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12 June 2009, no. 148, 2008–09, ISSN 1328-8091

International Monetary Agreements Amendment (Financial Assistance) Bill 2009

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Contents

International Monetary Agreements Amendment (Financial Assistance) Bill 2009

Date introduced: 28 May 2009

House: House of Representatives

Portfolio: Treasury

Commencement: Royal Assent

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 *International Monetary Agreements Act 1947* (IMA Act) to establish a framework for Australia to provide financial assistance to a country in support of World Bank Group or Asian Development Bank programs.

Background

The International Bank for Reconstruction and Development (IBRD) and the International Development Association (IDA) comprise the World Bank. The IBRD was originally conceived predominantly to fund post-war reconstruction and development in Europe. The IBRD of today specifically deals with middle income countries and creditworthy poorer countries to promote sustainable job creation and growth and to reduce poverty. The IDA was created in the 1960s, after a group of IBRD member countries, led by the United States of America, decided to form a specific multilateral agency that could offer more favourable terms than the IBRD to the world's poorest countries, so they could access capital to foster growth. The founders of the IDA recognised the need for developed countries to assist the world's poorest countries in the 1950s, but they were mindful of the need for the IDA to have the discipline of a bank. It was for this reason that the IDA was created under the umbrella of the World Bank. These two organisations also provide funding and technical expertise to improve governance in their respective spheres of influence.[1]

The International Finance Corporation (IFC), the Multilateral Investment Guarantee Agency (MIGA) and the International Centre for Settlement of Investment Disputes (ICSID) are associate organisations of the World Bank, and together with the IBRD and IDA, they form what is known as the World Bank Group.

The IFC was established in 1956 with a primary goal of fostering private sector involvement and investment in poor countries. Previously international corporations and commercial financial institutions lacked the interest and the sources of capital to invest in Africa, Asia, Latin America and the Middle East. The IFC provides debt and equity funding as well as technical expertise in assessing projects for companies looking to invest in poor countries. The IFC also shares commercial risk, so as to provide incentives for private sector companies to become involved in development activities.[2]

The MIGA (established in 1988) aims to encourage foreign direct investment in the world's poorest countries by providing political risk insurance for foreign investments in order to induce both private investors and insurers into transactions they would not otherwise become involved in. It also provides technical assistance to improve investment environments and promote investment opportunities and dispute mediation services to remove potential obstacles to future investment in poor countries.[3]

The ICSID is an international organisation established under the *Convention on the Settlement of Investment Disputes between States and Nationals of Other States*. This convention entered into force in 1966. The ICSID has as its primary purpose the provision of facilities for conciliation and arbitration of international investment disputes. Recourse to these facilities is always subject to consent by the relevant parties.[4]

1. For more information on the IBRD, see: http://web.worldbank.org/WBSITE/EXTERNAL/EXTABOUTUS/EXTIBRD/0,,contentMDK:21130269~menuPK:3168298~pagePK:64168445~piPK:64168309~theSitePK:3046012,00.html, viewed 4 June 2009.
   For more information on the IDA, see: http://web.worldbank.org/WBSITE/EXTERNAL/EXTABOUTUS/IDA/0,,contentMDK:21206704~menuPK:83991~pagePK:51236175~piPK:437394~theSitePK:73154,00.html, viewed 4 June 2009.

2. For more information on the IFC, see: http://www.ifc.org/about, viewed 4 June 2009.

3. For more information on the MIGA, see: http://www.miga.org/about/index_sv.cfm?stid=1588, viewed 4 June 2009.

4. For more information on the ICSID, see: http://icsid.worldbank.org/ICSID/FrontServlet?requestType=CasesRH&actionVal=ShowHome&pageName=AboutICSID_Home, viewed 4 June 2009.

The Asian Development Bank (ADB), which is headquartered in Manila, Philippines was established in 1966 to provide assistance to Asian countries, which were at that time, predominantly based on agriculture. Its initial efforts were directed towards rural development and providing technical assistance aimed at increasing food production. Throughout the 1970s, the focus of the ADB shifted into education, health, infrastructure and industry. Concessional lending and co-financing also began. In the 1980s, the ADB focussed on improving private sector participation in development projects. Since then, the ADB has expanded into areas such as regional cooperation, poverty reduction and enhancing the effectiveness of development activities.[5]

This Bill refers to all of these organisations and establishes a standing appropriation to enable to Australian Government to make loans and currency swaps[6] in support of World Bank and ADB programs. The rationale for including the IFC, the MIGA and the ICSID in this Bill is somewhat unclear, as the primary functions of the IFC and the MIGA essentially relate to facilitating private sector investments in poorer countries. Similarly for the ICSID, its primary role is the voluntary settlement of disputes between nations or between a nation and foreign nationals. As stated earlier, these three organisations are not part of the World Bank proper, but do form part of the World Bank Group.

The existing framework in the IMA Act that establishes a standing appropriation enabling the Australian Government to provide funds in support of International Monetary Fund (IMF) programs, which this Bill seeks to emulate, is tailored toward cooperation between governments for the benefit of countries in financial distress. Thus, establishing a similar framework for activities in support of World Bank or ADB programs is sensible, although the relevance to the associate World Bank Group organisations is questionable.

Basis of policy commitment

The Prime Minister, Kevin Rudd MP announced at a Joint Press Conference with Indonesian President Susilo Bambang Yudhoyono at the Bali Democracy Forum on 10 December 2008 that Australia would provide a US$1 billion standby loan facility to the Indonesian Governmentas part of a broader facility of more than US$5billion from a range

5. For more information on the ADB, see: http://www.adb.org/About/serving-asia.asp, viewed 4 June 2009.

6. Currency swaps occur when two parties agree to swap principal and interest (in net present value terms) in one currency for another. As a hypothetical example, if Australia were to agree to a currency swap with Indonesia, it would not necessarily be restricted to the swap of Australian dollars for Indonesian rupiahs. Australia could agree to swap US dollars, Euros, Yen, or some other currency that it holds as part of its foreign exchange reserves, for the equivalent in any currency that Indonesia holds as part of its foreign exchange reserves. Under the proposed amendments, it possible that a currency swap arrangement with a country requiring assistance could be concessional in nature.

of other countries and multilateral organisations including the European Union, Japan, the World Bank and the ADB.[7]

Committee consideration

At the time of writing, the Bill has not been referred to any committee for inquiry.

Coalition policy position

The Shadow Treasurer, Joe Hockey MP outlined the Coalition's position on this Bill in his second reading speech on 4 June 2009. He said that the coalition supports the Bill 'because we undertook similar activities in the past when we were in government'. However, while acknowledging that Australia has the capacity to provide emergency assistance and support to our Asian neighbours (on the basis of our net debt, compared with that of other nations), he queried the sense of Australia 'borrowing money to fund our day-to-day activities' while at the same time lending money offshore 'whether it be $1 billion through this initiative to Indonesia or $10 billion to the IMF potentially going to eastern Europe'.[8]

Financial implications

Standing appropriations

This Bill seeks to establish a standing appropriation for funds from the Consolidated Revenue Fund for any loans or currency swap arrangements to which it applies. The extent of financial assistance will depend on what requests are made to and agreed upon by the Australian Government. As noted above, the Australian Government has already committed to a standby loan facility to the Government of Indonesia which could possibly result in a loan of up to US$1billion over the 2009 and 2010 calendar years.

As noted in the Explanatory Memorandum to this Bill, if the standby loan facility is used by the Indonesian Government there will be no impact on the underlying cash balance for the loan itself, however, interest payments received on the loan will affect the underlying cash balance.[9] In terms of the fiscal balance, there would be an upfront reduction and an

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7. K Rudd MP, *Joint Press Conference with His Excellency Susilo Bambang Yudhoyono*, Bali, Indonesia, 10 December 2008, viewed 4 June 2009, http://www.pm.gov.au/media/Interview/2008/interview_0702.cfm

8. Joe Hockey MP, 'Second reading speech: International Monetary Agreements Amendment (Financial Assistance) Bill 2009', House of Representatives, *Debates*, 4 June 2009, pp. 56–57.

9. Explanatory Memorandum, International Monetary Agreements Amendment (Financial Assistance) Bill 2009, p. 2

improvement annually over the life of the loan as it was repaid. This impact on the fiscal balance arises due to the concessional nature of the loan. Thus, to the extent that loans made under this Bill are concessional, there will be an impact on the fiscal balance. If the non-repayment of the loan were to occur, the underlying cash balance and the fiscal balance could both be impacted, depending upon the circumstances in which the non-repayment occurs.

Key issues

This Bill is being put forth because of a specific commitment made by the Prime Minister on 10 December 2008 to provide a standby loan facility to Indonesia. However, the Bill establishes a standing appropriation that would allow the Treasurer to commit to making loans to countries that have received pledges of financial assistance from any of the five World Bank Group organisations, the ADB or other governments. This would be subject to the requirement in section 8D of the IMA Act for the public release and tabling in each House of Parliament of a national interest statement, outlining the nature and detail of such an agreement and explaining why the agreement is in Australia's national interest (with particular regard to foreign policy, trade and economic interests). The overall framework embodied in this Bill closely replicates that built into the IMA Act in support of International Monetary Fund programs in 1998.[10]

It is unclear why the Government has chosen to include the three associate organisations (IFC, MIGA and ICSID) that are part of the World Bank Group, but are not part of the World Bank. It is the two World Bank organisations (the IBRD and the IDA) that facilitate international financial cooperation between governments of developed and less-developed countries, whereas the associate organisations are geared towards increasing private sector involvement in development and poverty reduction activities (IFC and MIGA) as well as voluntary settlement of international disputes (ICSID). Thus the relevance of these organisations to the intentions of Government in putting forth this Bill is not immediately obvious.

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10. For more information about the 1998 changes to the IMA Act see: K Guest and D Richardson, *International Monetary Agreements Amendment Bill 1998*, Bills Digest no. 165, 1997-98, Parliamentary Library, Canberra, 1998, viewed 9 June 2009, http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22legislation%2Fbillsdgs%2FLN005%22

Main provisions

Schedule 1 to the Bill contains 5 items.

Item 1 amends the title of the IMA Act to include Australia's support of the World Bank organisations and the ADB and their programs as one of the purposes of the Act.

Item 2 inserts a definition of the 'Asian Development Bank' into subsection 3(1) of the IMA Act, while **item 3** inserts definitions of the five World Bank organisations (the IBRD, the IDA, the IFC, the MIGA and the ICSID) in the same provision.

Item 4 inserts **proposed section 8CA** after section 8C. **Proposed subsection 8CA(1)** sets out the requirements for Australia's involvement in providing assistance to another country. Specifically, it provides that the Minister may enter into an agreement for Australia to lend money or participate in a currency swap arrangement with another country if he or she is satisfied that at least one other government or organisation has provided, or intends to provide, financial assistance to the recipient country in response to the same or a similar program of the relevant World Bank organisation or the ADB: proposed paragraph 8CA(1)(b). **Proposed subsection 8CA(2)** eliminates the possibility of any doubling up of assistance due to the involvement of a second or subsequent World Bank organisation in support of an existing World Bank organisation program. **Proposed subsection 8CA(3)** provides for Australia to be able to require early repayment in the event of suspension or premature termination of the relevant program of assistance. **Proposed subsection 8CA(4)** provides for a standing appropriation from the Consolidated Revenue Fund. **Proposed subsection 8CA(5)** absolves transactions in relation to any assistance provided by the Commonwealth from any Commonwealth, State or Territory taxation liability.

Item 5 inserts a reference to proposed section 8CA in subsection 8D(1).[11]

Concluding comments

This Bill has been introduced in a specific context, namely to provide immediate assistance to the Indonesian Government as outlined by the Prime Minister on 10 December 2008 and also in a more general context by establishing a standing appropriation to provide future assistance to countries that are in receipt of, or have been pledged, assistance from one of the World Bank Group organisations, the ADB or another country, as part of a World Bank or ADB program. As previously mentioned, the inclusion of World Bank associate organisations in the Bill, such as the IFC, the MIGA and the ICSID are curious as these organisations, whilst having development-related activities as

11. Section 8D deals with the public release and tabling of national interest statements.

part of their core functions, are more geared towards facilitating private sector involvement in development activities and international dispute resolution.