

23 November 2009

Foreign Acquisitions and Takeovers Amendment Bill 2009

Second Reading

Mr BRADBURY (Lindsay) (1.24 pm) — I rise in support of the [Foreign Acquisitions and Takeovers Amendment Bill 2009](#), which seeks to make changes to the Foreign Acquisitions and Takeovers Act that has been in place since 1975 as amended. It is an important act because it seeks to achieve a balance between some competing concerns. First and foremost is the need to ensure that we attract foreign direct investment into our country, and there are important reasons why that is necessary, which I will come to shortly. The act is about balancing the need for foreign direct investment with the national interest; it is about providing a basis upon which the Treasurer, working with the Foreign Investment Review Board, can determine whether or not proposals, where they may affect control over a particular business or asset, are in the national interest.

It is important to note that this particular bill seeks to close off one of those avenues that was previously left uncorrected: a potential loophole that certain individuals, businesses or corporations abroad may have been able to take advantage of with respect to particular financing arrangements, whether it be in the form of convertible notes or other instruments where ownership may not be transferred until some later point in time. In essence, the proposals contained within this amendment seek to ensure that the anticipated ultimate ownership reality that might pertain to those particular financing arrangements be taken into account up front when determining whether or not a particular proposal might trigger the interest of the Treasurer and the Foreign Investment Review Board when determining if a proposal is consistent with or potentially a threat to the national interest.

These are important amendments. They are important because they go to the integrity of the regime that we have in place and it is important to maintain the integrity of that regime because it acknowledges the importance of foreign direct investment, but it also acknowledges that there need to be limits to the extent of that investment, and those limits are to be determined by the national interest.

Foreign capital is important for our growth and for jobs in our country. I have many discussions with constituents in my community and there is often much apprehension when it comes to the issue of foreign investment. One of the things that is often not understood when it comes to the issue of foreign investment is that it is an essential requirement for our economy to continue to grow. There are some sectors in particular where we rely upon foreign investment to an even greater extent, and I will come to some of those shortly. But international capital opens up new investment opportunities and helps to develop Australian industries. Foreign direct investment brings new job opportunities for Australians, new innovation and skills development, new technologies and the promotion of competition amongst our industries.

It is important to understand the impact of foreign direct investment in Australia. Foreign investment is particularly important because we are a capital hungry nation and because we do not have the capital available here onshore to invest in those areas that require that investment and that attention. Foreign investment creates jobs and boosts our productivity. One in four jobs in the mining industry, for example, rely on foreign investment. One in eight private sector jobs in Australia are in foreign owned businesses and, as of March 2009, total foreign investment has contributed more than \$1,700 billion to our national economy.

There are some misconceptions in the community as to where foreign direct investment into Australia is coming from. If we look at the figures provided by the Foreign Investment Review Board in its 2007-08 annual report, we see that, by a long distance, the biggest source country is the United States of America. US proposed inward investment of \$49.5 billion represented, in that particular year, about 26 per cent of approved total investment. So a significant amount—about a quarter—of foreign capital coming into Australia is coming from the United States. The other key countries from which foreign investment is coming into Australia include the United Kingdom, Germany, Singapore and Switzerland. These countries accounted for a significant amount of foreign direct investment into Australia in 2007-08, with the UK accounting for 17 per cent, Germany, seven per cent; Singapore, six per cent; and Switzerland, five per cent.

One sector where foreign direct investment is more important than most is in the mineral resources sector. Mineral exploration and development as a sector accounts for a significant proportion of the foreign direct investment that our country attracts. If we look we can see that, in 2007-08, foreign direct investment accounted for \$64.3 billion in approvals. This is important because it is driving jobs in that sector. One in four Australian workers in the mining sector is employed as a result of foreign direct investment. This is an issue that some attention has been drawn to in recent times. I saw an editorial in the Australian last week which said, 'Australia has always needed foreign investment to develop its potential as a resources exporter, and will need much more investment in the future.' And that is true. In fact, that editorial was making reference to a speech that had been given, I think the night before, by Marius Kloppers, the chief executive of BHP Billiton. Mr Kloppers gave a speech which I intend to quote from at some length because I think his comments are relevant and important to this discussion. He said in a speech to the Lowy Institute on Wednesday, 18 November:

Foreign direct investment, or FDI, in major national resources will always be a sensitive issue, and those sensitivities increase when investors have close connections with foreign governments. To my mind, the FDI debate in Australia often misses the critical investment issue. Capital sources to fund resource projects are limited, primarily due to a mismatch between the risk appetites of some funding sources and the inherent riskiness in the projects themselves.

The Australian banks are hesitant to take the lead on syndicating loans for very large projects because they fear that the syndication market may leave them over-exposed, a genuine concern given recent conditions. Foreign banks have shown more willingness to lend ...

The Australian bond market (another typical source of debt funding for companies) has always been stunted, forcing many companies to issue bonds on foreign markets, at a higher cost. Existing shareholders can be a source of equity, and have been tapped extensively by many companies, from all sectors, through this downturn. While this can be effective as a tactical source of funds, it is not a long-term solution.

What we see from that speech that Mr Kloppers gave is recognition that the continued growth and development of our mineral resources sector, which is critical if we are to continue to meet demand and maintain market share in this sector internationally, and our competitiveness really does rely upon our having access to capital and that that access to capital, for the reasons that he outlines—and a number of reasons are outlined there in terms of the nature of our bond market and also the lack of risk appetite on the part of Australian banks—means that if companies seek to further exploit, explore and develop their mineral resource capabilities in this country they need to seek access to capital from offshore. In doing so, they are able to achieve greater growth and more jobs in Australia.

Of course, there is a balancing act, and that is what the Foreign Acquisitions and Takeovers Act is all about: trying to ensure that there is a balance between the need for foreign investment and what is in the national interest. This particular set of amendments seeks only to tighten up, if you like, what factors are to be taken into account when determining whether there is a threat of the sort that should be assessed as to whether or not it is a threat to the national interest.

I should make mention of the fact that, as a member of the House of Representatives Standing Committee on Economics, I have been involved in an inquiry in productivity in the Australian economy. Last Friday, we received evidence from the Australasian Institute of Mining and Metallurgy as part of that inquiry. We heard from Michael Catchpole, the CEO, and Monika Sarder, the manager, in relation to some of the issues pertaining to productivity and its measurement in respect of the resources sector. I will quote from the submission that that organisation made to the inquiry. There is a reference to the 'challenges of increasing remoteness, depth and depleting quality of ore reserves' and the impact that has had on the overall measurement of productivity growth within that sector. I make the point that this really does underline some of the challenges that we do face in the resources sector—that is, owing to the depth, the remoteness and the depleting quality of our resources, more and more investment needs to be undertaken in order to extract the materials that we know are in demand internationally. That is why it is important that we ensure that companies trying to exploit those resources have the capacity to do so by having access to the capital they need.

It is an important point to understand because we have all been beneficiaries of the minerals resource sector boom in this country. People employed in electorates such as Cowan—the member for Cowan has now left the chamber but spoke very passionately about the jobs in his electorate—and other parts of the country have been direct beneficiaries. In my electorate the same numbers of mining jobs are not available, but clearly overall living standards have improved and people have benefited greatly from the impact of the mining boom, whether through greater revenue collection for government, allowing it to pursue high priorities or bring forward priorities that might not otherwise have been delivered upon or, through the tax and transfer system, to deliver benefits or accommodation to taxpayers in other parts of the country.

As Australians, we all recognise the importance of our resources sector and we understand that it is an important platform for future growth in this country. That is why it is important to ensure that we do not lose market share. Many people close to the sector are making the point that as a nation we must be careful not to take for granted the investment that we are receiving from this sector. If we do that it will be at our own peril. The consequences will be, ultimately, a loss of market share, and to lose market share is to begin to give away some of the comparative advantage that we have as a nation. So it is critical that we ensure a competitive and efficient resources sector. Central to ensuring that competitiveness and efficiency is access to capital, and if that capital cannot be sourced from within our shores then as a nation our aspirations and ambitions for growth require us to seek capital elsewhere. But when we do so it is important that we do so in a way that does not compromise the national interest. That is why these amendments, which seek to strengthen the provisions of the Foreign Acquisitions and Takeovers Act, will ensure that as a nation we can continue to strike a balance between having a regime that attracts foreign direct investment and ensuring that the national interest continues to prevail. I commend the bill.