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ANALYSIS

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## CHINESE PERSPECTIVES ON INVESTING IN AUSTRALIA

### EXECUTIVE SUMMARY

*Australia is China's top foreign direct investment destination (Hong Kong aside). Yet, despite repeated official welcome messages, many Chinese investors and officials perceive that Canberra discriminates against Chinese investors, particularly those looking to invest in natural resources.*

*The purpose of this paper is not to assess the veracity of Chinese claims of discrimination against Chinese investment into Australia but to understand better the reasons behind those perceptions and to identify policy-presentational issues and possible responses.*

*China's negative perceptions largely flow from Australia's foreign investment regime and the related failure of significant Chinese investment proposals in recent years. Moreover, the additional guidelines covering foreign investment applications from government-related entities are perceived to be directed primarily at China.*

*Such perceptions matter. China is our largest trading partner and an increasingly important source of global capital. Right now, we need China and China needs us. However, if China was to become less dependent on Australian resources and the perception of discrimination remain, the bilateral relationship could be tested more severely.*

*Australia should rightly continue to assess foreign investment from a 'national interest' perspective. But, where Canberra believes that there are unwarranted perceptions of discrimination against China, additional steps should be taken to reduce misunderstandings. This includes a more proactive approach by Australia's Foreign Investment Review Board in dealing with Chinese investors and officials.*

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**CHINESE PERSPECTIVES ON INVESTING IN AUSTRALIA****Introduction**

Chinese investment into Australia has increased rapidly in recent years, becoming more significant for both countries. Australia is now the top investment destination for China (aside from Hong Kong). Official Australian pronouncements repeatedly emphasise that Chinese investment is welcome. Despite this, however, some Chinese investors and officials perceive that Australia discriminates against Chinese investors, although that perception is generally not one that is shared by their investment advisers.

Chinese concerns about discrimination reflect the additional scrutiny applied to investments from government-related entities, which account for the bulk of Chinese investment in Australia. A number of failed high-profile deals have also added to that perception, particularly Chinalco's 2008 failed bid to take a controlling stake in Rio Tinto (see Box 2 below). Despite Australia's popularity as an investment destination, many Chinese investors believe that Australia is a more difficult place to invest compared with other countries. In their view, discrimination is driven by Australian nationalism; the unfair Australian perception that state-related investors are not driven solely by commercial criteria; concerns about China as owner and customer; and, going further, Australian (and Western) geopolitical concerns about China's rapid rise. Australian government policy towards Chinese investment is also seen as unduly driven by the media. Perceptions of discrimination are more likely to be felt by investors with limited experience of Western political and business culture. In response to these problems, Chinese investors are becoming more sophisticated in the pursuit of their commercial and strategic objectives.

Right or wrong, these perceptions matter. China is now Australia's most important bilateral trading relationship and is developing as an increasingly important source of capital. But Australia and China are still a long way apart in terms of culture, political system and views of plurality. All this can give rise to investment-related tensions that can escalate into more serious problems for the overall Australia-China relationship, especially when compounded by differences on other issues (including those that China regards as its internal affairs).

The Australian government's approval process for Chinese investment – particularly for natural resources – is the overwhelming focus of Chinese complaints. But Chinese investors also face a range of difficult issues in managing an Australian business.<sup>1</sup>

The purpose of this paper is not to assess the veracity of Chinese claims of discrimination against Chinese investment into Australia.<sup>2</sup> Rather, it is to better understand the reasons behind those perceptions as well as to identify policy-presentational issues and possible responses.

The paper draws on official data sources, business surveys and research publications, as well as confidential interviews (in Australia and Beijing) with Chinese investors, investment advisers and officials.

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The paper is in four parts. Part 1 looks at China's 'go global' strategy for offshore investment and its motivations. Part 2 examines the importance to both countries of China's outward investment and outlines Australia's foreign investment regime as it affects China. Part 3 reports on the Chinese experience of investing in Australia, including perceptions of discrimination. Part 4 examines some of the policy-presentational issues for Australia.

**Part 1: China's 'go global' strategy**

As part of its greater integration with the global economy, China embarked on a 'go global' strategy for outward foreign direct investment (OFDI) in 1999. Initially, the Chinese government emphasised the benefits of the strategy by relating it to economic globalisation, technological upgrading and international competition. Beijing also promoted it as being integrated with foreign capital inflow into China.<sup>3</sup>

The strategy's objectives have broadened over time, not always explicitly, to include:<sup>4</sup>

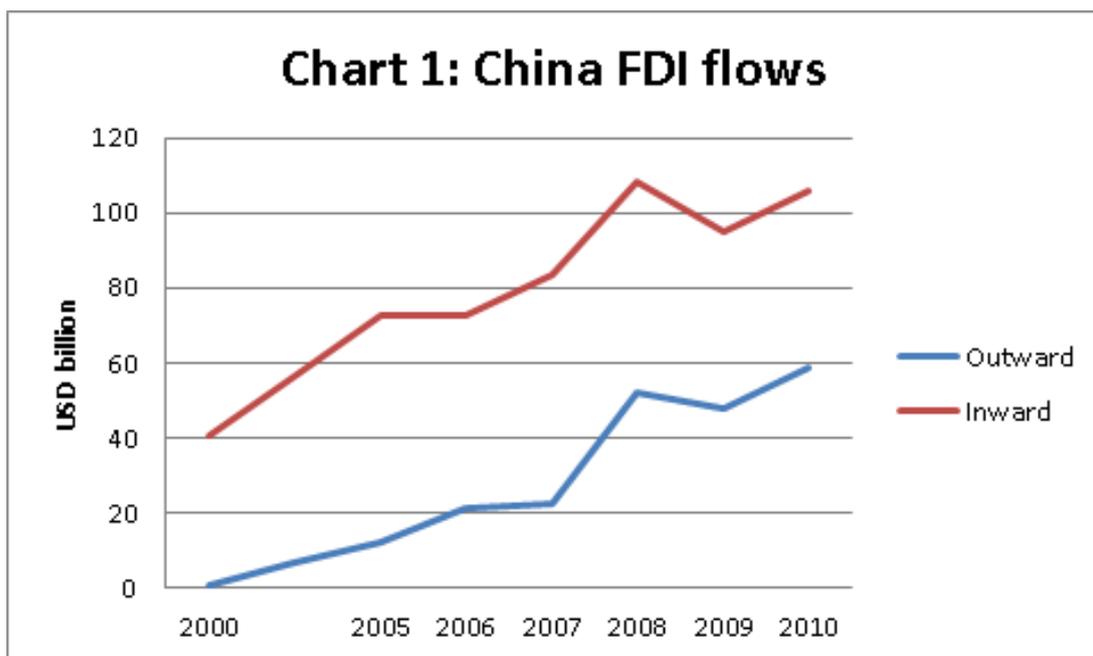
- Broadening the range of Chinese offshore investment, which (in the context of rapidly increasing foreign exchange reserves) is still heavily concentrated in low-yielding US Treasury securities;
- Improving security of resource supply.<sup>5</sup> China needs strong economic growth to fulfil the central government's implicit social contract with its people, which is central to social stability and keeping the Chinese Communist Party in power. Direct ownership of offshore resources satisfies a number of Chinese objectives: access to supply 'off-take') and a related price hedge against volatile commodity prices, as well as a financial return;
- Increasing the international competitiveness of Chinese industry, particularly in the state-owned sector;
- Acquisition of technology, brands and know-how;
- Expanding markets in the context of an increasingly competitive Chinese market;
- Avoiding international barriers to Chinese imports;
- Taking advantage of the global financial crisis and distressed prices; and
- Taking advantage of the strengthening Renminbi.

More broadly, China's expanding OFDI is in line with its expanding global trading presence. Together, they strengthen China's growing global influence and therefore have implications extending beyond economics.

The Chinese government's high-level message to Chinese investors, especially the state-owned enterprises (SOEs), to 'go global' is also supported by the ready availability of finance from the state-owned banks and policy banks.<sup>6</sup>

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At the macro level the impact of this strategy can be seen in the rapid increase in China’s OFDI in recent years from the low levels in 2000 (Chart 1).<sup>7</sup> Despite that increase, however, outward flows are still dwarfed by inward flows.<sup>8</sup>

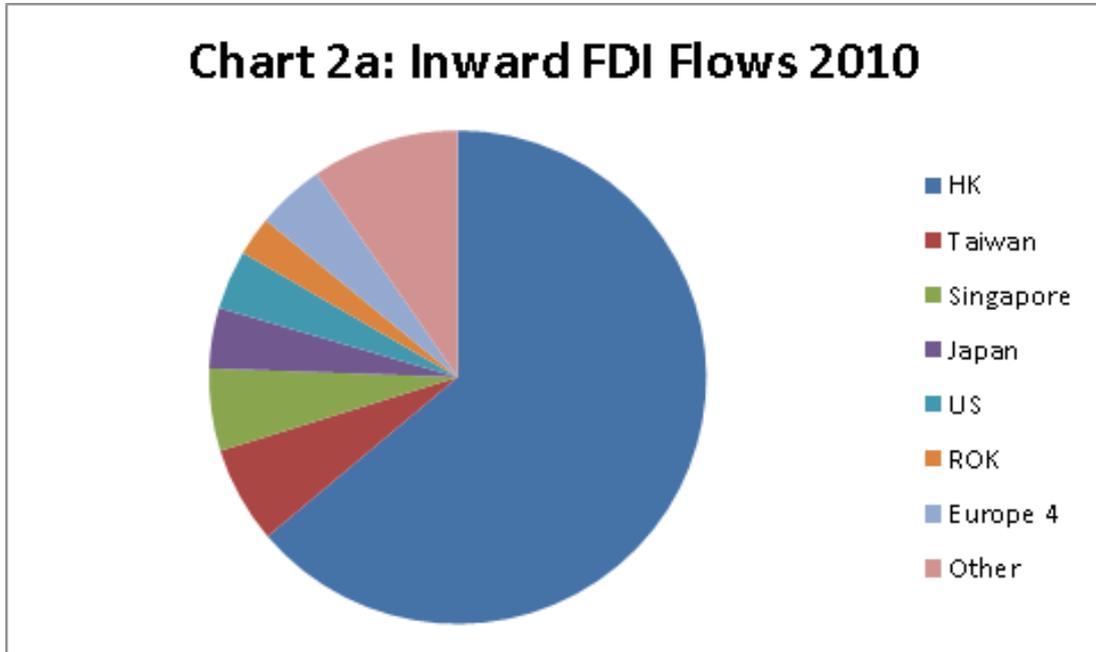


Source: UNCTAD statistics; Ministry of Commerce, China

These policies have seen China become a major new source of global FDI. In 2009, China FDI accounted for 4.4% of total global FDI outflows, putting China in fifth place behind the United States, France, Japan, Germany and Hong Kong. Unofficial estimates for 2010 indicate that China’s proportion of total global FDI outflows increased to 5.3%.<sup>9</sup>

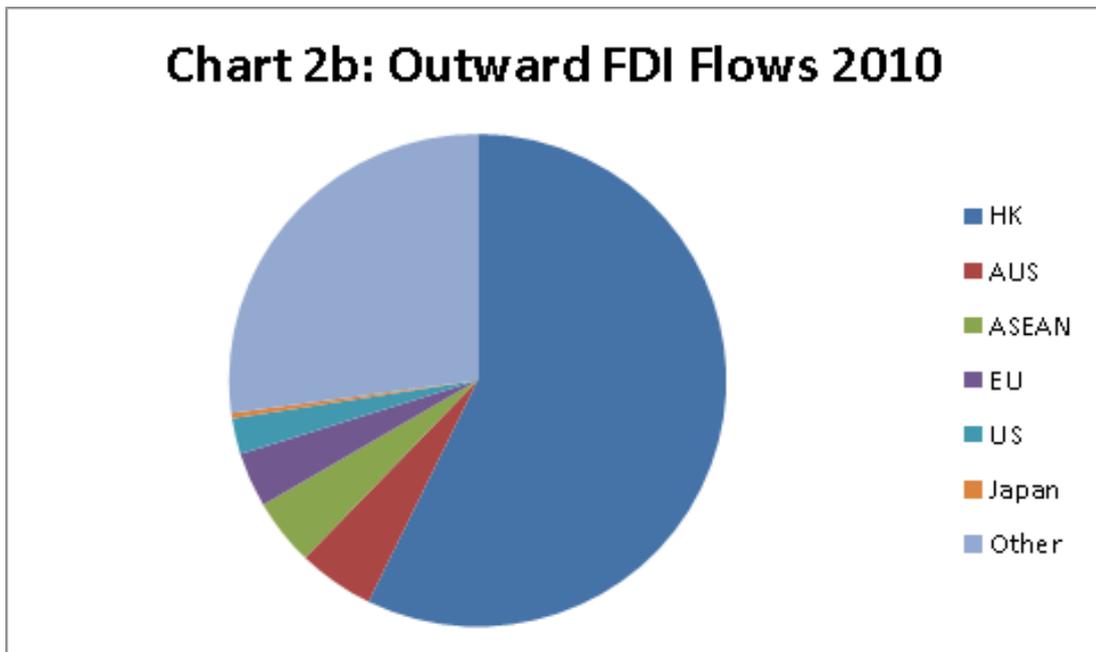
Hong Kong plays a major role in both inward and outward Chinese flows (Chart 2). Two thirds of these flows are *from* (for inward flows) or *to* (for outward flows) Hong Kong. This has led to a widespread view that a significant proportion of these flows is being channelled back to the mainland, in order to obtain preferential investment treatment.<sup>10</sup> Another substantial proportion of outflows takes place via tax havens,<sup>11</sup> where the ultimate destination is unclear. While these flows suggest that Chinese *official* OFDI is overstated, it is also likely that increasing Chinese *private* OFDI is not captured in the official Chinese data.<sup>12</sup>

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Source: MOFCOM, Statistics of China's absorption of FDI 2010, 27 January 2011.

Note the FDI inflows from the tax havens have been allocated to the originating countries. Europe 4: UK, France, Netherlands and Germany.



Source: MOFCOM, press conference, 18 January 2011.

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Chinese OFDI can take many forms: mergers and acquisitions, joint ventures and greenfield development.<sup>13</sup>

What are the motivations for offshore investing at the Chinese *company level*?

For a start, the SOEs that dominate China's economic activity<sup>14</sup> are heavily influenced by the official 'go global' strategy. In part, SOE management's performance and promotion prospects will be determined by their success in following official policy. Those prospects will be improved if the executives can achieve control of a high-profile, high-quality and low-risk investment at a reasonable price. So, while the 'go global' strategy certainly has commercial and strategic objectives at the national level, nevertheless, the commerciality of OFDI may not always be the *prime* motivation at the company level.

An official survey of Chinese investment intentions<sup>15</sup> shows that the government's 'go global' policy and related incentives was the single greatest push factor, followed by availability of investment capital. Other factors – primarily related to offshore market opportunities (reflecting a perceived stagnant domestic market, rising domestic labour cost and a desire to save transport costs) were less important. Natural resource security was not mentioned (most likely as the survey sample was biased towards SMEs rather than larger SOEs).

A Canadian-focused survey<sup>16</sup> of Chinese investors also reported that the 'go global' policy was the prime factor. Other significant factors were: to acquire technology, management experience, and international brands; and to avoid the saturated domestic China market.

Another survey<sup>17</sup> concludes that almost half of China's outbound M&A transactions were driven by the need to support the country's growing demand for energy and natural resources, followed by the desire to access new markets and technology.

Finally, another perspective on country selection can be gained from academic research into the country pattern of Chinese OFDI. These 'gravity models' usually find a positive relationship between Chinese OFDI and countries with large populations, with natural resources and with a Chinese cultural or language background; and a negative relationship with distance. More controversially, one study finds that Chinese OFDI is attracted to countries with natural resources, *the worse the institutional environment of that country*.<sup>18</sup>

#### *China's approval process for offshore FDI*

Offshore FDI requires the approval of a range of Chinese authorities, including the national or provincial authorities responsible for SOEs (the State-owned Assets Supervision and Administration Commission, SASAC), the National Reform and Development Commission (NDRC) and the State Council (depending on transaction size). Authority for the use of foreign exchange is also required from the State Administration of Foreign Exchange (SAFE).<sup>19</sup> For SOEs, NDRC approval will usually come

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after a commercial agreement has been reached but before any final approvals from the target country’s approval authority. NDRC approval will focus on the nature of the investment and the investment parties, rather than imposing particular conditions, such as levels of equity ownership. In recent times, the Chinese government has announced a range of measures to improve the process for OFDI.<sup>20</sup>

*Target country approval processes*

Chinese investors must also obtain approval from target countries for their OFDI. Approval processes vary across countries, including the criteria and the degree of transparency. Australia’s ‘national interest’ criterion is broadly similar to Canada’s ‘net benefit’ criteria, and both are broader than the United States’ focus on security considerations.<sup>21</sup>

**Part 2: The Australia-China investment relationship**

Australia’s investment in China is limited and Australia is not a significant source of FDI inflow to China.<sup>22</sup> By contrast, Australia was the highest-ranked destination for China’s OFDI in 2009 and 2010, excluding Hong Kong and the tax havens (Table 1).

**Table1: Country ranking of China’s OFDI, 2009 and 2010**

2009 country data (1)		2010 region and country data (2)	Intended investment destination (3)
Stocks	Flows	Flows	
Australia	Australia	Australia	Australia
Singapore	Singapore	ASEAN	US
US	US	EU (excluding Luxembourg)	Nigeria
South Africa	Canada	US	Brazil
Russia	Russia	Japan	Kazakhstan
Canada	Myanmar		
Kazakhstan	Turkey		
Pakistan	Mongolia		
Mongolia	Republic of Korea		
Republic of Korea	UK		

Source: (1) 2009 *Statistical bulletin of China’s outward foreign direct investment*, MOFCOM; (2) MOFCOM, press conference, 18 January 2011. Table excludes Hong Kong and tax havens. More detailed country destination data was not provided; (3) China Global Investment Tracker, Heritage Foundation. The data is based on non-bond transactions over USD100m from January 2005 to December 2010.

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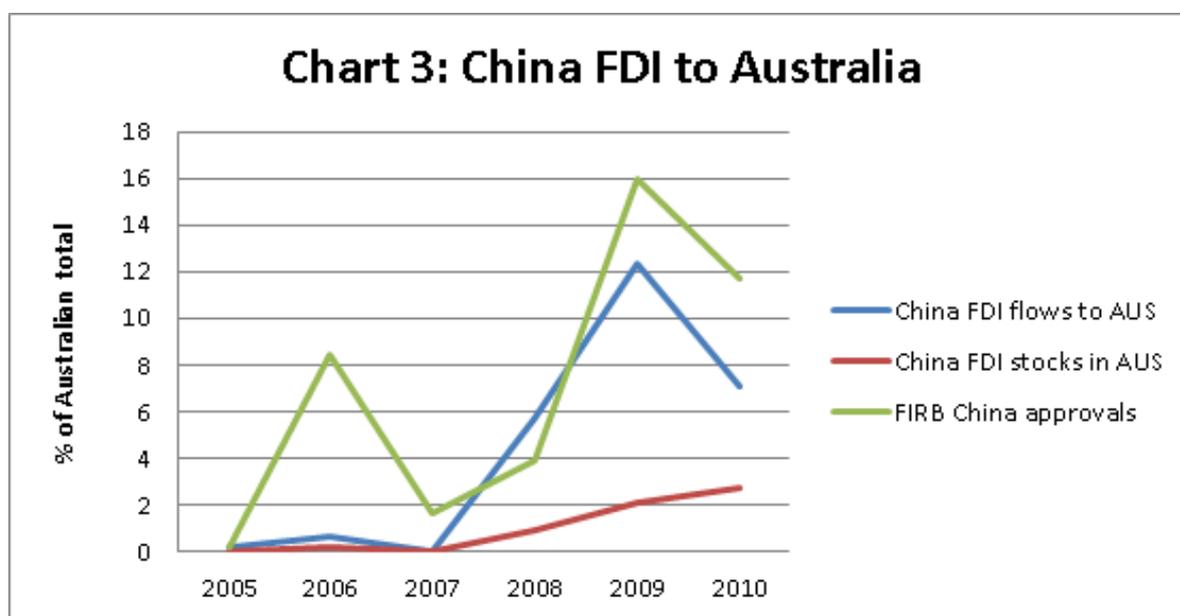
This country ranking is primarily the result of individual investor (mainly state but also some private) decisions about the attractiveness of individual projects and countries, rather than any policy-directed targeting of particular countries. Indeed, in discussions with Chinese officials for this paper, the view was that there is no official ranking of target countries. That said, however, there is little doubt that official policy aimed at securing resource supply has played an important role in the ranking for Australia, Canada and some developing countries.

Australia’s top ranking as an *intended* investment destination is also confirmed by the Heritage Foundation’s tracking of Chinese attempted transactions, both successful and failed. These actual and intended rankings are in contrast to the country rankings of intended destinations from the business surveys, cited above.

Clearly, Australia’s major attraction is resources. Ninety per cent of Foreign Investment Review Board (FIRB) approvals for Chinese investment were for the ‘mineral exploration and development’ sector in recent years.<sup>23</sup> By contrast mining accounted for only 20% of total Chinese OFDI in 2010.<sup>24</sup>

*How important is China’s FDI to Australia?*

China is also becoming more important to Australia as a source of FDI (Chart 3).



Source: ABS Catalogue 5252, *International investment position, Australia: supplementary statistics, 2010*, Canberra, 2011; Foreign Investment Review Board, *Annual reports*. FIRB data is for the financial year ending June in each year.

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Chart 3 shows that although the *stock* of Chinese FDI in Australia is only 3% of the total, China’s proportion of FDI *inflows* and FIRB *approvals* rose rapidly in recent years (although there was a fall in both proportions in 2010).<sup>25</sup>

Table 2 shows the top five country rankings of FDI in Australia and for FIRB approvals.

**Table 2: Country rankings: FDI into Australia and FIRB approvals**

FDI Stocks	FDI Flows	FIRB approvals
United States	United States	United States
United Kingdom	Japan	United Kingdom
Japan	Singapore	<b>China</b>
Netherlands	Canada	Japan
Switzerland	Switzerland	Switzerland
<b>China (9<sup>th</sup>)</b>	<b>China (6<sup>th</sup>)</b>	

Source: ABS Catalogue 5252, *International investment position, Australia: supplementary statistics, 2010*, Canberra, 2011; Foreign Investment Review Board, *Annual report, 2009-10*.

So, while China’s proportion of FDI stocks in Australia is still substantially below other countries, China’s share will continue to increase – perhaps quite sharply – based on current trends for FDI inflows and FIRB approvals.

*Australia in Chinese investment intention surveys*

Given the importance of Australia as an OFDI destination for China, it is perhaps surprising that Australia does not feature more highly in the limited number of surveys of Chinese OFDI intentions.

Survey results present a somewhat contradictory picture.

The latest official survey by the China Council for the Promotion of International Trade (CCPIT) showed that Asia was the most favoured investment destination, followed by Europe and North America, with a much smaller proportion of respondents favouring Australia (which was ranked below Africa).

The CCPIT survey of Chinese investment intentions also suggested that in terms of general openness to Chinese investment, the United States was ranked most highly, with Australia ranking second (again perhaps reflecting the survey sample’s weighting toward SMEs), followed closely by South Africa.<sup>26</sup> This compares with the OECD’s measure of FDI restrictions, where Australia was ranked as more restrictive than both the average for OECD countries and for all countries in the survey.<sup>27</sup> A Canada-focused 2010 survey of Chinese investors rated Australia well below other intended destinations (North America, Europe and Asia) and below Africa.<sup>28</sup>

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The EIU survey cited above also asked about the ease of doing business. Here, respondents ranked 'Africa', followed by the United States and South-east Asia as the easiest. (Australia did not even rate a mention.) At the same time, the United States was also overwhelmingly ranked as the hardest country in which to make an acquisition. (Again, Australia did not feature.)

### Part 3: Chinese investor experience in Australia

#### *Chinese official guidance on investing in Australia*

Official guidance from China's Ministry of Commerce (MOFCOM) provides some indication of the issues faced by Chinese investors looking to invest in Australia.<sup>29</sup> MOFCOM regards Australia as a safe and very low-risk country for foreign investment. However, it also sets out a number of problems in investing in Australia, such as: increasingly stringent verification and approval processes; difficulty in obtaining work permits; and the challenges for Chinese companies from the different business operating environments, laws and regulations, as well as the lack of Chinese international talent.

The MOFCOM guide also emphasises the need for Chinese companies operating in Australia to obey rules and regulations and to protect the reputation of the company.

There is a separate section on dealing with the media. The MOFCOM guide notes that the Australian media is very sensitive to Chinese investment in Australia and there is often some negative news. The guide suggests that investors respond to these concerns by being responsible (that is, by obeying laws), working with the media to get positive coverage of China, and working with local consultants.

#### *MOFCOM 2010 report on Chinese OFDI*

While not specific to Australia, MOFCOM reported<sup>30</sup> that 65% of failed deals since 2005 were owing to foreign regulation.

The report also highlighted the difficulty faced by Chinese managers with little cross-border experience.

#### *Investment surveys*

Again, while not specific to Australia, surveys of Chinese investors highlight problems in going offshore:

- The CCPIT survey emphasised the difficulty in obtaining finance; lack of understanding of Chinese brands by foreign consumers; concerns about the quality and safety of Chinese products; and a lack of international business and management personnel. Interestingly, and in contrast to other evidence (reported below), the survey reported that cultural barriers and negative responses by governments to Chinese investment were *not* significant challenges.

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- The EIU survey cited above identified a lack of management expertise in handling OFDI as the biggest challenge. It also noted that the tensions raised by high-profile deals meant that better communications were required with all stakeholders, not just the government.
- According to the Canadian-focused survey cited earlier, Canadian-specific issues included: lack of managerial expertise; difficulties in finding business partners; and lack of knowledge about legal and market risks. The possibility that the Canadian government might react negatively to Chinese investment was *not* seen as a major challenge.

*Feedback from Chinese investors, advisers and officials*

In order to gauge the experience of Chinese investors in Australia, the author held confidential discussions with Chinese investors, their investment and communications advisers, Chinese journalists and officials, in Australia and in Beijing in early 2011.

Based on that feedback, Australia is regarded as an attractive investment destination, in line with the actual data showing Australia's leading position as target for Chinese OFDI. Most respondents suggested that the primary motivation for investing in Australia is financial, rather than any explicit imperative from the Chinese government's 'go global' strategy. For Chinese mining and metal companies, there was a strong motivation to secure access to resources.

The major comment and complaint from respondents related to Australia's foreign investment approval process and how this is administered by FIRB.

**Box 1** outlines the FIRB process, along with additional criteria that apply to foreign government related entities.

**Box 1: Australia's foreign investment review process**

FIRB provides advice to the Treasurer on foreign investment proposals.

The FIRB's 'national interest' assessment of foreign investment applications applies both statutory<sup>31</sup> and policy guidelines. Neither FIRB nor the legislation defines the 'national interest' in any formal way, and there are generally no hard rules on ownership levels. Applications are considered on a case-by-case basis. This enables all investments to be considered on their merits and not ruled out simply because ownership levels breach an arbitrary level.

In assessing the national interest, the FIRB takes into account such factors as: national security; competition; the impact on other government policies (such as taxation); the broad impact on the economy and community; and the character of the investor.

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Foreign investment involving an interest in an Australian business below \$231 million (indexed) is not subject to FIRB approval, with a substantially higher threshold for US investors. However, proposals involving foreign government or government-related entities are scrutinised more closely, subject to thresholds on government ownership of the applicant and the interest of the applicant in the target (see below).

In addition, applications from foreign government-related entities must address whether:

- the investor's operations are independent of government;
- the investor is subject to and adheres to the law and observes common standards of business behaviour;
- the investment could hinder competition;
- the investment may impact on Australian government revenue or other policies;
- the investment may impact on Australia's national security; and
- the investment may impact on the operations of an Australian business.

The Treasurer has said that these guidelines emphasise the need for independence and commerciality and that their release promoted transparency in how the national interest test is applied. 'The guidelines are non-discriminatory – we apply them to investments by all foreign government entities. They do not target or restrict any particular country'.<sup>32</sup>

In 2009, during a period when FIRB was considering a number of high-profile Chinese SOE applications, a FIRB official indicated that FIRB would prefer that SOE investments had a maximum interest of 15% for major mining projects and a maximum of 50% for a greenfield investment.<sup>33</sup>

In June 2010 a revised FIRB 'Framework Document' appeared to drop the former six principles, replacing them with a broader consideration of whether the investment is commercial in nature and whether the investor may be pursuing broader political or strategic objectives.<sup>34</sup>

The revised document also clarified or defined threshold levels applying to government-related applications. It defined a foreign government-related entity as one with government ownership of more than 15%<sup>35</sup> and said that foreign government-related entities could acquire up to 10% interest without notifying FIRB<sup>36</sup>.

In its recent survey of Australia, the OECD noted the need to improve FDI transparency by providing more information on the criteria applied in government decisions.<sup>37</sup>

In responding to complaints about difficulties faced by Chinese investors, the Australian government notes that FIRB has approved 230 applications since November 2007 (only six with conditions) with a total value of \$60 billion. There have been no rejections over this period.<sup>38</sup> Note, however, that these

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figures would not capture applications withdrawn or not submitted because of the unwillingness of Chinese investors to submit to a lower ownership level or other conditions.

Chinese investors and officials, although acknowledging the significant increase in Chinese FDI to Australia, tend to believe that there is discrimination against China by the FIRB and the government. This particularly relates to ownership restrictions for natural resources.<sup>39</sup> Interestingly, their investment advisers generally *do not* share that view of discrimination – although they do confirm that Chinese investors, particularly those less experienced in international investing, perceive discrimination. These advisers also note that Chinese investors that are only familiar with dealing with the Chinese state tend to find it difficult to deal with multiple stakeholders and public policy influencers. Under such circumstances, deal failures can be unfairly blamed on the Australian government.

When asked about the evidence for discrimination, interviewees tended to raise the following points: the failure or problems with a number of high-profile transactions (see Box 2); the additional guidelines that FIRB applies to assessing state-related foreign investment (which are seen more as directed at China rather than at state-backed FDI more generally); the unofficial FIRB comments in 2009 about acceptable levels of equity ownership (which, once again, were seen as directed at China);<sup>40</sup> and negative media stories about Chinese investment, which are seen as influencing popular opinion and government policy.

**Box 2: Some sensitive cases of Chinese investment in Australia***Chinalco and Rio Tinto, 2008.*

During the global financial crisis (GFC), Rio Tinto came under significant financial pressure. Chinalco and Rio announced they were discussing an arrangement whereby Chinalco would inject funds to ease Rio's debt burden and Chinalco would be issued additional shares, taking Chinalco's stake to 15% of Rio. The proposed deal was subject to regulatory approval, including by FIRB. While the approval process was under way, global economic and financial conditions improved, Rio's financial position also improved, and BHP Billiton made a counter-proposal for a JV with Rio.

The Chinalco and Rio deal collapsed owing at least in part to shareholder opposition. Rio and BHP then began to seek regulatory approval for their proposed JV, which was ultimately unsuccessful.

During this protracted process, the Treasurer did approve Chinalco's acquisition of shares in Rio Tinto of up to 14.99%, subject to Chinalco not raising its shareholding (without fresh approval) and not seeking to appoint a director to Rio Tinto.

**CHINESE PERSPECTIVES ON INVESTING IN AUSTRALIA***China Nonferrous Metal Mining and Lynas, 2009*

A commercial agreement was made between the two parties, including for the Chinese partner to take a 51.66% stake. The Treasurer said that the application would be approved if the Chinese partner reduced its stake to 49% and agreed to reduce its board representation to less than half.

This requirement was not agreed and the application was withdrawn.

*China Minmetals Non-ferrous Metals and OZ Minerals, 2009*

The Treasurer approved Minmetals' application to acquire certain mining assets subject to a number of legally enforceable undertakings (including operating the acquired mines as a separate business with commercial objectives; operating the mines using companies incorporated, headquartered and managed in Australia; and pricing all off-take on an arms-length basis).

An earlier takeover proposal by Minmetals for OZ Minerals that included Prominent Hill, which is located in the Woomera Prohibited Area, was not approved on national security grounds.

Chinese investor and official views that the six additional guidelines were directed at China have since received some support in the form of the WikiLeaks report of a cable from the US Embassy in Canberra, relaying the comment by a senior FIRB official that the additional measures were 'aimed squarely' at China.<sup>41</sup>

*Failure of significant proposals*

In the view of many Chinese investors and officials, the failure or problems with the FDI applications listed in Box 2 would not have arisen for a non-Chinese investor.

- Chinese investors and officials see the failure of the Chinalco deal largely as a result of lobbying by BHP (a view strengthened by cables released by WikiLeaks),<sup>42</sup> negative media attention and FIRB delays (although not rejection) all of which ultimately encouraged Rio to accept the counter proposal for a Rio Tinto-BHP tie-up.
- They see the failure of the Lynas deal to be a result of FIRB imposing unacceptable conditions on Chinese equity ownership and governance, along with the requirement for arms-length commercial contracts. In some quarters, these conditions were seen as a loss of face for the Chinese investors. Chinese contacts recognised the concern about China's dominance of the rare earth metals market but believed that a Western country would not have been blocked. Documents released under Freedom of Information confirm that FIRB was concerned about China's existing dominance of the rare earths market; that new Australian production would be the only near-term alternative source of supply to non-Chinese users; and that Australia's reputation as a reliable supplier to all trading partners could suffer – and hence the deal could be contrary to the national interest.<sup>43</sup>

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- While the Minmetals-Oz Minerals deal ultimately went ahead without Prominent Hill, Chinese investors and officials again felt that a Western country would not have been rejected on security grounds – and hence see this as discrimination against China.

### *Negative media*

Chinese investors and officials frequently see the Australian media playing a negative role in reporting on Chinese FDI into Australia. This negative media is seen to influence popular opinion and government policy. They believe that in some cases involving Chinese investment, large Australian corporate interests were also able to marshal support from the media, adding to pressure on the government to take a more negative approach to Chinese investment.

Popular perceptions of Chinese investment also tend to be negative. The 2011 Lowy Institute Poll showed that 57% of respondents thought that the government was allowing too much Chinese investment (and only 3% thought there was not enough). This survey also revealed more general ambivalence towards China: 75% of respondents agreed that China's economic growth was good for Australia; while 44% said that China was likely or very likely to pose a military threat to Australia within 20 years.<sup>44</sup>

### *Motivation for discrimination*

When asked 'why do you believe that Australia would discriminate against Chinese investment?', Chinese investors and officials gave no consistent response, although there were some recurring (and overlapping) themes: Australian protectionism /nationalism; suspicion of China because it is a communist country; concerns about Chinese state ownership of Australia's resources (especially when both an owner and customer); subsidised Chinese state financing (via Chinese banks); concerns about China's growing economic strength; and, related to that, Australia playing a part in a US-led strategy to contain China.

### *The focus of concern is natural resources*

The overwhelming focus of Chinese investor and official complaints is in regard to investment in Australia's natural resources. Other sectors are generally uncontroversial, with the exception of agricultural land (see below).

From discussions with Chinese banks operating in Australia, it seems that there is no perception of discrimination against Chinese banks. However, a number of banks did criticise what they saw as Australia's very slow and complex approval process for Chinese banks to establish branches, compared with their experiences in other Western countries. This was seen as discrimination against *all* foreign banks and a lack of Australian Prudential Regulation Authority (APRA) resources to process applications expeditiously, however, rather than a policy targeted at Chinese institutions.

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**CHINESE PERSPECTIVES ON INVESTING IN AUSTRALIA***Operating in Australia*

For foreign investors taking a direct equity stake and exercising some degree of management control, the approval process is only the first step to operating in Australia. Chinese investor experience varies depending on the level of equity ownership; the extent of day-to-day management of the target; and the sophistication or international experience of those investors. For those companies with less than substantial control, the Chinese managers will be working with a largely Australian management. Issues can arise when Chinese managers are appointed to companies with larger Chinese ownership levels and there is difficulty in working within the Australian business culture. There can also be a lack of understanding that a positive company reputation is critical to ongoing government support (at all levels).

The major problems for Chinese investors include dealing with local laws and regulations (especially those relating to labour and the environment) and the need for consultation / approval from multiple government levels and agencies, and with local communities. One adviser reported that 80 to 90% of the issues faced by Chinese investors in Australia were about ensuring the right people were in place.

In addition, Chinese companies tend to complain about inadequate infrastructure and high labour costs (especially for unskilled staff).

The availability of Chinese workers is an issue that reveals much about the different political environment operating in Australia (and other Western countries), compared with operating in other countries. In some countries in Asia, Africa and the Pacific, Chinese OFDI has been accompanied by substantial Chinese workforces to help develop the projects and the associated infrastructure. For some of these countries, that may be acceptable as a way of ensuring more timely development. However, Australian policy will usually only allow skilled temporary workers and require English language proficiency. Some Chinese investors and officials find this policy difficult to understand.

*Mining tax*

According to the interviews conducted for this paper, the mining tax has hurt Australia's reputation with Chinese investors and their advisers, even to the extent of prompting some of them to cite 'sovereign risk' as an investment issue. Those investors with projects under way or currently operating were the most aggrieved; potential investors said they would be reassessing the viability of projects. Some of the more sophisticated Chinese investors anticipated the tax. But many others did not, delivering a negative surprise. Of course, such concerns are not unique to China: for example, a global survey of mining companies (perhaps not surprisingly) saw Australia's ranking as an investment destination fall significantly because of the mining tax.<sup>45</sup> The associated negative press in China about the mining tax also carried stories to the effect that China may look elsewhere.<sup>46</sup>

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**CHINESE PERSPECTIVES ON INVESTING IN AUSTRALIA***How Chinese companies are responding and adapting*

Chinese investors are responding and adapting to the problems they have faced in investing in Australia (and in other Western economies). These changes include:

**Lower equity objectives.** Chinese investors recognise that they can achieve their primary objectives (financial return and, in the case of resource investments, supply off-take) without ‘control’, that is, without seeking to be the dominant equity holder. In part, this new approach reflects a Chinese official post-mortem on the failed Chinalco-Rio Tinto deal. One report<sup>47</sup> emphasised the difficulties of gaining large equity stakes in sensitive industries and concluded that Chinese objectives could be satisfied with lower equity holdings. There is some question about whether the earlier higher equity objective was driven by the investors themselves or by the Chinese government (including through NDRC) – to the extent it is possible to differentiate between SOE investor objectives and the objectives of the central government. While some Chinese reports<sup>48</sup> indicate that the NDRC was behind the attempts to obtain a controlling interest, the NDRC claims that the level of equity control is a matter for the individual investor and that its role is to approve the investment in terms of its commerciality.

The author understands that MOFCOM has also advised Chinese SOEs to pursue lower equity stakes.

A lower equity stake may also be a consequence of recovery from the global financial crisis (GFC). In the early stages of the GFC, Australian companies, as in many other countries, were under financial stress and much more willing to accept Chinese OFDI, including majority stakes. As the GFC subsided and, in particular, Australia appeared to be weathering the GFC relatively well, Chinese investors faced a tougher time acquiring majority stakes because the companies were in stronger financial shape and because the ‘national interest’ boundaries were shifting.

Aiming for a lower equity stake could represent a mutually acceptable accommodation between Chinese investors (on the one side) and FIRB and the government (on the other). It seems that Chinese FDI is indeed welcome by the Australian government but it can be politically difficult to approve substantial ownership in large projects, unless there are compelling circumstances.

**Looking further afield.** While Australia remains an attractive target for Chinese OFDI, particularly for resources, a number of factors are leading Chinese investors to look at other countries, especially in Africa and Asia. These include: the desire to further diversify their country OFDI; the difficulties, especially post GFC, of securing the ideal mining investment package (that is, large, high quality, and low risk, and all at a reasonable price); the perceived push-back on mining investment in Australia; the new mining tax; and a relatively more accommodating approach by other countries towards using imported Chinese labour.

China’s OFDI push may also be assisted by improving perceptions of its positive influence, especially in Africa, Asia (excluding India and Japan) and South America, compared with more negative perceptions

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of China in Europe and North America, as captured by a recent BBC poll (Australia perceptions of China in this survey were neutral).<sup>49</sup>

One force pushing against this trend, however, is the heightened political risk in Africa and the Middle East as a result of the ‘Arab Spring’.

**Less focus on M&A and more on joint ventures (JVs).** Perceived Australian push-back on public equity ownership is leading to more JV arrangements:

- Between Chinese and Australian companies for operations in Australia, such as the JV between Sinosteel and Rio Tinto for iron ore production;
- Between Chinese and Australian companies to invest in third countries, for example, the JV between Chinalco and Rio Tinto to invest in Guinea. This could be seen as an attempt by Chinese companies to reassure target countries about governance post acquisition, although from the Chinese side this is seen as a way to assist Western companies into Africa and Asia. Further, Chinese companies could expect to develop their deal-making and management know-how from such JVs, consistent with the broader ‘go global’ strategy;
- Between Chinese and non-Australian companies to invest in Australia, for example, the JV between PetroChina and Shell to acquire Arrow.

**More indirect investment.** Chinese financial investors in particular are now looking to use private equity (PE) funds and other collective investment vehicles, rather than direct investments. This is seen as a way to avoid negative media coverage, while still allowing their primary financial objectives to be achieved.

Other less direct means are also being pursued, such as the use of US or Hong Kong domiciled Chinese companies (SOE and private) as the investor. Another channel is for a Chinese company to acquire a controlling stake in a small Australian company, which is then used as a vehicle to acquire stakes in a much larger Australian company.

**Better communication strategies.** More sophisticated Chinese investors, including SOEs, are employing communication advisers to improve their public relations. This can be a new world for many Chinese companies, unused to intense media and public scrutiny. They may have traditionally relied on government and *guanxi* to smooth the path for them without the need to engage with a broader range of stakeholders and other interested parties.

This more proactive approach is being assisted by MOFCOM reporting on the benefits to OFDI target countries, in terms of tax revenues, employment and physical infrastructure completed (such as houses and railways).<sup>50</sup>

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**Other post-Chinalco-Rio post-mortem actions.** These include: more emphasis on horizontal as opposed to vertical integration; aiming for smaller targets;<sup>51</sup> using more commercial funding (to avoid concerns about state-subsidised OFDI); and improvements in the Chinese approval process for OFDI (see above).

**Part 4: Policy-presentational issues: how should Australia respond?**

At least some advisers contacted for this paper believed that Chinese claims of discrimination may be posturing in order to obtain a stronger bargaining position. As noted above, advisers tended *not* to support the Chinese investor and official view of discrimination (although confirming that Chinese investors *did* perceive discrimination).

Investors, officials and the Chinese media can also see FDI discrimination as consistent with broader perceived unfriendliness towards, and ‘demonisation’<sup>52</sup> of, China and – perhaps going further – as part of a US-led strategy to ‘contain’ China.<sup>53</sup>

These perceptions can be prompted and compounded by non-economic issues, where China and Australia may have very different perspectives. This includes Chinese human rights (a matter that China regards as its internal affair), the role of the media and Australian defence policy.<sup>54</sup> In 2009, for example, the China-Australia relationship deteriorated following the failure of the Chinalco-Rio Tinto deal, a Defence White Paper<sup>55</sup> that expressed concerns about China’s rapid military modernisation and, against Chinese objections, the granting of an Australian visa to a Chinese national who China regarded as supporting independence for western China.

Adding to potential tensions is the role of Chinese ‘netizens’, who tend to be a source of strong nationalistic sentiments.<sup>56</sup> While such sentiment can be orchestrated by the Chinese government, it can also be spontaneous and influence government policy. Anti-foreign sentiment is usually directed at Japan and the United States. But Australia is not immune. Following a recent defence paper from an Australian security think tank, there was a forum in the *China Daily* with the provocative heading of ‘Why China should isolate Australia’.<sup>57</sup>

Arguably, managing the relationship with China will be Australia’s greatest diplomatic challenge in future. Historically, Australia’s prime economic and political relationships have been with countries that are Western or aligned with the West. That is not the case with China. This challenge is compounded when China’s strategic intent is to reduce the role of the United States in the region.

Strengthening (or at least preserving) the Chinese relationship should not mean that Australia becomes an apologist for China or that we have to compromise our values or principles. But it does mean that we will have to devote the time and energy to understanding China’s position on significant issues *even though we may not necessarily agree with their position*. Such an understanding can help avoid initiating or overreacting to provocations.

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To the extent that a sense of discrimination against Chinese OFDI is genuinely felt, there could be a wider impact on the overall bilateral relationship. This includes the willingness by China to cooperate on economic, trade (including the Free Trade Agreement (FTA) negotiations) and strategic issues. It could also impact on China's willingness to be a supplier of capital to Australia more broadly. This is not a critical issue at present with a China-fuelled commodity price and investment boom. But China could become less willing to provide capital in the event of a downturn in commodity prices, less resources demand from China and current account pressures – especially if there are underlying tensions in the relationship.<sup>58</sup>

A more general sense of unfriendly Western actions could affect China's willingness to cooperate on *multilateral* issues where China's cooperation is crucial. This includes global financial stability, trade opening, climate change, security issues and broader G-20 cooperation.

***FIRB***

An assessment of FIRB guidelines and decisions is beyond the scope of this paper. That said, it is hardly surprising that claims of discrimination arise, given the additional six FIRB guidelines directed at SOEs (the dominant form of Chinese OFDI); public (but undocumented) comments in 2009 by a FIRB official implying new and more stringent criteria for Chinese investment; and the WikiLeaks report that those six guidelines were aimed at Chinese investment.

This suggests that there need to be more robust mechanisms for communicating FIRB policy with investors and their advisers, including those from China.<sup>59</sup> High-level official 'welcome' messages need to be supported by regular exchanges at the working level between officials, explaining any new guidelines that have potential to disrupt the relationship. Such working-level arrangements have been strengthened in recent times but are still developing.

Another effective way to build trust is through a more regular FIRB presence in China, building greater exposure to investors, advisers and officials. Would this be a special arrangement for China? Sure. But that could be justified given the huge importance of the bilateral economic relationship in general, the substantial growth in Chinese FDI to Australia, the likelihood that China will be a major supplier of global capital (which as a net capital importer we require), a history of 'misunderstandings' and the huge gap between the two political systems.

Some examples where such a special arrangement could have helped to defuse tensions in the past include: proactive explanation of the six additional SOE guidelines,<sup>60</sup> clarification (or explicit rejection) of the 15/50 'unofficial guidance' on acceptable ownership levels (rather than simply claim that nothing had changed); neutralising some of the WikiLeaks angst; and highlighting the changes (or clarifications) to the definitions of government-related entities and the thresholds for FIRB examination.<sup>61</sup>

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Such improved communication lines would help to ensure that Chinese official guides about investing in Australia contain the latest information. Some of the MOFCOM and CCPIT information on their websites about Australia is very dated or irrelevant.<sup>62</sup>

FIRB encourages direct contact with potential investors and initial informal discussion. This is regarded positively by some Chinese investors to provide reassurance on the welcome message (in contrast to the perceived negative media position). Investment advisers generally regard FIRB as professional and helpful. However, other feedback suggests that such contact can raise additional FIRB concerns. Such informal discussion should be encouraged but FIRB will need to reassure investors and advisers that this will not complicate the approval process.

Finally, as one contact noted ‘if FIRB didn’t exist, you would have to invent it’. This notion accepts the need for some criteria to assess foreign investment – whether that is expressed in terms of national interest, net benefit (as in Canada) or a narrower security consideration (as in the United States). The key point is that some screening process is appropriate. But we should have the right mix between process transparency and flexibility.

FIRB leaves itself open to charges of discrimination through its current case-by-case approach to interpreting ‘national interest’, rather than a more rules-based approach (such as maximum ownership limits).<sup>63</sup> Under the current approach there are no precedents and the interpretation of ‘national interest’ can move around. *That may well be the optimal approach to maximise the benefits for Australia from FDI* – including by allowing up to 100% foreign ownership in some circumstances. But it also means that policy changes and any substantial departures from precedence need to be well communicated. This is especially the case for Chinese investors and officials, who are very alert to actions that can be interpreted as discrimination.

A more proactive FIRB approach would complement government initiatives<sup>64</sup> to bring together delegations of Australian and Chinese corporates. While the Australian government would not give its official imprimatur to any *particular* alliances, these initiatives provide an important positive signal to Chinese corporates and officials, who are sensitive to official messages. This backs up the ‘welcome’ message in a more tangible way – subject, of course, to national interest tests on any proposals that may flow from such facilitation.

***The next big issue?***

A better capacity to manage the China relationship could also help to defuse another potential contentious issue: China’s food security objectives and the impact on Australian FDI policy and the associated issues of land and water management.<sup>65</sup>

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### *Reciprocity*

While China might claim discrimination by Australia (and other countries) against its OFDI, China also imposes considerable barriers against foreign investors.

China's treatment of foreign investment is much more restrictive and much less transparent than Australia's treatment of Chinese investment. But while reciprocity is a worthwhile goal, we should not deny ourselves the opportunity of Chinese (or any other country's) investment to pursue an unlikely reciprocal outcome. To do so would impose costs on Australia – denying us capital, and possibly new markets and technology.

### **Conclusion**

China is Australia's largest trading partner and will remain so for the foreseeable future. And the one-way (China to Australia) investment relationship is becoming increasingly important for both countries.

Despite (or perhaps because of) the recent rapid increase in FIRB approvals and FDI flows from China, this is set to remain a sensitive issue for both countries. As China continues to grow, it will want to secure mineral resources and have greater food security – even though in reality the only way to achieve this goal is through the operation of global markets – as well as diversify its OFDI portfolio. Australia is a natural target and beneficiary of these objectives.

Chinese investors are becoming more sophisticated. The Australian government and FIRB are also taking some additional steps to back up the official 'welcome' message. However, some bilateral tensions will be inevitable from time to time (including from claims of FDI discrimination). Canberra should be more proactive in neutralising potential investment flash-points. This includes much better communication of policy, guidelines and decisions to Chinese investors and officials. In so doing, this will also help Chinese investors to adapt their behaviour so that they can still achieve legitimate commercial objectives. At the same time, Australia can both continue to benefit from access to Chinese capital while also protecting its 'national interest'.

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### **NOTES**

<sup>1</sup> Australian businesses also face considerable problems in doing business in China, including the investment approval process and operating a business. See, for example, *Into the Dragon's den: Australian investment into China*, Lowy Institute, August 2010.

<sup>2</sup> An assessment of Australia's foreign investment regime as it applies to Chinese investment in Australia's resources sector is presented in *Is Australia's foreign investment regime in the national interest?*, Andrew Shearer and Mark Thirlwell, Lowy Institute, December 2008.

<sup>3</sup> China launches two-way investment strategy, *People's Daily*, 12 September 2001.

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<sup>4</sup> Further detail on some of these factors is presented in *Going out: an overview of China's Outward Foreign Direct Investment*, US-China Economic and Security Review Commission (USCC), 30 March 2011.

<sup>5</sup> See China races to secure foreign resources, *Sydney Morning Herald*, 6 April 2010. The primacy of this objective for OFDI flowed from a report to China's State Council by the Development Research Centre. The Report was also a post-mortem on the failed Chinalco-Rio Tinto deal.

<sup>6</sup> Such as the China Development Bank and the Export-Import Bank of China.

<sup>7</sup> Chinese Ministry of Commerce (MOFCOM) data, which is also the basis of United Nations Conference on Trade and Development (UNCTAD) data, is used throughout this paper. There are major differences with other countries' sources and methods. For example, MOFCOM OFDI data is based on approved, rather than actual OFDI. Further, the MOFCOM data could be missing a significant amount of private OFDI. For Australia, official ABS estimates of Chinese OFDI into Australia are approximately 40% greater than the MOFCOM data for the *stock* of OFDI and 64% greater for the *flow* in 2009.

<sup>8</sup> It is also interesting to relate the 'go global' strategy (directed at increasing OFDI) with other policy actions to increase China's outward economic cooperation, such as foreign contracted projects and foreign labour services. At the end of 2010, China's foreign contracted projects (such as construction of transportation and housing) were valued at a cumulative USD 700 billion, with 847,000 Chinese workers on foreign labour service cooperation projects. Source: MOFCOM, press conference, 18 January 2011.

<sup>9</sup> Source: UNCTAD statistical database and World Investment Trends Monitor, 17 January 2011; MOFCOM press conference, 18 January 2011.

<sup>10</sup> Such as tax concessions; preferential terms for leasing of land and property; and property rights protection. Some of these arrangements were phased out from 2008.

<sup>11</sup> Such as Cayman Islands, British Virgin Islands and Barbados.

<sup>12</sup> See footnote 7.

<sup>13</sup> In 2010, mergers and acquisition (M&A) represented 40% of OFDI. Source: MOFCOM, press conference, 18 January 2010.

<sup>14</sup> According to the Economist Intelligence Unit (EIU), 81% of the almost 300 outbound investments between 2004 and 2009 were made by SOEs.

<sup>15</sup> *2010 Survey on current conditions and intention of outbound investment by Chinese enterprises*, China Council for the Promotion of International Trade (CCPIT), April 2010. Most respondents were small and medium sized enterprises.

<sup>16</sup> *China goes global 2010. Survey of outward direct investment intentions of Chinese companies*, Asia Pacific Foundation of Canada and CCPIT, December 2010.

<sup>17</sup> *A brave new world. The climate for Chinese M&A abroad*, Economist Intelligence Unit (EIU), 2010. Mining, metals, oil and gas represented 47% of the total transactions in the EIU survey.

<sup>18</sup> *What determines Chinese outward FDI?*, Kolstad, I. and Wiig, A., CMI Working Paper 2009:3.

<sup>19</sup> Private investors and the China Investment Corporation (CIC) do not usually require NDRC approval. CIC is China's primary sovereign wealth fund.

<sup>20</sup> MOFCOM press conference, 18 January 2011. See also guides from legal firms, including Norton Rose (*New overseas investment rules for Chinese companies*, April 2009) and *China Business Review*, September-October 2009.

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<sup>21</sup> For a comparison of Canada, Australia and the US, see *The foreign direct investment process in Canada and other countries*, Parliament of Canada, 19 September 2007.

<sup>22</sup> See *Into the Dragon's den: Australian investment into China*.

<sup>23</sup> Source: FIRB, *Annual reports*, two years to 2009-10.

<sup>24</sup> Source: MOFCOM press conference, 18 January 2011. There are no published official Chinese data on the sector composition of Chinese investment to Australia.

<sup>25</sup> In 2010 Chinese FDI inflows fell around 50%. There were also significant falls recorded for some other countries that ranked ahead of Chinese inflows. It is possible that lower Chinese FDI inflows in 2010 is a reaction to the difficulties faced in 2009 and a post GFC resumption of flows from other sources. Regardless, China's greater contribution to Australian FDI inflows is likely to be sustained.

<sup>26</sup> Comparison excludes Hong Kong, which was rated the most open.

<sup>27</sup> OECD, FDI Restrictiveness Index, 2010 update.

<sup>28</sup> *China goes global 2010, Survey of outward investment intentions of Chinese companies*.

<sup>29</sup> *Guide for outward investment in other countries and regions (2010)*, Ministry Of Commerce. MOFCOM provides a guide to investing in a significant number of countries on its official website.

<sup>30</sup> *Outbound investment development report 2010*, MOFCOM, 1 November 2010, as reported in *Beijing Review*, 25 November 2010.

<sup>31</sup> *Foreign Acquisitions and Takeovers Act 1975*.

<sup>32</sup> Speech by the Treasurer, Address to the Global Foundation, 10 December 2009. The additional guidelines were announced in February 2008.

<sup>33</sup> This unofficial guideline arose in response to a question to a FIRB official at an Australia China Business Council function in 2009. FIRB has not made public the transcript of that response. FIRB maintains that there was no change in policy, pointing to a number of approvals in excess of the 15/50 levels.

<sup>34</sup> While FIRB did not intend that the guidelines no longer applied, that is how some legal advisers interpreted the new document. Irrespective, the overarching concern is about foreign government related entities pursuing political or strategic objectives.

<sup>35</sup> It was generally understood by advisers that this was the threshold in practice but it had not been explicit.

<sup>36</sup> Notification is required for interests below 10% if the foreign government related entity can use the investment to influence or control the target.

<sup>37</sup> OECD, *Economic policy reforms 2011: going for growth, 2011*, p 70.0

<sup>38</sup> Source: Australian Embassy, Beijing, March 2011.

<sup>39</sup> Some Chinese contacts refer to the more accommodating Australian approach to Japanese mineral investment in previous decades, where up to 100% ownership was permitted. Of course, some Chinese projects have also been permitted with 100% ownership, for example the hostile takeover of Midwest (a Western Australian iron ore company) by Sinosteel, in 2008.

<sup>40</sup> Despite FIRB maintaining there was no change in policy, it was generally perceived that there had been a change. Some Chinese investors saw the 15/50 guidelines as an unacceptable line in the sand and withdrew – or did not proceed with – investment applications accordingly.

<sup>41</sup> Laws 'aimed to limit' Chinese investment, *Sydney Morning Herald*, 3 March 2011.

<sup>42</sup> Back rooms, big bucks, *Sydney Morning Herald*, 11 December 2010.

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<sup>43</sup> Source: Treasury website. Freedom of Information documents were released on 4 January 2011, including a FIRB Minute to the Treasurer of 23 September 2009. A number of key sections in this Minute are blanked out.

<sup>44</sup> Lowy Institute Poll, 25 April 2011. The net balance (positive less negative) response has hardened against Chinese investment since the 2009 Poll. See also *Sweet and sour: Australian public attitudes towards China*, Andrew Shearer, Lowy Institute, August 2010.

<sup>45</sup> The average rank for the Australian states fell from 18<sup>th</sup> to 31<sup>st</sup> out of 51 jurisdictions. The survey was completed after the announcement of the Resources Super Profits Tax and prior to its later amendment. Source: Fraser Institute, *Survey of Mining Companies, 2010 Update*.

<sup>46</sup> Mining tax prompts Chinese investors to look at Africa, *The Australian*, 9 August 2010.

<sup>47</sup> *How should China perfect its overseas resources investment: reflections on the Chinalco-Rio Tinto deal*, as reported by Mallesons Stephen Jacques, April 2010. Also see reports of this paper in *Caixin* (16 November 2010) and the *Sydney Morning Herald* (6 April 2010).

<sup>48</sup> *Caixin*, 16 November 2010.

<sup>49</sup> BBC World Service survey, taken between December 2010 and February 2011, as reported in *China Daily*, 8 March 2011. The neutral response for Australians is perhaps consistent with the ambivalence in the Lowy Poll, cited above.

<sup>50</sup> As reported in *Beijing Review*, 25 November 2010.

<sup>51</sup> The most recent (2009-10) FIRB Annual Report showed a significant fall in the average deal size for Chinese investment approvals. This could reflect both supply (unavailability of large scale projects) and / or demand (a strategy to take a lower profile).

<sup>52</sup> For example, see the article by China's Ambassador to the UK, Western media has demonised China, *The Telegraph*, 13 April 2008.

<sup>53</sup> For example, at the time of the awarding of the Nobel Peace Prize to a Chinese dissident in late 2010, the Chinese Consulate General Sydney website included an article that claimed 'the Nobel Peace Prize broadens the suspicion that there is a Western plot to contain a rising China.'

<sup>54</sup> Another source of negative sentiment towards Australia is the perception that Australian companies are part of an iron ore oligopoly that is unfairly exploiting China.

<sup>55</sup> *Defending Australia in the Asia Pacific century: Force 2030*, Defence White Paper 2009.

<sup>56</sup> The role of China's netizens is also covered in *How China views the world*, Linda Jacobson, Lowy Institute, April 2011.

<sup>57</sup> *China Daily*, 9 February 2011. The forum appeared to be in response to a report by Professor Ross Babbage, *Australia's strategic edge 2030* from the Kokoda Foundation.

<sup>58</sup> The recent island dispute between China and Japan was followed by China restricting the export of rare earths to Japan, an example of the use of economic power to reinforce a political position. Another example where China could use its economic leverage is through its holdings of US Treasury securities, including to retaliate against US trade sanctions (China threatens 'nuclear option' of dollar sales, *The Telegraph*, 8 August 2007) and US arms sales to Taiwan (China threatens to dump US treasury bonds over Taiwan arms sales, *Washington Independent*, 10 February 2010).

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<sup>59</sup> More effective communication by FIRB was also a recommendation by the Senate Economics Committee report *Foreign investment by state-owned entities*, 17 September 2009, although this recommendation was primarily about improving Australian public understanding of the risks and benefits of foreign investment.

<sup>60</sup> Drysdale and Findlay argue that such additional guidelines are unnecessary and should already be encapsulated in FIRB's existing 'national interest' criteria. (See China's foreign direct investment in the Australian resources sector, in *China's new place in a world of crisis*, ANU ePress, 2009.) Indeed some advisers argue that the guidelines were not new – they had been the basis of SOE assessments for some time. What was different was the transparency of the process. In that regard, the additional guidelines could have been presented much more positively in terms of increased transparency.

<sup>61</sup> This could have been communicated more positively – as both clarity and some easing of the requirements for SOE investors.

<sup>62</sup> FIRB recently issued a Chinese translation of the FIRB Framework Document, which should improve the quality and timeliness of information provided on official Chinese websites.

<sup>63</sup> See *Is Australia's foreign investment policy in the national interest?*, Andrew Shearer and Mark Thirlwell, Lowy Institute, August 2010.

<sup>64</sup> Such as during the April 2011 visit by the Prime Minister to China.

<sup>65</sup> Agribusiness was cited in the EIU survey as a sector expected to see increased Chinese M&A activity. Another contact noted the current political 'hostility' towards Chinese ownership of farmland, which has also been a recent focus of the Senate Economics Committee. However, there were no FIRB approvals for China investors into the agricultural sector in the last two years and overall foreign ownership in the sector is minimal.



## ABOUT THE AUTHOR

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