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Joint Standing Committee on Migration

Temporary Business Visas

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Appearance by the Australian Meat Industry Council

Thursday 17 May 2007

The Australian Meat Industry Council (AMIC) provided a submission on 2 February 2007 to the Joint Standing Committee on Migration (JSCM) in relation to the Temporary Business (Long Stay) 457 visa (457 visa) and Labour Agreements.

The following comments relate to the 457 visa as it related to the meat industry. AMIC does not have knowledge of other industries and therefore the comments do not relate to the system generally.

The matter of 457 visas has become a complex issue for AMIC and its members because of the commercial and political overtones it has attracted. It has already been noted that AMIC members are not of a single mind on many of the issues. This Hearing is an opportunity to summarise these major issues as a general position not specifically addressing the position of each member.

1. Eligibility for 457 Visas

The eligibility for temporary 457 visas is based on the gazette notice with reference to ASCO levels 1 to 4.

ASCO has an error in the general classification of 9213 Meat and Fish Process Workers, specifically 9213 -13 Boners and Slicers. The other classifications in this general classification are:

- 9213 - 11 Meatworks Labourer,
- 9213 - 15 Poultry process Worker and
- 9213 - 17 Fish Process Worker.

Boners and Slicers are an Australian Quality Framework (AQF) Certificate III, which is skills commensurate with:

- 4511 - 11 Butcher,
- 4511 - 13 Smallgoods Maker and
- 4511 - 15 Slaughterperson.

Many of the comments received by the Joint Standing Committee relate to the so called technical breach whereby some companies are using 457 visa skilled labour in the role of Boners and Slicers. Much of the debate about improper use is removed of this error in ASCO could be remedied.

2. Proposed Changes to 457 system – May 2007

Minister Kevin Andrews released a paper on proposed changes to the Temporary Business (Long Stay) 457 visa system dated 19 February 2007 under cover of a letter dated 27 April 2007. Most of the matters of concern to the Commonwealth, included in the Labour Agreement, have now been included in this paper.

It should be noted that this paper is not specific to the meat industry and is intended to cover all industries.

AMIC has replied to the Minister and will continue to consult with its members and DIAC on these changes.

AMIC has also advised members that they should have an audit of their use of the current 457 employees as requested by DIAC. To date it is understood that several members have registered for this audit.

3. Labour Agreement

In mid 2006, AMIC became aware that the Department of Immigration and Multicultural Affairs (DIMA) now DIAC had received allegations about improper use of 457 skilled labour in the meat industry and met with the Minister, Senator Vanstone in June 2006 to discuss the matter.

AMIC had been attempting to have the error in ASCO corrected for some months. AMIC asked the Minister to vary the gazette notice to nominate Boners and Slicers as an approved occupation for 457 visas given that it has skills commensurate with AQF Certificate III Slaughterpersons.

The Minister advised that this was not possible, the correction of ASCO was not her portfolio and could take 12 months. The Minister advised that the way to address the matter was through a Labour Agreement which, on an advanced process, could take 6 to 8 weeks.

If the ASCO Boner and Slicer classification had been correct AMIC would not have entered into negotiations for a Labour Agreement.

AMIC entered into negotiations on behalf of the meat industry to produce a Labour Agreement and after 14 meetings and 7 months the so called Queensland Labour Agreement was agreed by some members and the Queensland Government in consultation with the AMIEU. AMIC was not included in the final discussions with the Government.

The Commonwealth included many items of concern to it in the negotiations for a labour agreement. The AMIC negotiating committee frequently did not object to the issues raised but saw difficulty in the way the Commonwealth intended to have them implemented.

A labour Agreement similar to the Queensland Labour Agreement has been the subject of meetings in other states but, to date, has not been finalised other than in Queensland.

In Western Australia the Government negotiated directly with the Commonwealth for a short term (6 months) "emergency Labour Agreement" because of the drought. This document was, to the best of AMIC's knowledge, signed by only one member.

6. AMIC Members Unwilling to sign the Queensland Labour Agreement

There are several reasons why a Queensland company will not sign the Labour Agreement:

Access to the Regional Allowance (90% of MSL or \$37,660) is barred. The rate of pay is therefore \$41,850 per annum without reference to an Award or Industrial Instrument.

All overseas employees on a 457 visa have to be brought up to the current MSL of \$41,850 irrespective of the rate of pay in their approved industrial instrument.

The benefit of access to additional 457 visa employees has to be balanced against the additional costs incurred with current employees by entering into a Labour Agreement.

Some companies claim that they have approval from DIAC to employ Butchers, and Boners and Slicers, as these roles were specified on their original description of position to be undertaken (Form 1196). They therefore claim that they are not acting unlawfully in this matter and see no advantage in signing a Labour Agreement.

There are several other clauses of concern to some members in the Labour Agreement including the additional costs to employ 457 labour under a Labour Agreement, the industrial relations implications of the Labour Agreement and the English Language requirements.

7. English Requirements for 457 skilled labour

The Labour Agreement requires IELTS 4 prior to entry or within 9 months of arrival in Australia.

The proposed changes to the Temporary Business (Long Stay) 457 visa system announced by the Minister in April 2007 is IELTS 4.5 prior to entry into Australia.

These requirements for English at this level in the meat industry are unreasonable and ill founded and will limit access to skilled labour from certain countries.

The argument that English at this level is required for OH&S is unsustainable given the industry experience with employees who have limited English skills and the number of unskilled refugee labour employed on Government programs in the meat industry.