

Summary and Concluding Comments

Tim Wilson

*Director, IP and Free Trade Unit,
Institute of Public Affairs*

December 2008

**AUSTRALIA'S
OPEN
INVESTMENT
FUTURE**



The Australian government was able to deliver unilateral trade liberalisation because there was an ongoing conversation on the benefits of free trade. Australia's foreign investment framework hasn't been unilaterally liberalised; and in large part that is because there has not been an equivalent conversation about the benefits of liberalising Australia's foreign investment regulatory framework. The purpose of the *Australian Open Investment Future* symposium was to begin that conversation.

Support by papers delivered at the symposium, there is a clear basis for reform. IPA research fellow Julie Novak demonstrated in her paper that we currently live in a capital constrained world and that the Foreign Investment Review Board (FIRB) was acting as a barrier to investment. ITS Global Economic Consultant, Jeff Rae, estimated that the cost of FIRB was more than \$5.5 billion to the Australian economy.

IPA research fellow, Tom Switzer, delivered a paper demonstrating that advocates for reform do not reflect public sentiment. In fact most Australians see foreign investment as a threat. And hence any liberalisation of FIRB needs to be tempered by the arguments put forward by Former Assistant Treasurer, Rod Kemp, and Former Industry Assistance Commissioner, Martin Feil. Both Kemp and Feil argued that FIRB acts as an agent for the political management of foreign investment and the management of resulting political tensions.

But any reform shouldn't be at the fringes. Comprehensive reform is needed looking at FIRB. State and local government can both inhibit investment. In the lunch panel session private investor, Deepak Saxena, demonstrated the harm local government can do to halt investment. In his case local government inaction is directly halting the development of one of Australia's largest agriculture projects. Similarly in the presentation on technology transfer local and State government content requirements undermine technology transfer resulting from foreign investment.

Australia has always been a net-capital importer. And that investment has driven wealth creation, industry growth, job creation and infrastructure development. Australia clearly cannot continue to grow economically without investment capital.

The conversation we hope to have started is to discuss what type of liberalisation program needs to be progressed. We know the current state of Australia's foreign investment regulatory framework. Reformers need to decide what desirable post-reform scenarios are, and then, how to manage the transition. Because there will be hurdles along the way.

Julie Novak argued persuasively for FIRB to move away from a broad 'national interest' test to a very narrow 'national security' test. But how realistic is that?

And even if liberalisation takes place and a new 'national security' test is developed, there are new emerging complexities. The role of sovereign wealth funds and state owned enterprises as foreign investors is rising. Public perception is that they are political actors first, and economic actors second.

Yet as RMIT Professor, Sinclair Davidson, demonstrated the real threat from both SWFs and SOEs is when they operate within their own country. These investors will only gain special privileges in Australia if they are afforded them by Australian law. Otherwise they are bound by Australian law like any other investor. The issue remains the exercise of sovereign power in Australia, not in any other country. They pose no threat extraterritorially.

And it is clear that Australia has policy instruments available to it to liberalise its foreign investment regulatory regime. In addition to modes of liberalisation of FIRB, Kristen Bondietti identified that

there are currently inconsistencies in the investment regulations afforded to countries through our free trade agreements.

The AUSFTA affords increased investment screening thresholds for US investors, but comparable thresholds do not exist for investors from other countries. There is a good justification for consistency. But pursuing investment liberalisation through bilateral agreements should be recognised as a third best option. A second best is multilateral liberalisation, but the best is unilateral liberalisation.

And lifting thresholds is not the only area of possible reform. As Peter Gallagher argued, FIRB currently spends an inordinate amount of time approving real estate acquisitions as a result of outdated regulations.

But managing change also means managing perceptions. In the final panel session State Economics Editor, Marc Moncrief, also made the point that the public won't be taken along if the media isn't interested in communicating the arguments for reform. Currently there is no media enthusiasm for the lost opportunity from lost foreign investment. To progress liberalisation, arguments for reform in a highly technical policy area need to be made consumable through the opinion pages and news articles of Australian newspapers.

What is clear is that we need to proceed with any reforms with caution. And the only way to get support for reform is through the conversation we have started about the costs, the benefits and how to mitigate the challenges of foreign investment.

Tim Wilson is Director of the IP and Free Trade Unit at the Institute of Public Affairs – www.ipa.org.au