

Mr Keating

COMMONWEALTH OF AUSTRALIA

SPEECH

BY

The Rt Hon. W. McMAHON, C.H., M.P.

Prime Minister

ON

Overseas Investment in Australia

Ministerial Statement

[From the 'Parliamentary Debates', 26 September 1972]

Mr McMAHON (Lowe—Prime Minister)—by leave—Last May, the Treasurer (Mr Snedden) tabled in this House a Treasury economic paper entitled 'Overseas Investment in Australia'. In doing so, he identified 3 problems associated with overseas investment. They were the high level of capital inflow and the potential problem that creates for managing the domestic economy; the suggestions of exchange rate speculation to which such inflows give rise, and the possible consequences of that; and, the sheer growth of foreign ownership and control of important elements of our economy. Since May this year, the Government has been conducting a review in depth of our policy towards overseas investment. We were aided in this by the public debate which the Treasury economic paper generated.

Today I want to announce the Government's decisions to date arising out of that review. Before doing so, however, I wish to make clear the Government's view of the past and future role of overseas capital. Overseas capital has played a vital role in Australia's development. It has added considerably to the resources available for

our growth. It has brought with it valuable technological know-how and access to overseas markets; it has created new industries. As a result, Australia is a larger nation, and a more prosperous one. The inflow of capital has been associated with increasing overseas ownership and control of industry in Australia. This has been one cost of the increased growth which has come from welcoming overseas capital. In the past, this has been a cost which, in our judgment, has been outweighed by the benefits. Nonetheless, our policy has been to encourage overseas capital to come insofar as practicable on a joint basis—and in close co-operation with Australian-owned enterprises. But circumstances change and so must policies.

In the past 2 years, capital inflow has increased dramatically. In 1969-70, net apparent capital inflow was \$797m. In 1970-71, it was \$1,418m. Last year, it was \$1,841m. A very high level of capital inflow seems in prospect again this year. Until 2 years ago, capital inflow, by and large, was broadly matching our deficit on the current account of the balance of payments. That is, the overseas capital was

being used to add to the resources available in the economy. Without it we could not have sustained a large net inflow of goods and services from the rest of the world. That situation has now changed. In 1970-71 net apparent capital inflow exceeded the current account deficit by \$598m. In 1971-72, the excess rose to \$1,443m. Between end-June 1970 and end-June 1972, official reserve assets rose from \$1,538m to \$3,764m. They now exceed \$4,100m.

In brief, in the past 2 years, capital inflow has resulted chiefly in a build-up of international reserves rather than an addition to resources actually being used in the economy. The greater part of this recently increased inflow has been in respect of company borrowings. Exchange control approvals of gross borrowings abroad rose from \$568m in 1969-70 to \$1,222m in 1970-71 and to \$1,681m in 1971-72. With the existing unimpeded access to overseas lenders, our ability to use monetary policy effectively has been called into question. The House may recall that the Treasury economic paper said that 'private capital flows have now acquired a practical potential to nullify the effects of monetary policy on internal economic conditions.' To date, this has not happened. But the build-up in liquidity which is proceeding will, if allowed to go unchecked, produce some headaches for the future.

As a separate but related matter, the Government has also been considering the growth of overseas ownership and control of Australian industry. We need to be sensible about this. We all want to see a bigger Australia. We all want the tangible benefits that access to overseas capital and skills brings us. Yet there is legitimate cause for concern. The right balance between our desire for an Australian Australia and for greater growth and prosperity must be struck. After 20 years of vigorous growth, we are today a relatively wealthy nation. We have less need to depend on overseas capital for our growth today than we did some years ago. We can afford now to trade off, at the margin, some of the benefits of overseas capital for a greater Australian share in our industry and resources. We can do it, too, without frightening off overseas capital. Overseas investors are expecting us to move. In

brief, the policies which have served us well in the past now need modifying.

I turn now to the 4 specific decisions we have taken as a result of our review to date. Three relate to the problem of net capital inflow and the fourth to the problem of overseas control of our industry. I begin with the first of the 4 decisions, that is:

Exchange Control on Short-Term Borrowings Overseas

The largest part of net capital inflow is accounted for by borrowings overseas by Australian residents, including foreign companies resident in Australia. We have decided to act to reduce the level of short term borrowings. The Reserve Bank will, from tomorrow, refuse exchange control approval for all overseas borrowings which would be repayable, or carry options to repay, in 2 years or less. Loan agreements which have already received exchange control approval will not be affected.

With a view to rendering the proposed measure effective, the present sterling area exemption, under which, inter alia, borrowings in Australian dollars from sterling area residents are not subject to exchange control approval, will be terminated forthwith. For the sake of administrative simplicity, at any rate in the early stages of the scheme, borrowings totalling less than \$100,000 in any one year will be exempt. The appropriateness of this exemption limit will be reviewed from time to time. I come now to the second decision which concerns:

The Borrowing Guidelines

Since May 1965, the Government has laid down certain guidelines which have limited the freedom of overseas-owned companies to borrow in Australia. One effect of the guidelines has been to require overseas-owned companies to bring in funds from overseas in place of the funds which they have not been permitted to borrow locally. This effect was appropriate to the circumstances formerly prevailing, but the circumstances have changed. The need now is to limit overseas borrowings, not to encourage them. Accordingly, the Government proposes to abolish the guidelines forthwith.

Portfolio Investment Overseas by Australian Residents

At present, portfolio investment abroad by Australian residents is not permitted. Our decision is to relax this policy while retaining the need for exchange control approval of such transactions. Details will be announced shortly by the Governor of the Reserve Bank. The effect of these decisions will be to moderate the level of net capital inflow from overseas. They may, as a result, have some effect on the Australian capital market and will, incidentally, restore to Australian financial institutions some of the business which, in recent times, has been going abroad. I want to emphasise that developments in our own market will be watched very carefully to ensure that there are no untoward consequences. With liquidity presently at a high level, no transitional difficulties are foreseen.

Mr Speaker, at this point I turn to the question of overseas ownership and control. In this area of policy, the Government has long made it plain that the most welcome overseas capital is that employed in partnership with Australian-owned capital. However, the trend towards increasing overseas ownership has gone on. The time has come to consider more direct action to influence that trend. Our balance of payments on current account has improved greatly and, with that, our need for overseas capital has lessened. Our own Australian industry is more advanced and technologically capable than 10 or 20 years ago and can, if given the chance, effectively partner overseas companies. Action in the field of foreign ownership and control generally raises complex problems. We have undertaken an initial study of these problems, but their resolution will require more detailed study and further time for careful consideration. That work is now in hand. Its results will be announced as soon as practicable. However, in respect of one particular form of overseas ownership and control, we have decided that action can be taken without awaiting the final outcome of that full review.

I refer to the subject of our fourth decision:

Foreign Takeovers

No aspect of overseas investment has excited more attention than this question. Foreign takeovers result in control as well as ownership passing from Australian to foreign hands. This aspect causes particular disquiet. Sometimes foreign takeovers also have the objective, or at any rate the effect, of limiting competition. In such cases, disquiet is justifiably intensified. On the other hand, foreign takeovers can revive an ailing company or may be made at a price permitting the Australian recipients to reinvest the proceeds at a considerably increased return. Australian as well as overseas investors have rights at stake and our policy must be such that their interest is not prejudiced—except when the interest of the nation requires it. The Government's longstanding policy has been that it reserves the right to do all in its power to prevent a particular takeover when, in the circumstances of the case, it is considered by the Government to be against the national interest. Moreover, under the policy announced on 24th May last by the Attorney-General on restrictive trade practices and monopolisation, takeovers which are likely to limit competition will be subject to examination and report by the monopolies commission which is to be established. This applies whether the bidding company be foreign or Australian.

We think, however, that the time has now come to introduce a new approach for the control of foreign takeovers. The Government intends to legislate for the prevention of foreign takeovers it considers would be against the national interest on the basis of criteria which I shall indicate. The legislation will apply to acquisitions of shares or other assets by overseas interests which might reasonably be expected to result in control of an Australian business passing to overseas interests. In the case of company takeovers, there will be a presumption that acquisition by any one overseas interest or associated group of 15 per cent or more, or by overseas interests in the aggregate of 40 per cent or more, of the voting power of an Australian company could constitute a takeover. For this purpose, overseas interest will include an Australian-incorporated company in which any one overseas interest or group holds

15 per cent or more of the voting power or in which overseas interests have in the aggregate 40 per cent or more of the voting power. Cases where control of a business would pass into overseas hands through acquisition of all, or a substantial part, of the assets of the business will also be subject to the measures.

The measures may also apply to the transfer of a significant part of the ownership or rights over a valuable or potentially valuable mineral area, such as can occur through transactions known in the mining industry as 'farm-ins'. If overseas interests demonstrate that an acquisition would not give a significant degree of foreign control, the measures will not apply. They will also not apply if the takeover would simply transfer control from one overseas interest or group to another. The measures will, in general, apply to cases where the company concerned, whether listed or unlisted, has assets of more than \$1m. Australian governments have already taken action to restrict foreign investment in certain industries of national significance—notably banking, airlines and radio and television broadcasting. Cases may arise where an Australian company involved in a takeover proposal is considered by the Government to be an economically strategic industry leader or to be so large that the takeovers would significantly affect the relative balance of Australian-overseas ownership and control of the industry concerned. The proposed legislation will include a power, in those circumstances, for the Government to take direct action to prevent the takeover if it judges such action appropriate.

Foreign takeover proposals judged by the Government to warrant detailed investigation as to whether they would be against the national interest will be referred to an independent authority—including official Government representation—which will analyse each such proposal and report on it to the Government. Decisions on individual cases will be taken—I stress this—by the Government, after consideration of the independent authority's report. There will be a time limit of one month, measured from the date of notification of a takeover to the Government, or the date of the making of

a public announcement concerning the takeover, for reference of takeover proposals by the Government to the independent authority. Proposals not referred in that time will be free to proceed. There will be a further time limit of 3 months maximum from the date of reference for report by the authority, unless extended by the Government in special circumstances.

For the purpose of references to and reports by the independent authority, the first criterion to be applied in judging whether a proposed foreign takeover would be against the national interest will be: Whether, against the background of existing circumstances in the industry concerned, the takeover would lead, either directly or indirectly, to net economic benefits in relation to such matters as production, prices, quality and range of products and services, and efficiency and technological change which would be sufficient to justify the increased degree of foreign control of the particular industry that would result from the takeover.

If the proposed takeover is judged to be not against the national interest on this basis, the following additional criteria will also be taken into account: Whether, after the takeover, the firm concerned could be expected to follow practices consistent with Australia's interest in matters such as exports, imports, local processing of materials produced, research and development and industrial relations, including employee protection; and whether the takeover would have adverse consequences in terms of the Government's objectives for defence, environmental protection or regional development.

In making judgments as to whether particular foreign takeovers would be against the national interest on any of the foregoing grounds, due weight will be given to: The extent of Australian participation in ownership and management that would remain after the takeover; and the interests of shareholders of the company subject to the takeover and the attitudes of its board of directors. Pending the enactment of legislation and establishment of the independent authority to be provided for in it, the measures I have outlined for the control of foreign takeovers will be brought into immediate effect on an interim basis.

Under the interim arrangements departmental machinery will be used in place of the independent authority and on the basis of application of the criteria I have indicated. These measures will apply from tomorrow and will embrace foreign take-over proposals already current.

The decisions I have announced are firm and positive: They have not been taken lightly. Australia has benefited greatly from overseas capital in the past and we continue to welcome it on fair and reasonable terms. The steps we are taking are

designed to deal with some of our main concerns. We believe they do so fairly and judiciously. As I have said, we aim to see greater Australian participation in overseas-owned companies. In addition to the steps I have announced this evening, the Government is examining further means of giving effect to that aim. In the meantime, however, we make it clear that our concern is to see that overseas capital is employed in Australia in real partnership with Australian owned capital. I commend the proposals to the House.