Explanatory Statement

Issued by the Authority of the Minister for Trade

Export Market Development Grants Act 1997

Export Market Development Grants (Democratic People’s Republic of Korea Sanctions) Declaration 2009

The Export Market Development Grants Act 1997 (the Act) establishes a scheme of assistance grants to encourage Australian exporters in the creation, development and expansion of export markets for Australian goods, services, intellectual property and know-how. Section 44 of the Act provides that the expenses of an applicant are excluded if they were incurred in respect of an eligible promotional activity related to trade with a country that the Minister declares, by legislative instrument, for the purposes of section 44, to be subject to trade sanctions.

The United Nations Security Council (UNSC), in Resolutions 1718 of 14 October 2006 and 1874 of 12 June 2009, has imposed sanctions on the supply, sale or transfer to, or the procurement from, the Democratic People’s Republic of Korea (DPRK) of all arms and related matériel, and all items, materials, equipment, goods and technology which could contribute to the DPRK’s ballistic missile, weapons of mass destruction or nuclear programs, the provision to or procurement from the DPRK of services associated with these goods, and the supply, sale or transfer to the DPRK of luxury goods.

In addition, paragraph 20 of Resolution 1874 (2009) calls upon Member States of the United Nations not to provide public financial support for trade with the DPRK (including the granting of export credits, guarantees or insurance to their nationals or entities involved in such trade) where such financial support could contribute to the DPRK’s nuclear-related or ballistic missile-related or other WMD-related programs or activities.

In light of the imposition by the UNSC of trade sanctions on the DPRK, and the UNSC’s call for vigilance in relation to public provided financial support for trade with the DPRK, the Minister for Trade has declared, by this instrument, the DPRK to be subject to trade sanctions for the purposes of section 44 of the Act.

Public consultation was not undertaken under section 17 of the Legislative Instruments Act 2003 before the making of this instrument as the declaration by the Minister for Trade is concomitant to decisions that the UNSC has made under Chapter VII of the Charter of the United Nations and that Article 25 of the Charter requires Australia to carry out.