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Foreign Affairs, Defence and Trade
Legislation Committee

Export Market Development Grants
Amendment Bill 2013

June 2013

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Chapter 1

Introduction

Background

1.1 On 13 February 2013, the Hon Dr Craig Emerson MP, Minister for Trade and Competitiveness and Minister Assisting the Prime Minister on Asian Century Policy (the minister), introduced the Export Market Development Grants Amendment Bill 2013 (the bill) into the House of Representatives. The bill passed the House on 14 March 2013 and was introduced in the Senate on 18 March 2013.

1.2 On 16 May, the Senate referred the bill to the Senate Foreign Affairs, Defence and Trade Legislation Committee (committee) for inquiry and report by 17 June 2013.

Purpose of the bill

1.3 The bill amends the *Export Market Development Grants Act 1997* (EMDG Act) in relation to the Export Market Development Grants (EMDG) scheme. The changes to the scheme stem from the Mid-Year Economic and Fiscal Outlook (MYEFO) decision to concentrate the EMDG scheme 'more heavily on small businesses exporting to East Asian and frontier and emerging markets.'¹ The MYEFO decision and associated policy changes were expected to deliver annual savings of \$25 million. The reduction of funding by \$25 million, will reduce the total amount available for EMDG grants from some \$150 million to \$125 million.² Overall, this measure will save \$100 million over four years, which will be redirected to support other Government priorities.³

1.4 The 2013–2014 Portfolio Budget Paper confirmed that the scheme would be realigned and that savings of \$25 million would be made 'to reflect the Government's emphasis on East Asian and emerging and growth markets, while returning an on-going saving to the budget of \$25 million per annum'.⁴

1.5 According to the minister, the number of grants available in East Asian and frontier and emerging markets would increase from seven to eight, which would 'better help Australian exporters maximise the potential of the Asian century'. He explained that this increase would offer 'Australian small- and medium-size exporters a slightly longer and more commercially realistic period to become established in these markets'. To offset these additional grants, however, the number of grants to the United States (USA), Canada, United Kingdom and the European Union, would be

1 Dr Craig Emerson, Second Reading, House of Representatives *Hansard*, 13 February 2013, p. 1126.

2 Mr Bruce Gosper, *Committee Hansard*, Estimates, 14 February 2013, p. 104.

3 Mid-Year Economic and Fiscal Outlook, p. 226, http://www.budget.gov.au/2012-13/content/myefo/download/2012-13_MYEFO.pdf (accessed 17 June 2013).

4 Portfolio Budget Statements 2013–2014, Australian Trade Commission (Austrade), Agency Resources and Planned Performance, p. 66.

reduced from seven to five.⁵ The minister explained that in such mature markets the Australian brand was 'already well known and accepted and small business typically face less barriers to doing business.' He stated:

The increased focus of the EMDG scheme on emerging and frontier markets brings EMDG into closer alignment with Austrade's broader trade priorities following its review in 2011 and the government's Asian century policy agenda.⁶

1.6 While the bill's intention is to increase the maximum number of grants from seven to eight and reduce the number of grants from seven to five for expenses incurred promoting exports to markets in the USA, Canada and the European Union member states, it also provides for a number of other changes to the EMDG scheme. They include amendments that would:

- prevent the payment of grants to applicants engaging an EMDG consultant assessed as not a fit and proper person;
- prevent further approval of joint ventures after 30 June 2013;
- remove event promoters from the scheme;
- require applicants to acquit claims by paying for claimed expenses;
- enable a grant to be paid more quickly where a grant is determined before 1 July following the balance distribution; and
- enable the minister to make a determination to specify a percentage of the scheme's appropriation to fund administration for a financial year.⁷

1.7 According to the Hon Mr Kelvin Thomson MP, Parliamentary Secretary for Trade, these proposed changes 'address a number of administrative issues reducing compliance costs for several types of applicants and increasing the public's confidence in the probity of the applications prepared by consultants'.⁸

Conduct of the inquiry

1.8 The committee advertised the inquiry on its website and in the *Australian* on 22 May 2013. It wrote to relevant ministers and departments calling for written submissions and also contacted a number of other organisations, including exports consultants, commentators and academics inviting them to make submissions to the inquiry. The committee received 21 submissions including two confidential and two supplementary ones, which are listed at Appendix 1. The committee held a public

5 Dr Craig Emerson, Second Reading, House of Representatives *Hansard*, 13 February 2013, p. 1126.

6 Dr Craig Emerson, Second Reading, House of Representatives *Hansard*, 13 February 2013, p. 1126.

7 Explanatory Memorandum, *Export Market Development Grants Amendment Bill 2013*, (Explanatory Memorandum), Outline.

8 *Submission 9*, p. [5].

hearing on 7 June 2013. Witnesses who appeared at the hearing are listed at Appendix 2.

1.9 In undertaking the inquiry, the Senate asked the committee to consider in particular the following matters:

- the consultation process with industry and other stakeholders;
- the possible impact on exporters, particularly small exporters; and
- the structure of the 'fit and proper person' test.⁹

1.10 In the following chapters, the committee considers the seven main changes that the bill introduces. It starts by providing some background on the EMDG scheme and then looks at:

- the proposed increase in the number of grants and the offsetting reduction in grants in respect of USA, Canada, UK and the European Union States;
- the proposed fit and proper test for EMDG consultants;
- joint ventures no longer eligible;
- events promoters no longer eligible;
- payments to be made directly by the applicant;
- Austrade's administrative costs; and
- disbursement of payments.

1.11 The committee also examines the nature and extent of the consultation process that took place before the announcement of the changes and the introduction of the legislation.

Acknowledgements

The committee thanks all those who assisted with the inquiry

9 Selection of Bills Committee, *Report No. 5 of 2013*, 16 May 2013.

Chapter 2

Background to the EMDG scheme

Export Market Development Grants

2.1 The *Export Market Development Grants Act 1997* provides for the Australian Trade Commission (Austrade) to grant financial assistance to small and medium Australian enterprises as an incentive for them to develop export markets.¹ The legislation is meant to 'bring benefits to Australia by encouraging the creation, development and expansion of foreign markets for Australian goods, services, intellectual property and know-how'.² It does so through an assistance scheme for 'aspiring and current exporters'—the Export Market Development Grants (EMDG) scheme.

2.2 This scheme is a major Australian Government financial assistance program 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'.³ The scheme supports 'a wide range of industry sectors and products, including inbound tourism and the export of intellectual property and know-how outside Australia'.⁴ Administered by Austrade, the scheme:

- encourages small and medium sized Australian businesses to develop export markets;
- assists small and medium-sized Australian businesses to address the challenges associated with undertaking promotion in export markets and achieve international business growth by reimbursing up to 50 per cent of expenses incurred on eligible export promotion over \$20,000;⁵ and
- provides up to seven grants to each eligible applicant.⁶

2.3 One submitter described the scheme as a 'true incentive' for Australian businesses to take on the export challenge.⁷ The scheme's underpinning principle is that incentives are provided only to export businesses that can return significant benefit to Australia because they are:

1 Reader's guide, *Export Market Development Grants Act 1997*, p. 3.

2 Section 3, *Export Market Development Grants Act 1997*.

3 Section 3, *Export Market Development Grants Act 1997*.

4 Austrade website, <http://www.austrade.gov.au/Export/Export-Grants/What-is-EMDG> (accessed 17 June 2013)

5 Portfolio Budget Statements 2013-2014, Australian Trade Commission (Austrade), Agency Resources and Planned Performance, p. 66.

6 Austrade website, <http://www.austrade.gov.au/Export/Export-Grants/What-is-EMDG> (accessed 17 June 2013)

7 *Submission 15*, p. 1.

- Australian businesses;
- seeking to export products that are substantially Australian; and
- being encouraged to undertake additional promotional activities.⁸

2.4 EMDG grants are not discretionary—there is legislated eligibility.⁹ To be eligible, companies must have an annual turnover of not more than \$50 million and spend a certain amount of promotional expenditure (\$20,000) before they can apply for a grant.¹⁰

2.5 The legislation sets out the eligibility criteria against which companies apply. If companies meet those criteria, then they can apply for a rebate against their export promotional expenditure—their marketing, an overseas agent, attendance at an exhibition or a trade fair. Austrade has an EMDG audit team to assess applications.¹¹ The EMDG is unique. According to one export consulting company, Sandilands Export, the EMDG:

- is a partial reimbursement on selected marketing expenses (not a grant in the true sense of the word);
- is assessable income in the year of receipt, providing some drawback to the Government;
- fosters an environment to encourage small to medium sized Australian businesses to look beyond our shores for trade;
- produces an identifiable return on investment for the Australian economy through the receipt of foreign revenue; and
- generates jobs in Australia.¹²

Scheme's performance

2.6 Mr Michael Vickers, Austrade, argued that the effectiveness of the grant program is the extent to which exporters go on to become sustainable self-supporting exporters in the long-term. He explained:

The goal of the scheme is to take exporters who are starting out in exporting and support their marketing efforts so they become established in a market. They graduate from the scheme. They no longer receive grants and they go on to become successful exporters earning income and creating employment for Australians.¹³

8 Reader's guide, *Export Market Development Grants Act 1997*, p. 3.

9 *Committee Hansard*, Estimates, 14 February 2013, p. 109.

10 Austrade website, <http://www.austrade.gov.au/Export/Export-Grants/What-is-EMDG/Who-can-apply> (accessed 17 June 2013).

11 Mr Peter Yuile, *Committee Hansard*, Estimates, 14 February 2013, p. 109.

12 *Submission 1*, p. 2.

13 *Committee Hansard*, Estimates, 14 February 2013, p. 108.

2.7 Austrade's 2011–12 Annual report showed that 3,277 grant applications were received in 2011–12 which represented a 28.5 per cent decrease on the 4,585 applications received in 2010–11. Of this number 2,993 grants were received representing a 30.5 per cent decrease on the 4,306 grant recipients in 2010–11. The cost of grants paid was \$125.6 million.¹⁴ The following table shows the trend in EMDG payments since 2007.

Table 2.1 Payments to EMDG recipients¹⁵

	2007–2008	2008–2009	2009–2010	2010–2011	2011–2012	Variance 2010–11 to 2011–12(%)
Total grant recipients	3,933	4,105	4,675	4,306	2,933*	-30.5
Value of grants (\$million)	150.3	185.9	198.1	143.1	125.6**	-12.2

* Includes 2,874 recipients for the 2010–11 grant year and 119 recipients over from previous grant years.

** Includes the value of grants for the 2010–11 grant year of \$120.2 million plus the value of 119 grants from previous years and supplementary payments to grant recipients from previous years. A total of \$125.6 million was paid from the 2011–12 appropriation.

2.8 Mr Vickers informed the committee that for the 2010–2011 grants year, which is export expenditure undertaken by companies in the financial year 2010 to 2011, the 3,277 applicants reported export sales of \$3.2 billion and the employment of 103,557 Australians.¹⁶

Support for scheme

2.9 Overall, and for a long period time, Australian businesses have strongly supported the EMDG scheme. A 2008 review of the scheme conducted by Mr David Mortimer (the Mortimer review), found that the scheme had been helpful in introducing smaller Australian businesses and new exporters to the global market. It noted both the scheme's effectiveness and efficiency in supporting the development of Australia's exports and recommended that the scheme should continue.¹⁷

2.10 Indeed, Mr Vickers told the committee that Austrade had done econometric studies that looked at the effect of \$1 of grant money and the return to the national interest. That was done in the Mortimer review, and some work was done in 2009

14 Australian Trade Commission, *Annual Report 2011–2012*, p. 86.

15 Taken from Australian Trade Commission, *Annual Report 2011–2012*, p. 87.

16 *Committee Hansard*, Estimates, 14 February 2013, p. 108.

17 David Mortimer, *Winning in World Markets: Meeting the competitive challenge of the new global economy*, Review of the Export Market Development Grants scheme, 1 September 2008, p. 1.

following the Mortimer review. Mr Vickers recollected that, for every \$1 of grant that is paid, there is \$5.38 in benefits achieved by the national economy if the effect of tax and spill overs and productivity gains by the exporters are taken into account.¹⁸

2.11 Many witnesses supported the finding of the Joint Standing Committee on Foreign Affairs, Defence and Trade in 2011 that:

...in view of the benefits arising from the Export Market Development Grants Scheme, it should continue indefinitely and be fully funded to provide certainty for exporters seeking to widen their overseas market focus.¹⁹

2.12 One witness, Exportise (NSW) Pty Ltd, noted that all the reviews, research, economic studies and feedback support the finding that the scheme is effective and benefits the Australian economy.²⁰ Mr Ian Murray, Executive Director, Export Council of Australia, similarly noted the number of EMDG reviews with every one finding the scheme to be 'highly successful'. Based on the Council's research, Mr Murray informed the committee that 60 per cent of companies currently in export, particularly among the small to medium sized enterprise (SME) sector, have said that the EMDG scheme has been 'a very strong support for getting them into export'. Twenty-three per cent of people said that 'if it had not been for EMDG they would not have gone into export'. Mr Murray accepted that the 23 per cent may be a relatively small number, but noted that when taken from start of the scheme in the 1970s, the overall number of companies is significant.²¹ The Export Consultants Group stated that the EMDG scheme had 'made a real difference to Australia's performance in the past and at this time'.²²

Review of Austrade

2.13 During 2010–2011, Austrade undertook a comprehensive review of Austrade's 'strategy, operating model and structure'. It drew on the views of stakeholders from governments, industry, business and Austrade staff.²³ The CEO initiated the review in order to 'put Australia on a more contemporary, more sustainable footing'. The conclusions of the review were to 'fundamentally reshape Austrade's strategy, operating model and structure'. The core elements of the new operating model are:

A realigned international network—with a different focus in different markets reflecting the commercial potential as well as the nature and scale

18 *Committee Hansard*, Estimates, 14 February 2013, p. 106.

19 See Joint Standing Committee on Foreign Affairs, Defence and Trade, *Inquiry into Australia's Trade and Investment Relations with Asia, the Pacific and Latin America*, July 2011, Recommendation 8, p. 42 and *Submission 1*, p. 2.

20 *Submission 11*, p. 2.

21 *Committee Hansard*, 7 June 2013, p. 2.

22 *Supplementary Submission 7A*, p. 1.

23 Australian Trade Commission, *Annual Report 2010–2011*, p. i.

of impediments to business in those markets and the optimal role for Government.²⁴

2.14 According Austrade's review it made sense for:

...Austrade's efforts in the more established markets of North America and Europe to be focused predominantly on inward investment and education services, with greater reliance on partners, referrals and online information and services to support Australia's exporters in these markets.²⁵

2.15 It found that a smaller proportion of Australian firms were making use of Austrade export services in these markets when compared with major growth markets. The review then referred to the closure of several small posts in North America and Europe, the reduction of some staff primarily in North America and Europe as well as a rationalisation and redirection of effort in Australia. It suggested that such measures would:

...release resources to strengthen Austrade's trade and investment representation in growth and emerging markets with high commercial potential, where there is strong interest from Australian business and importantly, where the challenges faced by firms are greatest.²⁶

2.16 The review indicated that this reorientation was important as Austrade's limited resources were 'currently thinly spread or absent from a number of locations where it could clearly add value'. It concluded that these markets would have 'a strong focus on trade development, the marketing of international education and, increasingly, over time, on investment'.²⁷ Although the review stated that the EMDG scheme would continue unchanged, the realignment of Austrade's focus toward new and emerging markets have influenced the proposed changes to the EMDG scheme as contained in the bill. The MYEFO explained:

The Government will retarget the Export Market Development Grants program towards emerging and frontier markets, with a focus on Asian markets. This measure complements the recent review of Austrade, which recommended that Austrade's export promotion work be undertaken in the world's emerging and frontier markets, where the commercial opportunities are the greatest and where Australian businesses can benefit most from Government support.²⁸

2.17 Mr Bruce Gosper, CEO Austrade, also referred to the rebalancing of grants that would increase the number of grants to eight for applicants to emerging and growth markets and reduce to five the number of grants that might be given to

24 Austrade, *Reform of the Australian Trade Commission: Maximising our Value*, May 2011, p. 3.

25 Austrade, *Reform of the Australian Trade Commission: Maximising our Value*, May 2011, p. 4.

26 Austrade, *Reform of the Australian Trade Commission: Maximising our Value*, May 2011, p. 4.

27 Austrade, *Reform of the Australian Trade Commission: Maximising our Value*, May 2011, p. 4.

28 Mid-Year Economic and Fiscal Outlook 2012–2013, pp. 189 and 226, http://www.budget.gov.au/2012-13/content/myefo/download/2012-13_MYEFO.pdf (accessed 17 June 2013).

applicants for the so-called 'mature markets'—Europe, the United States. He argued that this particular measure was consistent with the recent review of Austrade and the desire to rebalance resources towards those growth and emerging markets, particularly in Asia.²⁹

Savings

2.18 The changes to the EMDG Act are also in the context of the Government's intention to achieve a budget reduction as 'a contribution to balancing the budget'.³⁰

2.19 The Explanatory Memorandum states that expenditure under the Act is set through annual appropriations acts. A capping mechanism ensures that expenditure under the scheme is limited to the amount appropriated.³¹ As noted in the previous chapter, the MYEFO for 2012–2013 recorded an anticipated savings of \$25 million from changes to the scheme.

2.20 The 2013–2014 Portfolio Budget Paper confirmed that the scheme would be realigned and that savings of \$25 million would be made:

The scheme has been realigned to reflect the Government's emphasis on East Asian and emerging and growth markets, while returning an on-going saving to the budget of \$25 million per annum. This closer alignment involves increasing the number of grants available in East Asian and emerging and growth markets to eight and reducing the number of grants available in certain developed markets to five.³²

2.21 The reduction of funding by \$25 million, will reduce the total amount available for grants under the EMDG scheme from some \$150 million to \$125 million.³³ Overall, this measure will save \$100 million over four years, which will be redirected to support other Government priorities.³⁴ Mr Gosper informed the committee that the \$25 million saving 'represents, amongst other things, a contribution to fiscal consolidation'.³⁵

Industry's response to the proposed changes to EMDG scheme

2.22 Some witnesses were concerned that the proposed amendments would 'further erode the benefits of the scheme particularly for SMEs'.³⁶ Exportise (NSW) argued

29 *Committee Hansard*, Estimates, 14 February 2013, p. 104.

30 Mr Michael Vickers, *Committee Hansard*, 7 June 2013, p. 12.

31 Explanatory Memorandum, Outline.

32 Portfolio Budget Statements 2013-2014, *Australian Trade Commission (Austrade), Agency Resources and Planned Performance*, p. 66.

33 Mr Bruce Gosper, *Committee Hansard*, Estimates, 14 February 2013, p. 104.

34 Mid-Year Economic and Fiscal Outlook, p. 226, http://www.budget.gov.au/2012-13/content/myefo/download/2012-13_MYEFO.pdf (accessed 17 June 2013).

35 *Committee Hansard*, Estimates, 14 February 2013, p. 104.

36 See for example, Sandilands Export, *Submission 1*, p. 2; Export Consultants Association, *Submission 7*, p. 1 and Export Council of Australia, *Submission 12*, p. 1.

that the changes would 'effectively reduce the benefits available for Australian exporters'.³⁷ It asked 'why limit a program that has had a positive net benefit for the Australian economy?'³⁸ Mr Stuart Mitchell, Mitchell and Co Chartered Accountants, argued that the reduction in funding for the scheme would be counterproductive especially in light of possible lost export sales resulting in lost government revenue and reduced employment in Australia.³⁹ The Australian Chamber of Commerce and Industry (ACCI) was of the view that the proposed legislation was 'unnecessary'.⁴⁰ The Export Consultants Group likewise, informed the committee that the changes were 'unnecessary'.⁴¹ Similarly, the Export Council of Australia would like to see the scheme 'untouched'.⁴²

2.23 In the following chapters, the committee considers in detail the particular concerns raised about the proposed changes to the EMDG Act contemplated in the bill.

37 *Submission 11*, p. 1.

38 *Submission 11*, p. 2.

39 *Submission 15*, p. 4.

40 *Committee Hansard*, 7 June 2013, p. 3.

41 *Committee Hansard*, 7 June 2013, p. 2.

42 *Committee Hansard*, 7 June 2013, p. 4.

Chapter 3

Grants and exclusions

Eligibility—increasing grants with exclusions

3.1 Under the current legislation, applicants (other than approved entities) are eligible to receive a maximum of seven grants. Proposed changes increase the maximum number of grants payable to an applicant from seven to eight, including trustees for trust estates businesses.¹ Non-profit export focused industry bodies granted special approval by Austrade, known as Approved Bodies, will continue to be entitled to receive an unlimited number of grants.² The amendments apply to grants relating to grant years commencing on or after 1 July 2013.³

3.2 Submissions raised no objections to the proposed increase of the maximum number of grants to eight.⁴ One witnesses, Sandilands Export, fully concurred with the proposed increase while another suggested that there was universal acceptance that the number of years that the grant could be claimed should be increased.⁵

Grants—USA, Canada and European Union Member States

3.3 The current EMDG Act lists the types of expenses that are excluded as claimable expenses in respect of eligible promotional activities and include, for example, expenses related to trade with New Zealand and expenses incurred in breach of trade sanctions (presently applying to Iran and North Korea). The bill inserts new section 43A that stipulates that the expenses of an applicant are excluded if:

- the applicant is a grantee in respect of five or more previous grant years; and
- the applicant is not an approved body; and
- the expenses were incurred in respect of an eligible promotional activity related to trade with the United States of America, Canada or a Member State of the European Union.

1 Explanatory Memorandum, Items 2 and 3 amend paragraphs 7(1)(c) and 7(4)(b).

2 See subsection 6(1) of the EMDG Act and Explanatory Memorandum, Items 2 and 3. The purpose of Approved Body status is to allow an industry body to promote on behalf of the entire membership that it represents. It is not for the purpose of funding industry bodies in relation to activities which promote specific members' products. Members of the Approved Body who wish to promote their specific products may be eligible to apply for a grant themselves. Approval is granted for five years. Further terms of approval may be applied for. Australian Trade Commission, Website, *Approved body status*, Last Modified 13 Feb 2012.

3 Subsection 23(1) of the bill.

4 See for example, Sandilands Export, *Submission 1*, p. 2.

5 Sandilands Export, *Submission 1*, 1–2; Export Solutions, *Submission 10*, p. 1; Canberra Business Council, *Submission 16*, p. 1. Confidential *Submission 14* also supported the increase in grants to eight.

3.4 This provision means that applicants claiming for their sixth to eighth grants will not be eligible for expenses incurred prompting exports to markets in the USA, Canada and European Union Member States. This provision does not apply to Approved Bodies, which are entitled to claim expenses in all markets except New Zealand, Iran and North Korea.⁶

Key markets

3.5 While most witnesses expressly endorsed the increase in grants to eight, the majority of submissions objected strongly to the reduction in the number of grants to five for established markets. Mr Bryan Clark, ACCI, told the committee that businesses see all exports as equal in all countries and of equal value. He was of the view that dividing markets into groups was 'an inappropriate way to go in terms of structure for the scheme'.⁷ Many submitters not only saw the change as unnecessary⁸ but damaging to smaller exporters 'already struggling against the effects of the strong dollar, increased competition from China and other developing countries and the on-going effects of the GFC [global financial crisis]'.⁹ Export Solutions could not understand what the change 'sets out to achieve'.¹⁰ It submitted:

The premise that the change supports Australia's push into Asia does not make sense. The change may indeed be counterproductive in that exporters will tackle the restricted zones first and receive 5 years of assistance and then move on to Asia in years 6, 7 and 8. If they begin marketing in Asia then support for marketing to restricted zones in later years will not be available.¹¹

3.6 The Canberra Business Council felt that this decision was 'unreasonable'. It noted that countries such as the US and Canada are key markets for many companies in the Australian Capital Territory that offer complex government services. It noted:

Government procurement markets like the US have long procurement cycles and timeframes, and require a significant investment over time to bear fruition.¹²

3.7 Mr Stuart Mitchell, Acting Chairperson, Export Consultants Group, also noted that the scheme is intended to be an incentive to 'get exporters on the hard road to try and make those sales' and that generally the market determines where the demand will originate. He noted that in some cases, such as soil remediation, the Asian market has

6 Explanatory Memorandum, Items 7 and 8.

7 *Committee Hansard*, 7 June 2013, pp. 1 and 3.

8 Mr Stuart Mitchell and Mr Bryan Clark, *Committee Hansard*, 7 June 2013, pp. 2 and 3.

9 *Submission 1*, p. 2.

10 *Submission 10*, p. 1.

11 *Submission 10*, p. 1.

12 *Submission 16*, p. 1.

no interest.¹³ Overall, Mr Mitchell believed that the changes were not only unnecessary but would:

...damage Austrade's export efforts from the SME level. It will move people away to markets that may be of some opportunity, but that will be in the longer term. So there will be a reduction in the number of people accessing the scheme and a reduction in the number of exports driven by those people that access the scheme.¹⁴

3.8 AusBiotech informed the committee that approximately 90 per cent of Australian biotech and medtech export markets are located in the US, Canada and the European Union. It argued that established markets are as important as emerging ones and it should be left to the individual businesses 'as to where they see fit to establish and build their export markets'.¹⁵

3.9 Current statistics show that Australia's main export markets for EMDG recipients, who tend to target more than one country, are—USA, 55 per cent; and the UK and Germany, 54 per cent. Mr Mitchell suggested that this importance of developed markets supports exporters' observation that most EMDG recipients, who currently access the seven grants, would be limited to a maximum of five grants.¹⁶

3.10 According to Exportise (NSW), the established USA, Canada and the European Union markets are the main export markets into which 'the majority of Australian exporters are striving to achieve success'.¹⁷ It argued that removing them from the program in grant years six to eight would only serve to limit the effectiveness of the program.¹⁸ It stated that:

Cutting off access to support will result in exporters reducing their marketing and exports to these countries, and these are the markets where Australia generates the majority of its export revenue.¹⁹

3.11 Exportise (NSW) concluded that the proposed amendments would 'reduce the benefits for exporters in the established markets where the return is great, and may only marginally increase the benefits in markets where the return is least'.²⁰ It stated further:

The argument that the Australia brand is well established in these established markets may hold weight for large exporters, but the small

13 *Committee Hansard*, 7 June 2013, p. 3.

14 *Committee Hansard*, 7 June 2013, p. 2.

15 *Submission 18*, p. 1.

16 *Submission 15*, p. 5 and Australian Trade Commission, *Annual Report 2011–2012*, p. 92. Keeping in mind that recipients may promote to more than one country the top six countries targeted by EMDG recipients for 2010–2011 grant year.

17 *Submission 11*, p. 1.

18 *Submission 11*, p. 1.

19 *Submission 11*, p. 1.

20 *Submission 11*, p. 1.

exporter must persist with their marketing activities to maintain their hold in these markets. These are some of the most competitive markets in the world and the proposed amendments will serve only to negatively impact on exporters' success in those markets.²¹

3.12 According to Sandilands Export, this change would have a huge effect on smaller exporters who are already struggling under difficult market conditions particularly in the USA and Europe.²² It argued that Australian businesses with potential in established markets 'should not be penalised'. It explained:

As the US is recovering from the GFC [Global Financial Crisis], there is increased opportunity for quality Australian products and services in that region, and our exporters should be encouraged to exploit these.²³

3.13 A number of exporters cited the success they had already achieved under the scheme but were concerned about losing the grant after five years. One company, Who-Rae Australia, reported that with assistance from the grant it had grown from a staff of eight with a turnover of over \$7 million in 2008 to employing 18 people in 2013 with an expected turnover of \$21 million. The support provided through EMDG grants over the past six years had enabled the business to increase its exports to the USA and Canada with the largest rewards beginning in the 2013 financial year. It highlighted the importance of the grants being available 'over at least the seven year period to enable businesses to reach a firm hold in the export market'.²⁴

3.14 Sullivans Cove, a Tasmanian distillery, which produces single malt whisky was just one of many companies to voice opposition to the proposed reduction in grants to five years for the USA, UK, Canadian and European markets. It stated that it had taken 17 years to build its stock of maturing whisky, gain credibility for its brand and capture the interest in its international markets. It stated further:

We have recently started applying for EMDG support after several years of Tasmanian State Government support. We have found it takes many years to establish a brand in any export market. For a small business like ours with limited funds EMDG grants can make the difference between entering new markets and not.²⁵

3.15 Sandilands Export also pointed out that some companies have diligently planned their promotional activities and budgeted for EMDG support in their long-term plans. The proposed changes could well have a detrimental effect on them. It explained:

Those exporters currently in the fifth year of the program who have recently appointed representatives on a minimum contract of 12 months (as required

21 *Submission 11*, p. 2.

22 *Submission 1*, p. 2.

23 *Submission 1*, p. 2.

24 *Submission 6*, p. 1.

25 *Submission 3*, p. 1.

by Austrade) suddenly find that they will not qualify for EMDG support for this substantial commitment.²⁶

3.16 Ocean Freedom, Ocean Free, Cairns Premier Reef & Island Tours, provided the committee with such an example:

In order to survive we started 5 years ago to actively market the inbound market and employed an international marketing consultant to assist us. With any small to medium sized tourism business one must choose what specific market to actively pursue. It is impossible and outside any small medium business financially and time wise to pursue both a Western and Asian Market so one must choose which market to pursue—we have always had a Western market. When we started to actively target the European, USA, Canadian market we were informed by more longstanding tourism companies and also by our marketing consultant that to make any inroads into any international market requires dedication and persistence over many years—many quoting 5–8 years just to start to be successful in these markets.

In the last year (our 5th year) we have just started to consolidate some of the European markets and are only now starting to see increased support from this market—it takes many years of establishing contacts and convincing them to trust and support a product.

We had expected another 2 years of assistance to continue and cement all our new contacts and bookers. A stop in the financial assistance to continue our Western marketing over the next few years would be devastating to our company and a wasted 5 years of hard work where all our 'ground work' over the last 5 years was to be consolidated over the next few years.²⁷

3.17 This company felt that it is would be a 'gross injustice' to take the grant off those companies that did not have an Asian market and whose European, USA and Canadian market was essential to their survival.²⁸ Another small company, Compupool Products, based on the Gold Coast, Queensland, has also 'carefully planned' its use of the EMDG grants in order to grow its markets in the USA and Europe with smaller ones throughout Asia and the Middle East. It noted that it was approaching its fifth year of claiming grants and would not be able to receive any more grants indicating that its expenditure in the emerging markets would not be sufficient to meet the minimum level of expenditure of \$20,000 to access EMDG grants.²⁹

3.18 With the assistance from EMDG grants, Illumination Physics has already been able to expand its product overseas and now has a well-established client base in Asia. Currently it is in its fourth year of claiming grants but is looking to expand its product into the European market, the Middle East and beyond. It informed the

26 *Submission 1*, p. 2.

27 *Submission 2*, p. 1.

28 *Submission 2*, p. 2.

29 *Submission 4*, p. 1.

committee that it has completed works in Croatia and Dubai which 'would not have been possible without the assistance and support' from the EMDG scheme. It stated that, if passed, the proposal to reduce the grant assistance relating to the US, Canada and the European Union to five years would be detrimental to its business.³⁰ It explained:

Over the past few years, we have been budgeting and planning promotional activities so as to make inroads into these international markets—all of which will be to no avail if we do not receive the much needed and welcome assistance provided by the EMDG. Just this month our company displayed its products at an international lighting show in London by way of extending our business into the European market.³¹

3.19 Put bluntly, the company stated that it would not be able to continue 'consolidating relationships in these new markets'.³²

Complexity

3.20 Recipients of EMDG grants may promote to more than one country. Indeed, the Export Council of Australia (ECA) noted that many expenses claimed by exporters cover various countries. It explained that the expenses include 'travel to more than one country, participation in trade shows where buyers attend from all over the world, a website targeting all countries, production of brochures and advertising for many markets'.³³ The proposed changes mean that applicants promoting their export in countries from both regions will need to apportion their expenditure accordingly. The Explanatory Memorandum gave the following example:

In deciding whether claimed expenses are to promote exports to one market or another, Austrade will deem expenses to be for the market where export sales are to be made. For example, an applicant will be entitled to claim expenses of attending a USA trade show in its sixth grant year application to the extent that its expenses were for promoting sales to, for example, Mexico and South American countries (that is, to any other markets other than USA, Canada and a member state of the European Union).³⁴

3.21 Many submissions objected strongly to splitting the globe into two regions for the purposes of the EMDG scheme, which, in their view, would increase the complexity.³⁵ Mr Mitchell informed the committee that having two market categories

30 *Submission 8*, p. 1.

31 *Submission 8*, p. 1.

32 *Submission 8*, p. 1.

33 *Submission 12*, p. 2.

34 Explanatory Memorandum, Items 7 and 8.

35 Export Consultants Group, *Submission 7*, p. [1]; Export Solutions, *Submission 10*, p. [1]; Export Council of Australia, *Submission 12*, p. [1]; Mitchell & Co., *Submission 15*, p. 5; ACCI, *Submission 17*, p. [1].

'would cause more administrative burden to the client and to Austrade', and, to his mind, generate 'more areas of dispute'.³⁶

3.22 As noted earlier, exporters will only be eligible for grants years in six to eight, in respect of countries other than USA, Canada, UK and the European Union States. The Export Council of Australia explained that, for grants six to eight, exporters would be required to apportion their expenses, such as travel, trade shows, websites brochures and advertising, between the excluded and eligible countries. In its view, this apportionment would be 'more complex than it appears as exporters would be required to maintain records or provide other evidence to justify any such apportionment. It maintained that under the proposed legislation:

- exporters claiming for grant years six to eight will be required to maintain records to substantiate apportionment of most expenses;
- subjective apportionments are more likely to be used in applications by exporters and will be difficult for Austrade to substantiate; and
- smaller businesses will be discouraged from applying in grant years six to eight as they will find the complexity too onerous for the likely grant amount that could be received.³⁷

3.23 Export Solutions agreed that the change would 'make it very difficult to administer in grant years six, seven and eight will be time consuming and frustrating for applicants'.³⁸ It pointed out that the applicant always bears the onus of proof and will be required to demonstrate the percentage, for example, of a trade fair held in the USA that relates to marketing to countries outside the restricted zones.³⁹ It explained that the trade fair organisers do not have records that provide this level of detail and even if they did, the records 'would be difficult to get hold of'. It argued that 'trying to apportion travel costs where the client visits numerous regions around the world will be near impossible and again add to the time and complexity of the application and the audit'.⁴⁰

3.24 The Exports Consultants Group gave the example of a company that attends a trade fair in the USA that is the only fair for that company's product. It then noted:

The company has already secured distributors in their only export market the USA but is attending to meet potential distributors in South America. Austrade would naturally expect that this expense would not be eligible in years 6–8 as it relates to the USA.

The company would be required to satisfy Austrade that the travel costs, trade show costs and any brochures were for the purpose of marketing to South America. The problem for the company is how to substantiate the

36 *Committee Hansard*, 7 June 2013, p. 11.

37 *Submission 12*, p. 2.

38 *Submission 10*.

39 *Submission 10*.

40 *Submission 10*.

purpose of attending the trade show when the USA is their main export market.⁴¹

3.25 In Export Solutions' view, this example is one of the simple ones.⁴² The Exports Consultant Association provided another example of where a company attends three trade shows, one each in USA, Germany and Hong Kong. It elaborated on the complexity under the proposed changes:

All costs associated with these trade shows would be eligible for years 1–5, but in years 6–8 only the costs for Hong Kong would appear to be eligible. However, if the company was able to substantiate that buyers from different parts of the world attended these trade shows, they would be able to claim some portion of the trade shows in USA and UK. It is likely in this case that Austrade would require an apportionment for the Hong Kong trade show as buyers from USA, UK and the EU would be attending the trade show.

If the company was able to obtain details of buyers attending the trade shows from the organizers they would have the basis for apportioning the costs. It is highly likely that the apportionment for each trade show would be different so all costs including trade show participation costs; travel and marketing materials would need to be apportioned differently for each trade show. In lodging an EMDG application all expenses are itemised on separate schedules (up to 9 schedules) so that each trip would be listed and apportioned differently for each trade show, likewise each trade show expense and each marketing material expense.⁴³

3.26 The Export Consultants Group was concerned that incorrect apportionment that does not agree with Austrade's methodology at audit, lack of substantiation and issues as claimed expenditure not being for an 'approved promotional purpose' would create problems. In its view, the change would produce a higher level of complexity, dispute and appeal resolution and hence administration costs for both applicants and Austrade.⁴⁴

Austrade's response

3.27 Mr Vickers explained that apportionment is a longstanding feature of the EMDG scheme.⁴⁵ According to Mr Vickers the arguments put forward by business 'sound very reasonable' from a more general level, but, he argued, 'if we look at the practical experience of EMDG applicants the situation is somewhat different'.⁴⁶ He explained:

We already have a portion that buy markets, in that if you go into the South Pacific markets and New Zealand you have to apportion out your New

41 *Submission 7*, p. 2.

42 *Submission 10*, 1.

43 *Submission 7*, p. 2.

44 *Supplementary Submission 7A*, p. 5.

45 *Committee Hansard*, 7 June 2013, p. 19.

46 *Committee Hansard*, 7 June 2013, p. 13.

Zealand expenditure. New Zealand is an extremely popular market with their senior exporters. If you are going to a trade show and you are both marketing to new applicants—to new clients—and you are servicing existing clients, you have to apportion out the service you provide to existing clients. So apportionment is not new. Equally if you have a website, the website portion that deals with marketing is eligible. That part that accepts payments and delivers products or services—either digitally or in some other way—is not. So apportionment is a bread-and-butter part of the EMDG scheme, and has always been.⁴⁷

3.28 He did not think it was reasonable to suggest that by breaking up parts of the world so that some qualify or do not qualify for certain periods would add another level of complexity. In his assessment, the new requirements for grants six to eight would 'be more apportionment of a similar type that occurs at the moment'.⁴⁸ He agreed that in a sense it would mean more work, but reasoned:

...if a business has sufficient records to deal with apportionment now, it is a relatively small increment to deal with the additional apportionment'. Once you have the systems in place to allocate expenditure, it is a relatively simple matter to put it into three buckets as opposed to two...⁴⁹

3.29 With regard to travel costs, Mr Vickers noted that they would be apportioned in much the same way as they are now:

If you are going to New Zealand and Noumea, you have to apportion your travel costs between the two markets. One is eligible and one is not. If you go to the United States and visit a prospective client one day and then the next day you visit an existing client to service equipment or provide post-sale service you have to apportion those days differently. You have to apportion your travel costs. As I said, there is nothing in these changes which is conceptually different from what applies currently.⁵⁰

3.30 As noted earlier, the Export Consultants Group stated that apportionment is 'relatively simple' when on a country by country basis.⁵¹

Businesses affected

3.31 In the view of the Export Consultants Group, 'the number of exporters accessing the scheme will drop as will the average grant which has a multiplier effect on the level of export sales that would not otherwise happen without it'. Overall, it predicted that the 'end users of the scheme will be in a worse position than if the changes did not happen'.⁵²

47 *Committee Hansard*, 7 June 2013, p. 13.

48 *Committee Hansard*, 7 June 2013, p. 19.

49 *Committee Hansard*, 7 June 2013, p. 19.

50 *Committee Hansard*, 7 June 2013, p. 13.

51 *Supplementary Submission 7A*, p. 4.

52 *Supplementary Submission 7A*, p. 2.

3.32 Mr Vickers conceded that the change would have a negative effect on some, arguing that 'there is just less money to go around' and that people who 'focus only on the Americas may be disadvantaged'.⁵³ He noted, however, that only a 'very, very, very small number' would be affected. Under the proposed legislation and based on current applicants, Austrade estimated that, of the 3,123 applicants who would hypothetically be able to claim an EMDG grant:

- 154 applicants (4.9 per cent) would be able to claim an additional grant in East Asian emerging and frontier markets;
- 366 applicants (11.7 per cent) would only be able to claim a reduced grant in years six, seven and eight, limited to their expenditure in East Asian and emerging and frontier markets and excluding the developed markets.

3.33 Further, that from the current applicant population, 81 applicants (2.7 per cent) claimed only in developed markets in years six, seven and eight and would be ineligible to claim for grants after year five. Austrade anticipated that the net result of the changes would be an overall increase in the number of claims by about 80 (2.6 per cent) per annum.⁵⁴

3.34 Mr Vickers explained that the Government was of the view that 'there are greater opportunities and that it is a better investment of taxpayers' funds to focus somewhat more on East Asian emerging and frontier markets and that Austrade's job was to make the Government's investment 'as efficient as possible'.⁵⁵

3.35 The committee asked Austrade to release its internal modelling on the effect of proposed changes to the number and allocation of grants on the performance of the scheme. On 13 June 2013, Austrade provided the committee with further information on its analysis. Austrade informed the committee that an error had occurred in its calculations. Its revised findings indicated that of the 2,971 applicants that 'would hypothetically be able to claim an EMDG grant under the proposed changes':

- 107 applicants (3.6 per cent) would be year-eight applicants able to claim an additional grant in the emerging and developing markets;
- 237 applicants (8.0 per cent) would be able to claim a reduced grant in years six, seven and eight limited to their expenditure in the emerging markets.⁵⁶

3.36 Austrade explained that based on the current (FY2012-2013) applicant population, 169 applicants (5.6 per cent) have not claimed a sufficient value of expenditure in East Asian, frontier and emerging markets to qualify for a grant. They would, therefore, be ineligible to claim any grant after year five. According to Austrade, this figure includes applicants who only claim in developed markets. It concluded:

53 *Committee Hansard*, 7 June 2013, p. 12.

54 *Submission 9*, p. 2.

55 *Committee Hansard*, 7 June 2013, pp. 12 and 13.

56 Austrade, Answer to question on notice taken at public hearing 7 June 2013, p. 7.

The next result of the changes is that overall numbers are expected to decrease by about 74 (2.4 per cent) per annum.⁵⁷

3.37 In Austrade's view, this correction 'does not materially change the estimated impact of the legislation on the population of some 3,000 applicants':

Australia's experience is that changes in eligibility tend to influence future export marketing expenditure by the claimant population. It is likely, therefore, that marketing expenditure in East Asia, emerging and frontier markets will increase leading to a lesser number of claimants negatively affected and increased claim amounts and therefore grants for those claiming in the East Asia, emerging and frontier markets.⁵⁸

3.38 Despite Austrade's assurances that the changes in the number and eligibility for grants will lead to an increased expenditure in East Asian and emerging markets and hence to fewer applicants being affected negatively, the committee now understands that the original estimate of those ineligible to claim after year five has more than doubled. Furthermore, the proposed legislation was based on a miscalculation, which does not inspire confidence in Austrade's internal modelling.⁵⁹

57 Austrade, Answer to question on notice taken at public hearing 7 June 2013, p. 7.

58 Austrade, Answer to question on notice taken at public hearing 7 June 2013, p. 7.

59 Austrade, Answer to question on notice taken at public hearing 7 June 2013, p. 7.

Chapter 4

Fit and proper person test, joint ventures, events promoter, payments and administration costs

4.1 The bill also introduces changes to the EMDG scheme that would affect directly export consultants by imposing a fit and proper person test; joint ventures by removing their eligibility for EMDG grants; and event promoters who would no longer be an eligible claim. In this chapter, the committee considers each change.

Fit and proper person test

4.2 An export market development grants consultant is a person who asks for, or receives, any fee for any work relating to the preparation of an application for a grant.¹ Under the existing scheme, where applicants have engaged a consultant to prepare or help to prepare an EMDG claim, there is no provision governing a 'fit and proper person' test for consultants. The bill will now apply a fit and proper person test to a consultant who has helped prepare an EMDG application.

4.3 Such a test already exists for an EMDG applicant. Under section 87AA of the EMDG Act, the CEO of Austrade may form an opinion, in accordance with guidelines determined by the minister by legislative instrument, that the person is not a fit and proper person to receive a grant. The same applies if the person has an associate who is not a fit and proper person to receive a grant. In such cases, a grant or an advance of a grant is not payable to the person.²

4.4 Under the existing scheme, where applicants have engaged a consultant to prepare or help to prepare an EMDG claim, there is no provision governing a 'fit and proper' test for consultants. Hence, consultants are not subject to the provisions of subsection 87AA. The only existing provision where an applicant may be affected by the actions of its EMDG consultant is under section 75 of the EMDG Act. This provision stipulates that an application is taken not to have been made where an individual who helped to prepare an application was, at the time the application was made, disqualified from preparing applications. The same condition applies where such an individual became disqualified at any time from when the application was made to before Austrade determined whether the applicant was entitled to a grant.³

4.5 Austrade informed the committee that EMDG consultants are prevented from lodging claims on behalf of applicants if they have been convicted of an offence under the *Corporations Act 2001* or the *Crimes Act 1914*.⁴ According to the Parliamentary

1 Section 107 of the EMDG Act.

2 Subsection 87AA(1) and section 101 of the EMDG Act.

3 Paragraph 75(a) and 75(b).

4 *Submission 9*, p. [4]. For full details, see section 78 of the EMDG Act—Disqualified Individual.

Secretary for Trade, the Hon Kelvin Thomson MP, the high cost of prosecution often results in matters not being pursued due to resource constraints. He added:

...there are issues which may arise, as they have arisen in connection with applicants, outside of the Corporations Act or the Crimes Act where the public would expect that the level of dishonesty or unacceptable behaviour was such that the continued participation of the consultant would tend to reduce the perceived probity of the scheme. These issues may include, for example, serial bankruptcy and the promotion of grant application schemes which are illegal under the EMDG Act. In addition, in the overwhelming majority of grant applicants from consultants, Austrade is requested to pay the grant to the consultant on trust for the application. It would potentially reduce public confidence in the probity of the EMDG scheme for Austrade to continue to deal with, and forward grant monies to, consultants where Austrade was aware that those consultants had an unacceptable reputation.⁵

4.6 In his submission, the Parliamentary Secretary for Trade informed the committee that EMDG consultants prepare more than half (56 per cent) of all EMDG applications. He explained further:

As a result, the professional standards applied to the services they provide are a very significant influence on the public's perception of the integrity of the EMDG scheme. Public confidence in the integrity of the EMDG scheme is a significant factor in maintaining the support of government to continue the scheme's assistance to the 3,000 to 4,000 exporters who apply each year.⁶

4.7 According to the Parliamentary Secretary, EMDG consultants are not licenced registrants. He explained that overwhelmingly, they work on a success fee basis calculated as a percentage of the EMDG grant paid. The Parliamentary Secretary stated that the average was estimated at 10 per cent across the EMDG consulting industry. He surmised that EMDG consultants, therefore, would have a 'significant financial interest in maximising the payment of grants to their clients'. Mr Thomson stated that unlike other agents such as tax, customs, migration and real estate agents, their 'obligations to clients are not balanced by formal obligations to a regulatory body'.⁷ He noted:

In the absence of any regulation or effective self-regulation of the EMDG consulting industry, there does need to be some mechanism to protect the integrity of the scheme from those few cases where the actions of an EMDG consultant may bring the entire scheme into disrepute.⁸

4.8 The Code of Practice Administration Committee, comprising EMDG Consultants representatives and Austrade, currently administer a Consultant Code of Practice. But, according to Mr Thomson, approximately only 23 per cent of practising

5 *Submission 9*, p. [4].

6 *Submission 9*, p. [3].

7 *Submission 9*, pp. [3–4].

8 *Submission 9*, p. [4].

consultants are signatories to the code. He explained that those in breach of the code can have their participation suspended or cancelled but such action does not affect their ability to act as an EMDG consultant and lodge claims. Mr Thomson argued:

The limited coverage of the code, and the lack of any effective sanction, results in the code having very little ability to protect the integrity of the EMDG scheme.⁹

4.9 As noted previously, if passed the bill would apply a fit and proper person test to a consultant who has helped prepare an EMDG application. Under Part 7 of the EMDG Act, (Application for, and payment of, grant), the bill inserts a new Division—Fit and proper person test for export market development grants consultants. Under proposed section 79A, an application is deemed not to have been made if the grants consultant is not a fit and proper person. For the purposes of the EMDG Act, an application under section 79A is not made if it meets the following criteria:

- an application for a grant is made to the CEO of Austrade; and
- an export market development grants consultant prepared, or helped to prepare, the application; and
- the CEO of Austrade forms the opinion, in accordance with guidelines determined by the minister and complied with by the CEO,¹⁰ that the export market development grants consultant is not a fit and proper person.

4.10 Under the above section, if the application is taken not to have been made, proposed section 79B requires the CEO of Austrade, as soon as practicable after forming the opinion referred to in that section, to give to the applicant a written notice:

- stating that the application is taken not to have been made; and
- setting out the effect of section 79C.

In such cases, proposed section 79C provides for an applicant to make a fresh application. To do so, the fresh application must be made within:

- 90 days after the applicant receives the notice referred to in section 79B; or
- 5 months after the end of the grant year;

whichever is the later.

4.11 In forming an opinion as to whether an EMDG consultant is a fit and proper person, the CEO of Austrade must comply with guidelines made by the Minister for Trade and Competitiveness. The CEO may, by written notice to the applicant, ask the applicant to give to the CEO a written consent of the EMDG consultant to enable the CEO to obtain information to determine whether the EMDG consultant is a fit and

9 *Submission 9*, p. [4].

10 Determined under proposed paragraph 101(1)(bc) which states 'guidelines to be complied with by the CEO in forming, for the purposes of section 79A, an opinion whether an export market development grants consultant is a fit and proper person; and'

proper person. According to the Explanatory Memorandum, if consent is not provided, under section 73, Austrade may refuse to consider the application.¹¹

4.12 Mr Vickers stated that the application of the fit and proper person test for EMDG consultants is consistent with the Government's intention to improve transparency and safeguard the good reputation of the scheme. He stated:

The public is entitled to expect that the government will administer the scheme in a way which has a high level of probity. I think the government is really responding to community expectations in that way.¹²

Industry concerns

4.13 One submitter interpreted this measure to have consultants subject to a fit and proper person test as a 'tool to enable the removal of consultants who might disagree with Austrade's assessments or who make errors in their applications.'¹³ In his view, the amendment would 'allow Austrade to be the accuser, judge, jury and executioner' and is a denial of natural justice.¹⁴

4.14 While Exportise (NSW) recognised that the application of a fit and proper test was fairly common to all government programs and departments, it was troubled by the structure of the proposed test for the EMDG program. It identified the following concerns:

- the test would be applied and administered by the Government department responsible for the administration of the program—presents issues with conflicts of interests noting that tax agents have a similar test but it is administered by the Tax Practitioners Board rather than the Australian Taxation Office; and
- the penalties—automatic suspension and required notification to clients, with no opportunity for counselling, training and supervision—were draconian and bordering on a denial of natural justice.¹⁵

4.15 A confidential submission from an established consultant business that specialises in the EMDG scheme suggested that the not fit and proper provision be removed from the bill.¹⁶ It argued that the provision is not required and that existing regulations are appropriate. The submission was of the view that section 78 of the EMDG Act makes adequate provision that only a 'fit and proper person' prepare or assist with the preparation of an EMDG claim. As noted earlier, section 78 provides for the disqualification of individuals from preparing applications if they have been convicted of an offence under the Corporations Act and the Crimes Act.

11 Explanatory Memorandum. Item 10.

12 *Committee Hansard*, 7 June 2013, p. 14.

13 Name withheld, *Submission 5*, p. 2.

14 Name withheld, *Submission 5*, p. 2.

15 *Submission 11*, p. [2].

16 Confidential *Submission 14*, p. 2.

4.16 The Export Consultants Group also noted that the fit and proper person requirement applies to many other government programs and companies. Mr Mitchell had no difficulty with a similar test applying to EMDG consultants. He acknowledged that the rationale for a fit and proper test for EMDG applicants had been in existence since 2004. Mr Mitchell said that export consultants understood that there should be a fit and proper provision for them: that they support it 'in concept'. He was concerned, however, with the practical application of this provision. He stated that together with his peers:

We feel we are really heading into uncharted waters here. We need a lot more discussion and consultation with Austrade to bed these proposed changes down and reduce the current level of angst in our community.¹⁷

4.17 The Export Consultants Group informed the committee that past experience shows that where Austrade has applied the fit and proper test to its clients that 'issues take months if not years to work through'. It stated further:

We are concerned with the practice of this section and believe that there are not sufficient internal checks and balances to ensure that the extra effort to increase the probity of the scheme that Austrade requires actually happens'.¹⁸

4.18 Mr Mitchell noted that the actual Ministerial Determination criteria to be used to administer the fit and proper rules are yet to be made public.¹⁹ According to Mr Mitchell, at the export consultants conference in February 2013, which had 'probably 80 per cent or even 90 member representation', concerns were raised about what this measure could do to destroy their business. They were concerned about not knowing what the fit and proper rules that would apply from 1 July would be. He stated further:

If the rules are modelled on the self-prepared or a client of the schemes rules they are all quite satisfactory, other than the last one. It says, in essence, that Austrade can look at a client in terms of fit and proper—and I am saying that they could do it for a consultant—for anything Austrade considers; any other matter. So for the rules of determination in the ministerial determination: we are happy with all of them, but the last one just too broad. It is too catch-all. It could be anything that Austrade considers.²⁰

4.19 The committee notes that the export consultants were particularly concerned about the possibility that the guidelines to be complied with by Austrade in forming an opinion on whether a consultant was a fit and proper person would require

17 *Submission 15*, p. 6 and *Committee Hansard*, 7 June 2013, p. 6.

18 *Supplementary Submission 7A*, p. 3.

19 *Submission 15*, p. 6.

20 *Committee Hansard*, 7 June 2013, p. 6.

Austrade to have regard 'to any matter that it considered relevant to the personal, commercial, financial or professional character, status or reputation of the person.'²¹

4.20 Mr Mitchell pointed out further that when an applicant has a not fit and proper person decision go against them, they can choose to walk away and not get their grant paid—they make a commercial decision. The situation is different for a consultant:

A fit and proper issues brought against a consultant will destroy their business, and they go out of business. So the concerns that we have are at a higher level. We are quite happy to work with Austrade as an industry group to resolve these issues and these concerns, and to look at the ministerial determination, but we have had none of that dialogue. And I do not believe this bill should be passed with that uncertainty that would impact on our business.²²

4.21 According to Mr Mitchell, the Export Consultants Group already has a mechanism in place to safeguard the integrity of their industry—the Code of Practice Administration Committee, a joint action committee with Austrade. He explained:

If Austrade had a concern with a consultant—for example, on behaviour not being fit and proper—it could be brought to the committee and, just as with accountants or lawyers and their professional societies, we have steps to counsel those people and deal with it. We have had no issue brought to that committee by Austrade in my memory, and I am sure Austrade can confirm it if they are questioned further in 13, 14 or 15 years.²³

4.22 According to Mr Mitchell, the consultancy industry would like to work with Austrade to resolve any issues with the existing mechanism and to make it work better. He stressed, however, that, over the years, Austrade had not brought any concerns to the industry's attention.²⁴ Mr Clark added that if there were questions about the probity of the scheme then 'let us look at it properly and do it via a complete review rather than this legislative tinkering that is going on at the present time'.²⁵

4.23 Mr Mitchell also argued that a body independent of Austrade should conduct the fit and proper test and there appeared to be no appeal process for consultants.²⁶

4.24 The Parliamentary Joint Committee on Human Rights also drew attention to the proposed fit and proper person test for EMDG consultants. It stated:

A finding that a person is not a fit and proper person to be involved in the process of preparing an application for a government grant is a finding that is likely to have an adverse impact on a person's business reputation. Given

21 Export Market Development Grants (Associate and Fit and Proper Person) Guidelines 2004, paragraph 3.6.

22 *Committee Hansard*, 7 June 2013, p. 6.

23 *Committee Hansard*, 7 June 2013, p. 7.

24 *Committee Hansard*, 7 June 2013, p. 7.

25 *Committee Hansard*, 7 June 2013, p. 8.

26 *Submission 15*, p. 7.

the existence of an encroachment on the right to reputation, the onus is on the government to identify why the provisions are a necessary and proportionate measure to achieve a legitimate objective (including details of any less intrusive measures that were considered and the procedural and other safeguards that apply in making such a determination).²⁷

4.25 As noted above, however, the guidelines are yet to be released. It should be noted that the guidelines are required to be made under proposed new paragraph 101(1)(bc) as legislative instruments.

4.26 Austrade acknowledged that finding a consultant not a fit and proper person would 'have a significant commercial impact on the consultant'. Even so, Mr Vickers stated it was important that:

...the scheme and its reputation be protected—because if the scheme comes into disrepute, there will not be government support for it and there will be no scheme. That would disadvantage many thousands of EMDG applicants.²⁸

4.27 The Parliamentary Secretary for Trade noted that with this in mind, a number of safeguards would apply:

- natural justice—Austrade would provide any consultant it considered may be a not fit and proper person with the reasons for suspecting so and provide them with the opportunity to respond;
- privacy rules;
- right of review—if a consultant is found to be a not fit and proper person, they may request that the CEO of Austrade review the decision;
- right to independent review—if they are unhappy with the CEO of Austrade's decision, they may request a merits review at the Administrative Appeals Tribunal (AAT); and
- right to judicial review they are also able to pursue action under the Administrative Decisions (Judicial Review) Act in the Federal Court.²⁹

27 Parliamentary Joint Committee on Human Rights, Examination of legislation in accordance with the Human Rights (Parliamentary Scrutiny) Act 2011, Bills introduced 5–28 February 2013, Legislative Instruments registered with the Federal Register of Legislative Instruments 5 January–15 February 2013, p. 15.

28 *Committee Hansard*, 7 June 2013, p. 14.

29 *Submission 9*, p. [4] and Mr Vickers explained further about natural justice applying to this new section. He stated, 'Natural justice is a requirement of the Administrative Decisions (Judicial Review) Act (AD(JR)) Act and there is no way Austrade can escape providing natural justice. There are also issues here which arise out of the Privacy Act. The EMDG Act specifies that there is a right of appeal to the Administrative Appeals Tribunal and the AD(JR) Act applies as well...So I think there are quite a number of safeguards here—safeguards in fact in depth—to protect consultants'. *Committee Hansard*, 7 June 2013, p. 14. The Reader's guide to the EMDG Act clearly states that the *Administrative Appeals Tribunal Act 1975* and the *Administrative Decisions (Judicial Review) Act 1977* apply.

4.28 The Australian Government Solicitor has provided advice to Austrade that the proposed provisions are consistent with Australia's international human rights obligations.³⁰

4.29 The Parliamentary Secretary for Trade explained that Austrade had been administering the 'not fit and proper person' provisions applying to EMDG applicants for nine years.³¹ Over this period, it has reviewed 75 cases resulting in:

- nine applicants being deemed not fit and proper persons to receive a grant, with decisions on four matters confirmed by Austrade following a Request for Review;
- 16 cases where the applicant failed to respond to Austrade's requests for information and Austrade applied section 73 of the EMDG Act to refuse to consider the matter further;
- 27 matters currently under consideration; and
- no applicant appealing an Austrade decision under the not fit and proper test to the Administrative Appeals Tribunal.³²

4.30 Considering these results, the Parliamentary Secretary concluded that Austrade brings 'a significant level of experience to the assessment of whether or not a consultant is a fit and proper person'.³³

Joint ventures

4.31 Austrade may grant a special approval to groups of small to medium sized Australian businesses which co-operate or collaborate in a joint venture style marketing arrangement to pursue specific export activities. This Joint Venture status enables the group, which would normally be ineligible, to access the EMDG scheme.³⁴ At the moment, joint ventures that satisfy assessment criteria are eligible to receive up to five grants for a specified project or activity.³⁵

4.32 An approval of a group of persons as a joint venture must: specify the activity, project or purpose for which the group is approved; and specify the member of the group who is the nominated contact member for the purposes of applications and payments of grant. Only a resident of Australia may be specified as a nominated

30 *Submission 9*, p. [4].

31 *Submission 9*, p. [4].

32 *Submission 9*, p. [4].

33 *Submission 9*, p. [4].

34 Austrade website, *Approved Joint Venture status*
<http://www.austrade.gov.au/search.aspx?ModuleID=8367&keywords=joint%20venture&multiSite=False>

35 Explanatory Memorandum, Item 2. See subsections 7(2) and 89(4) of the EMDG Act.

contact member. A grant, or an advance on account of a grant, that is payable to an approved joint venture is to be paid to the nominated contact member.³⁶

4.33 The following table provides an indication of the number of approved joint ventures since 2012.

Table 4.1: Approved joint ventures

Approved Joint Ventures FY 2009–10 to FY 2012–13 ³⁷		
Year	Number of Joint Ventures	Number of members
2012–13	10	49
2011–12	10	49
2010–11	15	88
2009–10	18	107

4.34 Under the proposed legislation a joint venture will no longer be eligible for an EMDG grant.³⁸

Low numbers

4.35 Mr Vickers acknowledged that the joint venture provisions have existed for a very long time. But, he explained that after many years, only a few joint ventures apply for grants—ten—which 'has even gone down from what it used to be four years ago'. In Mr Vicker's opinion, the joint venture was 'just not an acceptable provision for many small businesses'.³⁹

4.36 Austrade suggested that only a few consultants promoted joint ventures. In its experience, the consultants specialising in promoting the joint ventures do 'not adequately enable Austrade to assess their eligibility'.⁴⁰ Mr Vickers said:

There are many times when Austrade has difficulty getting the evidence that that is, in fact, the case. We get very generalised statements back—things which are inconclusive. Once it is established that they are not operating jointly, the grant is not payable. So it can become a difficult issue. As we have noted, a number of these joint ventures are either promoted or managed by consultants. The responsiveness is not always there.⁴¹

4.37 The Parliamentary Secretary for Trade explained that increasingly Austrade has found that some joint ventures were being used as a vehicle to attempt to allow companies that 'have exhausted their allowed number of EMDG grants to enter an

36 Subsection 89(4) of the EMDG Act.

37 *Submission 9*, p. [3].

38 Item 24 and 27 of the bill, which repeals paragraph 6(1)(e) and subsection 7(2).

39 *Committee Hansard*, 7 June 2013, p. 15.

40 *Submission 9*, p. [3].

41 *Committee Hansard*, 7 June 2013, p. 15.

arrangement primarily to attempt to re-qualify for further grants.⁴² Mr Vickers stated that Austrade had detected some 'increase in the number of joint ventures which seek to recycle applicants—to bring back in people who have already received their grants'. He indicated that Austrade was concerned about the implications of that recycling for 'the probity of the scheme'.⁴³

Industry concerns

4.38 Mr Mitchell argued that joint ventures do work with majority of these clusters of exporters in regional areas.⁴⁴ He noted that smaller exporters who, under the EMDG joint venture provisions, band together to share common overseas marketing costs would be 'taken out of the equation'.⁴⁵ According to Mr Mitchell some 'will have to stop exporting as the medium spend level of \$20,000 will be too high'.⁴⁶ He maintained that no consultation or external study was undertaken about the EMDG and joint ventures.⁴⁷

4.39 Mr Mitchell accepted the proposition that administratively there may be extra work involved or issues with the approval of the joint ventures. He, however, saw the measure as 'an opportunity lost'.⁴⁸ He explained that while Austrade's concerns may be real, they 'should not preclude there being this good vehicle for small exporters'.⁴⁹ According to Mr Mitchell the effect on small exporters would be immediate:

Small exporters will be excluded from the scheme, because to access the scheme at this time—and it goes up and down left, right and centre—the current spend level is \$20,000. If you are a small exporter and only spending \$12,000, you will not be able to access the scheme. You will not be able to get critical mass. You might want to go to China and go to a wine show; you might want to share the cost of a trade show. You are being encouraged by the Austrade to do so. You bond as a group and go together. But therefore you will not be able to recoup some of your expenditure, so people will not go.⁵⁰

4.40 The Canberra Business Council noted that although there have been only a small number of joint ventures, their removal 'does limit the early stage capacity

42 *Submission 9*, p. [3]. Mr Vickers told the committee that based on the history of joint ventures, many of the members of such enterprises are previous EMDG applicants. *Committee Hansard*, 7 June 2013, p. 15.

43 *Committee Hansard*, 7 June 2013, p. 15.

44 *Submission 15*, p. 6.

45 *Submission 15*, p. 6.

46 *Submission 15*, p. 6.

47 *Submission 15*, p. 6.

48 *Committee Hansard*, 7 June 2013, p. 9.

49 *Committee Hansard*, 7 June 2013, p. 9.

50 *Committee Hansard*, 7 June 2013, p. 9.

building that can assist microbusiness and SME's to develop export markets'.⁵¹ The Council informed the committee that:

In recent months there have been several groups in the Arts and Screen industry within the ACT that have indicated this joint venture model, where businesses cooperate in a marketing arrangement, would assist them to develop the local industry.⁵²

4.41 It stated that joint ventures are an 'invaluable tool for building capacity, both from the direct dollar benefits generated from EMDG, but also from learning from each other'.⁵³ Mr Clark agreed with this view. Referring to the scale of overseas markets, noting that some Asian markets are enormous with populations the size of Australia's, Mr Clark spoke of the need for joint ventures.⁵⁴ He stated:

The capacity for Australian exporters to service the market need is increasingly challenged unless they are getting together and forming a critical mass to be able to supply at the level, speed and frequency that is required by the market. We need to think deeply. Let's do it properly, not by this type of process.⁵⁵

4.42 The Export Consultants Group argued that the removal of the joint venture provisions was being done only for 'administrative expediency'. It stated further that it appeared as though Austrade did not undertake any work 'to look at the loss of overall export impact from the removal of such a provision and the impact of the regional areas where most of the joint venture applications are based'.⁵⁶

Austrade's response

4.43 Overall, Mr Vickers told the committee that from Austrade's perspective, the change was 'fundamentally about the efficiency of the scheme and about streamlining and reducing red tape'.⁵⁷ He said

A straightforward claim is not a difficult thing to process. Some of these joint ventures do take a considerable amount of time to get adequate information to satisfy ourselves that the money is being appropriately invested in the joint venture.⁵⁸

Events promoter

4.44 Under the current legislation 'an event' may be included as an eligible product for EMDG purposes if it satisfies a number of conditions such the event is held in

51 *Submission 16*, p. [2].

52 *Submission 16*, p. [2].

53 *Submission 16*, p. [2].

54 *Committee Hansard*, 7 June 2013, p. 10.

55 *Committee Hansard*, 7 June 2013, p. 10.

56 *Supplementary Submission 7A*, p. 4.

57 *Committee Hansard*, 7 June 2013, p. 15.

58 *Committee Hansard*, 7 June 2013, p. 16.

Australia and there is an events promoter for the event.⁵⁹ An events promoter is a person that markets the event, under a written contract between the person and the event holder, to persons outside Australia.⁶⁰ The EMDG Act provides that 'event promoters promoting a range of Australian events, including conferences, meetings, conventions and exhibitions, are able to receive EMDG grants'. The Explanatory Memorandum states:

They are able to receive grants for spending to maximise their Australian clients' delegate or audience number, notwithstanding the fact they are paid by these clients to undertake the event promotion work.⁶¹

4.45 Under proposed amendments, the promotion of events by an events promoter ceases to be an eligible product category under the EMDG Act from grant year 2013–14.⁶² As a consequence of this amendment, the bill makes changes to remove relevant references to an events promoter.⁶³

4.46 The Parliamentary Secretary for Trade described event promoters as 'agents for event holders, the body that actually owns the event being promoted'.⁶⁴ Event holders have always been and will remain, eligible to claim EMDG grants. With regard to event promoters, he explained that very few grants are paid to them with an estimated six grants paid 2012–13, which has been consistent over the last five years.⁶⁵

Table 4.2: Event promoters⁶⁶

Event Holders and Event Promoters FY 2009–10 to 2012–13 (Electronically Lodged Claims)*	
Year	Event Promoters/agents (proposed not eligible)
2012–13 to date	3
2011–12	2
2010–11	3
2009–10	6
2008–09	11

59 Section 25A of the EMDG Act.

60 Section 107 of the EMDG Act.

61 Explanatory Memorandum, Item 4.

62 Explanatory Memorandum, Item 5 repeals section 25A Eligible Events.

63 See for example amendments to subsections 37(2), 37(3) of the EMDG Act—Items 5 and 6 of the bill.

64 *Submission 9*, p. [3].

65 *Submission 9*, p. [3].

66 *Submission 9*, p. [3].

* *Figures are for electronically lodged claims which are approximately 50 per cent of all claims lodged. Other claims do not identify this category of claimant.*

4.47 According to Austrade, this small number of event promoters generates 'a disproportionate amount of red tape for the larger number of event holders', who 'need to be able to satisfy Austrade that the expenditure they are claiming has not also been claimed by an event holder'.⁶⁷

4.48 Subsection 37 of the EMDG Act, however, still applies. It states that in relation to an applicant, an eligible promotional activity is for an approved promotional purpose if it is 'carried out for the purpose of creating, seeking or increasing demand or opportunity in a foreign country'. Thus, according to the Explanatory Memorandum, applicants promoting eligible Australian events as principal will continue to be eligible for EMDG support under the eligible services product category. Also, 'applicants promoting venues and associated facilities for meetings, conventions and exhibitions as principal' will continue to be eligible for EMDG support.⁶⁸

4.49 The Association of Australian Convention Bureaux argued that the removal of event promoters from the EMDG scheme would 'reduce the assistance and support provided to an important part of the business events sector'.⁶⁹ In its view, the proposed amendment:

...would have a significant impact resulting in fewer international delegates for Australia and therefore reduced export revenue, and a reduction in all indirect benefits to the economy by business events.⁷⁰

4.50 Drawing attention to the current global economic conditions and the high Australian dollar, which makes Australia a less attractive long haul destination, the Convention Bureaux argued that it was not the time to 'be reducing support for delegate boosting activities'.⁷¹

Payments directly by applicant

4.51 According to Export Solutions, in the past Austrade had 'allowed expenses whereby a third party (director or shareholder) pays for marketing costs using their own funds and charges this as a loan against the company'. Under the proposed amendments such a practice will no longer be accepted and expenses paid for in this manner will not be eligible.⁷²

67 *Submission 9*, p. [4].

68 Explanatory Memorandum, Item 4.

69 *Submission 13*, p. 2.

70 *Submission 13*, p. 2.

71 *Submission 13*, p. 2.

72 Export Solutions, website, 'Rule changes to the EMDG Program effective 01July 2013', <http://www.exportsolutions.com.au/rule-changes-to-the-emdg-program-effective-01-july-2013/>

4.52 The bill amends paragraph 58(2)(a) to make clear that applicants will be required to pay for expenses incurred either directly or by credit card. This change is intended to simplify the scheme and 'confirms the scheme's principle that the applicant itself (rather than its associates or any other party) should incur a real cost and "bear the risk" in developing international businesses'.⁷³ Generally, witnesses did not raise concerns with the proposed amendment.⁷⁴ Mr Mitchell noted that the decision was in order to make it easier for Austrade to audit transactions. He indicated that the Export Consultants Group would support the change but was of the view that there would be some practice interpretations. He outlined one complication where a parent company in a group has the bank account in subsidiaries within that group. He explained further:

With no bank accounts, the transaction may go through the parent company and be allocated in correct accounting terminology and practice to a subsidiary and that subsidiary is the applicant under the scheme.⁷⁵

4.53 He noted that there had been an industry group meeting with Austrade where the Export Consultants Group raised concerns that 'in practice it may be difficult and cause concerns, particularly with group structures'. Austrade is yet to respond to the Export Consultants Group.⁷⁶

Disbursement of payment of grant

4.54 Applicants entitled to a grant of less than the 'initial payment ceiling amount (IPCA) are paid their grant at the time the claim is determined'. The IPCA amount, in relation to a grant year, means the amount determined by the Minister to be the initial payment ceiling amount for that grant year.⁷⁷

4.55 Applicants entitled to an amount that exceeds the IPCA are paid the initial amount and then, following the setting of the balance distribution, are paid the balance of their entitlement often 'many months later'. The Explanatory Memorandum notes:

Under the EMDG Act's current two-tranche payment arrangements, Austrade is unable to pay the full amounts of assessed grants to applicants as quickly as desirable when the scheme demand is lower than expected or where additional money is appropriated for the scheme.⁷⁸

4.56 According to the Explanatory Memorandum, this inability to pay the full amounts as quickly as desirable arises from the interaction of two EMDG provisions, namely

73 Explanatory Memorandum, Item 9.

74 Mr Norris, *Committee Hansard*, 7 June 2013, p. 10.

75 *Committee Hansard*, 7 June 2013, p. 10.

76 *Committee Hansard*, 7 June 2013, p. 10.

77 Section 107. The minister makes such a determination under section 68 of the Act.

78 Explanatory Memorandum, Item 13.

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- grant amounts that exceed the IPCA are determined after the 'balance distribution date': and
 - current paragraph 82(a) provides that grants determined after the 'balance distribution date' for a grant year and before the following 1 July cannot be paid until that date.⁷⁹

4.57 The bill amends section 82 to provide that 'if Austrade determines the amount of a grant before the 1 July following the "balance distribution date", the grant becomes payable on the day the grant is determined'.⁸⁰

4.58 The Association of Australian Convention Bureaux supported this amendment for grants to be paid more quickly. It recommended, however, that this measure could be taken further to ensure that 'both the grant determination for Approved Body submissions and full payment of the subsequent grant be made within the financial year following the grant'.⁸¹ It noted that many EMDG applications made by the Convention Bureaux for the grant year 2010–11 were not determined or paid until 2012–13 which, in its experience, created great difficulties when planning for future international marketing activities.⁸²

Administration costs

4.59 Currently the administration costs of the EMDG scheme are paid out of the money appropriated by the Parliament for meeting payments under the EMDG Act but must not exceed 5 per cent of the appropriation amount in any financial year.⁸³

4.60 The proposed legislation would remove this cap and confer on the minister the power to set the budget for administrative expenses from time to time. The Parliamentary Secretary for Trade explained that the Minister for Finance must agree to the change which brings the EMDG scheme 'into line with other similar programs'.⁸⁴ He stated further:

The assessment of EMDG claims is inescapably a labour-intensive task: some 84 per cent of EMDG administrative expenses are staffing costs. The combination of a 17 per cent reduction in the administrative budget due to the reduction in the overall EMDG budget of \$25 million and a claim assessment workload similar to the current year, would make it impossible for Austrade to adequately manage financial and reputational risk or process claims in a timely way. Austrade would not be able to adapt

79 Explanatory Memorandum, Item 13.

80 Explanatory Memorandum, Item 13.

81 *Submission 13*, p. 2.

82 *Submission 13*, p. 2.

83 Explanatory Memorandum, Items 17 and 18.

84 *Submission 9*, p. [5].

processes or improve efficiency by such a significant amount in such a short period of time.⁸⁵

4.61 The proposed amendments stipulate that the costs of administration must not exceed the cost cap for the financial year. The cap for a financial year is the amount worked out by multiplying the appropriation amount for the financial year by the percentage specified in a determination made, by legislative instrument, by the minister for the purposes of this subsection. This Ministerial Determination may specify different percentages for different financial years.⁸⁶

4.62 Mr Mitchell was of the view that an increase in the administrative budget was not warranted. He argued that exporters were 'being asked to do more with less and so should Austrade' and that this increase would 'mean less money to exporters as more will be spent on administration'.⁸⁷

Reader's guide

4.63 The Reader's guide is a seven page introduction to the EMDG Act that is intended to provide a general idea of the purpose of the Act and some information about its structure. It also explains briefly how the operation and interpretation of this Act is affected by other Acts. Item 1 of the bill repeals the Reader's Guide to the Act, which, according to the Explanatory Memorandum, is 'a simplification measure'.

4.64 The proposed removal of this guide drew no comment.

85 *Submission 9*, p. [5].

86 Item 18 of the bill.

87 *Submission 15*, p. 3.

Chapter 5

Consultation

5.1 On 17 May 2011, the Minister for Trade and Competitiveness, the Hon Dr Craig Emerson MP, announced a comprehensive reform of Austrade aimed at better meeting the needs of Australian businesses. He indicated that more of Austrade's work would be 'undertaken in the world's frontier and emerging markets, where Australian businesses could benefit most from government support'.¹ He singled out emerging markets such as Mongolia, Latin America, Africa and Central Asia as offering growing prospects for Australian businesses. Existing programs such as the EMDG would continue to support Australian exporters.

5.2 The accompanying publication, *Reform of the Australian Trade Commission: Maximising our value*, stated that the EMDG scheme would 'continue unchanged'.²

Announcing changed priorities for the EMDG scheme

5.3 On 24 October 2012, Austrade announced in a media release that the Australian Government was changing the EMDG scheme to reflect trade and budget priorities. It noted the Government's intention to modify the EMDG scheme in order to contribute to bringing the Federal Budget back into surplus while 'still maintaining the Government's commitment to the scheme'. In its media release, Austrade outlined the major changes:

- exporters to East Asian, emerging and frontier markets will be entitled to claim a maximum of eight annual grants, up from the current limit of seven;
- exporters to the established markets of the United States, Canada and the European Union, including the United Kingdom, will be entitled to claim a maximum of five grants, instead of the current seven.

5.4 Austrade stated that, through its EMDG team, it would be consulting with industry on the implementation of the changes.³ The Parliamentary Secretary for Trade informed the committee that as part of Austrade's consideration of the operation of the legislation, it consulted with bodies it considered broadly representative of the companies likely to be affected by the proposed legislation:

- Australian Chamber of Commerce and Industry (ACCI) and its constituent members;
- Australian Industry Group;

1 Minister for Trade and Competitiveness, the Hon Dr Craig Emerson MP, media release, 'New Directions for Austrade', 17 May 2011.

2 Australian Trade Commission, *Reform of the Australian Trade Commission: Maximising our value*, May 2011, p. 5.

3 Austrade, media release, 'Export grants redirected to emerging and frontier markets', 24 October 2012, <http://www.austrade.gov.au/About-Austrade/News/Media-Releases-and-Speeches/Export-grants-redirected-to-emerging-and-frontier-markets>.

- Export Council of Australia (ECA) and a subsidiary chapter of ECA, the Export Consultants Group; and
- Australian Tourism Export Council.⁴

Consultation

5.5 Mr Vickers, Austrade, informed the committee that consultation about the proposed changes to the EMDG scheme took place in January 2013. He explained further that Austrade 'certainly had some discussions prior to the end of the year, but there were some discussions in January'.⁵ According to Mr Vickers, there were different views about the proposed changes, though not a considered or consistent view by all applicants. He indicated that Austrade did not consult with applicants directly but with industry associations. He explained that some associations were of the view that 'it would be better to have variety, but some other industry associations took the view that it would be better to have lower compliance costs'.⁶

Industry's perspective

5.6 Sandilands Export informed the committee that the bill was introduced in February 2013 'without much, if any consultation with industry'.⁷ Another submitter informed the committee that he was unaware of any 'realistic consultation with industry and other stakeholders'. In his experience, the decision to make such changes was 'budget driven with the design and implementation mechanics then turned over to the Department responsible'.⁸ Export Solutions was not consulted with regard to the proposed amendments. It informed the committee that it is a national EMDG grants consulting firm that lodges grants in all states; employs 10 people and submitted 170 of the total 3,200 or so grants that were lodged in 2011–12. The business also assists Australian exporters at about 27 large international trade shows annually.⁹

5.7 Exportise (NSW) indicated that the consultation process with the export consulting community was limited to a number of sessions and teleconferences during which the proposed amendments were detailed. It stated:

In effect, the consultation process was more akin to a directive—here are the changes, make the most of it. The Export Consultants Group (a division of the Export Council of Australia) expressed its objection to the proposed amendments from the outset and that position has not changed.¹⁰

4 *Submission 9*, p. 1.

5 *Committee Hansard*, Estimates, 14 February 2013, p. 105.

6 *Committee Hansard*, Estimates, 14 February 2013, p. 105.

7 *Submission 1*, p. [1].

8 *Submission 5*, p. 2.

9 *Submission 10*.

10 *Submission 11*, p. [2].

5.8 A confidential submission from an established consulting firm that specialises in the EMDG program was also of the view that there was not much, 'if any consultation with industry' with the introduction of the bill.¹¹

5.9 Mr Clark informed the committee that Austrade visited ACCI on a couple of occasions and subsequently his organisation circulated information to its members. He stated further:

Austrade did approach this not by saying, 'What would industry like to do?' but by providing us with a couple of options, which they had already constructed, seeking their views. From our perspective, we suggested that neither of the options being provided was satisfactory. So, while consultation took place in the sense that meetings and discussion happened, we think consideration of the advice that we put back has largely been ignored...So, as for the proposition that there was some inconsistency in views, there may well have been various views put, but I suspect that all of the major industry bodies had the same view, which was that this is inappropriate and not the way that we should be travelling with this initiative.¹²

5.10 The Export Consultants Group supported the observations that consultation had been limited and did not meet the required level of industry consultation.¹³ Mr Mitchell informed the committee that Austrade did consult with industry bodies: that Austrade gave a presentation at which they were provided with certain information. He suggested that there was limited consultation on the proposal to reduce the number of grants from seven to five and to increase the number for some exporters from seven to eight.¹⁴ He said:

We were told of some changes and some options, but then that advice went away and we were presented with an outcome on which we had no further dialogue or consultation. We were presented with the bill as it now stands.¹⁵

5.11 Mr Mitchell also pointed out that there was 'no consultation direct to exporters'. He noted that just over 50 per cent of EMDG applicants do not use consultants and was not aware of any consultation direct to exporters for any of the proposed changes, thus leaving approximately half of them not consulted:¹⁶

There was no roadshow; there was no going to states; there was no calling for briefings for discussion of these potential changes; there was no direct correspondence to exporters. That was Austrade's choice, to go through industry bodies—which we were happy to do, to a degree. Our industry communicated those changes to our client base, and most people did not

11 Confidential *Submission 14*, p. 1.

12 *Committee Hansard*, 7 June 2013, p. 4.

13 *Committee Hansard*, 7 June 2013, p. 5. *Submission 15*, p. 7.

14 *Submission 15*, p. 3.

15 *Committee Hansard*, 7 June 2013, p. 5.

16 *Submission 15*, p. 4.

accept it. In the overall scheme of things, when you have a budget reduction you take the good with the bad, but there was no direct consultation with exporters in relation to that change.¹⁷

5.12 With regard to the decision on joint ventures, Mr Mitchell explained that his company had prepared applications for joint ventures and acts for a number of such groups. He informed the committee that no joint ventures were consulted: that prior to the bill being tabled, Austrade did not consult with Export Consultants Group on this proposal.¹⁸ He was not aware that Austrade 'visited any places outside Canberra to hold seminars or workshops on what exporters wanted from the scheme going forward or to discuss the proposed changes'.¹⁹

5.13 On the matter of the fit and proper person test for EMDG consultants, the committee has already referred to observations from the Export Consultants Group that Austrade had never brought concerns to industry's attention (see paragraphs 4.16–4.19). Overall, according to Mr Mitchell, consultation did not cover all of the proposed changes including amendments to:

- increase the budget for Austrade's administration of the scheme;
- remove joint ventures from the scheme
- remove event promoters;
- impose the fit and proper test for consultants;
- enable a grant to be paid more quickly; and
- change the payment requirements for claimed expenses.²⁰

5.14 Mr Murray agreed that consultation did not touch on a number of provisions contained in the bill. He stated that the Export Council of Australia was not consulted at all on some aspects of the bill.²¹

Austrade's perspective

5.15 Mr Vickers explained that when Austrade consulted with the industry associations, it was focused on the primary changes to the legislation—'the change in the markets, achieving the budget reduction and the consequent change to the administration amount'. He explained that:

Some of these other, smaller changes were only decided as a subsequent step. You can appreciate, from Austrade's perspective, the issues of having a consultation program focused on ten joint ventures. This a very minor part of the legislative change.²²

17 *Committee Hansard*, 7 June 2013, p. 5.

18 *Submission 15*, p. 6.

19 *Submission 15*, p. 4.

20 *Submission 15*, p. 3.

21 *Committee Hansard*, 7 June 2013, p. 5.

22 *Committee Hansard*, 7 June 2013, p. 15.

Review of EMDG

5.16 Sandilands Export noted that until recently, the certainty with which exporters could plan their promotional activities and budget for EMDG support was one of the key benefits of the scheme. It argued that this certainty should not be taken away.²³

5.17 Mr Vickers informed the committee that there was a sunset clause in the EMDG Act requiring a review of the EMDG scheme, which was due in 2015. The Government appoints a body to conduct the review, which in the past has been undertaken by a panel of prominent business people.²⁴ Mr Clark suggested that the legislation not proceed and instead the complete review be brought forward because 'tinkering at edges with these constant changes to the scheme undermines confidence for exporters who do not know what they are doing, and is in fact detrimental to the entire scheme'.²⁵ The Export Council of Australia agreed 'entirely' with ACCI.²⁶

Conclusion

5.18 The committee understands that the government has made a policy decision to encourage Australian exporters to focus greater attention on emerging growth markets, particularly in Asia, by increasing the number of grants from seven to eight for such markets. This measure is designed to help Australian exporters 'maximise the potential of the Asian century'. At the same time, the number of grants available for markets in the US, Canada and the European Union will be reduced to five. The Government reasoned that these established markets were 'already well known and accepted and small business typically face less barriers to doing business'. This approach aligns with the Government's Asian century policy agenda. The committee also notes that this change to the EMDG scheme is in the context of the Government's intention to produce a saving of \$25 million to contribute to fiscal consolidation.

Reduce grants to mature markets

5.19 Industry questioned the wisdom of reducing the number of grants available to the mature markets. Overall, those who made representations to the committee were of the view that this change was unnecessary and could be counterproductive. For companies already benefiting from the scheme, especially those in their fourth and fifth years, and had planned future promotional activities around grants extending to years seven were concerned that the effects of the changes could damage their export business.

5.20 The committee understands that Austrade had initially identified 81 potential applicants that were likely to be disadvantaged by the proposed reduction in grants to established markets. Austrade has since revised this figure to 161. While this number

23 *Submission 1*, p. 2.

24 *Committee Hansard*, 7 June 2013, p. 19.

25 *Committee Hansard*, 7 June 2013, p. 4. See also Mr Murray, *Committee Hansard*, 7 June 2013, p. 4.

26 *Committee Hansard*, 7 June 2013, p. 4.

still remains relatively small, the committee has heard from SMEs whose businesses will be affected negatively in real and concrete ways that statistics often conceal.

5.21 The committee suggests that Austrade approach companies such as Sandilands Export, Ocean Free and Ocean Freedom, Tasmania Distillery Pty Ltd, Compupool Products, Who-Rae Australia and Illumination Physics to determine if there are any other means whereby Austrade could provide support for their marketing efforts in the immediate future. The intention would be to assist where possible such companies consolidate the gains they have already made, within EMDG assistance, in the US, Canada, and the European Union. The committee appreciates that other companies may find themselves also disadvantaged by the reduction in grants to five for certain markets but that did not write to the committee. In this regard, the committee urges Austrade to follow-up on the 167 applicants likely to be disadvantaged to also determine ways in which it could provide assistance.

Complexity

5.22 The committee notes Austrade's advice that apportionment is a 'longstanding feature of the EMDG scheme and that currently companies already deal with the difficulty of apportioning expenses between eligible and ineligible claims. The committee, however, does not accept Austrade's argument that downplayed the added complexity that could arise for applicants in grant years six, seven and eight. The committee is firmly of the view that applicants may well encounter an added layer of complexity due to the requirement to apportion promotional expenses.

5.23 In this regard, the committee suggests that Austrade examine its processes and procedures thoroughly to ensure that the administrative burden on companies is kept to a minimum. The committee notes that one of the objectives of the proposed changes was, as stated by the Parliamentary Secretary for Trade, to 'address a number of administrative issues reducing compliance costs for several types of applicants...' Indeed, one of the reasons for removing the eligibility from joint ventures was 'fundamentally about the efficiency of the scheme and about streamlining and reducing red tape'. The committee is firmly of the view that the same approach to streamlining administrative processes should apply to the requirement to apportion expenses for grants six, seven and eight.

Fit and proper Test

5.24 The committee wants to place on the public record that the introduction of the provision to apply a fit and proper person test to export consultants is not a response to any identified problem with the conduct of current consultants but a safeguard to ensure the that integrity of the scheme remains intact. The committee accepts the requirement for a fit and proper test for consultants but underscores the need for the guidelines to contain the assurances that Austrade outlined in its submission—right to natural justice; to privacy; and to review including independent review and judicial reviews. The committee also believes that Austrade should consult closely with export consultants on the implementation of the guidelines.

Consultation

5.25 The committee notes the criticism levelled at Austrade's consultation. The committee believes that a number of industry's concerns could have been resolved through better consultation, especially the fit and proper test for consultants.

Joint ventures

5.26 The current number of joint ventures applying for an EMDG grant is small and their eligibility for grants adds to Austrade's administrative burden. The committee also notes Austrade's concern that joint ventures provide the opportunity for a company that has already benefitted from the scheme to have a second change of obtaining grants.

5.27 Nonetheless, the committee accepts that joint ventures could help small businesses to pool their resources in order to promote their products overseas. In this regard the committee notes that the EMDG scheme is due for a review in 2015. The committee suggests the review look at whether the EMDG scheme could be used to encourage joint ventures and, if so, how the problems identified by Austrade could be addressed. In this regard, the committee notes the observations of the Export Consultants Group that are concerned that the decision to remove the joint venture provisions was taken without considering the loss of overall export impact. The committee also recommends that the review consider the effectiveness of the changes proposed in the legislation.

Recommendation 1

5.28 The committee recommends that the review of the EMDG scheme scheduled for 2015 be brought forward to 2014 and consider the following matters thoroughly:

- **the extent to which the change in the number of and eligibility for grants has affected the performance of the scheme in respect of improved benefits to Australian SME exporters and more broadly to the Australian economy;**
- **the level of complexity introduced by having markets split into two regions and whether it has added to administrative and compliance costs for applicants and for Austrade;**
- **the application of the fit and proper test for consultants; and**
- **the value in having the EMDG scheme provide for and encourage joint ventures and whether joint ventures should once again be eligible for EMDG grants.**

Recommendation 2

5.29 The committee recommends that the bill be passed.

Senator the Hon Ursula Stephens

Chair

Dissenting Report by Senator Nick Xenophon

Independent Senator for South Australia

1.1 There is no question the current Export Market Development Grant (EMDG) Scheme has served as a valuable tool to enable small Australian exporters to access opportunities within the global market.

1.2 Modelling indicates that each dollar of EMDG in turn generates between \$13.50 and \$27 of exports.¹

1.3 The 2008 Mortimer Review into the efficacy of the EMDG scheme highlighted the example of Lightning Protection International Pty. Ltd., an Australian manufacturer and supplier of direct strike lightning, surge and transient equipment. Its General Manager, Wayne Temple, indicates:

The cost of air travel, accommodation, the provision of promotional material and other marketing activities is an expensive undertaking for a start-up company. The grant has helped us appoint a permanent representative in Thailand, which links us closer to our main markets. There is no doubt that without access to the financial benefits afforded to exporters by the EMDG scheme the ambition of LPI to establish a strong distribution network, which has been the key to market success to date, would have been difficult to achieve. With the assistance of the EMDG scheme LPI has exceeded its number of target markets. We now regularly export to 41 countries.

1.4 At a time where many exporters are competing with an over-valued Australian dollar and higher overheads than their overseas competitors, the importance of such a scheme cannot be underestimated.

1.5 With this in mind, I am concerned that a number of proposed changes to the scheme have been made without adequate consultation with key industry stakeholders.

Fit and proper person test

1.6 A number of submitters raised concerns regarding the application of the 'fit and proper' person test as outlined in the bill.

1.7 While on the whole a fit and proper person test is supported in principle by many submitters, concerns of how such a test would be practically implemented were raised throughout the course of the inquiry.

1.8 As noted in the majority report, Exportise is concerned that the test would be applied and administered by the same Government agency responsible for administering the EMDG scheme. As its submission indicated:

1 David Mortimer, *Winning in World Markets: Meeting the competitive challenge of the new global economy*, Review of the Export Market Development Grants Scheme, 1 September 2008, p. 1.

As an analogy, tax agents have a similar test although it is administered by the Tax Practitioners Board rather than the Australian Taxation Office.²

1.9 While the sizes of each profession vary significantly, it is concerning that these conflict of interest issues remain unresolved in this bill.

1.10 Further, the Committee heard evidence highlighting the Austrade had not previously raised the need for a fit and proper person test with the Code of Practice Administration Committee, which administers the *Code of Practice for Export Grants Consultants*. As Stuart Mitchell, Acting Chairperson of the Export Consultants Group indicated during the hearing:

We have had a working group—a party called the COPAC, or the Code of Practice Administration Committee—when Austrade and our own group meet together. We have not met recently, because Austrade has said there have been no concerns that they have wanted raised with us.³

1.11 In his submission, Mr Mitchell also indicates:

We need a lot more discussion and consultant with Austrade to bed these proposed changes down and reduce the current level of angst in our community.

The actual Ministerial Determination criteria to be used by Austrade to administer the 'fit and proper rules' are yet to be made public.⁴

1.12 Given the concerns regarding the application of a fit and proper person test, it is critical that the criteria used to determine the fit and proper test are made public to encourage a robust discussion as to how EMDG agents will be affected by the test in a practical sense.

Recommendation 1

Austrade release the criteria that will be used to determine the fit and proper person test, and consult with industry as to the efficacy and administrative constraints of such criteria before the bill is further considered.

'Splitting' of the EMDG scheme

1.13 Under the bill, export markets would be split into two categories to gear the grants program predominantly towards Asian markets. The maximum number of grants able to be received by exporters targeting markets in East Asia and other emerging regions would increase from seven to eight, while the number of grants available to exporters targeting established markets including the USA, Canada and the European Union would be reduced.

2 Mr Duncan Bathgate, *Exportise*, *Submission 11*, p. 2.

3 *Committee Hansard*, 7 June 2013, p. 6.

4 Mr Stuart Mitchell, *Submission 15*, p. 6.

1.14 A number of submitters raised concerns regarding the proposal to split the world into two regions for the purposes of the EMDG scheme.

1.15 Mr Mitchell suggests the changes will add an additional administrative burden for exporters, agents and also Austrade:

It will cause numerous degrees of difficulty and differences of opinion between an apportionment method between those countries that may be accepted by the client and us as consultants as opposed to Austrade. So it will cause more work by the client and, I believe, more areas of dispute with Austrade in terms of the assessment. Particularly in terms of new ways to market social media, how do you apportion a social media expense between particular countries? To a degree it is difficult. We need to work through those issues. Normally there would be some discussion—I am sure it would happen in due course with Austrade and we will deal with those. But initially it would cause more administrative burden to the client and to Austrade and, I believe, more areas of dispute.⁵

1.16 This view is supported by the Export Council of Australia in its submission:

Many expenses claimed by exporters cover various countries. This includes travel to more than one country, participation in trade shows where buyers attend from all over the world, a website targeting all countries, production of brochures and advertising for many markets With expenses such as travel, trade shows, website, brochures and advertising there will be a requirement for exporters to apportion the expense between excluded countries. This is more complex than it appears as exporters would be required to maintain records to provide other evidence to justify any apportionment.⁶

1.17 The splitting of the market will cause a disproportionate administrative impact on small to medium enterprises. As Mr Mitchell contends:

Overall, my viewpoint is that the changes in the scheme in relation to those markets will damage Austrade's export efforts from the SME level. It will move people away to markets that may be of some opportunity, but that will be in the longer term. So there will be a reduction in the number of people accessing the scheme and a reduction in the number of exports driven by those people that access the scheme, create more commerciality or more flexibility for clients. So I can see that there is a trade-off there.⁷

1.18 These concerns are supported by Bryan Clark, Director of Trade and International Affairs, Australian Chamber of Commerce and Industry (ACCII):

While Asia is an emerging market, it is not the only emerging market around the world. We think that the emphasis in the Asian century approach by the current government is wrong in that it is a global century. There are no secrets around Asia being an opportunity, but it is not the only one. Latin

5 *Committee Hansard*, 7 June 2013, p. 11.

6 Export Council of Australia, *Submission 12*, p. 2.

7 *Committee Hansard*, 7 June 2013, p. 2.

America is also an opportunity. Africa is also an opportunity. Europe, while it is in crisis at the moment, maybe an outstanding opportunity for us to be building relationships because it will recover and it will buy things and we will want to be there. The United States is clearly going through that cycle a little earlier than Europe at the moment. But this realignment in this way, we think, changes the emphasis and misses a whole heap of opportunity which might be available through the Pacific, the Indian Ocean Rim, for example, and other places. To start quarantining it or providing some sort of discrimination, as is suggested through this legislation, is, we think, a false approach to dealing with support for export markets.⁸

1.19 Preferential treatment of the Asian market could prevent some exporters from accessing other overseas markets, irrespective of the demand for their product abroad.

1.20 As the Canberra Business Council suggests:

For many companies in the ACT, markets such as the US and Canada are key for their complex government services offerings... we would like to acknowledge the ongoing importance of mature government procurement markets, such as Washington, to the exporters of the ACT.⁹

1.21 While there is no question that the importance of accessing Asian export markets will become increasingly importance as we move further into the 21st century, expansion in these markets should not come at the expense of markets outside of Asia that still offer opportunities to SMEs. EMDG grants should be assessed on their merit, irrespective of their geographical target market.

Recommendation 2

The bill be amended to prevent the 'splitting' of export markets.

Austrade modelling

1.22 During the hearing, Austrade contented that as a result of the passage of this bill would increase overall EMDG claims by 2.6 per cent per annum.

1.23 However, further evidence provided to the committee indicates that there is considerable uncertainty among EMDG agents as to the accuracy of these figures:

Senator XENOPHON: Austrade considers that the overall claim numbers will increase by 2.6 per cent per annum. Is that a view shared by the panel?

Mr Mitchell: No. I do not believe it will have that growth. But it is difficult for Austrade to determine the numbers. They have the statistics and the information. But I am telling you that, at a ground level, I believe the numbers will continue to drop.

1.24 I am concerned that the modelling used to determine that the passage of the bill will result in an increase in the number of EMDG claims has not been made public:

Senator XENOPHON: Has the internal modelling been released?

8 *Committee Hansard*, 6 June 2013, p. 3.

9 Canberra Business Council, *Submission 16*, pp. 1–2.

Mr Vickers: No.

Senator XENOPHON: Will it be released?

Mr Vickers: We do not have any particular plans to release it. We have had no particular requests to release it.

1.25 While there may have been no specific requests to release the modelling, given the evidence received by the Committee regarding the overarching concern as to the implications of the passage of this bill, such internal modelling is released.

1.26 Overall, exporters and their agents have expressed concerned, indeed dismay, at the proposed changes. At a time when policy frameworks should be encouraging and facilitating greater growth in all exports markets these proposed measures seem questionable and arguably counter-productive.

Recommendation 3

Austrade release the modelling used to assert that the passage of the bill will result in an overall increase in claim numbers of by 2.6 per cent per annum.

Recommendation 4

In the absence of the above recommendations being addressed adequately, the bill should not be passed.

Senator Nick Xenophon
Independent Senator for South Australia

Additional comments by Senator David Fawcett

Liberal Party Senator South Australia

Multiple reviews of the EMDG scheme have demonstrated broad support for a program that has been a key enabler for business initiatives to increase exports from Australia. The key to that success has been that the initiatives were taken by business. They are best placed to know which markets will suit their products and the cost/risk required to both gain and sustain a market share. In the case of exports such as wine, every vintage could be said to represent a new marketing effort where just retaining market share is in fact a positive outcome.

The government has taken two issues affecting the EMDG program. First, a budget measure to reduce spending by \$25m as part of their failed attempt to deliver a budget surplus. Secondly this bill which changes the focus and operating criteria of the program.

Feedback from business has clearly indicated that while they do not support the reduction in funding, this will have a minor impact compared to the increased administrative burden and decreased flexibility encompassed in this bill.

The Australian Chamber of Commerce and Industry argues that there is no credible evidence to support the notion that investment in emerging markets is of greater benefit than investing in established markets. It should be up to Australian business to choose markets according to commercial worth rather than at the direction a Canberra based bureaucracy.

Given the success of the EMDG scheme under the current rules, I welcome the Coalition commitment to move to review these measures in the next Parliament.

Senator David Fawcett

Liberal Party Senator for South Australia

Appendix 1

Public submissions

- 1 Sandilands Export
- 2 Ocean Free and Ocean Freedom
- 3 Tasmania Distillery Pty Ltd
- 4 Compupool Products
- 5 Confidential
- 6 Who-Rae Australia
- 7 Export Consultants Group (ECG)
7A Supplementary Submission
- 8 Illumination Physics
- 9 The Hon Kelvin Thomson MP
- 10 Export Solutions Pty Ltd
- 11 Exportise NSW Pty Ltd
- 12 Export Council of Australia
- 13 Association of Australian Convention Bureaux
- 14 Confidential
14A Confidential Supplementary Submission
- 15 Mr Stuart Mitchell
- 16 Canberra Business Council
- 17 Australian Chamber of Commerce and Industry
- 18 AusBiotech
- 19 Ms Katy Gallagher MLA, Chief Minister, ACT Legislative Assembly

Appendix 2

Answers to questions on notice

Answers to questions on notice

Friday 7 June 2013

1 Austrade – Answers to questions on notice

Appendix 3

Public hearings and witnesses

Friday 7 June 2013—Canberra

CHESTERFIELD, Mr Ian, General Manager, Programs, Consular and Business Services, Austrade

CLARK, Mr Bryan, Director of Trade and International Affairs, Australian Chamber of Commerce and Industry

MITCHELL, Mr Stuart, Acting Chairperson, Export Consultants Group

MURRAY, Mr Ian, Executive Director, Export Council of Australia

NORRIS, Mr Simon, Grants Consultant, Export Solutions Pty Ltd

VICKERS, Mr Michael Peter, Manager, Policy and Scheme Development, Export Market Development Grants, Austrade

