

# Supplementary Agreement between Australia and the Federal Republic of Germany on Social Security

## Introduction

- 6.1 The Supplementary Agreement between Australia and Germany on Social Security<sup>1</sup> ('the Supplementary Agreement') adds superannuation provisions to the existing social security agreement<sup>2</sup> to avoid 'double coverage'. Double coverage can occur when an employer sends an employee from one country to work temporarily in another and compulsory superannuation contributions are required in both countries.<sup>3</sup>

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1 Full title: *Agreement between Australia and the Federal Republic of Germany on Social Security to govern persons temporarily employed in the territory of the other State ("Supplementary Agreement")*, Concluding Protocol and Implementation Arrangement (Berlin, 9 February 2007)

2 Full title of the existing agreement: *Agreement on Social Security with the Federal Republic of Germany, and Concluding Protocol [2003] ATS 7*.

3 Department of Families, Community Services and Indigenous Affairs (FaCSIA), *Information Sheet on the Supplementary Agreement on Social Security between Australia and Germany*, available on the FaCSIA website, accessed 26 June 2007:  
<[www.facsia.gov.au/internet/facsinternet.nsf/VIA/international\\_ssa/\\$File/InfoGermany.pdf](http://www.facsia.gov.au/internet/facsinternet.nsf/VIA/international_ssa/$File/InfoGermany.pdf)>

## Background

- 6.2 Social security agreements require both countries to share responsibility for providing social security coverage for people who move between these countries.<sup>4</sup>
- 6.3 Australia has 18 bilateral social security agreements with other countries: Austria, Belgium, Canada, Chile, Croatia, Cyprus, Denmark, Germany, Ireland, Italy, Malta, the Netherlands, New Zealand, Norway, Portugal, Slovenia, Spain and the United States of America.<sup>5</sup> Australia has also signed social security agreements with Korea, Japan and Switzerland but these have not entered into force.<sup>6</sup>
- 6.4 The social security agreements with Belgium, Chile, Croatia, Ireland, the Netherlands, Norway, Portugal and the United States already incorporate provisions to avoid the double payment of superannuation.<sup>7</sup> The Committee was informed by representatives from the Department of Families, Community Services and Indigenous Affairs that:

We are endeavouring to include double coverage provisions in all new agreements and in renegotiations, but we are trying to prioritise that at the moment.<sup>8</sup>

## The Supplementary Agreement

- 6.5 The Supplementary Agreement adds superannuation provisions in order to avoid 'double coverage'. Double coverage can occur when an employer sends an employee from one country to work in another and compulsory superannuation contributions are required in both countries.<sup>9</sup>

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4 National Interest Analysis (NIA), para. 3.

5 See the Department of Families, Community Services and Indigenous Affairs website for further information relating to these agreements:  
<[www.facsia.gov.au/internet/facsinternet.nsf/international/agreements-current.htm](http://www.facsia.gov.au/internet/facsinternet.nsf/international/agreements-current.htm)>

6 NIA, para. 6.

7 NIA, para. 6.

8 Mr Peter Hutchinson, *Transcript of Evidence*, 18 June 2007, p. 9.

9 Department of Families, Community Services and Indigenous Affairs, *Information Sheet on the Supplementary Agreement on Social Security between Australia and Germany*, available on the FaCSIA website, accessed 26 June 2007:  
<[www.facsia.gov.au/internet/facsinternet.nsf/VIA/international\\_ssa/\\$File/InfoGermany.pdf](http://www.facsia.gov.au/internet/facsinternet.nsf/VIA/international_ssa/$File/InfoGermany.pdf)>

- 6.6 Under the current agreement, Australian or German employers who send an employee to work temporarily in the other country are required to make superannuation contributions under both Australian and German legislation.
- 6.7 The Supplementary Agreement states that, as a general rule and unless otherwise provided, employees will be subject to the legislation of the country in which they are working.<sup>10</sup>
- 6.8 The new provisions provide that employees who are sent temporarily from one country to the other to work will remain subject only to the legislation of the sending country.<sup>11</sup> This rule will apply for a maximum of four years from the time the employee takes up employment in the territory of the other country.<sup>12</sup>
- 6.9 The Competent Authority in each country, which in Australia is the Commissioner of Taxation or his authorised representative, shall issue a certificate upon request stating the applicability of the relevant legislation.<sup>13</sup>
- 6.10 The Supplementary Agreement also contains provisions on the privacy of personal information.<sup>14</sup>

## **Benefits of the Supplementary Agreement**

- 6.11 The Supplementary Agreement is expected to promote closer economic relations by reducing costs for business.<sup>15</sup> The new provisions will ensure that employers, and employees where compulsory contributions are required, need to contribute only to the relevant superannuation scheme in their home country.<sup>16</sup>

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10 NIA, para. 7; Article 4 of the Supplementary Agreement.

11 NIA, para. 8; Article 5 of the Supplementary Agreement.

12 NIA, para. 8; Article 5 of the Supplementary Agreement.

13 NIA, para. 9; Article 4 of the Supplementary Agreement.

14 Article 11 of the Supplementary Agreement.

15 *Information Sheet on the Supplementary Agreement on Social Security between Australia and Germany*, see note 9 above.

16 NIA, para. 5.

## Consultation

- 6.12 The Department of Families, Community Services and Indigenous Affairs (FaCSIA) and the Department of the Treasury consulted with German community groups, welfare organisations, State/Territory governments and employer groups.<sup>17</sup> Three responses were received from the New South Wales and Queensland governments and the Sunshine Coast German Club but no concerns were raised.<sup>18</sup>

## Costs and implementation

- 6.13 The Supplementary Agreement is expected to cost \$0.1 million for the period 2008-2011.<sup>19</sup>
- 6.14 Social security agreements are implemented through the *Social Security (International Agreements) Act 1999* (Cth) ('the Act'). A new schedule containing the full text of the Supplementary Agreement will be added to the Act.<sup>20</sup>

## Conclusion and recommendation

- 6.15 The Committee welcomes measures which are consistent with established social security principles and which facilitate comprehensive social security agreements.

### Recommendation 5

**The Committee supports the *Supplementary Agreement on Social Security between Australia and Germany* and recommends that binding treaty action be taken.**

17 NIA Consultation, para. 1. A complete list of these organisations is listed in the NIA.

18 NIA Consultation, para. 2.

19 NIA, para. 19.

20 NIA, para. 17.