

DRAFT – IN CONFIDENCE

Transcript of Address from Patrick Colmer to the Australia China Investment Forum

24 September 2009

Ladies and Gentlemen, thank you very much for inviting me here today. I don't think I'm quite going to give a speech on how to invest in Australia; I'm certainly willing to talk about the way the Foreign Investment Review Board operates and our experience with foreign investment in Australia. I have to emphasise that foreign investment is extremely important to Australia and has been essential to the development of our economy over many years. There have been successive waves of investment into this country and they have come from the United Kingdom, the United States, Japan, Korea, and recently China.

All of those waves of investment have been crucial to the development of the Australian economy. They have all generated public interest and have at times they have all generated some sort of controversy. That in itself shouldn't be anything unusual; indeed, Dr Wang mentioned Chinese concerns about foreign investment into China. One of the things I do in my role is go to the OECD and participate in investment discussions there, and it is a common situation all around the world. The general public is very interested in foreign investment but generally it is something that proceeds without any due concern.

China has been investing into Australia over many years and Mr. Hawke mentioned the Channar Project from the 80s and that is probably the first significant one. Now in 2009, China is one of the major sources of foreign investment and that is a recent development. In 2007-08 it was ranked number six in the Foreign Investment Review Board's statistics – in 2008-09, we haven't finally completed the data yet but it looks as though China will be number three after the United States and the United Kingdom, and it's probably going to go higher than that in future years (*inaudible*).

I think it's important to recognize – and I will just sound a brief note of caution that the data we use in the Foreign Investment Review Board is quite different from the data that the ABS use (we talk about proposed investment rather than actual investment), and so our data I think is fundamentally a leading indicator. If anybody has got three or four days I can talk about the differences in the data sets but I won't do that now.

In the last eighteen months though, we have processed around 90 separate Chinese investment proposals for a total of some \$34 billion. I think the important thing about that figure is that most of those projects have not generated any press interest at all. Most of them have gone through without any problems, without any concerns. But as everybody here knows there have been a very small number that have generated some discussion in the press.

We do welcome Chinese investment and the Government is keen to see that continue, but the Government is also concerned to maintain Australia's national interest. In that light, all investment

DRAFT – IN CONFIDENCE

proposals are considered on a case by case basis against the criteria announced by the Treasurer announced in February last year.

For those of you who aren't familiar with those criteria, last year the Treasurer made a statement about foreign government investment that set out six criteria against which we assess those investment proposals. I take pains to point out that five out of those six are applicable to any form of investment and there is only one that is specific to government investments, and that's the first one. The first thing we try and assess is the independence of the investor from the government that may host that investor. Now obviously we don't expect total independence – we know state owned enterprises have a relationship with their home governments. What we are looking for is evidence that it is a true commercial focused investment, and I have to say that in general that is our experience with foreign government investments and we haven't had significant concerns around any of those.

The other five criteria we look at when screening investment proposals is we look at the way companies operate – do they adhere to the law, do they abide by common standards of business behavior? We look at competition issues, we look at the revenue impacts that investments may have on Australian Government revenues, we look at national security concerns and we generally look at the impact that the investment may have on the Australian economy.

What we are looking for is a win-win situation. We want the investment – foreign companies want access to Australian projects. What we have seen with Chinese investment is we have seen a very large number of investments, which have been overwhelmingly concentrated in the resources sector. There have been a number of non resources projects but the vast majority of Chinese investment has been in the resources sector. That shouldn't be any surprise because that's one of Australia's competitive advantages. We have large amounts of resources and they are of great interest to overseas investors.

What we are trying to achieve through the foreign investment review process is to maintain an orderly flow of investment and help develop the Australian economy while balancing the need to maintain public support for foreign investment. We have a few more direct interests in foreign investment as well. One of the things we are very concerned about is maintaining a market based system in Australia, so we are concerned about corporate governance issues; we are keen to see major projects maintain listing because we think that the listing disciplines are important in the development of good sound businesses.

In the resources sector in particular, we are concerned to see the development of Australian resource industries, but we want to do that in a way that maintains our position as a reliable supplier of resources to all our customers. What we prefer to see is various sorts of cooperative or partnership arrangements. In the resources industries and where there is significant government ownership, our Government has expressed a preference for projects which are joint projects in various forms, and in particular we are much more comfortable when we see investments which are below 50% for greenfields projects and around 15% for major producers. However, as I have said, we do look at all investment proposals on a

DRAFT – IN CONFIDENCE

case-by-case basis and there are examples where we have accepted quite readily different arrangements to that.

What I want to finish on is some very brief comments about working with the Foreign Investment Review Board. It is important that if you think you have a project that might raise some concerns that you talk to us early. What we try and do is we try and work out ways to help those investments proceed – if you talk to us early, before the deals are signed, sealed and delivered between companies, we can point out where there might be concerns and ways they might be able to be dealt with. It is much easier in our experience if we engage early in significant projects and indeed some of the ones we have had problems with have been ones where that hasn't happened.

Another important thing I think you need to recognize is that while the foreign investment review system is enshrined in legislation, the fundamental issues at the end of the day are much more policy issues rather than legal issues. One of the problems we have also seen is where lawyers get involved and try and turn a policy argument into a legal debate. It's not effective and lawyers don't like us telling them that, but nevertheless we do try to steer people through the policy issues rather than the legal issues. As I said, we do work with people and we are happy to do that and we are happy to steer you through.

One of the last problems I would say though is that often times trying to get the media on your side doesn't achieve that so I would just like to repeat that again – we are here, we are happy to work with companies and so talk to us early, don't turn it into a legal stoush and deal with us the way we like to deal with you, which is in confidence.

Thank you very much.