

**SGS**

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**SUBMISSION to the JOINT STANDING**

**COMMITTEE on MIGRATION**

**9 February 2007**



## SUBMISSION TO JOINT HOUSE COMMITTEE

### The Company

SGS Expertest is a division of SGS Australia and is a local Australian group providing wireline / slickline / drill stem testing services to oil and gas clients throughout Australia.

Internationally SGS is the world's leading inspection, verification, testing and certification company. SGS is recognized as the global benchmark for quality and integrity. With 45,000 employees, SGS operates a network of about 1,000 offices and laboratories around the world.

The core services offered by SGS can be divided into three categories:

- **Inspection services.** SGS inspects and verifies the quantity, weight and quality of traded goods. Inspection typically takes place at transshipment.
- **Testing services.** SGS tests product quality and performance against various health, safety and regulatory standards. SGS operates state of the art laboratories on or close to customers' premises.
- **Certification services.** SGS certifies that systems or services meet the requirements of standards set by governments, standardisation bodies (e.g. ISO 9000) or by SGS customers. SGS also develops and certifies its own standards.

In Australia, the Company has over 1,000 dedicated, professional staff, plus specialists and technical contractors, working to meet specific customer needs across more than 50 locations. Success depends on the full commitment of all employees so the SGS Group's future depends on the ability to attract, develop and retain talent. This requires continuous investment, visionary leadership and commitment to the "Learning Organisation".

Main competitors to SGS Expertest are the larger international companies such as Halliburton, Schlumberger and Expro who SGS Expertest compete with for both specialist personnel and business in Australia.

### SGS supplies various services to the following National Clients

- Chevron-Texaco
- Santos Limited
- Woodside Energy Limited
- Arc Energy
- Origin Energy
- Oil Company of Australia
- Tap Oil
- Air Liquide
- TXU
- Mosaic
- Essential
- Stuart Petroleum
- Beach Petroleum



## The Problem

Availability of experienced Wireline and Slickline personnel locally is non-existent as those that are trained in this occupation (in particular by SGS Expertest) are then absorbed by the international market working offshore where they can take full opportunity of tax-free earnings and a greater access to jobs located around the world at higher earnings.

SGS Expertest have a training program in place called "Well Testing Training Program" and "Wireline Training Program" – they have a domiciled testing well all kitted out to train people plus provide on-the-job training during actual well test and wireline testing contracts – they have at any time a third of their workforce under training – however, once trained the Australian trainees who have been provided with between 2-5 years training by SGS Expertest depart Australia to take up international opportunities generally for tax purposes and further training in other countries. SGS Expertest struggle to attract trainers and specialist expertise from other countries due to the restriction placed on us by the current visa situation.

Typically as the work for both SGS Expertest and their competitors is of an ad hoc short-term nature Specialists Wireline and Slickline Operators are located offshore, and work for multiple companies, not just for SGS Expertest.

### SGS work situation

- Required overseas Specialist for 3 - 6 week assignment, may not be used again as not available due to taking other work for other international operators/ competitor companies.
- Ability to access Specialist overseas personnel at short notice and obtain the necessary 457 work visa reduces SGS competitiveness. SGS would like to be able to access a visa that provides for multiple entries for limited duration and available within 5 working days.
- These Specialist Wireline and Slickline personnel bring the high level of experience necessary to a team and provide the local Australian crew with training and supervision while performing the well testing. They assist SGS in training of local Australian assistants to alleviate the skills shortages.
- Specialists are required to work in remote areas, they fly into Australia are then sent directly to a remote site location, accommodated in the camp, work their 21 days straight, return to city to file report and then flown back to home country.
- In the event where SGS may have a client who has long-term requirements for Wireline / Slickline specialist they have in the past sponsored these foreign specialists on subclass 457, however for the bulk of their requirements which is ad hoc and short-term this visa is not suitable.



### **Potential Loss of Revenue to SGS Expertest and Clients**

- Currently SGS Expertest contracts that stand at risk of being lost - ad hoc contracts currently running at a revenue of \$12.9m which could revert to \$8.4m if SGS Expertest unable to have access to these international specialists.
- Revenue cost to the client if they are not able to proceed with well testing - this would result in the clients shutting in the wells – loss of revenue per barrel could result in millions of dollars per day. Plus other contracting companies having deferred work programs until well reinstated could also result in loss of millions of dollars in lost revenue per contractor.

### **Why Subclass 457 Visa not a Solution**

Current 457 Visa obligations which are restrictive for short term specialists.

1. Employment contract must meet Workchoices Standards e.g. 38 hour week, leave entitlements (in our case Specialist works 12 hour continuous shift for 3 weeks then return home, they have no intention of remaining in Australia, they are paid at the overseas location. They are paid well in excess of the salary threshold required for subclass 457 sponsorship).
2. Superannuation and PAYG tax (in our case Fly in Fly out with no residential address in Australia, paid offshore therefore not in Australia long enough for tax and do not have individual superannuation funds in Australia as not resident).
3. 457 visa noted as being Long Stay 3 months to 4 years duration. (in our case these specialist could do one off trip or several trips of 3 - 6 week duration over a 12 month period, and are not continuously employed by SGS and therefore visa would have to be cancelled each time they finished an assignment)
4. 6 - 10 weeks processing time to obtain a 457 visa (in our case SGS clients may only give 24 to 48 hours notice that a well will require testing, the 457 visa processing makes it impossible to obtain a visa to meet the work requirements. Onshore drilling is an expensive business, if SGS can not maintain their service contract by providing the specialist personnel they lose this to competitors).
5. Current 457 obligations require Business Sponsors to notify DIAC within 5 working days of the person ceasing employment (in our case we have Overseas specialist working for SGS on ad hoc 3 - 6 weeks working on irregular basis. They can then take contract with another company at other international locations or possibly back in Australia. Current 457 would require cancelling visa after every contract in Australia or SGS would be found not complying with their sponsorship undertakings. This would then require SGS to obtain a new 457 for each visit they need this Specialist, which is unworkable due to processing delays).



### SGS Suggested Way Forward

- Visa needs to allow the contracted Specialist to undertake multiple entries to work exclusively in Australia for SGS on short term (3 - 6 weeks maximum) duration. Well tests generally run for 21 days, it would only be if client requested further testing that the Specialist would stay for 6 weeks maximum. SGS provide them with all necessary health cover, return airfares and travel assistance ensuring they leave the country on completion of assignment.
- Clients of SGS require a service where occasional assistance is necessary from foreign specialists. The work is ad hoc and limited lead time to secure the specialist services is given, which in order for SGS to maintain their client contracts they must be able to meet. Changes to Subclass 456 Visas have made the problem more difficult
- The short stay business visa 456 or ETA 977/956 prior to July 2006 permitted limited work rights of a short term nature. (Copy attached of visa criteria as at February 2006). This provided the ability of the appropriate short term work visas to be obtained for non ETA Eligible passport holders as a written submission and letter of invitation to the Foreign Specialist ensured that DIAC were fully aware of the intentions of the visa holder on entering Australia.
- Current subclass 456 criteria has removed the ability to obtain these visas where work is concerned unless it is specifically
  - an emergency and
  - very short term and
  - of a highly specialised nature. (with the following interpretation

Emergency - Under policy, anything that is unplanned, unforeseen, unable to be filled by the Australian labour market and essential to the ongoing project would be considered "an emergency".

Very short term - Under policy, very short term is much less than 3 months. Even though the short stay business visitor visas allow for a stay period of up to 3 months, they are not substitutes for the Business (Long Stay) visa, nor are they alternatives for unskilled or semi skilled labour. Very short term is seen as less than 2 weeks.

Highly specialised nature - Under policy, "highly specialised" would encompass any occupation in ASCO Major Groups 1 to 4.

Not on-going - where multiple entry they do not accumulate to greater than three months.

Where SGS secure services of Specialists who are non ETA eligible passport holders they have not been able to secure a subclass 456 visa in recent months due to the restrictions placed on this visa class since July 2006 as noted above. Any mention of work immediately provides the overseas Australian Embassy with the clear decision to refuse the visa application. Presently unless it is indicated that a Subclass 457 visa has been applied for, then any application has been refused due to the above noted criteria - **an**



**emergency; very short term; and of a highly specialised nature.** (We can provide copies of visa applications for subclass 456 which have been refused in the past 6 months)

- There is a high risk associated with bringing in Specialists for ad hoc work purposes for those who have access to ETA Business 977 or 956 as follows:
  - DIAC have advised that persons entering on a ETA Business for work purposes stand the risk of being found to be in breach of visa conditions on arrival in Australia, turned around at the airport, flown back home and given a restriction of three (3) years from returning to Australia.
  - Advice sought on a regular basis from DIAC, Manager, Business Employment Branch has continuously been confirmed that subclass 457 visas is the correct visa for anyone entering Australian for work purposes greater than 2 weeks.

### **The Solution**

We see two possible solutions.

1. The first involves the easing up of the work restrictions on the short stay 456 visa so that the availability on a faster processing time would permit valid entry for short term specialist workers needed to support the Australia labour market.
2. The second is the introduction of a specific short stay visa to permit entry to work along similar lines to those currently in existence in the United States. A person can remain in US for up to 90 days to undertake business, work or training. Australians on each entry to the US where they state they entering for work or business are granted this visa.

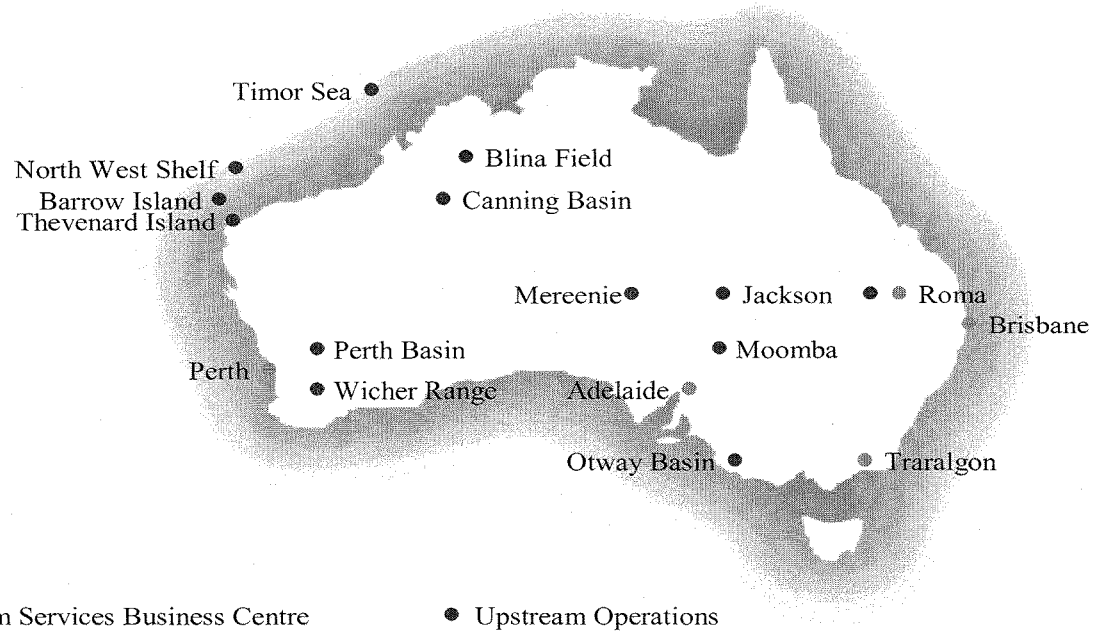
Attachments:

- Map showing SGS client and work locations around Australia
- February 2006 DIAC subclass 456 outline of purpose of visa

# SGS

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## Upstream Services Australian Locations





**Subclass 456 (16 Feb 06 from DIMA website)**

**Can I undertake paid employment while holding a Business (Short Stay) visa?**

The holder of a Business (Short Stay) visa has a work condition attached that states that the holder of the visa must not engage in work in Australia that might otherwise be carried out by an Australian citizen or an Australian permanent resident (condition 8112).

The circumstances whereby the holder of any of the Business (Short Stay) visas may engage in work are very limited. Employment may be appropriate when it is:

- of an **urgent nature**, and
- very short-term**, and
- of a **highly specialised nature**.

Government policy is that the position being filled must be short-term duration and not an ongoing position.

A Business Visitor (Short Stay) visa is not appropriate where the actual position needs to be filled for more than three months. This is irrespective of the length of time the visa holder remains in Australia.

To fill ongoing positions, an application for a Business (Long Stay) visa is the most appropriate visa.