

# **EXPORT MARKET DEVELOPMENT GRANTS ACT 1997**

## **Determination (1/1997 AJV)**

### **Guidelines for the approval, variation of approval, and cancellation of approved joint ventures**

I, Tim Fischer, Minister for Trade, pursuant to paragraph 101(1)(c) of the *Export Market Development Grants Act 1997* (the Act), determine the following guidelines.

#### **OBJECTIVE**

The joint venture provisions under the Act are designed to encourage small to medium businesses to collaborate among themselves to pursue specific export activities, projects or purposes that can bring significant net benefit to Australia.

#### **CRITERIA**

1. In deciding whether to grant approval of a group of persons as a joint venture, Austrade will consider whether the applicant meets the objective by reference to the assessment requirements.
2. Without limiting clause 1, this objective will be met where Austrade is satisfied that:
  - (a) There is a written agreement to which each of the members of the group is a party
  - (b) There is significant synergy flowing from the collaboration between the members of the group
  - (c) The group is promoting a new activity, project or purpose
  - (d) The group's activity, project or purpose is planned
  - (e) The group's activity, project or purpose is commercially feasible
  - (f) The group's activity, project or purpose is financially feasible
  - (g) The activity, project or purpose is a cooperative exercise between the proposed members to achieve the promotion of Australian exports
  - (h) There is no association between members of the group other than as members of the joint venture
  - (i) The group's activity, project or purpose can bring significant net benefit to Australia.

## ASSESSMENT REQUIREMENTS

In assessing whether the criteria have been satisfied, Austrade will give weight to the following considerations:

- (a) Austrade requires a copy of a written agreement that has been signed by all parties. The agreement must specify the following:
  - a description of the activity, project or purpose, product/s and target market/s
  - the start and finish date of the activity, project or purpose
  - the role of each member of the group in undertaking the activity, project or purpose
  - the processes for decision making by the members of the group.
- (b) Significant synergy will be demonstrated if the group can substantiate an increase in efficiency or reduction in costs by reason of the activity, project or purpose being conducted by the group as a whole rather than by individual members of the group.
- (c) An activity, project or purpose will be considered new if the eligible products (as defined in the Act) being promoted are products for which not more than half of the members of the group previously had export earnings of more than \$300,000 over the preceding three financial years in respect of each of the proposed markets.
- (d) An activity, project or purpose will be considered planned where the group has a business/export plan that includes:
  - market research that has been undertaken for each of the target markets
  - an analysis of the project's strengths and weaknesses
  - specific promotional activities to be undertaken
  - a list of objectives and milestones to be achieved and a timetable for their achievement.
- (e) The commercial feasibility of an activity, project or purpose will be assessed having regard to:
  - the technical and managerial skills of the members of the group
  - the success of the members of the group in the domestic market
  - the success of the members in developing new export activity.
- (f) The financial feasibility of an activity, project or purpose will be assessed having regard to:
  - the arrangements for funding the activity, project or purpose
  - the consequences for the members of the group if the activity, project or purpose fails
  - each member's current financial position
  - financial projections for the activity, project or purpose for the next three years.
- (g) A cooperative exercise will be assessed having regard to:
  - whether the members of the group meet regularly
  - whether each member is actively involved in promoting the activity, project or purpose
  - if there are two or more members of the group and no one member contributes more than 75% of the group's expenditure on promotion of its activity, project or purpose

- if there are three or more members of the group and no one member contributes more than 50% of the group's expenditure on promotion of its activity, project or purpose.
- (h) Where one member controls or is able to control another member, or where any association exists between members in the group other than as members of the joint venture, those members may be treated as one. Association includes where one member is:
- a "relative" (as defined in section 107 of the Act), of another member
  - a "related corporation" (within the meaning of section 50 of the Corporations Law) in relation to another member, or
  - determined by Austrade to be a person closely related to another person who is a member.
- (i) The potential to generate significant net benefit to Australia will be assessed having regard to whether the activity, project or purpose may result in:
- an increase in export earnings
  - an increase in employment in Australia
  - the provision of new capital investment in Australia
  - introductions of new technologies and new value-added operations in Australia.

## **EXCEPTIONS**

1. Approval will not generally be granted where the member who or members of the group which control it, is or are not a resident or residents of Australia within the meaning of section 114 of the Act.
2. Approval will not generally be granted when more than half the members of the group are not a resident or residents of Australia within the meaning of section 114 of the Act.
3. Approval will not generally be granted if there are two or more members of the group and one contributes more than 75% of the group's expenditure on promotion of its activity, project or purpose.
4. Approval will not generally be granted if there are three or more members of the group and one contributes more than 50% of the group's expenditure on promotion of its activity, project or purpose.
5. Approval will not be granted where a member of the group is already a member of the maximum number of approved joint ventures as determined by the minister under section 92.

**(Note:** Where a member of a group is a foreign company or a government body, that member's expenditure will not be eligible for grant funding.)

## **VARIATION OF APPROVAL**

In deciding whether or not to vary an approval Austrade shall consider the proposed variation against the guidelines as in force on the day on which the approval took effect and Austrade shall not vary the approval unless it is satisfied that it could do so if the approval as proposed to be varied were an application under section 88 of the Act.

## CANCELLATION OF APPROVAL

1. Austrade shall cancel an approval where it is not possible to vary the approval to meet the guidelines for the approval of a group of persons as an approved joint venture as then in force on the day on which the approval took effect.
2. Austrade shall cancel an approval where there has been a failure to comply with the conditions to which the approval is subject.
3. Austrade shall cancel an approval where the activity, project or purpose for which the group is approved ceases to be the activity, project or purpose of the group and where the approval is not correspondingly varied by Austrade.

Signed:

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Tim Fischer, Minister of Trade

Dated:

1/7/97