automotive parts producers benefit from the Automotive Competitiveness and Investment Scheme (ACIS) which currently provides around $A600 million per year in the form of import duty credits designed to promote production, investment, and research and development. This scheme was originally scheduled to run from January 1, 2001 to December 31, 2005. However, the Australian Government decided to compensate for planned additional tariff reductions by extending the program for the ten years after 2005. The grant program that benefits TCF producers is the TCF Strategic Investment Program (SIP), which provides funding for research and development, innovation, restructuring and investment, to assist firms to restructure and achieve efficiency gains prior to legislated tariff cuts in this sector in 2005. The U.S. Government is monitoring the WTO consistency of these programs.[4]

Notwithstanding these concerns, the Government's industry support programs for the automotive and TCF industries and EMDG scheme which cost altogether around $1 billion annually are not affected by the AUSFTA.[5]

According to the study by the Centre for International Economics (CIE) which examined the impact of the AUSFTA on selected industries, Australian exports to the US are expected to grow, in particular exports of light metals and automotive products.[6] The CIE estimated the percentage increase in manufactured exports: manufactures (23.6 per cent), transport equipment (16.6 per cent), leather products (12.9 per cent), and motor vehicle, trucks and parts (7.8 per cent).[7] Across sectors, manufacturing and construction are the two largest beneficiaries from the AUSFTA.

Main Provisions

Person or associate is not fit and proper

Item 2 of **Schedule 1** adds a new subsection which gives Austrade the power to ask an applicant for consent to seek information about the applicant or an applicant's associate in determining whether the applicant or any associate of the applicant is 'not fit and proper' to receive an EMDG grant. If consent is not given, then section 73 of the Act empowers Austrade to refuse to consider the application.

Item 4 provides that where Austrade determines in accordance with the ministerial guidelines that the applicant or an associate of the applicant is 'not fit and proper' to receive an EMDG grant, a grant is not payable.

Item 5 amends the Act to explicitly provide that a 'not fit and proper' determination is subject to review in the Administrative Appeals Tribunal.

Endnotes

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1 Austrade, *Annual Report 2002-03*, Chapter 5: Outcomes and Outputs for 2002-03, p. 40.

2 Australian Chamber of Commerce and Industry, *Export Market Development Grants Scheme*, May 2003, p. 1.

3 Centre for International Economics, *Economic analysis of AUSFTA: Impact of the bilateral free trade agreement with the United States*, April 2004, Australia-United States Trade, p. 7.

4 United States Trade Representative, *2003 National Trade Estimate Report on Foreign Trade Barriers: Australia*, p. 10.

5 See Productivity Commission, *Trade & Assistance Review 2002-03*, Table A. 3: Australian Government budgetary assistance to the manufacturing sector, 2000-01 to 2003-04, pp. A.11

to A.16. The Government's total budgetary assistance to the manufacturing sector in 2003-04 was $1.75 billion.

6 See *Economic analysis of AUSFTA: Impact of the bilateral free trade agreement with the United States*, Case studies: Light metals, Passenger motor vehicles and parts, pp. 116-125.

7 See *Economic analysis of AUSFTA: Impact of the bilateral free trade agreement with the United States*, Sectoral effects of AUSFTA, pp. 84-86.