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AUSTRALIA'S FOREIGN INVESTMENT POLICY: A HISTORICAL PERSPECTIVE

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Abstract:

The history of Australian foreign investment policy poses an explanatory challenge: why did a country long so open to overseas capital turn to more restrictive policy at the turn of the 1970s, only to significantly liberalise again from the mid-1980s through the early 1990s? Why has the regulatory apparatus of Australia's Foreign Investment Review Board (FIRB) been little changed over the last four decades, despite this latter significant liberalising policy shift? To address these questions some political economy issues inherent to FDI are first considered, and then the central role of foreign capital in Australia's historical development is discussed. The article subsequently explores the evolution of Australia's foreign investment regime and the confluence of economic, attitudinal and political factors that shaped policy outcomes at key historical junctures, particularly in the period from the early 1970s to the early 1990s.

Keywords:

foreign direct investment, policy, economic nationalism, Australia

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1 Introduction

Investment from abroad historically has made a significant contribution to Australia's economic prosperity. From first European settlement the inflow of private overseas capital to Australia was unhindered by governments. Given the close historical ties with the United Kingdom there was little contention about reliance on British investment or loan capital during much of Australia's history and an 'open door' policy complemented immigration as pillars of a longstanding national development strategy. Public investment generally complemented and attracted overseas private direct investment rather than supplanted it. Up until the Great Depression, governments often imported overseas capital on their own account when private flows were insufficient (Butlin, 1983: 83). However, large overseas borrowing and investment in infrastructure by the state governments during the 1920s, especially New South Wales, brought a severe debt servicing burden once the depression hit; turning a generation away from state developmentalism. Subsequently private overseas loans, especially from the Sterling area, and direct investments in particular, were welcomed as contributing to economic growth while sharing risks. Butlin judged the depression to ultimately mark the switch from public to private capital formation (1983:84).

Although historically Australia has appeared as a relatively safe investment destination, foreign investor sentiment has been a recurrent theme in domestic debates about not only foreign investment policy but a range of other policy and tax settings that would impact on businesses. Australia's first objective experience of an overseas financial markets backlash was in 1924 when British bankers imposed a loans embargo on the Queensland state government in response to its changing of conditions applying to pastoral leases (Cochrane, 1989). During the depression in the early 1930s, bitter debate about whether indebted state governments should default on debt obligations or instead adopt severe austerity measures split the Australian Labor Party (ALP, or Labor) and left an attitudinal legacy of hostility to financiers in general and British ones in particular (Butlin, 1962). While arguably this should instil a preference for the risk-sharing entailed in foreign direct investment (FDI) over foreign loan capital, the element of control entailed provoked antipathy.

Despite the perceived risks that foreign capital presented, it was not until 1972 that general controls on foreign takeovers were legislated for, although after a decade of building political pressures. Restrictions and reviews were extended to new investments in other industries, including the increasingly important minerals and energy sectors in particular. For two decades natural resources

were subjected to joint venture requirements, and some sectors, such as broadcasting, were subjected to even more restrictive policy, for longer. The mid-1980s and early 1990s brought significant liberalisation, but since then only piecemeal change has occurred to Australia's foreign investment framework. Moreover, the formal legal and administrative architecture of FDI regulation has remained largely untouched since the mid-1970s,; excepting some sector-specific legislation.

The history of Australian foreign investment policy poses an explanatory challenge: why did a country that had been long so open to overseas capital turn to more restrictive policy at the turn of the 1970s, only to significantly liberalise again from the mid-1980s through early 1990s? Why has the regulatory apparatus of the Foreign Investment Review Board (FIRB), and its legislative underpinnings, been little changed over the last four decades? In the process of exploring why, what insights also might be gained from the Australian experience into the politics and policy dynamics of FDI in general? To address these questions some political economy issues inherent to FDI are first considered, and then the central role of foreign capital in Australia's historical development is discussed. The article subsequently explores the evolution of Australia's foreign investment regime and the confluence of economic, attitudinal and political factors that shaped policy outcomes at key historical junctures, particularly in the period between the early 1970s to the early 1990s.

2 Complexity of FDI interests

FDI is complex in its intent. While an element of control is axiomatic, international business scholarship importantly distinguishes between market-seeking and production location advantage-seeking FDI. Some investments have elements of both, perhaps with the strategic intent changing inter-temporally. It is inevitable that differing strategic intents has differing impacts in the host economy, and hence gives rise to a differing political economy as the structures of domestic interests vary.

FDI generally lifts the returns to factors of production that it utilises in the host countries, but with complex distributional consequences (Johnson, 1968; Makin, 1997, 1998). Although it may significantly increase the aggregate employment level, wages, or both, the element of control and new managerial practices may represent a threat to established work practices. Hence trade unions are often conflicted in relation to FDI. FDI should create more managerial career opportunities in aggregate but control events, such as a foreign acquisition of an existing enterprise, may see existing management teams displaced from organisations (Breton, 1964).

Such considerations have figured in the historical regulation of FDI in Australia. If foreign firms also are more competitive than domestic ones in the same host country market, there may also be some indirect displacement of local executives too. FDI unambiguously increases the returns to business services providers in the fields of law and accounting. It does so too for other providers of goods and services to foreign firms when their commercial presence does not displace by an equal measure domestic enterprises, or bring competing foreign suppliers with them, which is not infrequent in some contexts. The positive flip side of this is that the presence of foreign firms may present an opportunity for domestic firms to join the international supply chains of MNEs.

On the other hand, domestic firms may face increased costs of doing business as foreign enterprises compete for domestic factors of production in limited supply. These concerns may become particularly salient when the FDI is location-advantage seeking, and when that locational advantage forms the foundation of an already or potentially significant export industry for the host country. In the Australian case such concerns, centred on vertical integration through FDI, were central to debates about its impacts on sectors such as beef and tourism and have been an ongoing issue in the minerals and energy sectors. Domestic sellers of any asset should benefit from the presence of foreign bidders. Domestic bidders—especially in imperfect capital markets—may, on the other hand, oppose a liberal FDI regime as they hope to acquire assets at a lower price. This simple logic is central to the political economy of local equity requirements in the resources and other sectors, and in controversy over the impact of foreign purchasers in real estate markets.

3 The historical role of overseas investment in Australian nation-building

Until the late 1960s capital inflows from abroad, whether as borrowings (private or state) or direct investments, were routinely discussed as central to Australia's development model that depended also on a large planned immigration program. Australian nation-building was a settler project and foreign investment, while raising issues of control and concerns about national self-determination, could lift the short-term limits on growth. Tariff protection was seen as an integral part of a national development model that was to foster a diversified economy, one less vulnerable to exogenous shocks, and in which foreign direct investment would be both an engine of economic and technological development, and further attracted by the domestic growth dynamic. With time, the costs of manufacturing protectionism, both in direct consumer welfare and in the diminished international competitiveness of Australia's export-oriented sectors dependent on costly local-sourced inputs, came to be better understood. Tariff reform, as well as the saturation of domestic

manufacturing markets, would have an impact on the composition of FDI inflows: less would flow into manufacturing, especially greenfield projects, while sectors like mining, with increased growth prospects, would attract a greater share.

The ascendency of John Gorton to the prime ministership in 1968 was a turning point in the politics of FDI policy. Gorton himself, upon reflection, saw this as his most significant contribution (Henderson, 1994:207). He allowed then trade minister John McEwen to lead the establishment of the Australian Industries Development Corporation (AIDC) that McEwen had long advocated. The AIDC could raise funds and take equity stakes in projects and had a brief to enhance Australian ownership and control in emerging sectors such as resources (Aust, Age 28 September 1967). This was partly in lieu of more comprehensive regulation of FDI as Gorton's treasurer, William McMahon, was liberal on both foreign investment and trade matters, and actually defeated the prime minister in Cabinet when Gorton had brought a restrictive FDI policy proposal for consideration (Aust 29 May 1969).

Despite this, and McMahon's later ascension to the prime ministership, the late 1960s and early 1970s was the critical period in which Australia pivoted to less liberal FDI policy and which led to the legal and administrative architecture of FDI regulation that persists today, albeit in liberal form. Strikingly, this period was characterised by very low unemployment (1.6 per cent in 1968–69, falling to 1.4 per cent in 1970–71) despite record net migration and robust GDP growth: 8.9 per cent in 1968–69, 6.3 per cent in 1969–70 and 4.6 per cent in 1970–71 (Dyster and Meredith, 1990:245). FDI flows into manufacturing and services were drawn by this employment strength and added to it, as did the rapidly growing investment flows into the resources sector. Yet to many critics of FDI, economic nationalism now seemed affordable.

As criticism of FDI grew more popular in the late 1960s the Gorton government sought to act but not go as far as adopting general legislated controls. It resorted to an explicit policy of suasion; encouraging foreign investors to seek local equity partners but not directly legislating for such requirements (SMH 17 September 1968; Aust 4 March 1969). Strikingly, the government pressured the stock exchanges to remove listing rules prohibiting discrimination among holders of the same share class; making it possible for firms, should management wish, to change their articles of association so as to block non-resident shareholders from exercising voting rights (Aust, SMH 6 January 1969).

The first federal intervention to block a 'foreign takeover' was made by the Gorton government in 1968 in relation to MLC, a life insurance company. It was legally possible only because MLC happened to be incorporated in the Australian Capital Territory (Aust 24 September 1968; AFR 9 October 1968). The arbitrariness of the intervention surprised many, but the ordinance issued to limit foreign ownership to 15 per cent for a single investor and 40 per cent for foreign investors in total became a significant precedent in setting thresholds that would eventually find their way into legislation for general FDI regulation. Then in September 1969 the Gorton government issued a formula that rewarded foreign firms for length of presence in Australia and the extent of local equity holdings by proportionately lifting the limit on their domestic borrowing (Solomon, Aust 17 September 1969). Such limits were only underpinned by currency controls.

The rate of foreign ownership and control grew rapidly throughout the 1960s. Energy fuels, notably coal, saw the greatest growth with the overall level of foreign ownership growing from 11.5 per cent of the industry in 1963 to 51.1 per cent in 1971–72. By 1974–75 it was to reach 59.6 per cent. Metallic minerals also saw some growth in the share of foreign ownership with a 10 per cent rise over a decade from the 39.8 per cent of 1963 (Anderson, 1983:76). Overall, the level of foreign control was higher than ownership levels; reaching some 60 per cent of all the industry in 1974–75 compared to an ownership figure of 51.8 per cent. Voices critical of the ostensibly haphazard resources development, and of the relatively inefficient state royalties regimes, influenced a growing popular sentiment that Australia was not earning a sufficient return on its national resources (Fitzgerald, 1984:304–87). Later, with the first oil shock and the petrodollar prosperity accruing to Arab oil-rich states in particular, this perception was reinforced.

In the earlier stages of development of the resources sector domestic mining interests were resolutely in favour of liberal FDI policy, owing to a need both for technological and managerial know how from abroad and because of the large capital requirements of projects. Later some established domestic and 'naturalised' foreign mining firms came to support local equity requirements as it effectively allowed them the first right of refusal for a stake in new projects, usually at a discount to what the cost of participation would have been in an open market for control. The first restrictions on foreign equity in mining were applied by the Gorton government to the emerging sensitive uranium industry and were strict; 5 per cent individual investor and a 15 per cent total foreign holding caps (AFR 18 September 1970; Arndt, 1977:137).

4 A general FDI policy regulatory regime is born

With a booming economy in the early 1970s, and large foreign reserves, the political tide had turned strongly against continuance of an open door FDI policy (Walsh, AFR 21 December 1971; Perkins, 1977:7) A reinvigorated Labor opposition under the leadership of Gough Whitlam had made much of FDI issues and the run up to the December 1972 election specific foreign takeover bids for established local brands—Chiko Rolls and Kiwi shoe polish—kept FDI in the news cycle. A Gallup poll of June 1972 found nearly 90 per cent of respondents would place some limits on foreign purchases of shares in Australian companies and 63 per cent would limit them to less than 50 per cent holdings; even though the questions referenced British and American investors directly (Australian Gallop Polls, June 1972, no. 2340, 2342–3). In late 1971 Opposition parliamentarians had combined to establish a Senate committee of inquiry into foreign investment, which the Australian Treasury Department only reluctantly cooperated with (AFR 20 May 1972). Treasury's (1972) own 'Economic Paper No 1' in response spelled out clearly that the main concerns about the costs of FDI ultimately had their origins a lack of progress on tariff reform and trade practices legislation, and the inefficient state royalties regimes. In releasing the report then Treasurer Billy Snedden empathised with critics of FDI, fuelling expectations of regulation (Age 17 May 1972; Aust 29 August 1972).

When legislation for an FDI regulatory regime was finally produced, in September 1972, it was one of the last rushed Acts of the Parliament before the federal election that saw an end to 23 years of Coalition government rule (SMH, AFR 26 October 1972; Nat Rev 28 October – 3 November 1972). Notably, the *Companies (Foreign Take-overs) Act 1972 (Cth)*, explicitly a temporary piece of legislation that needed annual renewal, dealt only with control events, not new investments. It did not require pre-acquisition notification for screening, but did bestow on the government the power not only to block an acquisition but the undoing of one it did not mean: an undefined national interest test (Flint, 1985:14–53; Sexton and Adamovich, 1981). This, it was argued, would lead to a high level of voluntary notification. Understandably the arbitrary exercise of review, only when a deal had somehow become politically salient, would disconcert business observers.

Importantly, the *Companies (Foreign Take-overs) Act (Cth)* created an administrative architecture that entailed an interdepartmental committee on foreign takeovers, but with core secretarial foundations in the Australian Treasury Department that was to advise the Treasurer on the exercise of powers created under the new Act, and which would provide the starting point for a regime still in place today. The *Companies (Foreign Take-overs) Act (Cth)* appealed to the management of manufacturing interests, who gained potential protection from takeover bids. It posed no threat to domestic mining interests who continued to favour a liberal regime as stakes in greenfield projects

were not subject to review. Whilst well received by a core Coalition constituency it did not go far enough to address the major headway that the ALP had made politically through an appeal to economic nationalism for the resources sector and beyond (Oakes and Solomon 1973:315). Yet Labor's gain would also prove to be Labor's later pain.

5 The Whitlam government

As part of the famous 1972 'It's Time' campaign speech Whitlam declared 'the strongest and richest of our own industries have been bought up from overseas. It's time to stop the great takeover of Australia. But more important, it's time to start buying Australia back. A Labor government will enable Australia and ordinary Australians to take part in the ownership, development and use of Australian industries and resources'. (Whitlam, 1985:229). The ALP's legacy in relation to FDI policy ultimately was to be an odd mix of administrative consolidation, economic reforms, and state developmentalist debacle. The acerbic personality of minerals and energy minister Rex Connor initially set the tone of the Whitlam government's resource nationalist crusade (Tsokhas 1984:66–9; Kelly 1976:155). An unorthodox endeavour to raise large petrodollar loans abroad through unusual channels—encapsulated in the Khemlani 'loans affair' that irrevocably damaged the reputation of the Whitlam Government—was aimed at replacing FDI in the resources sector with Australian public ownership (Kelly, 1976:155–77; Whitlam, 1979:45–53). It was an expansion of a state developmentalist vision that had informed the establishment of the AIDC nearly a decade earlier and had its ideational roots in a much older political economy that had been sorely tested by the depression.¹

When the new Labor government sought to impose more restrictive FDI policy various institutional constraints, and work-arounds when lacking legislative foundations, were soon evidenced. Tight restrictions on acquisitions of real estate by non-residents soon were introduced, but as they depended on foreign exchange controls exercised by the Reserve Bank of Australia (RBA), implementation would be awkward and domestically financed purchases were beyond effective control (Barnes, *Age* 21 March 1973; Scott, *AFR* 17 October 1974). Considerable unease was felt amongst foreign and domestic enterprises as the Whitlam government exercised discretionary controls over resources projects, on dubious legislative grounds (nominally export and exchange

¹ Bills for a much expanded AIDC and a National Investment Fund (NIF), displacing some FDI, ultimately failed to pass in the Senate (*AFR* 14 August 1974).

controls for new projects). The Government's failure to issue clear policy guidelines compounded corporate unease.

The ALP's impact was striking in its setting of substantial local equity expectations for the minerals and energy sectors; Whitlam startling his hosts in Japan with a statement that full local equity was hoped for in oil, gas and black coal projects in addition to an absolute requirement for such in the case of uranium (Ackland, AFR 21 March 1973; SMH, CT 30 October 1973). However the visit of Japanese Prime Minister Kakuei Tanaka to Australia in November 1974 was an impetus to the belated release of a formal statement of FDI policy (AFR 14 November 1974; Kelly 1976:67–75; Short, AFR 24 March 1978). In the interim, growing economic pressures in the wake of the first oil shock had brought some moderating of policy (Scott, AFR 17 October 1974). The Whitlam Government's policy for the minerals sector ultimately evolved towards one of equal equity partnerships between foreign and those deemed to be Australian investors, with a blanket ban on FDI in uranium projects (Bracken, CT 25 September 1975).

During the three years of the Whitlam Government the foundations were laid for much of the FDI regulatory architecture that remains in place today. There was the inevitable closing off of loopholes, such as the use of nominal holdings (NT 4–9 June 1973). The purvey of FDI screening expanded significantly when a second interdepartmental committee was established to deal with new investments, as distinct from the existing committee dealing with takeovers that had been inherited from the previous government. Later the two would be merged to form the Foreign Investment Advisory Committee; a precursor to the Fraser government's Foreign Investment Review Board (FIRB) that persists today. Aside from setting local equity targets, the other major task of policy specification entailed the establishing of thresholds of project value for notification, quasi-automatic treatment or for thorough vetting. A low threshold, especially irrespective of fund sourcing, could soon cause an administrative logjam. Guidelines, such as those issued in September 1975, might also extend to inherently more qualitative matters such as the extent of Australian nationals' role in management or technical operations. The drafting of a new, more comprehensive and permanent Act to regulate FDI dragged on as the Australian Treasury Department and the government were typically at loggerheads.

6 Formalising the FIRB mechanism & equal partnership' guidelines: The Fraser government

The key structures of general FDI regulation in place today were formalised in early 1976, having been one of the first priorities of the new Fraser Coalition government (Kelly, NT 25–30 October 1976). The legislative and policy foundations had been well laid in the last moderate period of the Whitlam government with the *Foreign Acquisitions and Takeovers Act 1975* (Cth) providing a substantial legislative basis both for the regulation of takeovers and for the development of natural resources assets.

The Fraser government's main innovations were in the establishment of the FIRB, and in the clarity of the accompanying policy guidelines that it issued, first through a substantial statement to Parliament by Treasurer Phillip Lynch on 1 April 1976, and then in July with a rather comprehensive foreign investment policy explanatory guide. In the latter the government declared a 'conscious policy of non-discrimination as between different countries of origin'. FIRB was notable in that its membership was constituted by a small number of prominent non-government identities, although its role was solely to advise the Australia Treasurer on specific cases. The first chairman was a prominent businessman, explicitly appointed to give the FIRB 'distinctly free enterprise flavour', so it would provide 'an efficient, practical, and sympathetic link between the Government and foreign interests operating in Australia' (Lynch, FIRB, July 1976). FIRB was, like the previous interdepartmental committees, to be served by a Treasury secretariat.

In outlining its broad policy direction the Fraser government sought to clearly differentiate it from the economic nationalist experiment in the resources sector that had marked the first two years of the Whitlam government. While aiming to 'provide maximum opportunities for Australians to participate in the ownership and control of Australian industries and resources' the Fraser government declared it would 'avoid costly "buy backs" of foreign companies already established in Australia'. The AIDC and the Australian Resources Development Bank (ARDB) were still identified as having a financing role, the former being able to take equity stakes too but were to have predominantly market-conforming objectives.

Yet it was in the Fraser government's policy guidelines that the extent of near-bipartisanship on a somewhat restrictive FDI policy became starkly clear (Bell, 1976:44). Established largely off-limits sectors—such as banking, broadcast media and aviation—were reaffirmed, with the explicit identification too of newspapers as also being so. This was despite the print media not being subject to sector-specific regulation. There were no minimum Australian equity guidelines set for non-resources sectors outside these areas. Yet FDI policy for the resources sector was notably restrictive—in some areas more so than the ALP had been. Only three years before the Coalition

government had introduced the first foreign takeovers legislation to Parliament, and enunciated policy that had left the resources sector untouched. The Fraser government slightly moderated the ALP's 100 per cent Australian equity policy for uranium projects, but only by lowering it to 75 per cent (CT 2 April 1976). Other minerals and energy projects were subject to an expectation of 50 per cent local equity; although a proviso was stipulated that projects would not be held up in the absence of an interested Australian partner. Resources exploration was also not to be subject to local equity expectations. The Coalition government's extension of a 50 per cent local equity guideline to the pastoral, agricultural, forestry and fishing sectors represented a significant tightening of policy; a concession to the Liberals' Country Party (later National Party) coalition members who in coming decades would remain very sensitive to foreign investment in their constituents' sectors.

Soon after being elected the Fraser government promised an explication of what it considered the 'national interest' to be in relation to FDI, a public register of all notified investments, and regular reporting of cases handled (Ackland, AFR 18 December 1975). Ultimately neither happened as the former presented definitional difficulties and the latter raised ostensibly commercial-in-confidence concerns (McGuinness, NT 7–12 June 1976). No government has subsequently done much to enhance the transparency of the FIRB process, although all have retained annual FIRB reporting practices. A low level of transparency has been grist to the mill of both liberal critics of FDI regulation and those who advocated for more restrictive policy. A low rate of formal rejections gives little clue as to the discouragement effect by either the guidelines or at the consultation stage, whilst suggesting to the some critics, on the other hand, that the FIRB 'rubber stamps' most applications.

Although the Fraser government's policy was relatively well specified and communicated, numerous definitional issues continued to arise. Most significantly, what actually constituted an Australian resident entity, and whether some firms that had had over a century of operational history in Australia, or even founded in Australia but with London-based shareholders, should be treated in the same way as newly arrived investors. Partly to address this the Fraser government subsequently developed 'naturalisation' provisions, primarily involving a negotiated schedule to achieve 51 per cent Australian equity (Treasurer, *Press Release*, 9 June 1978; Bryan 1989:2; Sexton and Adamovich 1983:134–35). Also, by offering a path to 'naturalised' status the government could maintain its formal commitment to an 'equal partnership' policy for the resources sector while hindering fewer large projects (Bryan, 1983:72). In doing so it inadvertently revealed how the domestic political economy of the resources sector had evolved rapidly, as a business constituency

for restrictive policy mobilised. Several prominent enterprises and management personalities that had Australian resident status resisted the naturalisation provisions as being too generous. The obvious motivation was to defend their effective first right of refusal of stakes in new projects from an expanded list of naturalised Australian corporate entities (W. Aust 3–4 June 1978; Anderson, 1983:149).

Much of the popular appeal of restrictions on FDI in resources stemmed from perceptions that a full and fair return was not being captured by the Australian people at large from the natural resource endowments that by law were public property (Anderson, 1983:144–48). Although the Fraser government did seriously canvas the possibility of introducing a federal resource rent tax, it ultimately shied away from doing so in the face of state and mining industry resistance, despite the efficiency advantages of such a tax being better understood (Garnaut & Clunies-Ross, 1979). The latter Fraser government years proved to be the high point of restrictive FDI policy in Australia, which seemed rather at odds with the Coalition government's own free enterprise narrative. Yet it was consistent with its upholding of the status quo on tariff policy, continuing heavy regulation of capital markets and the maintenance of currency controls and fixed exchange rate (Glezer, 1982; Anderson and Garnaut, 1987; Pomfret, 1985). Prime Minister Fraser's personal values were no doubt a factor, but so too was the optimism that came with a nascent resources boom; a misplaced faith shattered by recession in the early 1980s (Jolley, 1977:233).

7 Unlikely Liberalisation: The Hawke government

The ALP came to office in March 1983 with a foreign investment policy more restrictive than that maintained by its Coalition predecessor. The ALP's national platform called for imposition of a 51 per cent local equity requirement across the board, and Labor was opposed to the one liberalising gesture that the Fraser government had undertaken just before the election: acceptance of a recommendation to issue licenses to operate in Australia to a limited number of foreign banks from the 1981 Campbell Inquiry into the financial system (Pauly, 1987:27, 1988:69). Yet the ALP would transform FDI policy in practice. It would dramatically lift notification and vetting thresholds, drop most general local equity rules in time, defend a surge in Japanese FDI from vociferous domestic critics, and invest considerable resources in a marketing Australia as an investment destination (Allen Consulting 1994). This significant liberalisation would happen largely within the legislative and administrative framework bequeathed by the Fraser government.

Early in its first term the Hawke government said, through a statement by the Australian Treasurer, that in the flexible application of local equity requirements it had no intention of ‘operating a cyclical foreign investment policy’ (Press Release no.108, 30 September 1983). The previous decade had indeed looked much like that. Under the new Labor government there were a number of rejections of proposals in the resources and other sectors, some contentious, but together they did not amount to a notable tightening of policy. In repudiating party policy, Keating claimed the mantle of the Whitlam government in its last moderate year: ‘The government has decided to continue the broad thrust of foreign investment policy first elaborated by the previous Labor government in 1975 and, with some amendments in the light of changing circumstances, maintained by the previous government’ (Press Release no.152, 20 December 1983). The ALP party policy commitment to establish a national foreign investment register was dropped as cooperation from the states that was unlikely to be forthcoming. Some tightening of guidelines for property investments occurred, and a unionist was appointed to the FIRB, but overall the trajectory of both Treasurer Keating personally and the Hawke government as a whole was one of revelling in plaudits won for unexpected liberalisation (Kelly, 1992:94).

The initial impetus for this liberal policy and political orientation was the set of decisions to float the Australian dollar and remove capital controls in December 1983. Aside from the significant consequences for economic policy, it offered a potent lesson in the manner of decision-making. It did not require parliamentary or even Cabinet approval, and established a precedent of the government leadership taking decisions of major practical and symbolic import despite disquiet within ALP ranks (Bell, 1997:27). Liberalisation of general FDI policy, which required nothing more than a press release from the Australian Treasurer, was to become a preferred means of taming market sentiment as the Australian economy was buffeted by the forces unleashed by the floating of the currency.

The ALP’s first foreign investment liberalisation package came in October 1985 which lifted notification and review thresholds, dropped an ‘opportunities test’ that had given local businesses forewarning of a foreign firm’s proposed investment or acquisition, but shied away from liberalisation of the property sector as various interests hankered after (Treasurer, *Press Release* no.136 29 October 1985). A powerful impetus for further opening came with a precipitous decline in the Australian dollar in 1986. Treasurer Keating had earlier set the tone of national anxiety with a casual remark about Australia running the risk of becoming a ‘banana republic’ (Edwards 1996:295–96). Over a weekend in late July the government formulated a package of economic

reforms that had FDI liberalisation as its centrepiece; meant and received by financial markets as a signal of its commitment to maintaining open capital markets (AFR, Aust, SMH 29 July 1986).

The 1986 policy package substantially liberalised FDI in manufacturing, tourism, and in the non-bank financial sector. The ‘economic benefits test’ was suspended for both new investments and takeovers, local equity partners were no longer required and, although investments still had to be notified, ‘proposals will be automatically approved unless they are judged to be contrary to the national interest’ (Keating, *Press Release* 28 July 1986). However, the 50 per cent local equity guidelines for mining remained in place. The property sector was significantly opened up: local equity requirements for new projects were done away with and purchases of established commercial properties, previously prohibited, were permitted with a 50 per cent local equity partner or proof that one could not be found (Keating, *Press Release* 28 July 1986; FIRB 1994:46). A concept was reiterated in which it was held that FDI in new projects would stimulate the creation of jobs (and later, in residential real estate, supply that would ease a rental squeeze), while acquisitions of existing assets were seen to bring less value. Keating explicitly said that the introduction of the capital gains tax regime had diminished concerns about foreign speculation (AFR 30 July 1986).

Although presented as a suspension rather than abolition of the existing requirements the July 1986 reforms were well received, and further affirmed the efficacy of liberalising FDI policy as a tool for winning plaudits for economic management. The ALP was to do this twice more; firstly with a package of reforms in April 1987, not long before calling an election that gave the ALP a historic third term in office. It abolished the ‘economic benefits’ test for sectors such as resource processing, insurance, stockbroking and rural sectors; leaving only a reserve veto on ‘national interest’ grounds (Keating, *Press Release* 30 April 1987; FIRB, 1988:31–33). The net effect of such changes was that there was no onus upon the investor to demonstrate economic benefits to win approval, although if the government did happen to intervene on national interest grounds it was still not obligated to articulate its rationale.

The ALP’s final major FDI liberalisation package was presented together with now Prime Minister Keating’s *One Nation* policy statement in February 1992.² In a final break with the Whitlam-era

² The *One Nation* policy blueprint was construed as a response to the John Hewson-led opposition to the valuation effect. It was a blueprint for radical liberalisation of the Australian economy, but omitted discussion of FDI policy (Hewson and Fischer 1991a, 1991b). The Coalition, long even more liberal than the Labor government, had, during the 1990 election campaign,

legacy, full foreign ownership of mining operations was to be allowed, subject only to the reserve veto power included in the national interest test (Dawkins, Treasurer's Press Release No. 25 26 February 1992). Further banking licenses would also be issued to entities that met RBA prudential standards, and takeovers of domestic banks excepting the 'four majors' was to be permitted (FIRB 1993:48). This four-pillar FDI policy for banking remains in place today.

8 Facing fears, late 1980s to early 1990s

Foreign investment policy under the ALP was not all a unidirectional process of liberalisation. In late September 1987 Treasurer Keating acted at odds with his liberalising credentials by announcing a new policy effectively making purchases of established residential real estate off limits to foreigners, unless they were temporarily resident in Australia for several designated purposes. In such cases any property bought by sojourning students or business people for personal use would have to be sold upon their departure (SMH 30 September 1987; FIRB 1988:14). In 2015 seeming lax enforcement of these rules finally became politically contentious at a time of rising real estate prices and the Abbott Government moved to tighten them.

Some attributed Treasurer Keating's 1987 decision to introduce the rules to an ultimately ineffectual attempt to help the electoral prospects of the Labor government in New South Wales, at a time when purchases of Sydney real estate by foreigners were often being blamed as a factor in rapidly rising property prices.³ Popular concerns were often entangled with rapid growth of FDI into real estate in absolute terms, as a share of total foreign investment, and with the emergence of Japan as the single largest source of investments (Edgington, 1990; Farrell, 1997; CEDA & Keizai Doyukai, 1990). This came as national insecurities had been aroused with depreciation of the currency and the 'banana republic' shock. Japanese investment became quite controversial (Pokarier, 2004; Access Economics, 1991; Rix, 1991, 1999: 105; Goss 1989). A Japanese proposal for a 'multi-function polis', a new high-tech designed city, attracted particular attention (Abe & Wheelwright, 1989; Inkster, 1991; James, 1990; McCormack, 1991; Mouer & Sugimoto, 1990).

resorted to a populist pitch against FDI that had been counterproductive given its established preference for an open door policy since at least 1984.

³ A poll for the Garnaut Report did reveal some 60 per cent of respondents said FDI in real estate should be 'discouraged or not encouraged' (Goot, 1990:261; Garnaut, 1989:97). This contrasted starkly with a figure of 25 per cent for manufacturing, 17 per cent for tourism and 44 per cent for both the traditionally sensitive areas of mining and agriculture.

It is generally assumed in the international business literature that FDI aimed at exporting from a host country production base is much less likely to be face political resistance than investments directed at serving the host market (Encarnation and Vachani, 1985; Poynter, 1986:57). Yet Australia's experience suggests this is rather too simplistic. FDI in the export-oriented resources sector was generally more sensitive politically than domestically oriented investments in manufacturing. Even after Australia's pivot back to more liberal policy in the late 1980s and early 1990s, there was considerable contention over foreign investments in the export-oriented tourism and agricultural sectors (Fisher, Stoekel & Borrell, 1998; Morison & Officer, 1992). Both sectors were seen as having considerable export potential with growing Japanese market and fears were raised about vertical integration that would see most of the gains be captured by Japanese investors (Forsyth & Dwyer 1991,1994; Queensland Treasury 1991a, 1991b). Some Australian exporter interests, such as in the beef industry, evidently sought to guard their locational advantages through supporting calls for restrictions on FDI by rival enterprises. However the Hawke and Keating governments generally approved primary industries proposals; perhaps politically easier as the industries were not the ALP's traditional constituency. This period offers parallels with later concerns about Chinese FDI.

The mass media, and broadcasting in particular, was the most notable sectoral exception to general FDI policy liberalisation during the 13 years of the ALP Hawke and Keating governments, and that illiberal status quo also persisted. A balance of contending private interests, and the sensitivity of the media, as seen in many other countries, to issues of foreign control and influence, diminished the incentives for policymakers to realise more liberal policy.

Limited sectoral exceptions aside, the period of the late 1980s and early 1990s was marked by a decisive public defence of the benefits of a liberal FDI policy by the government of the day, with considerable bipartisan political support. Although some National Party identities, being close to agricultural constituencies, adopted more critical positions on FDI in such sectors, the main oppositional leadership was at least as liberal as the Hawke and Keating governments. Media and academic commentary was also predominantly well-disposed to FDI, and the overtly hostile to populist appeals to anti-Japanese sentiment in particular. Openness to FDI had become generally associated with an acceptance not only of the need for Australia to reform its economy but also to embrace economic, cultural and political engagement with East Asia. (Garnaut, 1989). The principle of non-discrimination based on country-of-origin, was articulated and defended specifically in response to the rising prominence of Japan as a source of FDI, and was frequented

equated with a similar principle in immigration policy. It was only with a policy towards pursuing bilateral free trade agreements under the later Howard government, most notably with the US FTA, that the principle of non-discrimination by FDI origin was compromised.

It was in the late 1980s, as critics of Japanese FDI gained consideration attention, that the FIRB mechanism proved to be a valuable instrument for governments wishing to maintain a liberal policy in practice while placating community concerns about FDI. The FIRB was often presented as an effective safeguard mechanism by ALP government leaders (SM 5 June 1988; AFR 19 July 1988; Her 16 August 1988; W. Aust 28–29 January 1989). It was a political formula for the pragmatic realisation of liberal FDI policy that has been the status quo for two decades since.

9 Conclusion

Public interest judgements about FDI will be patterned, consciously or otherwise, by the broader quality of a nation's economic governance, institutions, and market structures. In looking back over more than a half century of contention over the role of foreign investment in the Australian economy, it is clear that doubts about its value were more widespread while markets were heavily protected by tariffs, there was still no trade practices act or capital gains tax, or when state governments were perceived to be in a tournament for attracting mining investments with concessional royalties regimes and infrastructure assistance.

That is not to say that most people who feel instinctive doubts about an open FDI policy regime necessarily saw a more restrictive policy as a desirable 'second best' response to other needed economic reforms. On the contrary, as the *The Australian's* Ken Davidson commented as political pressure for a foreign takeovers law reached a crescendo, that: 'All too often the strongest economic nationalists in the Australian Parliament are also the advocates of policies designed to make foreign investors fat at the expense of the Australian community' (Aust 2 June 1972). Nationalism is an impulse. Economic nationalism is an impulse too, but often entangled also in ideological antipathy to free markets. The impulse to nationalism, as with any insider identity, typically manifests in reaction to the salience of an 'other', imagined or experienced. It may also mask the calculated pursuit of private interest through public policy interventions.

Australia's official discourse until the mid-1960s referred to 'overseas investment' rather than 'foreign investment', reflecting the predominance of British investment until that time and Australia's close historical ties with the United Kingdom. A shift in the composition of foreign

investment away from sources that were long culturally and politically proximate to Australia brought new anxieties. In hindsight it was no surprise that Japanese investment caused some periodic unease given wartime memories, and the once lack of familiarity in Australia with Japanese enterprise. The late 1960s and 1970s was also a period characterised internationally by economic nationalist critiques of increasingly influential multinational enterprise.

Both the politics and the policymaking of FDI are fraught by informational constraints. By contrast, the impacts of changes in tariff regimes are relatively easy to measure, even to predict. The Australian experience revealed that while an investment screening regime may publish rejection rates the discouragement effect that they entail is difficult to quantify, as are the opportunity costs of legislated non-discretionary restrictions on FDI. On the other hand, the FIRB pre-approval regime for property development, for instance, tended to exaggerate the level of FDI as it captured approved investments rather than realised ones. Important too is the general lack of systematic attention paid to losses made by foreign investors, that may represent transfers of wealth from them to domestic interests through, for instance, over-paying for local assets or for outlays in the construction phase of a project that may prove uneconomical in time. In an information void, appeals to nationalism resonate more readily. Australian experience from the late 1980s, when the mass media gave much attention to critics of Japanese investment, showed that proactive responses by government leaders and business and economics commentators helped to diminish FDI as a political issue.

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AFR	The Australian Financial Review
Adv	The Advertiser
Age	The Age

Aust	The Australian
CM	The Courier Mail
CT	The Canberra Times
Her	The Herald
NT	The National Times
SMH	Sydney Morning Herald
SM	The Sunday Mail
WA	The West Australian
W. Aust	The Weekend Australian

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