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A comparison of foreign investment controls in Canada and Australia

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FOREWORD

This is the fifth in a series of Occasional Papers published by the Foreign Investment Review Agency, the objective of which is to inform readers and encourage discussion on topics related to foreign direct investment in Canada.

The author, Mr. G.H. Dewhirst, is Director of the Agency's Research and Analysis Branch. This publication is based on information published by the Agency and Australia's Foreign Investment Review Board, as well as correspondence and discussions between the author and Mr. R.H. Dean, Executive Member of the Australian board, and his staff.

The author is indebted to Mr. Dean for his valuable comments on an earlier draft. Any errors of fact or interpretation are, of course, the responsibility of the author.

Foreign investment in Canada and Australia

Both Canada and Australia are relatively new countries whose economies share a number of common characteristics of which the following are the most significant: rapid development in recent decades; a rich endowment in natural resources; a high standard of living; a high net import of capital; and the highest levels of foreign ownership and control in the industrialized world. Table 1, which illustrates these levels selectively, shows that foreign ownership and control are generally greater in Canada than in Australia.

TABLE 1

Comparative statistics on foreign ownership and control in selected industries*

	CANADA			AUSTRALIA	
	% of capital employed[a]		% of value added[b]	% of value added[c]	
	Dwnership	Control	Control	Dwnership	Control
All manufacturing	50	56	51	31	34
Rubber products	72	99	88	41	42
Textiles	29	35	53	29	33
Pulp, paper & products	54	46	47	15	17
Motor vehicles & parts	88	96	92	76	78
Electrical products	63	74	64	40	46
Chemicals	65	82	83	58	78
All mining	56	70	n.a.	52	59
Petroleum & natural gas	54	75	n.a.	56	87
Other minerals	58	60	n.a.	51	53

a) As of December 31, 1975
b) As of December 31, 1974
c) Mining data is as of June 30, 1975, Manufacturing data is as of June 30, 1973.

* The industrial classifications used for each country are comparable but not identical.

Sources: Statistics Canada and Australian Bureau of Statistics

Policy towards foreign investment

Both Canada and Australia have made it clear that they need and welcome foreign investment, subject to restrictions in a few key sectors and to the proviso that such investment in other unregulated sectors will be of benefit to the host country as well as to the investor.

Legislative and administrative response to foreign investment

Key-sector legislation

In Canada, foreign investment is limited and the takeover of Canadian companies is precluded by law in banking, certain other financial sectors and broadcasting, and the Government has announced its intention to limit foreign ownership of uranium mines. In addition, foreign participation is limited in fishing, oil and gas leases on federal public lands, and in civil aviation. Australian law similarly restricts foreign investment in banking, radio and television, and certain aspects of civil aviation.

Investment screening

As explained more fully below, both Canada and Australia have adopted screening processes to review certain foreign investments in the sectors of the economy not subject to legislative restrictions.

Other measures

Unlike Canada, Australia has a system of foreign exchange controls which, while not intended primarily as a means of regulating foreign direct investment, provides the means, if necessary, to ensure compliance with those parts of its foreign investment policy which are not incorporated in statutes. Australia also has export control powers, which Canada does not.

The screening process

Authority

In Canada, the screening process was established by and operates solely under the authority of the *Foreign Investment Review Act*. In Australia, the screening process is only partly founded on law. Certain transactions, essentially business takeovers, are subject to review and approval under the *Foreign Takeovers Act*. Other transactions, which are more common, were brought within the ambit of the screening process through a policy statement of the Australian Government. Though compliance with respect to these transactions is voluntary, it is reinforced by Australia's foreign exchange and export controls.

Investment subject to review

Canada's *Foreign Investment Review Act* applies to:

- the acquisition of control of a Canadian business enterprise by foreign individuals, corporations, government or groups containing foreign members, through the acquisition of shares or of the property used in carrying on the business; and

- the establishment of a new business in Canada either by foreign persons who do not already have an existing business in Canada, or by foreign persons who have an existing business in Canada, if the new business or expansion is unrelated to the existing business. The term "unrelated" is not defined in the statute but has been interpreted by the Minister to exclude most forms of expansion and diversification by established businesses. In practical terms the new business provisions of the Act apply, for the most part, mainly to proposals to establish new businesses in Canada by persons who do not already have a business in Canada. In addition, FIRA has very limited application to foreign purchases of real estate, unless they represent purchases of businesses.

Australia's screening process has a broader scope than Canada's. It applies to investment proposals covered by the *Foreign Takeovers Act* of 1976, including proposals by foreign interests to acquire control of an Australian business and proposals by single or associated foreign interests to acquire or increase a holding of 15 percent or more in an Australian business even where the proposal does not involve a change in control of the business. This legislation is tempered somewhat by the fact that the Government does not normally intervene in such takeovers when the total assets of the target company are less than $A2 million, except in the non-bank financial sector or when there are special circumstances.

The screening process also applies to investment proposals not covered by the *Foreign Takeovers Act*, but subject to various elements of the Government's stated foreign investment policy. These include:

- proposals involving the establishment of new non-bank financial institutions and insurance companies;

- proposals to establish new businesses or to undertake new mining or natural resource projects, other than uranium, if the total investment is more than $A5 million; and

- individual real estate acquisitions of more than $A250,000 which were made since June 8, 1978.

Definition of foreign investor

In Canada the term *non-eligible person* is used to describe persons whose investments are subject to review. Australia uses the term *foreign interest*. Both terms are comparable but not synonymous. Though the Australian screening process has a wider application than Canada's, the definition of *non-eligible person* is somewhat broader than that of *foreign interest*.

Under the *Foreign Investment Review Act*, a *non-eligible person* means:

- an individual who is:

  (a) neither a Canadian citizen nor a landed immigrant;

  (b) a landed immigrant who has been ordinarily resident in Canada for more than one year after he first became eligible to apply for Canadian citizenship, and who is not a Canadian citizen;

  (c) a Canadian citizen ordinarily resident outside of Canada;

- a foreign government or agency of a foreign government;

- a corporation "...that is controlled in any manner that results in control in fact, whether directly through ownership of shares, or indirectly through a trust, a contract, the ownership of shares of any other corporation or otherwise..." by a *non-eligible person* as described above, or by a group of which one or more members are *non-eligible persons* as described above.

In addition, the Act presumes that a corporation is a *non-eligible person* if:

- any one non-eligible person owns 5 percent or more of its voting shares; or

- more than one *non-eligible person* owns:

  (a) 25 percent or more of the voting rights of a corporation whose shares are publicly traded; or

  (b) 40 percent or more of the voting rights of a corporation whose shares are not publicly traded.

Corporations may, however, rebut these presumptions if they can prove that effective control is in the hands of Canadians.

Australia's *Foreign Takeovers Act* defines a *foreign interest* as:

- a natural person not ordinarily a resident of Australia;
- a foreign-controlled corporation (or business); or
- any corporation (or business) in which there is a single or associated beneficial foreign interest of 15 percent or more or in which there is an aggregate beneficial foreign interest of 40 percent or more, regardless of whether or not the corporation (or business) is foreign controlled.

The *Foreign Takeovers Act* provides that, unless the Treasurer is satisfied that in fact foreign persons are not in a position to determine the policy of the corporation concerned, a corporation in which:

- a natural person not ordinarily a resident of Australia or a corporation incorporated outside Australia, either alone or together with associates, holds an interest of 15 percent or more in the ownership or voting power of the corporation concerned; or
- two or more persons, being natural persons not ordinarily residents of Australia or corporations incorporated outside Australia, have aggregate interests of 40 percent or more in the ownership or voting power of the corporation concerned;

is a foreign-controlled corporation. Commercial investments by foreign governments, other than investments related to their official representation, are also examinable.

It will be noted that, with respect to corporations, both the Canadian and Australian laws use the concept of *control in fact* for defining foreign investors to whom the respective laws apply.

Assessment criteria

Canada and Australia use comparable criteria in their screening processes, with each investment being assessed on its own merits. In Canada, FIRA reviews an investment proposal to determine whether or not it is, or is likely to be, of *significant benefit to Canada*. The Australian law uses the expressions *net economic benefits to Australia* and *not contrary to the national interest*. At first glance, these terms seem to be less stringent than *significant benefit*, but in practice they represent very similar standards. Unlike Canada, however, Australia also has relatively fixed rules (see next page) embodied in the foreign

investment policy which apply to certain investments in resource industries and in real estate. These, where relevant, carry more weight in the examination of proposals than the general assessment criteria.

Under the Canadian law *significant benefit* is determined by taking into consideration the following factors, or as many of them as are applicable in a given case:

- the effect of the investment on the level and nature of economic activity in Canada, including the effect on employment, on resource processing, on the utilization of parts, components and services produced in Canada, and on exports from Canada;
- the degree and significance of participation by Canadians in the business enterprise and in the industry sector to which the enterprise belongs;
- the effect on productivity, industrial efficiency, technological development, innovation and product variety in Canada;
- the effect on competition within any industry or industries in Canada; and
- the compatibility of the investment with national industrial and economic policies, taking into consideration industrial and economic policy objectives enunciated by a province likely to be significantly affected by the proposed investment.

In Australia an investment proposal is examined to determine whether, against the background of existing circumstances in the relevant industry, it will produce, either directly or indirectly, *net economic benefits* to Australia in relation to the following matters:

- competition, price levels and efficiency;
- the introduction of technology or managerial or workforce skills new to Australia;
- the improvement of the industrial or commercial structure of the economy or of the quality and variety of goods and services available in Australia; and
- the development of or access to new export markets.

If a proposal is judged to be not contrary to the national interest on the basis of the above criteria, the following additional criteria are also taken into account:

- whether the business concerned could subsequently be expected to pursue practices consistent with Australia's best interests in respect of such matters as:

  (a) local processing of materials and the utilization of Australian components and services;

  (b) involvement of Australians on policy-making boards of businesses;

  (c) research and development;

  (d) royalty, licensing and patent arrangements;

  (e) industrial relations and employment opportunities;

- whether the proposal would be in conformity with other Government economic and industrial policies and with the broad objectives of national policies concerned with such matters as Australia's defence and security, aboriginal interests, decentralization and the environment, as well as with Australia's obligations under international treaties;

- the extent to which Australian equity participation has been sought and the level of Australian management following implementation of the proposal;

- in key areas (discussed below) the level of Australian ownership and control following implementation of the proposal;

- taxation considerations; and

- the interests of Australian shareholders, creditors and policy holders affected by the proposal.

Australia applies additional criteria to investments in uranium, other minerals and primary resources, mineral exploration and in real estate. They are explained below, together with a note on comparable Canadian practice.

Uranium

A uranium project, which is not already in production, will be allowed to proceed only if it has a minimum of 75 percent Australian equity and is Australian controlled. This is to be achieved by the time the project comes into production. Individual foreign portfolio shareholdings of less than 10 percent in an Australian uranium company are disregarded unless there are special circumstances that need to be taken into consideration in a particular case.

Uranium enrichment and other investments in the nuclear fuel cycle,apart from mining and production to the yellowcake stage, are not covered by this rule and will be looked at separately.

Canadian Government policy, since 1970, has been to limit foreign equity ownership in uranium mines to 33 percent. A bill to implement this policy was given first reading in Parliament on June 29, 1978. There are no limitations on foreign participation in exploration for uranium.

Production and development of minerals (other than uranium)

Until recently, Australian policy provided that a new business or project involving investment by foreign interests of $A1 million or more would be allowed only if it were not against the national interest and, as a general rule, if it had a minimum 50 percent Australian equity and at least 50 percent of the voting strength on the board in the hands of Australian interests. As of June 8, 1978, only proposals with an investment of over $A5 million are reviewable.

Proposals which were not against the national interest, but which did not meet the guideline of a minimum of 50 percent Australian equity or 50 percent Australian voting strength on the board, could be allowed to proceed if the Government judged that the unavailability of sufficient Australian equity capital on reasonable terms and conditions would have unduly delayed the development of Australia's natural resources. In that event, however, the Government, as appropriate, sought satisfactory arrangements whereby Australian equity and voting strength would increase to at least 50 percent within an agreed period.

This policy on Australian equity participation in resource projects (other than uranium projects) was recently relaxed for initial investments, although the Government remains committed to the original objective. In a statement issued by the Australian Treasurer on June 8, 1978, the Government announced that *naturalized* foreign investors would be able to proceed with resource projects in their own right, in partnership with an Australian company or with another *naturalized* or *naturalizing* investor. A company which achieves 51 percent Australian ownership and has a majority of the board of directors as Australians would be classified as a *naturalized* company. To qualify as a *naturalizing* investor, the following preconditions must be met:

- a minimum 25 percent Australian equity in the company;
- amendment of the company's articles of association to provide for a board, a majority of whose members are Australian citizens; and

- a public commitment to increase Australian equity to 51 percent subject to agreed understandings among the company, major shareholders' interests and the Government and to regular discussions with the Foreign Investment Review Board on progress towards achieving 51 percent Australian ownership.

In June 1974,Canada's Prime Minister stated that: "The Liberal Party of Canada sets as an objective that new major projects in the natural resource field should have at least 50 percent and preferably 60 percent Canadian equity ownership." In October of the same year, the Minister of Industry, Trade and Commerce reiterated and explained this policy objective in a speech in the House of Commons. He suggested that the policy should apply to fishing, forestry, petroleum (oil and gas), mining and pipelines. The Government has not yet introduced legislation to implement this policy objective. When the objective was originally announced, the Prime Minister noted that, as the federal and provincial governments share overlapping responsibilities for the development of Canada's natural resources, the Government of Canada hoped to pursue this objective jointly with the provinces. Two provinces, Quebec and Saskatchewan, have clearly stated their preference for domestic ownership and control in the field of natural resources.

In August 1977, the *Canada Oil and Gas Land Regulations* were amended to give effect to the Government's previously announced policy that authority would be granted for production of petroleum from federal public lands only if Canadian equity interests in the undertaking amounted to at least 25 percent.

Under the Canadian *Fisheries Act*, the Minister responsible for the Act has absolute discretion in issuing leases or licences for fisheries or commercial fishing. It is the policy of the Minister not to issue any leases or licences either to foreign-owned companies or to individuals who are not Canadian citizens.

Mineral exploration

It is not mandatory for foreign companies to seek Australian participation in their exploration activities. However, the Government does like to see, to the extent reasonably practicable, a continuing and significant level of Australian involvement. In addition, foreign interests are expected to seek Australian participation in those projects which can reasonably be expected to proceed to the development stage. Foreign exploration companies are expected to advise the Foreign Investment Review Board annually of their forward exploration programs. Developments arising out of exploration activities are subject to this policy.

Canada neither limits foreign participation nor requires a minimum level of Canadian participation in mineral exploration activities.

Real estate

Real estate transactions involving less than $A250,000 are exempt from review. The following classes of real estate investments are also exempt from review:

- acquisitions of real estate by foreign life insurance companies, where such acquisitions represent the investment of the companies' Australian statutory funds, Australian pension funds, and Australian pension funds of foreign employers where such acquisitions represent the investment of pension funds for the benefit of its Australian superannuants;

- acquisitions by foreign-controlled charities or charitable trusts which operate in Australia for the primary benefit of Australians;

- acquisitions of residential blocks and/or dwellings for their own intended use by expatriate Australians and intending migrants who have been formally accepted as such by the Australian Government;

- transfers of real estate between members of the same immediate family, where one or more of the parties is an overseas resident, provided that the grounds for making the transfer do not conflict with the Government's policy in this or other areas;

- acquisitions of residences by foreign or overseas-controlled companies exclusively for use by their employees resident or temporarily resident and working in Australia;

- acquisitions of residences for their own or their immediate family's use by foreign individuals, temporarily working or resident in Australia; and

- acquisitions of offices and residences by foreign missions for use as official missions or as residences for staff.

Real estate acquired under the exemptions provided in the three last paragraphs above must be sold to Australians or other eligible purchasers, when it ceases to be used for an approved purpose.

Real estate investments, which are incidental to other transactions, are examinable in relation to the proposal of which they form a part. This category includes the purchase of land for the erection of factories, shops, hotels, or sites acquired by foreign interests as incidental to the main purposes of their normal business activity. It does not include purchases made as part of the business of real estate development (see following paragraph). Acquisitions of real estate which do not constitute part of an overall investment proposal, but which are

incidental to future expansions and new investment are examined only where the value of the real estate exceeds $A250,000. However, foreign interests are required to provide an annual return listing all real estate purchases of this nature.

The following acquisitions of real estate are examined on their own merits, keeping in mind the special significance the Government attaches to foreign acquisition of real estate:

- acquisitions of real estate which is in the nature of normal stock-in-trade for real estate developers and which is to be developed within a specific period and sold to Australians (or to foreign interests eligible to acquire Australian real estate) on completion of development;

- real estate projects, other than stock-in-trade, which involve significant Australian participation in ownership and control and/or very substantial benefits; and

- acquisition of real estate for agricultural, pastoral and forestry projects.

Types of real estate acquisition other than those outlined in the foregoing are not normally approved.

In Canada, foreign acquisitions of real estate are subject to review under the *Foreign Investment Review Act* only insofar as they involve the acquisition of a business. In general, the Act applies to:

- acquisitions of commercial rental properties, if the rentable area is 250,000 sq. feet or more and the price is $10 million or more;

- acquisitions of operating farms, except where the farm is leased back to a Canadian on terms under which the foreign purchaser has no control over the operations of the farm; and

- the acquisition of land or commercial properties where such assets represent all or substantially all of the assets of a business engaged in the purchase and sale or rental of real property.

In addition, certain Canadian provinces regulate foreign purchases of land within provincial boundaries.

Decision-making body and organization of the screening process

Under Canada's *Foreign Investment Review Act* the decision to allow or not to allow an investment is made by the Governor in Council, that is the Ministry as a whole, on the recommendation of the Minister

responsible for the administration of the Act. The Minister of Industry, Trade and Commerce has been designated for this purpose. The Minister is advised by the Foreign Investment Review Agency established under the Act.

As noted, the Agency is responsible for advising and assisting the Minister responsible for the administration of the Act. It assesses investment proposals and carries out all the necessary administrative functions other than those specifically assigned to the Minister in the Act. The Agency is headed by a Commissioner who is appointed by Order-in-Council.

In Australia,the decision whether or not to approve an investment is made by the Treasurer, roughly equivalent to the Canadian Minister of Finance, on the advice of the Foreign Investment Review Board. The Foreign Investment Division of the Treasury serves as the executive to the Board and is responsible for the examination of investment proposals and advises the Board on these proposals and other foreign investment matters.

The Board has three members, two of whom are from outside the Government and the third, referred to as the Executive Member, is the head of the Foreign Investment Division of the Treasury. The current members are Sir Bede Callaghan, Chairman; Sir William Pettingell, Deputy Chairman; and Mr. R.H. Dean, Executive Member. The Chairman and Deputy Chairman are semi-retired businessmen. The Board consults weekly and, in addition to its responsibility for recommendations to the Treasurer on investment proposals, it has the following functions:

- advise the Government on general foreign investment matters, including the need for and scope of a Foreign Investment Review Act, which presumably would give formal statutory authority to deal with those types of transactions -- basically the establishment of new businesses -- which are at present subject only to voluntary compliance and to enforcement through exchange controls;

- foster an awareness and understanding of the Government's policy in the community at large and in the private enterprise sector in particular;

- work towards a high level of Australian private capital participation in new investment undertakings;

- give guidance to foreign investors on those aspects of their proposals which may not conform with the policy and suggest ways by which such proposals might be amended in order that they will do so;

- establish appropriate liaison with state government authorities; and

- keep in touch with the activities of foreign-controlled businesses already operating in Australia.

Screening procedures

The screening procedures in Canada and Australia are roughly comparable. The few differences in procedures are noted in the comments below.

- Notification

  In both Canada and Australia,foreign investors are required to notify the relevant authorities, in the form prescribed, of proposed or actual reviewable transactions. In Australia notification of examinable investments not covered by the *Foreign Takeovers Act* is voluntary. However, foreign exchange or export permits related to examinable transactions are not issued unless the requirements of the screening procedures have been met. In practice there appears to be general compliance in Australia with that portion of the notification requirements which is not covered by statute.

- Examination

  FIRA in Canada and the Foreign Investment Division in Australia are responsible for the examination of investment proposals by reference to the relevant criteria noted above. Where necessary, both bodies discuss the proposals with the investors concerned.

- Consultation with other government departments and agencies

  In Canada,the Agency consults, as required, with other federal departments or agencies either to obtain specialized knowledge and information relevant to the assessment of a transaction or to obtain views on the compatibility of a proposed investment with industrial or economic policies for which a particular department or agency has responsibility. In general the decision, as to which departments should be consulted and on what matters, is made by the Agency. Special consultative procedures have been adopted with the Department of Regional Economic Expansion on cases in which the investor has sought or plans to seek financial assistance under programs administered by that Department. Such procedures have been developed with the Competition Bureau of the Department of Consumer and Corporate Affairs concerning the impact of a reviewable transaction on competition.

Under the Canadian screening process, procedures have also been adopted for consultation on all cases with provincial authorities in the province or provinces likely to be significantly affected by a particular transaction.

The views of federal departments and provincial authorities are conveyed in summary form to Ministers when a case goes forward for decision.

In Australia, interdepartmental consultation procedures at the federal level are somewhat more formal than in Canada. This no doubt reflects the fact that, while the Treasurer of Australia makes the final decision and will therefore wish to have the views of other departments before doing so, in Canada, the final decision is made by the Ministry as a whole. Some Australian departments are consulted on all cases. Other departments of the Commonwealth Government are consulted as required in accordance with established guidelines. The views of other departments are conveyed to the Foreign Investment Review Board at the time it is considering a particular case.

Under the Australian screening process,state authorities are ordinarily not consulted on individual cases, although discussions are held with the relevant state authorities on some major investment proposals.

- Procedures for small cases

Both countries have adopted simplified and accelerated screening procedures for small non-sensitive transactions. In Canada a much simplified and abbreviated form of notice may be used for the establishment or acquisition of a business with gross assets of less than $2 million and fewer than 100 employees. As already noted, Australia has established thresholds for new businesses, takeovers and real estate transactions of $A5 million, $A2 million and $A250,000 respectively, below which the transactions are ordinarily not reviewable.

- Time constraints

Under the Canadian *Foreign Investment Review Act*, when 60 days have elapsed since the date of receipt of a complete notice of an investment and either the Governor in Council has not issued an Order allowing or disallowing the investment or the Minister has not advised the applicant that he is unable to recommend favourably on the case, the investment is deemed to have been allowed. However, the Minister's notification to an

applicant within the 60-day period that he is unable to recommend favourably removes any further legal time constraint on the screening of the transaction.

Under Australia's *Foreign Takeovers Act*, the Treasurer may not make a final order prohibiting implementation of a foreign takeover proposal after 30 days from the date of receipt of a complete notice of the investment proposal, unless he has issued an interim order within the 30-day period. Where an interim order has been issued, the proposal may be examined for a further 90 days.

With respect to notices of proposals which are reviewable, not under the Act but notifiable under the Government's foreign investment policy, an administrative deadline of 90 days is applied. It is the announced policy of the Government that, if a decision has not been made within 90 days, the parties to the proposal will not be prevented from proceeding with it.

- Publication of decisions

All orders made by the Governor in Council under the *Foreign Investment Review Act* to allow or not to allow investments are published in the Canada Gazette. In addition the decisions are announced in news releases issued by the Minister responsible for the administration of the Act.

In Australia, only Interim or Final orders issued by the Treasurer, by which a takeover is blocked under the *Foreign Takeovers Act*, are published in the official Gazette. Favourable decisions under the Act are ordinarily not made public by the Government. This is also true of decisions on cases reviewed under the voluntary notification procedures.

Summary of experience

No fully satisfactory comparison of experience under the Canadian and Australian screening processes is possible because of the differences noted above in the coverage in the two countries as well as differences in classification, definitions and screening practices. However, the following paragraphs and tables provide a limited comparison based on FIRA data and information provided in the first and second annual reports issued by the Australian Foreign Investment Review Board covering the 15-month period ending June 30, 1977, or where possible, the 27-month period ending June 30, 1978.

Table 2 shows that a larger number of transactions were screened during this period in Australia than in Canada. This is due to the fact that the Australian screening process includes a wide range of real estate

transactions and changes in share ownership not involving a change in control. Significantly fewer transactions were disallowed in Australia. While the table indicates that a substantially larger number of proposals to establish new businesses were screened in Canada, this too largely reflects a difference in coverage. In Canada there is no minimum size threshold for new business proposals, whereas in Australia, during the period examined, proposals to establish businesses with assets of under $A1 million* were generally not subject to review. If reviewable new business transactions in Canada below this threshold were excluded, the number of new business proposals would be roughly the same in both countries.

TABLE 2

Outcome of the screening processes

27 months ending June 30, 1978

	CANADA		AUSTRALIA	
	Number	Assets or investment (C $Millions)	Number	Assets or investment (C $Millions)
Allowed				
Acquisitions of control	484	2,093	524	2,287
Examinable change of ownership	N/A	N/A	883	n/a
Acquisitions of real estate	18	236	622	345
New businesses	471	990	78	4,907
Disallowed				
Acquisitions of control	37	218	8	12
Examinable change of ownership	N/A	N/A		
Acquisitions of real estate	1	c.	1	n/a
New businesses	30	4	7	68
Withdrawn				
All classes of transaction	85	326	87	n/a

c. confidential
N/A means not applicable
n/a means not available

Australian asset and investment figures converted to Canadian dollars at A $1 = C $1.174 in 1977 and A $1 = C $1.245 in 1978.

Sources: Canada - Foreign Investment Review Agency, unpublished statistics
Australia - Foreign Investment Review Board, Report, 1977 and Report, 1978

* The threshold for new business investments was raised to $A5 million in June 1978.

Table 3 shows the industrial distribution of screened transactions. As might be expected in view of the differences in industrial structure, Australia screened relatively more transactions in agriculture and relatively fewer in manufacturing. In both Australia and Canada very large transactions have a significant impact on the asset and intended investment figures. This is particularly evident in the mining industry.

TABLE 3

Industrial distribution of screened transactions*

27 months ending June 30, 1978

		Agriculture	Mining, oil and gas	Manufacturing	Other	Total
Acquisitions of control						
Canada	- No.	10	32	276	264	582
	- Assets (C $Millions)	16	910	1,587	1,210	3,723
Australia	- No.	96	34	146	248	524
	- Assets (C $Millions)	47	698	346	1,195	2,286
New businesses						
Canada	- No.	8	35	195	411	649
	- Investment (C $Millions)	2	171	301	764	1,238
Australia	- No.	2	22	13	44	81
	- Investment (C $Millions)	5	3,891	819	250	4,965

* For Australia, includes acquisitions of control allowed under the *Foreign Takeovers Act*, and examinable new business proposals.

For Canada, includes all transactions reviewable under the *Foreign Investment Review Act*.

Australian asset and investment figures converted to Canadian dollars at A $1 = C $1.174 in 1977 and A $1 = C $1.245 in 1978.

Sources: Canada - Foreign Investment Review Agency, unpublished statistics
Australia - Foreign Investment Review Board, Report, 1977 and Report, 1978.

One noteworthy difference in experience under the two screening processes concerns the host country's success in securing a significant degree of domestic equity participation in major resource projects. As noted above, it has been Australian policy to require, in the resource industries, at least 50 percent Australian equity or eventually at least 50 percent Australian equity. The Australian Foreign Investment Review Board reports that:

> "In the period to 30 June 1977, approval was given to 15 proposals to establish new mining and petroleum projects. Of these projects, 11 provided for a level of Australian equity of 50 percent or more while a further three were approved subject to conditions relating to increasing the level of Australian equity at a later date. The remaining development proposal, which had marginally less than 50 percent Australian equity, was approved as being not contrary to the national interest."

There is no fixed rule of this kind under FIRA, although, as noted earlier, the Government announced in 1974 as a policy objective "... that new major projects in the natural resource field should have at least 50 percent and preferably 60 percent Canadian equity ownership". While some progress towards this objective has been achieved under the Canadian screening process, the results in Canada fall far short of those achieved in Australia.

Table 4 shows that U.S. investors accounted for by far the largest number and amount of investment screened in Canada over the 15-month period ending June 30, 1977, followed by investors from continental Europe and then U.K. investors. Investment proposals from other parts of the world accounted for a fairly small percentage of the total. The source pattern of investments screened in Australia was quite different. The United Kingdom accounted for just over one-third of the proposals examined and one-half of the value of investments screened. The United States was the next most important source of investments, accounting for 29 percent of the number and 39 percent of the value. Continental Europe is a considerably less important source of investments in Australia than in Canada. By contrast, Australia attracted a higher percentage of foreign investments from other parts of the world and not surprisingly from Oceania and the Far East.

Impact of the screening process on investment inflows

The 1975-76 and 1976-77 annual reports of operations under the Canadian *Foreign Investment Review Act* have examined the possible impact of the screening process on the level of direct investment. While acknowledging that precise measurement of the impact is not possible,

both concluded that the reduction, if any, in such investments that was attributable to the establishment of a screening process in Canada, was likely to be small. In its first annual report, the Australian Foreign Investment Review Board, similarly noted that: "It is not possible to point to a direct relationship between the Board's activities and private capital inflows into Australia in balance of payments terms."

Both countries have recognized that misunderstanding among potential investors about the purpose of their respective foreign investment policies and undue delays in the screening of investment proposals could deter worthwhile investment. Accordingly, both countries have attached a high priority to increasing the awareness and understanding of their policies and to ensuring that their screening processes are efficient.

TABLE 4

Reviewable acquisition and new business proposals classified by country of applicant

15 months ending June 30, 1977

	CANADA				AUSTRALIA*			
	Number	(%)	Amount (C $Millions)	(%)	Number	(%)	Amount (C $Millions)	(%)
U.S.	326	(57)	973	(58)	216	(29)	1,082	(39)
U.K.	75	(13)	247	(15)	247	(34)	1,383	(50)
Europe (non U.K.)	133	(23)	429	(25)	106	(14)	96	(3)
Other	43	(7)	29	(2)	167	(23)	208	(8)
Total	577	(100)	1,678	(100)	736	(100)	2,769	(100)

* Real estate transactions are excluded. Also excluded from the numbers and percentages of proposals are 31 acquisition and 21 new business proposals involving joint ventures between Australian and foreign interests. However, the planned investments by the foreign interests in the new business joint ventures, which totalled over $A2 billion, are included in the dollar amounts shown. Amounts converted to Canadian dollars at $ A1 = C $1.174 . This table cannot be updated beyond June 30, 1977 as the Australian data is incomplete.

Sources: Canada - Foreign Investment Review Agency, unpublished statistics
Australia - Foreign Investment Review Board, Report, 1977.