

**Senate Standing Committee on Economics**

**ANSWERS TO QUESTIONS ON NOTICE**

**Treasury Portfolio**

Supplementary Budget Estimates

21 – 22 October 2009

**Question: sbt 63**

**Topic: Foreign Investment in Australia**

**Hansard Page: E75-76 (22/10/09)**

**Senator LUDLAM asked:**

**Senator LUDLAM**—Thank you. The last question, while we have these officers at the table—so it is addressed specifically to your area—is: can you update us on the state of play as to whether the Foreign Investment Review Board does have a number of criteria that it benchmarks foreign investment decisions in Australia against? We spoke about this, I think, in the previous round of estimates, in the context of a mine in Western Australia. Are there any proposals, moves afoot or work that you are doing to strengthen the standards that we would apply to foreign investment in Australia, for example, looking at human rights performance in other parts of the world?

**Mr Colmer**—I am sorry; I missed the last few words there. Is that question about human rights performance of mining in Australia?

**Senator LUDLAM**—No. For example, if a company wanted to invest in Australia and they are clearly operating outside the bounds of good corporate behaviour elsewhere—

**Mr Colmer**—I would have to query that because, with the particular case that you raised, you made the allegation that they were operating outside of the bounds of normal human rights. When we investigated that case, the mine that you were complaining about had not even been established.

**Senator LUDLAM**—No, there are two. There is one that has not been established. The company that I referred to—and I was not going to take you on with this particular example—currently operates the largest nickel mine in Burma. I am not asking for a defence of the Burmese regime here. I am referring to that being a particular part of FIRB's test and I am wondering whether there are any moves to strengthen it, for example, in the domain of human rights performance elsewhere.

**Senator Sherry**—That would constitute advice to the government. The government has made a number of announcements in recent times on changes to its approach; it has articulated that. So I would have to take that on notice.

**Senator LUDLAM**—Okay—as to whether any advice has been provided either way: whether the government has made any requests of FIRB, or whether you have provided any advice back the other way.

**Senator Sherry**—Yes, I will take that on notice.

**Senator LUDLAM**—Thank you very much.

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#### **Answer:**

In February 2008, the Treasurer published a set of guidelines that the Government considers when evaluating the national interest implications of foreign government related investments.

The guidelines provide structure and transparency in the way foreign investment proposals generally are assessed by FIRB.

An important element of the guidelines is the consideration of an investor's commercial and legal conduct; whether, for example, a company adheres to the law and whether it abides by common standards of business behaviour.

Corporate governance and behaviour assessments by FIRB must be based on objective findings that have direct relevance to an investment's potential impact on Australia's national interest. They can involve rigorous discussion between FIRB and the relevant parties and, where relevant, consideration of submissions by interested third parties. FIRB's assessment may also include consideration of problems encountered by investors in jurisdictions elsewhere in the world, particularly where such circumstances have a direct bearing on Australia's national interest.