

THE IMPACT OF THE NATIONALIST SENTIMENT ON FOREIGN DIRECT INVESTMENT (FDI) IN AUSTRALIA

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Abstract

This paper discusses the development of economic nationalist feelings in Australia which underpin the formation of the 'national interest' criterion in legislation which is used to screen foreign direct investment (FDI) applications. Currently the criterion is not defined, is open to interpretation and political influence which potentially creates uncertainty for foreign investors. The paper presents arguments for the refinement of the 'national interest' criterion through the establishment of guidelines to aid in its interpretation.

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INTRODUCTION

Australia's economic development into an industrialised nation can be largely attributed to the inflow of foreign capital (Bryan & Rafferty, 1998; Thorburn, Langdale, & Houghton, 2002). The reliance on foreign investment in Australia underpinned the development of rural, mining, housing and manufacturing industries and foreign capital borrowings supplied the finance for the public infrastructure of the colonies (Arndt, 1977; Kasper, 1998). Australia continues to attract foreign direct investment (FDI). In 2002 Australia recorded FDI inflows of 14 billion USD the highest level on record since the early 1990s (OECD, 2003).

Foreign direct investment assumes an investment is made to acquire a lasting interest in an enterprise operating outside the home economy of the investor. The investor's purpose is to gain an effective voice and some control in the management of the enterprise (Dunning, 1993). The need to effect control makes inward FDI controversial because unlike portfolio investment it assumes a controlling interest in the enterprise making governments vulnerable to criticism and accusations that they are "selling off the farm" (Fitzpatrick & Wheelwright, 1965; Reuters, 2001) to foreign interests.

In spite of such concerns the general trend has been towards greater liberalisation and encouragement of FDI (Golub, 2003). Governments have viewed the benefits of FDI in terms of employment, capital development, knowledge and training, as far outweighing any potential costs. Australia recognizes the benefits of inward FDI and is keen to encourage it (Costello, 2001). However, the Australian Government also sees the need to screen applications of FDI to ensure the investment conforms to the national interest. Under the Foreign Acquisitions and Takeover Act of 1975 (subsequently referred to as the Act) the Federal Treasurer has the right to prevent an investment proposal from proceeding if it is deemed that the investment "is contrary to the national interest". The Government determines what is contrary to the national interest by having regard to the widely held community concerns of Australians (FIRB, 2003). This provision in the legislation creates a number of problems as the criterion 'national interest' is not defined in the Act. The lack of definition allows for the subjective interpretation of the criterion by the Federal Treasurer resulting in a lack of transparency in the decision making process.

This paper traces the impact of the nationalist sentiment in Australia which led to the formulation of the 'national interest' criterion in the Act. Australia's relatively strict screening requirements in comparison to other OECD countries (Golub, 2003) can be traced back to economic and historical developments which led to an economic nationalist mentality that permeates the Australian psyche and continues to underpin the notion of the 'national interest' (Bryan, 1991). This nationalist sentiment regarding foreign investment still holds sway in Australia. A survey conducted 1996 found that 56% of Australians considered the level of foreign investment in Australia too high and only 19 percent felt that foreign investment was at an appropriate level (Newspoll, 1996). A Morgan poll in 1997 found that only 51% of people polled felt that the encouragement of more foreign investment into Australia, would improve the economy and create more jobs (Morgan, 1997). Consequently, the results suggest that Australian's are divided over the issue of whether limits should be imposed on FDI.

DEVELOPMENT OF THE NATIONALIST SENTIMENT

Australia has historically relied on overseas capital for its economic growth and development (Bryan et al., 1998; Thorburn et al., 2002). This capital through the 19th and up until the middle of the 20th century was predominantly provided for by Australia's colonial parent Britain (Arndt, 1977; Bryan et al., 1998; Merrett, 1997). International capital mobility and foreign direct investment were

the driving forces behind the creation of this new wealth in Australia and in general was instrumental in the development of the old industrial economies which are now part of the OECD (Kasper, 1998).

The Great Depression of the 1930s left its mark on Australia's growth and development. The inflow of foreign capital ceased, which had an impact on exports earnings, which in turn meant that Australia had problems servicing foreign debt. According to Merrett (1997) the memories of servicing this debt and the fixed interest obligations persuaded successive Australian governments after the Depression to concentrate on utilising domestic rather than international markets to fund growth. Australians saw the extent to which their wealthy lifestyle was beholden to foreign capital. The economic difficulties of the 1930s accentuated in the minds of many, an over reliance on overseas borrowing (Bell, 1960). The seeds of scepticism and vulnerability to foreign capital investment and borrowings was sown in the minds of the collective Australian psyche (Arndt, 1977).

After the Second World War, Australia embarked on a program of economic growth. This was bought about by population growth reflected in large scale immigration and efforts to attract overseas investment to fund that growth. Both the Liberal (centre Right) and Labour (social democratic Left) parties promoted inward foreign investment. For example, in 1949 the then Labour Prime Minister Ben Chifley talked about the "benefits that American industrialists would bring in terms of factories and branches, patents and licenses which would be of considerable benefit to Australia" (cited in Arndt 1977:133). The Liberal Menzies Government, circulated Treasury pamphlets in 1952 extolling the virtues of "the participation of overseas capital in the development of industrial enterprises is welcomed" (cited in Arndt 1977:133). Dr. Evatt, Leader of the Opposition Labour Party in 1953 championing the need for overseas investment saying "...we want to keep steadfastly in mind first of all the development of our industry, and secondly, the absolute need of investment in Australia from overseas" (cited in Bell 1960:50).

After the war and until the mid 1960s there was bi-partisan support for inward overseas investment which was considered beneficial to Australia's economic development. 'Overseas investment' which in the main represented British Investment (Bell, 1960) was distinct from 'foreign investment', and signified an appropriate source for a former colonial 'child'. In their desire to promote on going economic growth and the modern industrial transformation of Australia "both Labour and Liberal/Country Party governments laid out the welcome mat" (Capling 1997:10). Although some restrictions were in place, (restrictions applied on the foreign takeover and control of banks, media, and the civil aviation industry as well as the imposition of certain foreign exchange controls), in general the official policy towards foreign investment was of an 'open door' with minimal restrictions (Arndt, 1977; Dyster & Meredith, 1991; Kasper, 1998).

ECONOMIC NATIONALISM TO THE FORE

Several factors have contributed to the economic nationalist sentiments which came to the fore with respect to foreign investment in the latter half of the 20th century (Arndt, 1977). It can be argued that this nationalist sentiment has permeated the Australian social, economic and political landscape throughout the 20th century. *Protective statism* (Capling & Galligan, 1992) reflected by policies of high tariffs and protection, a centralised wage fixation system developed through industrial arbitration and a restrictive racist immigration policy were aimed at protecting Australian 'white' wages from 'cheap' Asian labour. The physical distance and isolation of Australia, the 'tyranny of distance' (Blainey, 1966) created a wariness and trepidation of things foreign. This insularity helped define the Australian character. This juxtaposition of economic and social factors created an underlying social pact between labour and capital which would guarantee industrial development and economic equity whilst at the same time excluding the 'alien' or 'foreign' entity which could potentially frustrate the economic development and identity of Australia (Capling, 1997).

This insularity in the 1950s and 60s began to manifest itself in the nationalist sentiment often heard regarding the impact of foreign direct investment on Australia. Doubts arose in the minds of many with Australia's ability to meet her commitments to repatriate capital sums owed to overseas investors. While questions of economic concern were being raised, importantly Australian society in the 1960s was asking questions about the appropriateness of the foreign ownership and control of Australian industry and its ramifications for national sovereignty (Bell, 1960).

Bell (1960) recognised that in the long run the social and political issues regarding foreign investment were likely to become more prevalent "...the emotional and sentimental issues arising from the equity ownership question are likely to be chronic" (Bell 1960:51). Fitzpatrick and Wheelwright (1965) express similar feelings about the risk to 'Australianness'.

We are risking the *tone* of our community; the independent political attitudes and policies that in times not long past we achieved through the assertion of national identity as Australians; the egalitarian, the democratic flavour of our society which has stamped it, whether for better or for worse as different in some respect from other societies (Fitzpatrick and Wheelwright 1965:34).

Similar sentiments concerning the impact of foreign direct investment on national sovereignty were being expressed in the political sphere in the 1960s. The then Opposition Labour Leader Arthur Calwell called for an enquiry into foreign investment into Australia (Capling, 1997). The Deputy Prime Minister at the time and Leader of the Country Party John McEwen was unequivocal in his attitude to foreign investment. "We want US business herewith all its magnificent skills of management at all levels. But we don't want to be taken over. We will *not* be taken over" (cited in Bell 1960:50). By the mid 1960s and early 1970s the rising levels of foreign direct investment in the manufacturing and primary sectors of the Australian economy especially mineral exploration result in a growing political and social preoccupation with the threat to Australian sovereignty by foreign multinational corporations (MNCs) (Bryan, 1991; Capling, 1997; Fitzpatrick et al., 1965; Parry, 1972). Transcending party political lines the economic nationalist sentiment was clearly on the rise.

'OLD' ECONOMIC NATIONALISM

This type of thinking referred to as 'old' economic nationalism (Bryan, 1991) has been associated with political the Left. 'Old' economic nationalism in Australia had as its central tenet that foreign MNCs seek to frustrate the betterment of Australia. This ideology views MNCs as controlling and exploiting the Australian economy, by seeking to repatriate all profits. Even though MNCs provide employment it is argued that they provide for low value-added production, requiring a low level skill base while at the same time importing high value-added commodities from overseas. This results in a national economy reliant on overseas investors to survive which precludes any sense of effective independent industrialisation (Bryan, 1991).

This argument is in line with a Marxist interpretation on the growing concentration of capital (Bryan, 1991). It results in the exploitation and the imposition of a new colonialism on client states (*Australia*) which are being controlled from the centres of capitalism (*USA*) (Bryan, 1991) (*italics my addition*). The MNC is part of this process. The MNC internalises operations by setting up overseas subsidiaries that are able exploit opportunities in international operations, minimize risk and thus achieve monopolistic power (Hymer, 1970). Such a process would thus enable the exploitation of Australia.

Such arguments increased the local wariness and negative sentiment towards foreign capital. Academics of the Left in Australia warned of the conflict between the interests of overseas investors and those of the Australian 'national interest'. Australia according Fitzpatrick and Wheelwright (1965) as a sovereign state was being 'colonised' by foreign industrial and financial institutions that sought to extract the nation's wealth.

“The covetous alien” meant and means, the intruder whose interest in Australia is simply to make money out of it, to exploit it, whether by conquest...or by financial and economic infiltration and takeover, has become more the pattern of more recent years” (Fitzpatrick and Wheelwright 1965:65)

‘Old’ economic nationalism also draws upon the theory of Latin American ‘dependent capitalism’. According to this theory the world is dichotomised into ‘core’ and ‘periphery’ nations. MNCs seek to extend production from the centre (core) nations to the periphery (Wallerstein, 1979). In so doing MNCs create a distorted industrial structure in the periphery, developing primary or low level manufacturing production to the detriment of high value- added production. This leads to a continual dependence on the part of the periphery to the centre. Any effective independent industrialisation in the peripheral nations is thus stifled.

In the late 1960s and early 1970s the perception among some on the Left, was of an Australia as a ‘semi-peripheral’ country seeing its manufacturing base in decline, reliant more and more on a primary sector vulnerable to world commodity prices, lacking any real high value-added production, and with limited research and development (Bryan, 1991). Not being able to pursue an independent industrial program Australia is becoming dependent on the whims of foreign capital. For the economic nationalist this suggests that Australia needed to take control of her own destiny.

Nationalist sentiments underpinned by the ‘old’ economic nationalism influenced the then Liberal Prime Minister, John Gorton (1967-71). They were instrumental in his pursuit of the nationalist cause with regards to foreign direct investment (Anderson, 1983). This was evident in a number of actions taken during his term as Prime Minister (Anderson, 1983). Projects were stopped which he felt were not in Australia’s interest. What was not evident was whether these determinations were based on economic analysis or simply on economic nationalist sentiments. Under legislation he introduced he prevented the takeover of an Australian insurance company by a British Company (by this stage the British were now foreigners), thereby making insurance a key industry sector worthy of protection. He imposed restrictions on foreign firms borrowing funds in the domestic market thereby encouraging Australian equity participation. He established an Australian-owned shipping line and determined that the Government had the right to prevent foreign takeovers considered to be ‘contrary to the national interest’ (Arndt, 1977; Williams, 2001). This was formalised into legislation by Gorton’s successor William McMahon in the Companies (Foreign Takeover) Act of 1972. The significance of the legislation was that it gave the Federal Treasurer the discretionary power to determine the appropriateness of the foreign investment. Consequently the Australian Government under Gorton/McMahon had signalled to the international investment community that not all foreign investment was seen in a positive light and thus was not assumed to be ‘inherently beneficial to the nation’s welfare’ (Anderson, 1983). Gorton’s policies were widely supported; his nationalist agenda made him popular (Williams, 2001). Asked about his greatest achievement while in office he remarked “we stopped an awful lot of foreign investment coming in” (Uren, 2001).

The ‘old’ nationalist sentiment regarding foreign investment was maintained and strengthened under the Whitlam Labour Government (1972-75). The Government’s major objective was the promotion of Australian equity and Australian control of natural resources and industries (Anderson, 1983). Rex Connor the Minister for Minerals and Energy in the Whitlam Labour Government was a passionate economic nationalist committed to keeping Australia’s natural resources in Australian hands. The Whitlam Government imposed formal controls on foreign direct investment in Australia. Through the enactment of the Foreign Acquisitions and Takeover Act (1975) the government imposed restrictions on foreign ownership in the natural resources sector, specifically uranium mining. It also set up the Foreign Investment Review Board (FIRB) to vet proposed investments not deemed to be in the ‘national interest’. The Act leaves open to interpretation the ‘national interest’ criterion.

The Liberal Fraser Government of 1975 continued similar policies with regards to FDI (Arndt, 1977). In spite of the general perception that the Liberal Government was more sympathetic to

private enterprise, foreign capital regulations controlling FDI remained. The Fraser Liberal Government had no intention of reverting to a pre 1960s 'open door' policy on foreign direct investment (Arndt, 1977). The nationalist sentiment with regard to foreign investment was alive and well in the Fraser Liberal Government.

MOVEMENT TOWARDS A 'NEW' ECONOMIC NATIONALIST AGENDA

'New' economic nationalism has moved away from the 'old' notions of "selling off the farm" and challenging the omnipresent power of the MNC in order to maintain our national sovereignty. It incorporates a post-Keynesian world, which views manufacturing industries as critical to economic growth and the State as regulator of the market, seeking to promote manufacturing industries that are internationally competitive (Bryan, 1991).

Australian Governments of both political persuasions have pursued this new economic nationalist agenda in the last 20 years. Under the Hawke/Keating Labour governments (1983-1996), Australia witnessed a significant liberalisation in its economy. The 1980s saw a process of deregulation and changes to the Act that resulted in the easing of restrictions on FDI. Other measures adopted during this period were the floating of the Australian dollar, the opening of the Australian economy to foreign banks and the reduction of tariffs (FIRB, 2003). The present John Howard Liberal government since coming to power in 1996 has pursued a more economic nationalist agenda continuing and extending the previous government's liberalisation, deregulation and privatisation agenda of the economy while at the same time championing the merits of foreign capital and investment for Australia's economic development (Costello, 2001). However this economic nationalist agenda has not resulted in the dismantling of the 'national interest' criteria.

The fundamental difference between the 'old' and the 'new' economic nationalism is that the latter is no longer concerned with the origin of the investment or issues of foreign control. Nationalist sentiments and the threat to national sovereignty are not part of the calculation in the 'new' economic nationalism. Ownership of the resource or of the corporation does not matter. What does matter is the ability of companies to contribute to Australia's overall growth and international competitiveness (Bryan, 1991). In the 'new' economic nationalism whether a MNC is in the hands of foreign or domestic owners is irrelevant; what is important for the various stakeholders, is their appropriate treatment at the hands of the MNC. Thus, in this new economic nationalism the State through appropriate reforms helps promote a new 'nationalist fervour' not based on the traditional notions of national identity and sovereignty. It does this through industry policies that support and identify industries which are 'winners' both domestically and internationally (Bryan, 1991) and through social policies which seek to reflect the type of society sought after by its citizens. In the 'new' economic nationalism, criteria such as the 'national interest' need to move beyond traditional nationalist sentimentalism and questions of ownership to incorporate specific guidelines reflecting State sponsored industry and social policies which underpin the new 'nationalist fervour'.

DEFINING THE NATIONAL INTEREST

Attempts at gaining some insight into the meaning of the 'national interest' criterion have not been very fruitful. Two Australian Government White Papers despite being titled "In the National Interest" (DFAT, 1997) and "Advancing the National Interest" (DFAT, 2002) shed no light on what is the 'national interest'. The former provides some very broad sweeping statements about Australia's core national interests being security, jobs and a good standard of living. This is not particularly insightful in attempting to elucidate what the meaning of the criterion with regards to the Act. Similarly, the latter paper provides no further insight into the concept as it discusses the national interest in terms of security needs post September 11.

Edwards (2002) attempted to clarify the criterion of 'national interest' by contacting the Department of Foreign Affairs and Trade (DFAT). He approached the DFAT seeking a definition of 'national interest'. He received a vague all-encompassing interpretation of the criterion. The 'national interest' encompasses a multi-dimensional approach incorporating, geo-political and strategic

interests, economic and trade interests and multi-national interests in relation to Australia's standing and responsibilities in the international community.

The criterion is thus open to interpretation by the Government of the day through the Federal Treasurer. The final decision regarding a foreign investment proposal (above \$50 million AUD) rests with Federal Treasurer. In taking the 'national interest' criterion into consideration the Treasurer takes advice from the FIRB and other interested parties. However there are no guidelines or parameters set out in the Act or policy statements which specifically address the 'national interest' criterion upon which to base a judgement. The subjective nature of the decision making process, opens up the Government to accusations that it may be beholden to political influence by specific interest groups. Critics argue the process gives *carte blanche* to the Federal Treasurer to interpret the 'national interest' in whatever way he chooses without having to provide justification or reasons for his decision (Tooth, 2001). Decisions which invoke the 'national interest' criterion to reject an investment proposal fail the test of transparency and openness expected of Government. Such a decision making process is clearly problematic.

Kasper (1998) argues that for any society to function appropriately it needs to have in place a system of rules and institutions so that it can coordinate its activities and allow for order to evolve. Rules allow for conformity enabling everyone to know where they stand under certain universal principles. Rules need to be non-discriminatory and transparent in order that decisions made on the basis of those rules can be analysed should the need arise. "Universality is enhanced when the different rules form a cohesive, ordered and mutually enforcing system" (Kasper, 1998:11) Rules help prevent discrimination by setting the same standards for all.

Clearly the present state of affairs with the "national interest" criterion fails the test of universality. The 'national interest' criterion then not only has the potential to allow for discriminatory decision making but also has a detrimental effect upon future investment intentions of MNCs by sending them the wrong message (Bora, 1995; Nahan, 2001). According to Bora (1995) as well as setting liberal policies regarding FDI to encourage MNCs to invest, the government needs to send unambiguous signals to potential investors that Australia is open to foreign direct investment. The Government needs to have policies which are transparent and non-discriminatory and avoid the potential need to 'second guess' how the Federal Treasurer will 'jump' if the 'national interest' is brought into question.

The setting of parameters and guidelines in the determination of the 'national interest' criterion would make it harder for the State to make decisions which lack transparency. This would mean less power vested in the hands of the Federal Treasurer. This can potentially prove problematic when 'old' economic nationalist sentiments arise. In 2001 Pauline Hanson the leader of the One Nation party (very much aligned with principles of 'old' economic nationalism) was calling upon the government to block Royal Dutch Shell's bid to takeover Woodside Petroleum by appealing to the nationalist sentiment and stating: "You don't just keep selling the farm" (Reuters, 2001). Continued economic nationalist sentiment among the Australian population and the likelihood of electoral backlash when seen to be acting contrary to the nationalist cause means that governments are not keen to forego a 'lever' (the 'national interest' criterion) for which they have ultimate control. Convincing politicians to surrender the right to exercise power cloaked in secrecy is never easy (AFR, 2001).

The lack of transparency by successive Australian governments using the 'national interest' criterion has impacted on the discourse in the international arena. In negotiations on the Second Protocol to the General Agreement on Trade in Services (Geneva 1995) an obligation under the Protocol was the addition of extra text to clarify the provisions of Australia's 'national interest' test used when screening applications for foreign investment (GATS, 1996). In the unsuccessful Multi-lateral Agreement on Investment (MAI) negotiations, Australia's FDI screening system that enables the use of the 'contrary to the national interest test' was argued by negotiators to have a discretionary element to it. They wanted it removed (AIIA, 1998).

CONCLUSION

Although the 'old' nationalism has been seen to be part of the dogma of the political Left and argued to encompass a minority position in the Australian political debate (Bryan, 1991) it nevertheless has been used by successive governments on both sides of politics to tap into the nationalist sentiment which still exists in the Australian psyche. For the 'old' economic nationalist, the assumption that keeping an Australian owned company in Australian hands results in benefits for the Australian public is short sighted. Australian ownership does not give the Australian public any say in the management of these companies any more than if these companies are foreign owned; that is, unless the ownership of these companies is public thus enabling some influence to be exerted through the ballot box.

Under the 'new' economic nationalist paradigm the critical issue that needs to be considered, is whether a company seeking to takeover an Australian company or invest in Australia adheres to rightful corporate and employment practices and therefore provides an overall economic and social benefit to Australia. The Australian government as regulator needs to guarantee that MNCs which invest in Australia are adhering to the 'rules of engagement' (Harper, 2001). Whether these rules relate to economic, environmental or social agendas, it is the responsibility of the Government to enact legislation compelling the corporate player regardless of their ownership status (i.e. domestic or foreign) to play by those rules. Such rules then form the basis of a specific policy statement which underpins the 'national interest' criterion allowing future investors to know where they stand.

The ownership issue 'per se', whether local or international ultimately becomes irrelevant in the decision to approve foreign direct investment. What stakeholders require is that the company does the right thing by all concerned. The Australian Government needs to avoid succumbing to the nationalist sentiment that assumes national pride in companies being Australian owned. Companies regardless of origin engaged in ethical practices are preferable to companies that have engaged in questionable practices.

The use of the 'national interest' criterion in Australia at present is a tool of political expediency which governments of all persuasions have sought to use in order to satisfy a political agenda under the guise of making decisions based on the national good of its citizens. Preventing a company from taking over an Australian company simply on the basis that it is foreign-owned and this somehow causes Australia to lose prestige as a nation ultimately panders to the very narrow nationalist sentiment evident in Australia in the 1960s and 70s, but well past its use by date.

Under the 'new' economic nationalist agenda of the last 20 years Australia has managed to liberalise its economy and remove some of its restrictions on foreign direct investment. However there is always more room for improvement. Amending the Act to incorporate a definition or the establishment of specific policy guidelines which aid in the interpretation of the 'the national interest' criterion would be a step in the right direction. Specificity is the key as broad guidelines open to interpretation will continue to be problematic. Ultimately the discretionary subjective power vested with the Federal Treasurer to interpret the 'national interest' criterion needs to be addressed if we are to allow for greater equity, objectivity and transparency in the decision making process. Unfortunately asking politicians to relieve themselves of power which they choose to exercise in a non transparent manner may not be an easy task to achieve.

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