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The Liberal Party State Council Forum
“Trade & Political Challenges as China Emerges”

held at the Melbourne Conference Centre

Melbourne, Australia

At 4.00pm on Saturday, 25 May 2013

Special Guest Speaker: Mr Robin H Chambers AO
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Chairman of China House Consultancy Co., Limited

China currently holds the equivalent of \$3.4 trillion of foreign currency reserves, mainly in US dollars.

It holds around \$1.2 trillion in US Treasury Bonds.

China has announced plans to convert some of those paper holdings into asset investment, which will free up massive capital available for more overseas investment.

At the recent Boao Forum in China, China's newly appointed President Xi Jinping announced that China's outbound investment in the coming five years will reach \$500 billion, and its imports will reach some \$10 US dollars.

The challenge for Australia is how much of the Chinese investment will come to Australia.

According to a recent report from KPMG, China's non-financial investment in Australia is around \$51 billion.

The figure is one tenth of the investment in Australia from the US. It amounts to just over 2% of the total foreign investment in Australia.

It is predominately focussed on the resources industry. This is to be expected.

China's overseas investment strategy has been to invest in resources projects in order to secure stable, long term supplies of raw materials for China's burgeoning industrial expansion.

However, while we may be content that Australia has a special relationship with China as the preferred source of raw material imports, the reality is that China has been investing heavily in many other countries.

Australia's relationship with China has been much more a trading relationship than an investment relationship.

Two-way trade has ballooned to more than \$128 billion Australian dollars, which reflects Australia's exports of massive volumes of iron ore, followed by metallurgical and thermal coal, and then other minerals and most recently gas exports.

Rio Tinto and BHP have essentially locked China out of the Australian iron ore industry, preferring to keep the ownership of their Australian iron ore assets to themselves.

I was the lawyer on the two joint ventures with BHP and Rio Tinto and Chinese steel mills, which they both entered into to enhance their own relationships with China.

Otherwise they capped any more joint ventures.

Africa has become a major focus of Chinese investment.

Its many and diverse countries have been attractive to Chinese investment, which is often accompanied by major infrastructure development funded from China.

Canada has also seen opportunities and has attracted investment away from Australia when it can. Its foreign investment policies have been adjusted to make it even more attractive and competitive for Chinese investment.

This brings me to policy considerations for foreign investment in Australia.

Marius Kloppers before he left BHP described Australia as being the gold standard for country risk generally.

Accordingly, there is no reason why Australia should not continue to be the number one destination for Chinese investment, as well as attracting major investment from India, Japan, South Korea and elsewhere.

However, Australia's reputation as a destination for foreign investment has been challenged by a number of factors:-

- The most significant and publicised is our foreign investment regime and the role of the Foreign Investment Review Board.
- The Chinese also know and talk about the mining tax and the carbon tax as other factors affecting their assessment of Australia as a destination for their overseas investment.

Those three factors are typically raised whenever I am in China discussing Chinese investment projects.

The last two, I understand, will be dealt with by the new Coalition Government.

That will certainly be well received in China.

The Chinese have regarded the mining tax as a tax on Chinese investment.

Australia's foreign investment regime requires all direct investment by Chinese State-Owned Enterprises to be approved by the Federal Treasurer. Privately owned foreign investors from China only need prior FIRB approval if they want to acquire a substantial interest in a business valued at more than \$248 million.

The Chinese like to point out that under the Australia-US Foreign Trade Agreement, US investment is only regulated if what is acquired exceeds \$1 billion US dollars.

Even without a free trade agreement, China has been consistently seeking to have this US benchmark applied to all Chinese investment.

The Chinese regard Australia's foreign investment regime as unfairly discriminatory against Chinese investment and therefore a strong disincentive for its investment in Australia.

There have been some landmark cases where Chinese investment has been blocked or given only conditional and sometimes unacceptable approval.

When he first came to office, Wayne Swan published a list of six principles to be applied to foreign sovereign investments in Australia, which China saw as targeting China, which it was.

The former head of the FIRB, Patrick Colmer in 2009 at an ACBC conference in Sydney announced FIRB policy for Chinese investment distinguishing between greenfields and brownfields projects, which would have seriously blocked Chinese investment in any meaningful existing projects.

He was later disclosed by Wikileaks to have told the US Ambassador in Canberra that it was Australian policy to severely restrict Chinese investment.

As the lawyer acting for many Chinese state owned enterprises, I have had my own experience in dealing with the FIRB and how they have not always responded favourably to Chinese investment proposals.

Finally, I can say that the FIRB, has more recently had a better record in approving Chinese investment.

But the rules are still not transparent and are often unpredictable outcomes.

As Bruce Nicholls described to me his briefing paper for this session, this is a key area where major policy reforms should take place to give the Chinese, holding massive available investment funds which are critical to Australia's continue economic development to undertake further investment here.

I would strongly endorse a comprehensive review and re-working of Australia's foreign investment policy.

We need to respond to the strong criticisms and concerns from China which impact on Australia as the preferred destination for Chinese investment.

Chinese President Xi Jinping spoke at the Boao Forum about what he called the "Chinese dream", which he described as the "greatest renewal of the Chinese nation".

It is up to us as to how much we share in the benefits of that dream.

Mr R H Chambers AO
25 May 2013