Senate Rural and Regional Affairs and Transport References Committee

Questions on Notice – Thursday, 11 October 2012 CANBERRA

Inquiry into the Examination of the Foreign Investment Review Board National Interest Test

Question Number	Page No's.	Witness	Question asked by	Answered
1	15	Foreign Investment Review Board	Senator Milne	05/02/13
2	16	Foreign Investment Review Board	Senator Nash	05/02/13
3	19	Foreign Investment Review Board	Senator Fawcett	05/02/13

SENATE RURAL AND REGIONAL AFFAIRS AND TRANSPORT REFERENCES COMMITTEE

Inquiry into the Foreign Investment Review Board National Interest Test

Public Hearing Thursday, 11 October 2012

Questions Taken on Notice – Foreign Investment Review Board

1. HANSARD, PG 15

Senator MILNE: I am really seriously concerned that you have not cited the fact that, as a result of food shortages, a number of countries banned the export of food, making countries that are food import dependent panic about their ability to access food, and that launched a massive 'land grab' around the world. There is that term. Go to Google and have a look at it. You will find it is a widely used term. It is now in all the literature, and it is why the World Bank has been asked to freeze any further facilitation of investment in agricultural land and water in developing countries until this is sorted out. Could I ask why the Foreign Investment Review Board is not across what the Food and Agricultural Organization, the World Bank and organisations like Oxfam, for example, are? If we at least go with the World Bank and the FAO: why aren't you aware of that? You are happy to use words like 'xenophobic' but you do not seem to be across what is of major concern about food security around the world and what leads to distortion of agricultural land and people being driven off their land around the world. It is a real issue. I am interested in why you do not know about it.

Mr Wilson: I think that the question is: to what extent does that foreign investment in Australia cause Australian food security to be reduced and to what extent is it contrary to Australia's national interest?

Senator MILNE: That is exactly my point: to what extent is this trend contrary to Australia's national interest? In order to answer that question, you ought to know what is going on around the world, the significant changes that have occurred which changed the whole discussion about what is going on. Surely, that is what the context for a national interest test ought to take into account. Let me put it another way: according to a survey, which we as a committee previously have disputed, up to one-third of Western Australia's water licences are either fully or partly foreign owned. I would like to ask: what does the Foreign Investment Review Board do in terms of the cumulative impact of the sale of individual or parts of water licence entitlements? How much of Western Australia's water licences would you think is not in the national interest?

CHAIR: You may choose to take that on notice.

Mr Wilson: I think I would choose to take that on notice. I will do that.

2. HANSARD, PG 16

Senator NASH: …In relation to Cubbie, one of the undertakings was to make offers of employment to all existing employees of the Cubbie group. Was that at their current rate of pay?

Mr Wilson: I am sure it was.

Senator NASH: It is not clear.

Mr Wilson: Cubbie has, as I recall, about 50 permanent employees and around 120 contractors.

Senator NASH: I get all that. It says to make offers of employment to all existing employees. What is not clear in the undertaking is whether that offer had to be at their current rate of pay.

Mr Wilson: I am not sure what the specific words are.

Senator HEFFERNAN: I have to say I would not have agreed to that, because there are always some blokes that you need to get rid of.

Senator NASH: Yes, exactly. So if you could take that on notice, Mr Wilson, because that is the specific wording. So if you could take on notice for me whether or not that does mean their current rate of pay.

3. HANSARD, PG 19

Senator FAWCETT: I believe previous statements from the FIRB have indicated that you consider each case on a case-by-case basis—on its own merits. Can I just clarify, particularly in the light of Senator Milne's questions: do you also consider broader trends as part of your consideration of national interest? You might have a thousand individual cases that, individually, might be fine, but if the broader trend is impacting on the cumulative does that form part of your assessment?

Mr Wilson: It absolutely does. Not just in agriculture but in all areas any individual case has to be put in the context of the overall market, the overall competitive dynamics and the overall domestic and international position. So, yes.

Senator FAWCETT: If there has been an increase in the 'land grab' that Senator Milne was talking about, what is the threshold at which you start saying, 'This is now a concern.' How do you define that threshold? Have you defined the threshold?

Mr Wilson: As I think I mentioned earlier, it really depends on the commodity area, the geography and the market dynamic around that particular thing. Obviously, without being prescriptive, 10,000 hectares of dairy country in Victoria would be a lot more relevant than one million hectares of beef country in the Northern Territory, for instance. It is very difficult to have a matrix that says: area, commodity, structure of the particular commodity, upstream and downstream processing and all of those things. All I can say is that issues around accumulation and issues around the impact on particular sectors, communities and industry dynamics are part of the consideration.

Senator FAWCETT: I hear you. It is not an easy task, but if you have said you take trends into account there must be a point at which you say that the trend and the accumulative effect means this is not good. I am not hearing that there is actually a defined, logical, evidence based approach for that.

Senator EDWARDS: When is 1,000 hectares of dairy in Victoria too much—to use your analogy?

Senator FAWCETT: Is it when three similar purchases have been made in the last year? Is it when there have been 10 in the last decade? When is too much? You have said you take trends into account. I would just like to understand how you take trends into account. I am happy to take this on notice. I don't need an answer today. It is a genuine interest to understand how that works.

CHAIR: Take it on notice.

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ANSWERS

(1)

The national interest is assessed on a case-by-case basis. The Government looks at a range of factors and the relative importance of these can vary depending upon the nature of the target. Under this assessment, broader trends are taken into account. For example, competition is typically a national interest consideration where the Government considers broader trends, such as whether a proposed investment may result in an investor gaining control over market pricing and production of a good or service in Australia. The assessment may also consider the impact that a proposed investment has on the make-up of the relevant global industry, particularly where concentration could lead to distortions to competitive market outcomes.

In assessing foreign investment applications in agriculture, the Government typically considers the effect of the proposal on matters including:

- the quality and availability of Australia's agricultural resources, including water;
- agricultural production and productivity; and
- Australia's capacity to remain a reliable supplier of agricultural production, both to the Australian community and our trading partners.

(2)

The Consortium has undertaken to make offers of employment to all existing employees of Cubbie Group and maintain the existing arrangements including entitlements of those employees.

(3)

The national interest is assessed on a case-by-case basis. This approach is preferred to hard and fast rules that limit flexibility. Determination of the national interest effects of agricultural land accumulations takes into account the extent to which different individual investments impact on local businesses, regions and markets, both individually or as part of a broader pattern of agricultural land investment. This reflects that the economic and other effects of foreign investment are not always uniform between locations, investors or how land acquisitions are intended to be used.