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CHINESE ODI AND THE NEED TO REFORM AUSTRALIA'S FOREIGN INVESTMENT REGIME

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Chinese ODI and the Need to Reform Australia's Foreign Investment Regime
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Foreign Direct Investment in Australia [1]

Foreign direct investment (FDI) plays an important role in the Australian economy through the provision of capital additional to that which can be mobilised domestically, new know-how and technology, and greater linkages to international markets and value chains. Its benefits derive from the increased competition for, and thus the increased value of, assets in Australia, the increased increment of incomes to Australian labour and other inputs used in additional production, increased national product, and increased taxes and other charges that accrue to governments at all levels. By creating a global market for Australian assets, FDI provides Australians with a stronger incentive to invest and grow their own assets.

Australia has long had a strong policy consensus around the importance of continuing to attract high levels of foreign investment. This is because Australia is a small economy with a low savings base, and foreign capital is essential to fund the investment necessary to support Australia's advanced patterns of growth, income and consumption. FDI also has a number of potential advantages over foreign 'portfolio' investment (involving equity stakes below 10 per cent): it has the capacity to generate significant productivity dividends through the transfer of foreign management, technology and knowledge; it encourages local reinvestment of foreign earnings; it endows foreign investors with a long-term stake in the Australian economy; and it increases the competitiveness, efficiency and valuations of Australian enterprises.

The Australia Foreign Investment Review Framework[2]

Foreign investment in Australia is primarily governed by the recently amended *Foreign Acquisitions and Takeovers Act 1975* (Cth). Most FDI from private interests over an A$252 million threshold (A$1,094 million in the case of some free trade agreement partners, including China) is subject to review and decision by the Treasurer. All foreign government investments are subject to review. An entity is considered to be

[1] Parts of this paper are based upon: East Asian Bureau of Economic Research, 'Australia's foreign investment regime and the need for reform', *EABER Working Paper Series*, No. 105, 11 June 2015; East Asian Bureau of Economic Research, 'Suggestions to improve Australia's foreign investment review framework', Submission to an Inquiry into the Foreign Investment Review Framework, Senate Economics References Committee, Parliament of Australia, March 2015; East Asian Bureau of Economic Research, 'Opportunities and Risks in the Australia-China Relationship', *Australia-China Joint Economic Report*, forthcoming.

[2] See: The Treasurer, *Australia's Foreign Investment Policy*, December 2015; The Hon Scott Morrison MP, Treasurer of the Commonwealth of Australia, 'Stronger foreign investment regime comes into force', Media Release, 1 December 2015.

state-owned if a foreign government or its agencies hold an interest of 20 per cent or more, or if foreign governments from different countries hold an aggregate interest of 40 per cent or more. This definition includes state-owned enterprises (SOEs) and sovereign wealth funds (SWFs).

The Foreign Investment Review Board (FIRB), a non-statutory advisory body, provides the Treasurer with non-binding advice on large or controversial foreign investment proposals. Treasury officials process all other proposals. Recent policy changes have increased the resources dedicated to foreign investment in Treasury and seen the Australian Taxation Office (ATO) delegated responsibility for the processing of foreign real estate investments.

The Treasurer has the right to make an order prohibiting a foreign investment proposal that he or she deems 'contrary to the national interest'. The Treasurer also has the power to attach conditions to the approval of a foreign investment proposal that he or she deems necessary to ensure that it is consistent with the national interest. This 'national interest test' is not legislatively defined, although the Government's *Foreign Investment Policy* offers a non-exhaustive and non-binding guide to factors that are often considered in assessing proposals: national security; competition; other policies including tax; impact on the economy and community; and character of the investor.[3]

While the Treasurer has ultimate discretion over foreign investment decisions, the FIRB's scope encompasses a consultative 'whole-of-government' approach to administering Australia's foreign investment regime. A range of government departments and agencies are routinely consulted about foreign investment proposals, including security agencies. Consultation causes delays, but is designed to ensure that all aspects of the national interest test are examined thoroughly. FIRB's role is that of a 'gatekeeper' whom investors must pass before proceeding; it is not a body that reviews investment that has already taken place.

Recent changes to the FIRB process have singled out foreign investment in agribusiness and agricultural land for additional scrutiny. The review threshold for agricultural land has been lowered from the standard A$252 million to just A$15 million, and an A$55 million review threshold has been introduced for agribusiness investment. These changes were based on nativist political concerns, as they undercut the capacity for Australia's agricultural industries to attract foreign capital needed to reach their productive potential.

The FIRB and Australia's broader foreign investment regime have played an important role in facilitating increased foreign investment over the last few decades by reassuring the community that foreign investment which occurs to Australia is in the national

[3] For comment, see: Rebecca Mendelsohn and Alan Fels, 'A strategic analysis of the Australian foreign investment regime and the prospect of reform', *EABER Working Paper Series*, No. 113, August 2015.

interest. Supporters of the national interest test argue that it allows Australia to welcome far more FDI than would otherwise appear acceptable to the community.[4] Yet while FIRB approved 96.4 per cent of proposals in 2013-2014,[5] the rise in Chinese investment has illustrated that FDI is still a divisive political issue. The policy framework for attracting and managing FDI flows now bears re-examination in light of ongoing sensitivities about FDI and in light of supra-cyclical concerns in Australia regarding Chinese FDI.

Chinese Investment into Australia

Chinese FDI has become an important element in the Australia-China relationship. Although Chinese companies have been investing in Australia since the 1980s, Chinese policies to internationalise its companies, the demand for resources for China's urbanisation, and the contraction of investment appetites in developed economies following the Global Financial Crisis (GFC) have caused a rapid growth of Chinese trade and outbound investment over the last decade. The relationship with China has been a key source of Australia's economic prosperity over the last 15 years, and particularly of its resilience in the years since the GFC.

Since the effective implementation of China's 'going out' investment policy in the early 2000s, the stock of Chinese FDI in Australia has risen from a very low (near zero) base to A$30.0 billion in 2014, at an average annual growth rate of 47.9 per cent since 2009.[6] China is now the fifth-largest source of FDI in Australia (behind the US, UK, Japan and the Netherlands), accounting for 4.4 per cent of total stock and 8.9 per cent of 2009-2014 inflows.[7] Australia is the second-largest recipient of Chinese FDI behind the United States. Australia is the second-largest recipient of Chinese investment since 2005, after the United States.[8]

This upsurge in Chinese FDI has become a political issue in Australia. It plays into broader anxieties about how to manage Australia's economic reliance on China, which accounts for 26.3 per cent of Australia's merchandise trade.[9] The possibility of China becoming a strategic rival to the United States, Australia's principal military ally, has led some to characterise Chinese investment as a potential security threat. Despite the

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[4] Peter Drysdale, 'A new look at Chinese FDI in Australia', *China & World Economy*, Vol. 19(4), 2011, pp. 54-73.

[5] Australian Government, Foreign Investment Review Board, *Annual Report 2013-14*, April 2015.

[6] Australian Bureau of Statistics, '5352.0 – International Investment Position, Australia: Supplementary Statistics, 2014', 8 May 2015.

[7] Australian Government, Department of Foreign Affairs and Trade, *International Investment Australia 2014*, September 2015.

[8] KPMG and the University of Sydney China Studies Centre, 'Demystifying Chinese Investment in Australia: May 2015 Update', May 2015; American Enterprise Institute and the Heritage Foundation, 'China Global Investment Tracker', 2016.

[9] Australian Government, Department of Foreign Affairs and Trade, *China Factsheet*, December 2015.

benefits of FDI, annual polling conducted from 2009 to 2014 shows that a steady 50-57 per cent majority of Australians believe that their government allows 'too much investment from China'.[10]

Concerns Regarding Chinese Investment in Australia

Concerns frequently raised about Chinese FDI in Australian public debate include: the flight of profits and jobs from Australia because of Chinese ownership; the compromise of Australian food and resource security due to Chinese control; and the possibility of China's government strategically leveraging Chinese investments in critical infrastructure to impede Australia's national security.[11] Much of this anxiety stems from the fact that Chinese investment into Australia has been dominated by SOEs, which contributed almost 90 per cent of Chinese FDI up to 2013.[12] However, this trend seems to be changing — a May 2015 report indicates that private entities accounted for 66 per cent of Chinese FDI in 2014.[13]

Popular opposition to foreign investment in Australia is not confined to that from Chinese SOEs. There remains great community concern that ownership of Australian assets by any Chinese entity could in some way be detrimental for Australia. Indeed, much of the public controversy about Chinese investment in Australia over the last two years has concerned private Chinese companies, such as those investing in the Port of Darwin, Van Diemen's Land Company, and S. Kidman & Co. Negative commentary has focused on potential ties to the Chinese Communist Party, China's state agencies or the People's Liberation Army — despite these companies' being private firms by all Australian official definitions.

These concerns about private Chinese investment are overstated. Because a single party governs China, virtually every Chinese private company and every Chinese businessperson has some degree of commercial or personal association with elements of the Chinese party-state. The vast majority of business-state linkages are borne of commercial practicality and have no bearing on strategic intent. If such connections are sufficient automatically to disqualify Chinese investment on national security grounds, then Australia should not accept any Chinese investment.[14] This would impair

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[10] Alex Oliver, *Lowy Institute Poll 2014*, The Lowy Institute for International Policy, 2 June 2014.

[11] Australian Centre on China in the World, 'Chinese Investment in Australia', *The Australia-China Story Archive*, 2015.

[12] KPMG and the University of Sydney China Studies Centre, *Demystifying SOE Investment in Australia*, August 2014.

[13] KPMG and the University of Sydney China Studies Centre, *Demystifying Chinese Investment in Australia: May 2015 Update*, May 2015.

[14] See also: Linda Jakobson, 'Darwin port row shows Australia doesn't understand China', *The Australian*, 19 November 2015.

Australia's economic security and therefore undermine its military security through reduced defence spending capabilities.

Concerns regarding FDI from Chinese SOEs are also overblown. A significant body of academic research has concluded that most of China's SOEs are commercially motivated entities that operate in a highly fragmented domestic environment and compete with private companies and other SOEs. Hence profitability and economic development are the key determinants of SOE foreign investment decisions.[15] Public policy in Australia generally fails to distinguish between the many different types of SOEs, which is crucial because '[w]hile China's largest and most important firms are almost all SOEs, the converse is not true — most Chinese SOEs are neither large nor strategically important to Beijing'.[16] Detailed analysis of China's SOE sector makes it hard to sustain arguments insinuating any kind of centrally-planned grand strategy for Chinese SOE investment abroad: over half of SOE assets are controlled by local governments at the county level and below; 87 per cent of state assets are held in corporatised structures; and almost half of all SOE capital is from non-state sources.[17] Additionally, China's National Development and Reform Commission is in the process of relaxing its approval procedures for Chinese outbound investment, further reducing central oversight of outbound Chinese investments.[18]

A recent argument suggested that the Chinese government could, in the future, use investment by SOEs or even private firms in Australian port, power and land infrastructure to sabotage Australian business interests or directly threaten national security.[19] Accepting this argument at face value is hazardous because it would mean foregoing much-needed investment in Australian infrastructure. A foreign state that means to harm Australia will undoubtedly find more effective methods than through expensive and highly publicised investment projects. Precluding Chinese FDI carries enormous opportunity costs for the Australian economy, and it does little to actually guarantee future security. It is imperative for Australia to clarify its support for foreign investment from all sources.

Strengthening the FIRB and Eliminating Anomalies in the Regime

[15] See, for reference: Mei Wang, Jijing Zhang and Zhen Qi, 'China's rising outbound investment: trends and issues', *EABER Working Papers Series*, No. 109, August 2015.

[16] Paul Hubbard and Patrick Williams, 'China's state-owned enterprises: an observer's guide', *EABER Working Paper Series*, No. 108, August 2015.

[17] Ibid.

[18] See: Lu Jianxin and Fayen Wong, 'China to ease restrictions on overseas investments', *Reuters*, 10 April 2014.

[19] Paul Barnes and Peter Jennings, 'NT deal shows FIRB must be given new national security credentials', *The Australian Financial Review*, 12 November 2015.

The Australian government's explicit rejection rate of FDI proposals is extremely low at 0.01 per cent.[20] But while the national interest test may have been benign in an environment where more traditional sources of investment dominated, the political uncertainties created by rapid changes in the structure of FDI sources are making the regime more politically susceptible and less reliable as an instrument for delivering sound economic policy. Without a strengthened framework, the popular opposition against historical investment surges from the United States, Japan and China will be allowed to impair future waves of FDI from new sources such as India and Indonesia. So while the national interest test remains a useful policy compromise, it should be reserved for only the largest of foreign investment proposals.

Respective Australian Treasurers have been susceptible to political pressures in making foreign investment policy in recent years. In 2008, in what was widely perceived as a reactive response to the beginnings of large-scale Chinese ODI, Australia introduced added FIRB assessments and conditions for SOEs.[21] The Australian economy cannot afford the impairment to the growth of its productive potential that such populist policymaking produces — the current screening regime is equivalent to a higher corporate tax rate on foreigners, which deters marginal investment. Indeed, between 2008 and 2012, UNCTAD estimates that Australia forewent US$87.7 billion of inward-bound mergers and acquisitions withdrawn for regulatory and political reasons, more than any other country for which data is available.[22] ITS Global judges that administrative uncertainty and resultant delays in FIRB applications costs A$5.5 billion in lost investment annually.[23] The Business Council of Australia estimates that a simpler and more transparent foreign investment regime could increase GDP growth by 1.2 per cent or A$16.5 billion through to 2020.[24] Increased foreign investment will make Australia economically stronger and therefore more secure, not less.

Australia needs more FDI not less. Productivity growth is lagging, partly due to a deficiency in infrastructure investment.[25] Yet while Australia ranks in the first quartile of countries for FDI potential, it only ranks in the third quartile for the stock of FDI relative to GDP and the contribution that FDI makes to economic growth.[26] Since 2003,

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[20] Australian Government, Foreign Investment Review Board, *Annual Report 2013-14*, April 2015.

[21] Australian Centre on China in the World, 'Chinese Investment in Australia', *The Australia-China Story Archive*, 2015.

[22] United Nations Conference on Trade and Development, *World Investment Report 2013*, United Nations: New York and Geneva, 2013.

[23] ITS Global, *Foreign direct investment in Australia – the increasing cost of regulation*, 9 September 2008.

[24] Business Council of Australia, *Foreign attraction: building on our advantages through foreign investment*, April 2010.

[25] Business Council of Australia, *Securing Investment in Australia's Future: Managing the Economic Transition*, November 2013.

[26] United Nations Conference on Trade and Development, *World Investment Report 2012*, United Nations: New York and Geneva, 2012.

FDI inflows have increased to 3.1 per cent of GDP, but the FDI share in capital inflows dropped from 30 to 25 per cent.[27] China is a prime contender to correct these deficiencies — it will invest a further US$1 trillion abroad by 2020 through infrastructure initiatives such as the Asian Infrastructure Investment Bank and the One Belt One Road initiative,[28] the latter of which dovetails with the Developing Northern Australia strategy.[29] Despite the apparently unfavourable sentiment towards Chinese investment and some evidence of declining returns on Chinese investments in Australia,[30] China still sees Australia as a prospective and desirable investment destination.[31] Reforming the foreign investment framework will help ensure that this potential is realised.

Approaches to the Regulation of Foreign Investment in Australia

Foreign investment should primarily be conceived of as a driver of national prosperity rather than as a threat to national security. It should be welcomed and promoted. A robust policy framework to facilitate foreign investment projects should apply enduring principles that provide business certainty. It ought not embody makeshift responses to particular perceived risks from particular countries at particular times.

There is a role for screening foreign investment in order to secure compliance with Australian laws and regulatory requirements. But screening that is (or appears to be) conducted in an ad hoc manner, or that imposes additional requirements on investors from specific countries, deters foreign investment and costs growth, jobs and opportunities in Australia.

Australia does face a range of threats to its national interest. The Australian government is responsible for assessing and addressing these threats, using policy instruments that are adapted and appropriate to each threat. Foreign investment screening can help by providing governments with additional information regarding the involvement of foreign parties in certain Australian assets. But screening is not able and should not be

[27] Financial Services Institute of Australia, *Regulating foreign direct investment in Australia*, Discussion Paper, February 2014.

[28] See: An Baijie and Li Xiaokun, 'Li outlines $1 trillion goal', *China Daily*, 25 November 2015.

[29] See, for example: His Excellency Ambassador Ma Zhaoxu, Ambassador of the People's Republic of China to the Commonwealth of Australia, 'Address by Ambassador Ma Zhaoxu at the opening of the 'One Belt One Road' forum', Canberra, 16 August 2015.

[30] John Larum and Jingmin Qian, *A Long March: The Australia-China Investment Relationship*, Australia China Business Council, October 2012

[31] KPMG and the University of Sydney China Studies Centre, *Demystifying Chinese Investment in Australia: Chinese Investors in Australia Survey 2014*, November 2014.

designed to provide any sort of security guarantee, for which more targeted policy approaches are required.

General, loosely defined concerns about foreign investment in Australian assets are generally unfounded because all investors in Australia must comply with Australia's robust domestic regulatory framework. Some of Australia's major competitors in international capital markets for infrastructure investment, such as the United Kingdom, have no FDI screening regime and rely entirely on domestic regulatory and policing regimes to manage foreign and domestic investment alike. Australia should consider moving its foreign investment review framework in this direction, opening opportunities while still being able to intervene to counter threats.

There are a number of specific examples in the Australian context where existing arrangements already properly regulate both domestic and foreign investors.[32] The Australian Competition and Consumer Commission (ACCC), for example, has a mandate to prevent any investor from monopolising market sectors or abusing market power. The ATO has transfer-pricing powers that work to prevent investors from eroding Australian taxation revenues by selling Australian products overseas at below-market prices. The *Corporations Act 2001* (Cth) prevents investors from taking advantage of conflicts of interest. All investors are required to comply with Australian laws regarding labour and the environment. Ultimately, the Australian government deters investors from non-commercial behavior through its domestic security and intelligence powers to investigate and intervene in asset operations that risk undermining national security.

Domestic laws therefore already address the national interest criteria in the *Foreign Investment Policy*. Such regulatory arrangements are the real guardians of the benefits from FDI in Australia. On matters of national security, Australia's domestic security agencies have powers to monitor and deal with such threats, and should do so in a way that is adapted and appropriate to the potential risks, rather than making general policy by giving false comfort through compulsory screening. Australia already relies solely on domestic safeguards against potential threats from the foreign investments of any country that fall below FIRB review thresholds. Therefore, addressing weaknesses in Australia's own laws and institutions will offer the best protection against any adverse consequences of foreign or domestic investment.

Changes to Australia's Foreign Investment Policy Framework

The foreign investment review framework could also be more effectively aligned with the long-term national interest in increased FDI. It would be improved by: removing

[32] See: Business Council of Australia, *Discussion paper on foreign investment and state-owned enterprises*, August 2014; Financial Services Institute of Australia, *Regulating foreign direct investment in Australia*, Discussion Paper, February 2014; John Larum and Jingmin Qian, *A Long March: The Australia-China Investment Relationship*, Australia China Business Council, October 2012.

threshold distortions that have been introduced to the regime and that have the effect of discriminating against FDI from different countries; increasing the review threshold for SOEs that can demonstrate commercial credentials; movement to a regime of notification and compliance and selective review rather than one of automatic review and authorisation; align federal and state policy on FDI in critical infrastructure assets; and by creating an inter-ministerial Foreign Investment Council to coordinate FDI policy and promote FDI in Australia. While upgrading the FIRB process will carry some costs, newly introduced FDI application fees will help to defray these expenses. These changes would FDI policy more transparent and more reliant on the strength of Australia's domestic regulatory environment. This would align Australia with OECD best practice on foreign investment non-discrimination, provide greater certainty for foreign investors, and attract increased levels of FDI into Australia.

Uniform Review Thresholds

The foreign investment review framework should allow for foreign private investment from all countries in non-sensitive sectors (as defined in the current *Foreign Investment Policy*; a definition that does not include agricultural land or agribusiness) to be subject to a common A$1,094 million screening threshold (indexed to inflation), which is currently available only to select free-trade agreement partners (including China).

An investment regime that discriminates against capital based on the accident of the sequence of trade agreement negotiations is piecemeal, protectionist and not logically or economically defensible. Unilateral action to equalise foreign investment screening thresholds will lead to a more coherent and rational Australian foreign investment policy, and is a show of good faith that will advance Australia's position in future trade and investment negotiations. There is no good reason not to treat agricultural land and agribusiness investment in the same way as other business investments, but if a lower review threshold is set for foreign investment in these sectors, it should apply uniformly to all investors.

Higher Review Thresholds for State-Owned Enterprises

The foreign investment review framework should apply the A$1,094 million threshold to commercially oriented foreign government investment from all countries in non-sensitive sectors. The FIRB should be charged with implementing an 'historical accreditation model' for foreign SOEs to demonstrate their capacity for productive commercial investment.[33]

This arrangement would afford SOEs with a demonstrated track record of commercial investment activity the same treatment as foreign private companies, subject to an

[33] See: Business Council of Australia, *Discussion Paper on Foreign Investment and State-Owned Enterprises*, August 2014.

application and compliance scheme run by the FIRB. This process would reduce regulatory burdens and risks for SOE investors, attracting greater FDI into Australia while strengthening incentives towards commercial behaviour within Australia's regulatory frameworks.

Presently, any direct investment in Australia by foreign government entities is subject to review. While this policy might reassure some Australians that foreign governments do not have a free hand to pursue political agendas in Australia, it is a blunt and unnecessary instrument that imposes substantial burdens on commercial SOEs and impairs the productivity of the Australian economy. The vast majority of SOEs, including those from China, invest abroad in search of profits, markets and supply chains.

If, however, the A$1,094 million threshold is adjudged for political reasons to be too high for even accredited foreign SOEs, then consideration could be given to implementing the scheme with a lower interim review threshold that will be gradually raised over time.

Framing of the Foreign Investment Review Framework

The framing of the foreign investment review framework for both government and private investors should be shifted from an application and universal review basis to a notification, compliance and selective review basis. Instead of applying through the FIRB to have all investment proposals reviewed and authorised by the government, foreign investors (and local vendors) should simply be required to notify the FIRB and register their plans. This would apply to all foreign investment, irrespective of size, source or investor, but not to foreign investment in the sensitive sectors designated under the *Foreign Investment Policy*.

These changes would strengthen the existing legislative presumption that Australia welcomes foreign investment, and send an important message to foreign investors that Australia welcomes foreign investment and trusts its domestic regulatory framework. The Treasurer will retain the right to review, modify and possibly block any proposal beyond the common thresholds that is contrary to the national interest. For investments below the common thresholds, Australia's legal frameworks will ensure that security agencies can selectively and confidentially review potential risks from foreign or domestic investments, and can impose deeds of agreement or licensing conditions that are necessary to protect against dangers.

The notification procedure would require the investor to make a commercial case for the investment, submit detailed information about both parties, and indicate that they understand their obligations under Australian law and regulations. What is significant about this new procedure is that it shifts the burden of review from the investor onto the government, creating a more attractive foreign investment regime while still ensuring that any national security threats are detected and avoided.

This process would also significantly improve the data on foreign investment that is available to the Australian government. This would help public debate and government policymaking to be informed less by anecdote and gut feelings and more by reference to public databases containing the non-confidential information regarding all notified investments.

Infrastructure Investment and National Security

There are genuine questions of national security associated with large-scale investments by any investor in critical infrastructure projects. These concerns are best dealt with not through screening foreign investment but through the clear identification of specific national security threats that can be applied to all such investments and at a national level.

The need for a national approach is demonstrated by the specific foreign investment events mentioned in the Inquiry's terms of reference. Neither the Northern Territory nor the New South Wales governments were required to gain approval from the FIRB or other Commonwealth agencies to lease their state infrastructure to private foreign investors. This is because, as stated in the government's Foreign Investment Policy, foreign persons are not required to seek investment approval for 'Australian business carried on by or land acquired for the Commonwealth, state and territory or local governments' (although this exemption does not apply to foreign state-owned investors).

There already exists a Critical Infrastructure Advisory Council (CIAG) located within the Attorney-General's Department, which is tasked to protect Australia's critical infrastructure. In the light of heightened concern over the national security implications of foreign investment in Australian critical infrastructure, this Council should be reconstituted to include the Treasury and the State and Territory Governments. The CIAG should ensure that rules applying to the management of critical infrastructure, whether foreign-invested or not, are consistent with the national interest and national security. This is not about reviewing individual proposals, but about ensuring that there is sufficient redundancy, risk-sharing and resilience in critical national systems to reduce their vulnerability to strategic threats from individual actors, whether they are foreign or domestic, state-owned or not.

Coherent Policymaking Approach and a Welcoming Investment Environment

Australia's approaches to promoting foreign investment and international trade need to be better aligned to create a more positive and proactive policy environment for Australia's 'economic diplomacy'.[34] Trade, investment and growth are closely linked,

[34] Australian Government, Department of Foreign Affairs and Trade, 'Economic diplomacy'.

and Australia would strengthen its international economic performance through pursuing a holistic policy approach that recognises this.[35] The government should form a ministerial-level Foreign Investment Council involving the Treasurer, the Minister for Foreign Affairs and the Minister for Trade and Investment.[36] The Council would coordinate the macro policy intersections between these portfolios. A standing inter-departmental committee staffed from Treasury and the Department of Foreign Affairs and Trade would service the Council. The Treasurer would retain final decision-making powers over foreign investment proposals.

The Council would complement the FIRB's existing mandate to 'foster an awareness and understanding, both in Australia and abroad' of Australia's foreign investment policy. It would become a focal point for Australia to promote its welcoming attitude towards foreign investment to policymakers and potential investors in other countries, and especially to important new sources of foreign investment such as China and India. This is consistent with a recent A$53 million commitment to boost Australia's profile as an investment destination.[37]

Conclusion

The reforms proposed here are important for the future of the Australian economy and also for the Australia-China relationship, as Australia's treatment of FDI from China and other countries is confusing, corrodes commercial confidence and trust, and reduces access to investment from abroad that could increase national income and trade performance. Stronger political leadership is needed to foster greater community acceptance and domestic treatment of FDI. The United Kingdom provides a benchmark for success in this regard. Chinese FDI may follow the historical pattern in Australia of suspicion towards new FDI sources gradually turning to public acceptance, as happened for successive waves of British, American and Japanese investment. But the recurrence of this cycle of hostility to new investment imposes significant costs in foregone FDI — especially as Chinese FDI will likely intensify with capital account liberalisation over the next two decades — and suggests that structural reform in managing the political environment around FDI is needed.

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[35] OECD, *Policy Framework for Investment*, 2015 edition, OECD Publishing: Paris, 2015.

[36] See: John Denton and Peter Drysdale, 'Time to reposition Australia's foreign investment regime', *The Australian Financial Review*, 14 June 2015.

[37] The Hon Andrew Robb AO MP, Minister for Trade and Investment, '$53 million to attract vital new investment to create jobs', Media Release, 12 May 2015.