Dissenting Report by Government Senators

Introduction

1.1 Government senators have significant concern with the view taken by the report of this committee regarding the new Mineral Resources Rent Tax (MRRT). We also reject the naming of the report, and its recommendations.

1.2 A breakthrough agreement was achieved between the Australian Government and the mining industry on 2nd July, 2010, on arrangements which will underpin major economic reforms to strengthen our economy, including an historic boost to superannuation, new and better infrastructure, and business tax cuts including an up-front tax break and less red tape for small businesses.

1.3 This agreement provides certainty to the resources industry, to mining communities around the country, and to the broader Australian economy. These facts lead us to believe that this policy sends a very clear message to the world that the Australian resources sector is strong and its future is secure.

1.4 Government senators dissent from the report. We suggest that the report has not given due weight to the extensive consultation process undertaken by government, the significant benefits of broader economic reforms of which the MRRT is a part, responsiveness to concerns raised by individuals in public debate, and the importance of ensuring a fairer share of Australia's finite resource wealth is utilised for the benefit of all Australians.

Consultation

1.5 Government senators do not agree with the assertion that consultation in the development of the MRRT proposal was narrow in scope. Consultation on the design of the MRRT was significant, including multiple consultations through the Australia's Future Tax System Review (AFTS Review) process; discussion of resource tax arrangements in the AFTS consultation papers; and formal submissions to government from the mining industry about the desirability for changes to resource taxation and the form the industry would prefer those changes to take.

1.6 Following the ATFS Review process, significant contact between government and industry was maintained, including many hours of consultations at ministerial and official levels with miners of different sizes and miners of different commodities.

1.7 Treasury has noted that there had also been discussions with at least 10 State and Territory departments, including the Western Australian Treasury, as part of the consultation process that informed the design of the MRRT.

1.8 It should be noted by the committee that as a product of consultation, the MRRT proposal announced by the government on 2nd July, 2010, has limited the application of the new regime to iron ore, coal and oil and gas.

Responsive to Smaller Miners

1.9 The new MRRT proposal announced by the Australian Government has also been directly responsive to the public demands made by the leader of the smaller miners, Fortescue Metals Group Limited CEO Andrew Forrest, on 29th June 2010.

1.10 Fortescue asked for an open discussion of the headline tax rate. The MRRT more than delivered on this point, with a 30 per cent headline rate, and a 25 per cent extraction allowance to recognize the contribution of miner expertise up to the mine gate.

1.11 Fortescue asked for a higher uplift rate. The MRRT provides a higher uplift rate of the long term Government bond rate plus seven per cent. This in particular is of more value to small miners than to large miners, because large miners are more likely to be able to access their deductions immediately by offsetting them against other profits rather than having to wait and uplift them.

1.12 Fortescue asked for immediate write-off of new capital investment. The MRRT delivers this. Immediate write-off of new investment benefits miners that are about to make substantial new investments in their mines and it means that mines do not pay the MRRT until they have made enough profits to cover their initial investment.

1.13 Fortescue asked for transferability of deductions between projects to be maintained. This is of little value to single project miners, but is valued by miners with multiple projects as it allows them to immediately access deductions from one project that is under construction by transferring them against profits from other projects.

1.14 Fortescue asked for the taxing point to be set at the point of mineral extraction. The MRRT affirmed that the taxing point would be set close to the resource, ensuring the arrangements did not tax the profits generated by downstream activities such as transport infrastructure.

1.15 Fortescue asked for past investment to be valued at double its book value, for the purpose of resource taxation. The MRRT provides significantly more generous treatment than the previous model by allowing miners to have the full market value of existing value of existing projects, including the value of mining rights, recognized as their starting base.

1.16 Fortescue also asked for the refundability of unused deductions to be removed, which the new MRRT also reflects.

1.17 In addition, the new MRRT also provides a $50 million threshold to exempt the smallest miners from the regime.

1.18 We believe that in developing the proposed reforms, the views of smaller miners have been taken into account by government, including those stated publicly by Fortescue.

Industry Views on the MRRT Proposal

1.19 The new arrangements were welcomed by industry as improving the outlook for investment and for jobs.

1.20 Following the announcement of the MRRT on 2nd July, 2010, the Minerals Council of Australia said that “Today’s proposal on a new Minerals Resource Rent Tax stands to deliver a positive outcome for Australia and its minerals industry.” The MCA also stated that “This package is broadly consistent with the minerals industry’s underlying principles of tax reform: international competitiveness, sovereign risk and competitive neutrality across company size, commodity mix and ownership structure.”

1.21 Further, Fortescue CEO Andrew Forrest said investors had a renewed interest in his projects. On 3 July he said "the healing started almost immediately. We had emails and phone calls from bankers saying Fortescue, we're prepared to talk to you again."

1.22 This indicates the fact that broad consultation and responsiveness in government policymaking has contributed to an arrangement that supports investment and jobs, while providing the mining industry with much greater certainty about future taxation reform.

Revenue

1.23 On 2nd July, 2010, the Government clearly stated the implications for net revenue from the new arrangements. The Government announced that the new arrangements were expected to raise $10.5 billion over the forward estimates, which is $1.5 billion less than the previous arrangements had been expected to raise. The Government also outlined that it would reduce some of the associated tax cuts, in line with the reduction in expected revenue.

1.24 The Government provided further details of the different contributions to the revenue figures in an Economic Statement released on 14th July, 2010. This statement outlined that policy changes had reduced expected revenue by $7.5 billion, but that parameter variations had increased expected revenue by $6 billion. The Economic Statement also provided information on the Terms of Trade assumptions, as has been the practice of successive governments in their budget documentation. The Treasury has explained that its revenue estimates are based on the most recent available information, reflect current high prices but do not assume commodity prices remain at their current levels indefinitely. Treasury assumes that commodity prices will decline gradually over time as global supply comes on stream. This is a prudent and conservative assumption.

1.25 Regarding geographic distribution of revenue raised by the MRRT, the Treasury has explained why it is not possible to identify the revenue raised on a state by state or commodity by commodity basis with any certainty. “MRRT is a profits-based tax with tax assessed on a project by project basis and with losses transferable between projects operated by the same company. As the level of profits from mining projects is not available on a State by State basis, and there is no information available on how many mining companies might elect to transfer losses between taxable projects (which may be located in different states), it is not possible to determine the distribution of MRRT profits by State with any certainty.”

1.26 Treasury also noted that “It is not usual practice for government to release estimates of the revenue impacts of the individual components that make up revenue estimates for policy measures. To do so would be potentially misleading due to important interactions between components in determining the overall revenue implications of a measure.”

A Fairer Return on Resource Wealth

1.27 The new arrangements will deliver a fairer return to the Australian community for its non-renewable resource wealth. These returns will be used for much needed economic investments.

1.28 One important area of investment is in infrastructure. Through the last commodity boom, the mining industry noted that significant capacity constraints emerged, created by a lack of government investment in infrastructure. We note that the new resource tax arrangements will fund a $6 billion regional infrastructure fund to address this need.

1.29 The revenue from the new arrangements will be used in other ways that also benefit the economy. It will support an increase to superannuation and cuts to business taxes for all companies and tax relief and simplification for unincorporated as well as incorporated small businesses.

1.30 The Government has outlined a process for finalising the design details of the new resource tax arrangements. On 2 July it announced that it would establish a Policy Transition Group (PTG) led by Resources Minister Martin Ferguson AM and Mr Don Argus AC to consult with industry and advise the Government on the implementation of the new MRRT and PRRT arrangements.

1.31 We believe that the government has made significant progress on reforms to the taxation treatment of resource wealth in Australia. The new Mineral Resources Rent Tax (MRRT), developed in consultation with the mining industry, will provide certainty to the resources industry, mining communities, and the Australian economy.

Senator Steve Hutchins

Senator Don Farrell

Senator Anne McEwen