Is there a problem with....

PRC investment in Australian agriculture?

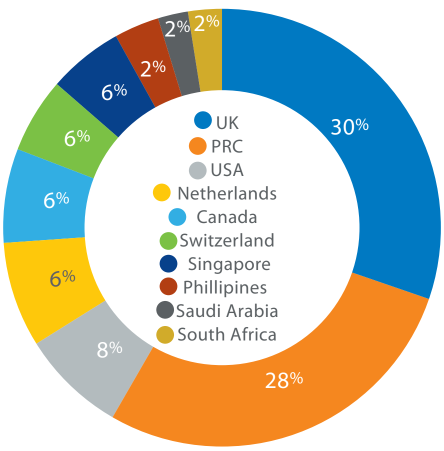
By Camille Boullenois

Investment from the People's Republic of China (PRC) in Australian land and agribusiness is not a problem because Australia already has appropriate regulatory structures in place. The current foreign investment review process is sound, strict, and allows for oversight of foreign investment, including from the PRC. However, the investment review framework would benefit from increased transparency and predictability.

Investment in Australian agriculture from the PRC has increased markedly in recent years as a result of growing demand from the PRC middle class for high-quality agricultural products. In 2016 alone, PRC interests in Australian farmland grew tenfold and investment tripled compared to the previous year. The increase has also been due to a phasing out of tariffs and increased market access granted by the 2015 China-Australia Free Trade Agreement (ChAFTA).

Public reactions to this dramatic increase have not been wholly positive. Today, 72 per cent of Australians think the government allows too much investment from the PRC, up from 56 per cent in 2014.[1] Foreign investment in farmland in general is not popular.[2]

Wholly foreign owned Australian agricultural interests by country - top 10



Source: Australian Taxation Office, 2016-2017

However, Australians still own the vast majority of farmland. As of mid-2017, wholly Australian-owned businesses controlled 86.4 per cent of Australian agricultural land. Moreover, over 98 per cent of agricultural businesses nationwide were still wholly Australian-owned.[3]

Those concerned about investment from the PRC note several issues: that PRC investments may threaten Australia's food security; that PRC buyers may mismanage Australian farms and damage Australian land; that they may distort market mechanisms and avoid taxes; that they may bring in workers from the PRC rather than create local jobs; and that PRC investment lacks transparency and oversight. These concerns are mostly exaggerated.

Food Security

Members of the National Party of Australia, for example Senator John Williams, have warned that increased PRC investment risks undermining Australia's food security.[4] They have argued that in the event that PRC companies acquired a significant proportion of Australian land, they would be able to ship the food directly to the PRC, and in doing so increase Australia's domestic prices or even cause shortages of certain products. There is also an implicit fear that PRC companies would pollute and damage Australian land, and threaten Australian food security in the long term.

This fear is unreasonable. The Economist Intelligence Unit's Global Food Security Index ranked Australia the fifth most food secure country in 2017. Australia produces far more than it consumes and exports about 65 per cent of its farm production.

Rather than undermining food security, international agricultural investments, including from PRC companies, enable Australia to produce and export more high quality food. Many investors are also potential customers, which helps Australian farmers gain access to overseas markets and increase their competitiveness.

It is also worth noting that 80 per cent of foreign-owned land in Australia is leasehold, not freehold, which means foreign investors do not own the land itself, but rather the right to use it on certain defined conditions. Most lease agreements mention that all facilities are to be maintained in present condition. Fears that the PRC could gradually encroach on or misuse Australian land are therefore overstated.

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The threat of environmental damage is also overblown. Most of the biggest investment deals by PRC companies in Australian agriculture have environmental clauses that restrict land use and protect biodiversity. The involvement of Kimberley Agricultural Investment (KAI), an Australian subsidiary of a PRC company, in the development of 13,400 hectares of irrigated farmland under the Ord-East Kimberley Expansion Project is a case in point. The Western Australian Environmental Protection Authority requires KAI to maintain the local habitat for migratory birds, protect nearby wetlands, and meet other environmental requirements. The project aims to upgrade Kimberley land and increase its agricultural value.[5]

Market Distortions and State-owned Enterprises

A second frequently raised concern is that PRC companies may distort market mechanisms, avoid taxes, collude with each other and ultimately act in line with the objectives of the PRC government. In particular, some critics have pointed out that many PRC companies investing in Australian agriculture are state-owned and therefore may have non-commercial objectives.

This fear too is exaggerated. Private actors lead PRC investment in Australian agribusiness, and as the market matures this trend is expected to strengthen. A University of Sydney and KPMG report from June 2018 found that, for all sectors, private investors accounted for 83 per cent of the PRC deal volume and 60 per cent of deal value in 2017, up from 78 per cent and 49 per cent respectively in 2016. In agriculture, the four biggest PRC investment deals in 2017 and 2016 were all made by private companies.

Admittedly, the distinction between state-owned enterprises (SOEs) and private-owned enterprises (POEs) is blurry. On the one hand, Beijing's consistent policy has been to nurture market-oriented state-owned corporations to be competitive and profitable. Since 2013, the PRC has actively cultivated internationally competitive companies, both private and state-owned, that can invest in agriculture abroad.

On the other hand, private companies often rely on the PRC party-state if needed to pursue their commercial objectives, and the party-state has the ability to lean on both SOEs and POEs to support its strategic objectives. The development of private-public partnerships and other types of mixed ownership in the PRC in recent years has further blurred the boundary between SOEs and private companies.[6]

A potential risk, which pertains to all foreign investment, is that foreign multinationals may use transfer pricing mechanisms to avoid Australian taxes. To address this issue, stricter reporting measures were proposed in the 2016 budget, including the introduction of a Tax Avoidance Taskforce, and a diverted profit tax which took effect in July 2017.

Mismanagement

A third claim is that PRC investors are financially unstable, that they have a poor understanding of the Australian agricultural market, and might eventually mismanage the farms they own. The sale of Van Diemen's Land Company dairy farms in north-west Tasmania to PRC-owned Moon Lake Investments is a case in point. Moon Lake promised further investment and job creation, which was never realised. After disagreement over governance and spending, the company's entire Australian board stepped down in April this year.

This points to the need for better due diligence by Australian firms selling off their businesses if they wish to ensure promises of expertise and investment are to be met. Other cases have been more positive. The sale of Cubbie Station to a consortium, which included Shandong Ruyi, is an example of successful management. The PRC investor kept the local management of the station and retained the property's connection to local communities.

Overall, the USYD-KPMG report mentioned above suggests that PRC firms increasingly appreciate that post-acquisition management of rural properties is key for their investment. In most cases, the sheer size of PRC firms gives them the capacity to introduce large-scale infrastructure and equipment. Australian agriculture needs investment to retain its competitive advantages.

This is important as Australian agricultural productivity growth has slowed in the past decade.[7] Australia's agricultural sector needs to raise an additional $109.2 billion in capital, or around 21 per cent on current capital investment, by 2025, if the industry is to maintain its current share of exports.[8]

Foreign Labour

Another concern noted is the potential influx of labourers from the PRC, especially after the ratification of ChAFTA. But revisions to the temporary skilled visa scheme have made requirements for foreign workers tougher, and since 2015 there has been a drop in PRC workers on new visas.

While agribusinesses have a high propensity to use foreign labour, PRC investors such as KAI have stated they prefer relying on local farm managers and workers rather than bringing them from the PRC. Recent major agricultural sales to PRC companies, including Cubbie Station, the Kimberley development project, and Kidman Station, have all included requirements to maintain or increase local employment at the farm, including Indigenous employment, and to operate it through Australian partners.

Regulatory Framework

Lastly, critics of PRC investment in Australian agriculture cite PRC companies' lack of transparency. The regulatory framework has been tightened since 2015 to reflect these concerns; the Foreign Acquisition and Takeovers Act was reformed to reduce the screening threshold for agricultural investment from $252 million to $15 million.

In 2017 and 2018, the regulatory framework was further tightened. Both foreign ownership of water and agricultural land must now be registered, as opposed to just land previously. Since February 2018, foreign investors have been required to demonstrate that the agricultural land they intend to acquire has been marketed widely to potential Australian bidders for a minimum of 30 days, unless the entity that is acquiring the land has more than 50 per cent Australian ownership.

However, the Australian investment review framework remains rather opaque and lacks full transparency. The Treasurer is given broad discretion to reject a foreign investment proposal if it is deemed contradictory to the national interest. The very concept of the 'national interest' is ill-defined, giving the Treasurer maximal leeway to consider a wide range of factors, including public sentiment, in the decision. This 'black box' process lacks transparency for the transacting parties, as well as for the Australian public.

Additionally, the Australian public may not view some of the recent changes to the investment approval regime as sufficient, including a lower dollar value threshold that triggers a review by the Foreign Investment Review Board (FIRB) and a different approval process for foreign government-owned investors.

What does this mean for Australia?

Policy Recommendations

- Accurate data on PRC investment in agriculture should be compiled and communicated to the Australian public to dispel misconceptions and exaggerated fears.
- It is necessary for the government to establish a clearer and more articulate narrative on foreign investment, and define precisely what is the 'national interest' and in what conditions a foreign investment in agriculture would contravene it.
- It is misleading to view PRC private companies as operating fundamentally differently from SOEs. The threshold for FIRB scrutiny of SOEs and POEs should thus be set at the same level.
- The review process should be made more transparent, both for PRC investors and for the Australian general public. In particular, guidelines on acceptable and unacceptable assets, and details about what considerations and tests are likely to be applied when reviewing an investment, should be clearly articulated.
- The government should invite Australian stakeholders to submit suggestions for these guidelines, and encourage an informed public debate about them. The guidelines could include environmental clauses, potential requirements for joint ventures with local partners, local management, and employment provisions.
- After a FIRB decision, detailed reasons for authorising or refusing a foreign investment proposal in agriculture or agribusiness should also be made public by the FIRB.

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