Labour Policy

OVERSEAS INVESTMENT

Globalisation is commodifying and averaging the price of many goods and services around the world. While prices of consumer goods and some related wages may be converging in different parts of the industrial and industrialising world, asset inequality is increasing.

Trade imbalances are high, with countries like New Zealand running long-term current account deficits while rapidly emerging economies are running very large cash surpluses.

The concentrations of wealth, even in countries far less wealthy than New Zealand, together with state control of the savings from trade surpluses in some countries, mean that there are many overseas entities able to outbid New Zealanders for our assets.

Liquidity constraints since the global financial crisis and the higher relative cost of funds in New Zealand increasingly constrain the ability of New Zealanders to buy our own farmland if our land assets are priced on an international rather than New Zealand market.

Since the global financial crisis a pattern has emerged internationally. Those with large trade surpluses or concentrations of wealth are investing unprecedented amounts in: primary resources like land, water, and minerals, and their related supply chains. Infrastructure assets with monopoly characteristics are also highly sought after.

A major part of our current account deficit is already comprised of interest and dividends paid to overseas investors. New Zealand's poor savings record means we are reliant on imported capital to fund our current account deficit. Most of this comes via increased lending to home owners, but our deficit is used by some as a misplaced justification for the sale of all productive assets to overseas buyers.

We need foreign investment, especially via bank lending and greenfield investments, but we need to take care not to lose ownership of our farmland by allowing New Zealanders to be outbid by foreign buyers. We cannot lose control of our best income producing assets.

The solutions are complex and interlinked. We need to increase our exports and savings, and stop consuming more than we earn. Cutting back on Kiwisaver was a mistake. In the meantime we need to take care not to lose ownership of our farmland and infrastructure by allowing New Zealanders to be outbid by foreign buyers.

Our monetary policy settings have meant New Zealand interest rates have long been higher than those normally paid overseas. An overseas purchaser with lower borrowing costs can afford to pay a higher price than a New Zealand buyer borrowing from New Zealand lenders.

OVERSEAS OWNERSHIP – A PRIVILEGE NOT A RIGHT

No overseas purchaser has the right to buy New Zealand land or businesses. It is a privilege, not a right. Similarly, no New Zealander has an absolute right to sell to overseas interests. Until the 1980s overseas ownership of New Zealand farmland was virtually prohibited under the Land Settlement Promotion and Land Acquisition Act 1952. This was the position for the best part of a century, following the disadvantages New Zealand had earlier suffered through large scale overseas ownership of our farmland.

Controls on the foreign ownership of farm land that are stricter than those which currently apply in New Zealand are very common throughout the developed and developing world. Developed countries with stricter controls than New Zealand include parts of the USA, Japan and China. Australia has recently tightened rules for residential property.

RESPECTING OUR INTERNATIONAL OBLIGATIONS

Some commentators might look for inconsistencies between this policy and New Zealand's free trade agreements and World Trade Organisation obligations.

The WTO has legal frameworks on trade in goods, services and intellectual property rights, but not an overarching framework on investments. Restrictions on investments such as foreign purchase of domestic land are instead covered in regional and bilateral agreements.

Labour was careful to ensure that New Zealand retained the right to control foreign land acquisition under the Free-Trade Agreement we signed with China.

The New Zealand-China FTA requires each country to treat investors and investments of the other country at least as well as their own. The relevant clause is 138 on "National Treatment".

While the agreement covers management and sale of investments, it does not cover the purchase of investments. This is an important distinction, the drafting of which Labour fought hard for as part of the agreement. It allows New Zealand flexibility to retain sovereignty over its own resources.

This should continue to be the model for future agreements and we challenge the government to ensure this is the case.

LABOUR WELCOMES FOREIGN DIRECT INVESTMENT

Labour recognises that access to foreign capital is important for New Zealand's economic growth and for this reason Labour does not favour wholesale restrictions on all forms of foreign direct investment.

Because the last Labour government ran budget surpluses, New Zealand's government debt has been low. But is now rising given deficits being run by the National government. New Zealand's private debt is high. Overall, New Zealand's net international investment position is indebted to the equivalent of around 86% of GDP and is forecast to rise to 100% of GDP over the next four years.

While a poor substitute for domestic saving, until domestic savings and economic growth improve New Zealanders will continue to have substantial reliance on foreign capital.

With a relatively small pool of capital compared with other countries, successful New Zealand companies often rely upon overseas capital in order to expand and fund new projects. This helps create employment and foster economic growth.

The influx of new capital via foreign owned firms can bring with it new business expertise and practices that result in higher productivity. A 2002 MED study found that foreign-owned firms outperform domestic businesses on all aspects of business practices and performance, with the exception of customer focus.[1]These practices can also influence the practices of other domestic firms, pushing up productivity across the board.

There are sometimes concerns that the overseas purchase of existing businesses tend to see the high paid management functions centralised offshore and on other occasions product lines being consolidated with New Zealand production cut and the brands and distribution lines then used for the sale of the overseas substitutes.

Some evidence suggests that foreign ownership may, over time, make a company more likely to relocate offshore.[2] However, foreign investment can also bring skills, and contacts and distribution networks in overseas markets. Access to resources and international markets through the large parent company can increase the competitiveness of the local branch of the firm.

Foreign direct investment-is also an important source of technology transfer into New Zealand. New Zealand's geographic distance from big technology hubs in Europe, America and Asia means that local firms can find it difficult to learn and benefit from new overseas practises and technology.

These attributes of foreign direct investment are strongest when the investment is directed at 'greenfields' investment and investment in the export manufacturing sector. This can strengthen the productive base of the New Zealand economy. The merits of FDI in the primary production sector are far less compelling, where we are already world leaders, and in local infrastructure companies.

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1 http://www.med.govt.nz/templates/ContentTopicSummary____2259.aspx

2 New Zealand Treasury Productivity Paper 09/01 April 2009

LABOUR'S POSITION

THE CURRENT RULES ARE NOT WORKING

The discretion to turn down farm sales to overseas persons is already very wide, but has not been exercised even once by the current government to decline even one sale.

Plainly, the discretion of the Minister has to be tightened. Labour will do this.

Labour believes New Zealanders' widespread concerns about farm sales to overseas interests are valid.

The arguments in favour of stricter controls on foreign ownership differ between the type of assets, although New Zealanders have a natural desire to control our own country for the benefit of New Zealanders.

FARMS SHOULD NOT BE PRICED OUT OF THE REACH OF NEW ZEALANDERS

Economic outcomes are important, but should not be seen as the only important goal. Social structures – including social mobility and New Zealanders' ability to own our own assets – are fundamentally important to Labour too.

Asset prices inflated beyond the means of New Zealanders undermine social mobility, and lead to concentrations of wealth amongst a smaller number, who will increasingly either have to be from overseas or to inherit wealth to afford our best and most productive assets. Labour does not want that. There are other non-economic consequences such as the loss of our traditional attitudes to allowing reasonable access across rural land to our beaches, lakes and rivers.

SELLING OFF INFRASTRUCTURE ASSETS

New Zealand's economic experience of foreign investment has not been all good news. When major infrastructure assets like Telecom and the railways were privatised, multinationals purchased them, repatriated large profits and underinvested in their assets. The purchasers profited handsomely at the cost of New Zealand.

WE ARE ALREADY EFFICIENT FARMERS

Primary products from our farmland and water resources are our largest source of earnings in a fiercely competitive world. Land ownership is also the source of control of our major farming co-ops– New Zealand's biggest earners. Lose land ownership and New Zealand loses control of those co-ops and the crucial influence they have on ensuring that a good part of the value chain accrues to New Zealand. Given that our dairy farmers are already amongst the most efficient in the world, overseas ownership is not going to materially increase output.

CHANGE IS OCCURRING RELATIVELY QUICKLY

Many hundreds of thousands of hectares of New Zealand forests were purchased by overseas owners in a relatively short period. Some have invested in downstream processing in New Zealand but most have not.

While foreign investment in non-forestry rural land has not been large as a percentage of total land area, there is a widespread concern that it is on the increase in our most successful industry – dairying. Our experience with forestry shows just how fast the status quo can change.

Recent activity by real estate agents promoting New Zealand farms internationally is causing concern. Distressed sellers (including banks selling as mortgagees) want to maximise their sale price. Some want to create a new international market, rather than a market based on what New Zealand purchasers can afford to pay. The Crafar farm sales are just one example of this. The $34 million sale of another, unrelated, dairy farm by the receiver on behalf of a bank to overseas interests – approved just last week – was the largest dairy farm sale to overseas interests *ever* both in dollar terms and land area. The banks' interests do not necessarily reflect the New Zealand interest.

CHANGES LABOUR WILL MAKE

LABOUR'S NEW STRICTER CONTROLS ON OVERSEAS PURCHASES OF FARM LAND

Currently the rules on overseas investment in farm land have been applied to favour approval of sales. Labour will reverse this. Instead of the overwhelming majority of farm sales being approved, the overwhelming majority will be declined.

Sales will be declined unless the overseas purchaser of farm or forestry land will also invest in significant further processing of related primary products and related jobs. The investment in further processing can be either new products or extra capacity for existing products where extra capacity is needed. In either case the purchaser must prove that such capacity would be unlikely to be provided by the existing New Zealand industry

Long-term leases have similar consequences to sales and will be treated in the same way. Long-term means 20 years or more, including rights of renewal.

In respect of any farm sales that are approved, strict controls will be imposed and enforced to ensure that reasonable access is allowed through properties adjacent to rivers, lakes and beaches.

INFRASTRUCTURE WITH MONOPOLY CHARACTERISTICS

Labour believes that infrastructure assets with monopoly characteristics should not be sold overseas. They just about always make a profit and extract monopoly rents. We ought not to export them overseas.

Competition law limits but does not eliminate monopoly rents. This is because there is a need to maintain profitability and incentives to invest. Labour declined to approve the sale of Auckland airport to Canadian interests in 2008. That decision was criticised by National, but we know it was correct.

Infrastructure assets are especially important to the functioning of the wider economy, and ought to be run in the New Zealand interest. This is best achieved by New Zealand owners whose broader interests are more likely to be aligned with New Zealand's.

Labour will draw the line at selling infrastructure with monopoly characteristics to overseas interests.

Labour will remove the discretion of the Minister to consent to the sale to an overseas purchaser of any interest of 25% or more in infrastructure where that purchase is worth $10 million or more and the infrastructure has monopoly characteristics.

The list of infrastructure we class as having monopoly characteristics is a closed list, so as to keep a bright line between what is controlled and what is not. Avoiding uncertainty is essential. Infrastructure classed as having monopoly characteristics is any:

- Electricity line network
- Water storage or reticulation network
- Stormwater or sewage disposal network
- Irrigation water storage or reticulation network
- Airport
- Seaport
- Public hospital land or building
- State school land or building
- Rail land, lines and buildings and public roads where the road or rail link has significant monopoly characteristics and poor substitutes.

The list excludes telecommunications networks because the range of technologies (eg mobile, fibre or wire based) means there are often substitutes. It is also a delicate time for private investment in broadband that we are cautious to avoid disrupting.

The list also excludes electricity generation. While the electricity market is on the cusp of being uncompetitive and exhibits monopoly-like characteristics, generation assets are diverse in nature, location and ownership.

Purchases of interests in monopoly infrastructure of less than 25% or of a value under $10 million will remain uncontrolled.

GENERAL DISCRETION FOR TRANSACTIONS OVER $100 MILLION

A general discretion covering all assets worth more than $100 million that are not covered by our new farm land or monopoly infrasture rules will also be established. This discretion will be modelled on the Australian equivalent. We consider it would be rarely exercised.

A theoretical example of the sort of situation where the discretion could be invoked would be where there is only one known deposit of an important mineral (eg rare earth elements uses in new technology batteries) which the government of the day believed should remain in New Zealand ownership and control.

THE INTERNATIONAL CONTEXT

There is no doubt that there is a growing wave of international investment in primary resources including minerals, land and water. The significant increase in investment by multinational companies in farmland is being described as a global 'land-grab'.

As the *Daily Telegraph* in the United Kingdom reported (12 September 2010)[3]:

> *Last week's long-delayed report by the World Bank suggests that purchases in developing countries rose to 45m hectares in 2009, a ten-fold jump from levels of the last decade. Two thirds have been in Africa, where institutions offer weak defence.*
>
> *As is by now well-known, sovereign wealth funds from the Mid-East, as well as state-entities from China, the Pacific Rim, and even India are trying to lock up chunks of the world's future food supply. Western agribusiness is trying to beat them to it. Western funds - many listed on London's AIM exchange - are in turn trying to beat them. The NGO GRAIN, and farmlandgrab.com, have both documented the stampede in detail.*
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> *Hedge funds that struck rich 'shorting' US sub-prime have rotated into the next great play of our era: 'long' soil. "Productive agricultural land with water on site, will be very valuable in the future. And I've put a good amount of money into that," said Michael Burry, star of 'The Big Short'.*

The World Bank, entitled *Rising Global Interest in Farmland: Can It Yield Sustainable and Equitable Benefits?*[4], also notes:

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3 http://www.telegraph.co.uk/finance/comment/ambroseevans_pritchard/7997910/The-backlash-begins-against-the-world-landgrab.html

4 http://siteresources.worldbank.org/INTARD/Resources/ESW_Sept7_final_final.pdf

Governments in target countries now recognize that responses to the 2007-8 spike in land demand clearly failed to fully utilize the potential for these investments to contribute to poverty reduction and growth. Some have established moratoria on further transfers of land to investors pending the inclusion of such investment into their agricultural strategies and the creation of institutional preconditions to identify potentially suitable land and effectively process and monitor such investments. Many investing country governments realize that adherence to a set of key principles will be required to avoid jeopardizing the social, environmental, and economic sustainability of such investments.

KPMG Agribusiness (August 2010)[5] argues that:

New Zealand has some significant agricultural advantages which prima facie

would make our land attractive to international investors . . . However this is balanced by the cost of land in New Zealand, which . . . is expensive by developed world standards for pastoral land, the physical distance from New Zealand to the rest of the world and our relatively high production costs in comparison to other regions of the world.

It is our impression, given the current assessment of the global food supply position by the UN Food and Agriculture Organisation, that we are unlikely to see a substantial wave of foreign investment above levels that we have seen in the past, as New Zealand does not fit the investment criteria of many of the large scale agricultural investors currently active in the market.

Current overseas applications to purchase large New Zealand dairy farms cast doubt upon that view. Other advanced economies with large amounts of agricultural land do not seem so certain that they will be passed by, however.

In Canada, CBC News reported (7 June 2010)[6]:

The National Farmers Union is warning that the Canadian family farm is under threat from increased corporate control and foreign ownership.

In a report released Monday, the NFU states that foreign and corporate investors are buying up family farms at a brisk clip as poor economic conditions, the global financial crisis and a spike in food prices make farmland an attractive investment.

"We are seeing, increasingly, agricultural land being used as a commodity and investment commodity," said NFU President Terry Boehm in an interview with CBC News.

Brasil has recently increased its controls on foreign investment in its land.

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5 http://www.kpmg.com/NZ/en/IssuesAndInsights/ArticlesPublications/Documents/Evolving%20Agenda.pdf

6 http://www.cbc.ca/money/story/2010/06/07/sask-nfu-report-farms-corporate-ownership.html

In Australia, business consultants B'vedeni Private Wealth advise (October 2010)[7]:

Presently one Singapore-based speculator is buying up as many Australian irrigation licenses as they can, and some local investment fund managers are in the process of setting up Australian water licence funds to attract overseas investors to the Murray-Darling Basin.

. . . what are the implications for Australian wheat farmers if the marketing of their crops is controlled by a Canadian company? Or of significant volumes of Australia's precious irrigation water are controlled by foreign investors.

Some participants in a recent ABC PM discussion panel on Australian food security suggested the Foreign Investment Reviews Board should treat investment by private enterprise in Australia's food supply chain as similar in nature to other foreign investment, but take a stricter approach to investment by foreign sovereign bodies which may result in foreign control of our agricultural output.

Even the KPMG report notes:

That said a major shift in land ownership offshore could potentially have a detrimental effect on the ability of the economy to create wealth in the long term, particularly if this ownership was concentrated in the hands of a small number of parties who could

bypass New Zealand controlled processing and marketing channels.

There is an argument that there are grounds to introduce a cap on the amount of land a single overseas owner can hold at any time to avoid a significant concentration of ownership. We have some sympathy with this argument as it would provide an ability to manage the level of land purchased by inbound investors.

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7 http://www.clientnewsletter.com.au/flash/bvedeni/1010fwss/download.pdf