Chinese investment in the Port of Darwin
A strategic risk for Australia?

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Few strategic issues have galvanised public attention in Australia as the decision by the Northern Territory Government to lease key facilities in the Port of Darwin to a Chinese company, Landbridge. This Strategic Insights brings together items published on our blog The Strategist as well as articles by ASPI staff published in other media outlets such as The Australian and The Australian Financial Review. Our aim is to bring this material into an accessible format, in part, to assist the deliberations of the Senate Economic References Committee which, over January and February 2016, is conducting an inquiry into the foreign investment review framework including with reference to the Port of Darwin lease.

ASPI has published a range of diverse opinions on this topic, including from American observers puzzled at this policy move and from individuals who support the lease. Indeed a mark of this debate is that it has surfaced sharp views and ones that are difficult if not impossible to reconcile.

The Port of Darwin lease highlights an urgent need to review how Australia takes account of its national security interests in making decisions about foreign investment. The Senate Committee Review—as well as the government’s separately stated intention to reassess aspects of the Foreign Investment Review Board (FIRB)—creates a timely opportunity to re-design these decision-making processes.

Aerial view of Darwin. Photo courtesy Flickr user Michael Coghlan.
Security crucial in leasing assets

Peter Jennings, The Australian, 20 October 2015

Northern Territory Chief Minister Adam Giles surprised many on October 13 by announcing that the Port of Darwin would be run under a 99-year lease by a new operator: Chinese company Landbridge.

Those most surprised might well have included Australia’s foreign and defence ministers and their American counterparts who, on the same day in Boston, issued a statement expressing ‘strong concerns over recent Chinese land reclamation and construction activity in the South China Sea’. The annual Australia–US Ministerial meeting promised ‘to pursue enhanced naval co-operation’ including US marines operating out of Darwin Harbour.

Australian Defence officials also might have been surprised. Seeking approval to spend $18 million on a new barge ramp facility for loading ships in Darwin Harbour, a Defence submission to parliament’s public works committee in February this year said: ‘Darwin is strategically vital for supporting ADF maritime operations across Australia’s northern approaches, particularly in mounting operations that involve the (navy’s) amphibious capability.’

Australia’s strategic interests, including responding to increasingly assertive Chinese maritime behaviour in the South and East China seas, now have to be balanced against the reality of operating out of a harbour run by a company whose website proclaims it is ‘contributing its best to … realising the great rejuvenation of the Chinese dream’.

The Port of Darwin lease raises hard questions about the specifics of the deal and how Australian governments make sensible decisions on national security when considering foreign investment proposals.

At breakneck speed—only 16 days were allowed for public submissions—the Northern Territory Assembly produced in April a study of lease models for port facilities. The report recommended Defence and the Foreign Investment Review Board should be consulted over offering century-long leases to foreign companies.

Giles has said that Defence was ‘quite supportive of what we were doing’ but there is no clarity around what was asked of whom. Giles also has said that the FIRB was consulted, but the 99-year lease arrangement is arguably an artifice to avoid FIRB assessment over outright sales.

Given the strategic value of Darwin Harbour—Australia’s only substantial northern navy facility—one would expect a matter of this seriousness to be considered by the national security committee of cabinet.

Cabinet consideration presumably would have assessed risks to the security of Defence and US Marine Corps operations. It is the case that the navy barge ramp, due to be completed next year, is not part of the lease arrangement but it is adjacent to the now-leased East Arm Wharf and both share common access areas.

Defence’s $18m investment in the barge ramp in reality buys only 60 days access a year—the rest will be made available to commercial shipping—and is guaranteed for only the next 20 years. The ramp is needed for supplying roll-on, roll-off ships but isn’t relevant for other types of navy vessels.

One wonders why there is such under-investment in our naval infrastructure in the north despite successive governments saying how vital this is.

About 100 navy and allied ship visits to Darwin Harbour happen every year and the number is expected to grow, particularly as the US Marine taskforce reaches its planned growth to 2500 personnel with supporting ships. These vessels rely on inadequate wharf access in areas that will now be run by Landbridge Group.

We do not know the extent to which the US may have been consulted about the leasing proposal. It is certain, though, that Washington would take the matter very seriously. Its interest will not only be about the harbour in peacetime but what
potential impact the new leasing arrangements will have in times of regional crisis when there will be substantial pressure on harbour facilities.

Let’s not be naive here. We face an increasingly tough strategic competition between China and the US and its friends and allies. No one could confidently claim this competition wouldn’t give rise to open hostility. No one wishes for this outcome and no organisation works harder than Defence to prevent it, but government must be satisfied Australia’s national security interest will be top priority.

In agreeing to the proposal for the barge ramp, parliament’s public works committee asked Defence to report back with ‘any changes to the project scope, time cost function of design’. The lease of the Port of Darwin should trigger an urgent reconsideration of this proposal, this time taking a detailed look at the wider national security considerations.

More broadly, the Port of Darwin debacle should force reconsideration of how Australia deals with the national security implications of foreign direct investment proposals. Bizarrely, no Commonwealth agency—not Defence or the intelligence agencies—has clear responsibility to assess the national security impact of such investments.

Defence’s interaction with the FIRB typically is limited to assessing how specific bases and facilities may be affected by foreign direct investment. ASIO assesses risks of subversion and espionage, but these assessments can fall short of considering the aggregate effect of foreign direct investment on national security. FIRB has a bias to facilitating investment.

In effect the national security committee of cabinet has become the only place where a broad national security test can be applied to investment decisions. That works on only the few occasions when projects are brought to the NSC. The FIRB should be redeveloped with a view to strengthening the capacity for sensible whole-of-government decision-making on national security. A group outside of Treasury—maybe Defence or the Prime Minister’s Department—needs to be explicitly vested with the responsibility to advise on the national security impact of foreign direct investment, not simply on whether investments encroach on Defence bases.

As NSW considers options to lease or privatise its electricity infrastructure in the form of Transgrid, the need is for a careful assessment of the national security implications.

Can leasing ‘poles and wires’ be considered strategic? Yes, because Transgrid supplies power to all Australia’s defence and intelligence facilities in NSW and the ACT and operates the third largest telecoms network in the country.

Unlike the Port of Darwin experience, NSW’s lease or privatisation of Transgrid should be an open and considered process rather than a graceless race for cash.

Darwin: storm in a port

Peter Jennings, 6 November 2015

Evidence presented to Senate Estimates hearings on 21 October over the 99-year lease of the Port of Darwin to a Chinese company shines new light on the elements of the decision. The issue points to serious worries both about the specifics of the port lease and over the wider way in which the Commonwealth handles—more accurately fails to handle—national security assessments of foreign investment proposals.

Defence Minister, Marise Payne, made a statement at Estimates about her discussions with US Secretary of Defense, Ashton Carter, in Boston. These took place the same day the Northern Territory Chief Minister announced the 99-year lease of the Port of Darwin.

Senator Payne: As part of the bilateral engagement during AUSMIN … we have reinforced our very strong agreement to pursue enhanced naval cooperation. That will include additional combined training and exercises between our two navies. The capacity for combined activities and interoperability is very important to both of us. … It is our view that the closer and earlier the discussions with the United States as part of that process, the more effective our interoperability can be.
As Senator Nick Xenophon started to ask questions about the Port of Darwin lease, Minister Payne said: ‘In the first instance, it is my understanding that it is not subject to Foreign Investment Review Board review or approval.’ She then excused herself from the hearings to attend another meeting.

Secretary of Defence, Dennis Richardson took up the case:

With Darwin, Defence does not have any security concerns about the sale of the port to Chinese interests. I note that it is a commercial port; it is not a naval base. The Northern Territory government first broached the possibility of the privatisation of the port in early 2014. …

Senator Xenophon: So it does have a strategic role?

Mr Richardson: Our interest in a commercial port is access to the port and its facilities. The deed of licence, which we signed in May of this year, provided us with the access to the port of Darwin that we wanted. When we were subsequently advised that the sale was to Chinese interests, we examined the possible security implications. Within Defence, that involved the three services. It involved the Australian Signals Directorate, the Defence security agency and the strategic policy area of Defence. No part of Defence had a concern from a security perspective in respect of the sale. The Navy’s interest was overwhelmingly the question of access, not the question of ownership, given that it is a commercial port, not a navy base.

The Secretary’s answer makes it clear that Defence didn’t make a broad judgement about the national security implications of the lease. Their interest was only to assure a limited regime of access for Navy vessels.

Later, in answering a question from Senator Jacqui Lambie about the lease of the port to a Chinese company, Richardson added: ‘the question about China’s broader strategic posture in the region and what they might own or lease in Australia and the security implications of that are really quite separate.’

When asked about whether the lease was discussed with the United States the following exchange took place:

Mr Richardson: No, we did not consult the United States. We did not see a need to, because their arrangements in terms of access to a commercial port remain unchanged. They pay for their access now and they will pay for their access in the future. …

Senator Peris: Are you saying there was no consultation done with the US Navy?

Mr Richardson: No.

Senator Peris: So you do not have any concerns about cooperation with the US forces in Darwin as a result?

Mr Richardson: If the US has any questions about the sale of the port then the US can raise them with us.

So much for ‘closer and earlier discussions’ with the United States. Our ally should be puzzled by this lack of consultation at precisely the same time we claim to be increasing maritime cooperation with both our navies operating out of the Port of Darwin. Surely at some point since early 2014 Defence might have found it useful to find out if the US had ‘any questions.’

The Secretary continued to emphasise that Darwin was a commercial port, not a naval base. But of course commercial ports can have national security significance. Defence’s position on the lease seems to be that the Department’s interests run only to looking after its current and anticipated use of the port.

Mr Richardson: We can only look at this in terms of our interests. Does it raise national security concerns for us as a department? It does not. If other people have other issues about foreign ownership of whatever, that is not an issue that concerns us unless it impinges on our interests and responsibilities.

‘Other people’ may be a reference to the Foreign Investment Review Board (FIRB). But this is an entity which depends on Defence and the intelligence agencies to offer advice about the national security implications of foreign direct investment.
If only to create some public confidence in its decisions the government urgently needs to redesign the FIRB, give it a statutory basis, separate it from the Treasury, and build a genuine capability to make assessments of risk to national security.

Post script

Shortly after the Estimates Committee Hearings, Defence made public comment opposing another possible privatisation—that of Defence Housing Australia (DHA). The ABC reported a statement from the Chief of the Defence Force that the ADF ‘supports the continuation of DHA as a government-owned entity.’

DHA has been praised for its management acumen as a Commonwealth owned entity, but its privatisation—which government has in any event ruled out—raises no national security implications.

If only a few DHA houses had fallen within the Port of Darwin precinct. That might have made a world of difference.

Landbridge, Darwin and the PRC

Geoff Wade, 9 November 2015

Peter Jennings’ ‘Darwin: storm in a port’ has brought to broader attention the apparent nonchalance with which the lease of the port of Darwin by Chinese firm Landbridge has been treated by many parts of the Australian Government.

Landbridge came to Australian public attention in mid-2014 with its share offer and purchase of Brisbane-based gas producer Westside Corporation. The purchase was celebrated by PRC newsagency Xinhua, and widely by the Australian Government. The signing of this agreement by Landbridge principal Ye Cheng was held at Parliament House in front of Xi Jinping and Tony Abbott during Xi’s November visit to Australia. Westside soon set about pursuing Armour Energy.

Last month, Landbridge agreed to pay $506 million for a 99-year lease of the Port of Darwin. Labor has suggested that the deal be scrutinised by the Foreign Investment Review Board and some ADF officials have registered security concerns. However, the long-term ramifications of this century-long deal haven’t even begun to be considered by Australia.

What then is the nature of Landbridge? Northern Territory Chief Minister Adam Giles calls it a ‘private sector partner’, and both the Australian Financial Review and the Sydney Morning Herald have adopted the ‘private enterprise’ description. However, given that ownership of major economic entities in China is always murky, it behoves us to look at this entity a little more closely.

The company itself asserts that it is a ‘private’ enterprise. Landbridge Chairman Ye Cheng is, however, intimately tied to the PRC party-state as a member of the 12th National CPPCC Committee, a PRC united front body, in which he represents the All China Federation of Taiwan Compatriots.

More importantly, the company—like any organisation of influence in China—is guided by a powerful branch of the Communist Party of China. This 200-member body takes its orders—through a dendritic structure—from the party central committee and ensures that the company acts in accordance with the party-state’s interests and strategies.

The Secretary of Landbridge’s CPC branch committee is He Zhaoqing, an ex-PLA officer, who has been deputy political commissar of the Public Security office at Shijiu Port, and head of the party committee office of Rizhao Port. He’s now also the general manager, a director and party committee member of the Rizhao Port Group. It’s thus He Zhaoqing and the CPC who control the port development activities of Landbridge.

And, as if to underline the party-state links of the company, in August last year, with the support of the People’s Liberation Army, Landbridge established a people’s armed militia within the company with He Zhaoqing being appointed to lead it. He Zhaoqing had also been cited by the provincial government in 2013 as one of the ten outstanding figures of Shandong province who have devoted themselves to the building of national defence. In short, Landbridge is a commercial front intimately tied to state-owned operations, the party and the PLA.
But this should come as no surprise. Party control within nominally commercial operations is precisely how the PRC ensures that Chinese economic activity abroad is fully in accord with and serves PRC strategic interests. That is obvious from Chinese efforts to develop Sri Lanka’s Hambantota Port, Pakistan’s Gwadar Port (only a 40-year lease) and the port of Djibouti.

Darwin is intended to be a key link in China’s new 21st Century Maritime Silk Road, providing Chinese access to both the Indian Ocean and the South Pacific, as well as to Indonesia and PNG. China’s ‘sister port’ tie ups with Kuantan, Melaka, Kedah and Port Klang in Malaysia and with Townsville Port in Queensland are readying further nodes in the network. It’s no surprise that Landbridge Infrastructure Australia’s director, Mike Hughes, says the Darwin port project aims to ‘put Darwin on the map for Chinese business.’ And even less surprising is it that Landbridge CPC Committee Secretary He spoke to his members of the company’s role in achieving the ‘dream of a strong nation’, the ‘dream of renaissance.’

The Maritime Silk Road, along with associated Chinese initiatives such as the $100 billion Asian Infrastructure Investment Bank, the $40 billion Silk Road fund, as well as offshore infrastructure projects such as ports, dams, farms and industrial zones are intended, through realising regional economic domination and subsequent client dependency, to achieve this Chinese renaissance, the ‘China dream’. This in turn will facilitate contention for regional and then global primacy with the United States. The PLA sees one of its key roles as being to protect these economic initiatives offshore. The Darwin deal is thus, among other things, a key element in the PRC’s efforts to weaken the Australian alliance with the US. For these reasons there must be great security concerns about the Darwin deal.

That the federal government and the Northern Territory administration should repeatedly claim that Landbridge is a private company and that its investment in Darwin is simply an economic decision suggests either targeted disingenuousness or woeful ignorance. In either case it underlines the urgent need for both much further investigation of the Darwin contract with Landbridge and the creation within Australia of a public database which records and analyses the swiftly-expanding breadth of the interconnected PRC economic, cultural and political activities across Australia, Southeast Asia and Oceania.

Landbridge and the port of Darwin: a postscript
Geoff Wade, 11 November 2015

My Strategist post on Monday has stimulated considerable interest from readers in respect of the claimed People’s Liberation Army (PLA) connections with Landbridge. To provide further information and allow people to make their own assessments of the connections, I present below an English translation of a page from the Landbridge Group’s Chinese-language website:

The Formal Establishment of the Landbridge Group’s Armed Militia

On the morning of 8 August 2014, a meeting to formally establish the Armed Militia of the Landbridge Group was solemnly convened in the Landbridge Group’s Meeting Room 101.

Gao Yong, the political commissar of the Rizhao Military Sub-District; and Wang Hao, the chief of staff of the same military sub-district; Gai Weixing, the CPC party secretary of the Lanshan District; Wang Jijun the deputy head of the Lanshan district; Liu Yusong, the political commissar of the Lanshan District People’s Armed Militia; Zhang Fengrun, the commander of the militia; Ye Cheng, the chairman of the Landbridge Group; and He Zhaoqing, the party secretary of the Landbridge Group’s CPC Committee all attended this meeting.

In addition, related service personnel from the Rizhao Military Sub-District and the Lanshan District People’s Armed Militia, personnel from the Landbridge Group Armed Militia, personnel from the people’s militia emergency response squad and some staff members from the Landbridge Group also participated in the meeting.

The meeting was chaired by Colonel Liu Yusong, political commissar of the Lanshan District People’s Armed Militia. During the meeting Colonel Zhang Fengrun, commander of the Lanshan District’s People’s Armed Militia publicly read the ‘Official Reply on
the Establishment of an Armed Militia in the Landbridge Corporation’ and ‘Orders on the Appointment of He Zhaoqing and Others’. Gao Yong, the political commissar of the Rizhao Military Sub-District; and Gai Weixing, the CPC party secretary of the Lanshan District unveiled the signboard for the Landbridge Group’s Armed Militia.

After the meeting, the Landbridge Group’s chairman Ye Cheng and the Group’s party secretary He Zhaoqing accompanied Gao Yong, the political commissar of the Rizhao Military Sub-District; Wang Hao, the chief of staff of the same military sub-district, Gai Weixing, the CPC party secretary of the Lanshan District, Wang Jijun the deputy head of the Lanshan district and other leaders on a tour of the Group's facilities.

The Landbridge Group, as a large-scale civilian enterprise has, through 20 years of unstinting effort, established its four major commercial planks of petrochemicals, port logistics, real estate and tourism and international trade. Its assets total close to 17 billion yuan renminbi. Throughout, the Landbridge Group has firmly upheld the ideal of ‘A strong enterprise does not forget to repay the country, while a prosperous enterprise does not forget national defence.’ It has actively supported the army through culture and supported the army through science and technology. It has resolved difficulties and served as a logistic backup for military units engaged in maritime training, and for the military units based in Rizhao. The Landbridge Group has been assigned the appellation of a double model for ‘Loving Lanshan and Putting Efforts into Strengthening the Military’. In 2013, the Landbridge Group chairman Comrade Ye Cheng was cited by the Provincial CPC Committee and the Provincial Government as one of the 10 outstanding individuals of Shandong province who have concerned themselves with national defence construction.

The establishment of the Landbridge Group’s Armed Militia manifests the true melding of a strong enterprise and an active armed militia under the Landbridge Group. It also injects new blood into the national defence project of Rizhao City and Lanshan District.

**NT deal shows FIRB must be given new national security credentials**

**Paul Barnes and Peter Jennings, The Australian Financial Review, 13 November 2015**

The Northern Territory Government’s decision to give a 99-year lease on strategic sections of the Port of Darwin to a company wholly owned by the Chinese firm Landbridge should prompt an urgent review of the role and powers of the Foreign Investment Review Board. With so-called asset-recycling all the rage at present, and more strategic assets likely to come on to the market, the issue should be looked at with renewed urgency.

While the Naval patrol boat base is not covered by the lease, the Port of Darwin hosts about 100 ship visits a year from the Australian Navy as well as the navies of friends and allies. Plans to increase co-operation with the US Marine Corps operating out of Darwin as well as future deployments of the Navy’s new amphibious ships makes the port lease—potentially at least—deeply problematic.

Leasing a sizeable segment of maritime infrastructure in a location of vital strategic importance to Australia, highlights the challenging balance that has to be struck between national security and the need for foreign investment in critical infrastructure assets.

WORST CASE SCENARIO

In a worst case scenario, operational control of the Port of Darwin Port could facilitate intelligence collection of the tactics, techniques and procedures used by Australian Defence Force and US Marine elements during their North Australian deployments. In light of this, the Federal Government needs to critically assess whether the FIRB, using its current evaluation frameworks, has the right skills, resources and powers to assess the national security implications of foreign sales or long term leases.
The FIRB reviewed its foreign investment guidelines in 2009 over concerns about Chinese investments in the strategic resources sector. The guidelines provided the basis for government advice to prevent sensitive transactions that ‘may affect Australia’s ability to protect its strategic and security interests’.

However the term ‘national security’ was not defined, nor was any detail released about how evaluations were undertaken to assure Australian interests. How this is done remains up to the FIRB to apply on a case-by-case basis.

The absence of an effective evaluative system - including public visibility of the decision making criteria - makes the work of the FIRB opaque and increases the risk of inconsistent decisions.

NEW CRITERIA NEEDED

An essential check-list for FIRB evaluation should include assessing the extent to which an element of critical infrastructure, if sold, might risk:

- being shut down or sabotaged in a time of heightened tension;
- be subject to cyber-attack;
- be used as a proxy for intelligence gathering;
- have intellectual property stolen;
- and, by asymmetric means, be used to degrade key elements of Australia’s national security system.

FIRB needs to assess all potential foreign ownership interest in critical infrastructure. Chinese companies and state-owned enterprises are particularly problematic. The nature of the Chinese political system is one of unclear relationships between Beijing and Chinese companies. China’s aggressive use of intelligence resources to steal Western intellectual property and state secrets presents an obvious challenge.

Australia’s attitude to Chinese investment will face a tricky test in the next few months as the government decides whether a Chinese state-owned enterprise can buy or lease TransGrid, a NSW government-owned electricity transmission firm. One consortium interested in TransGrid includes the State Grid Corporation of China.

THE TRANSGRID CHALLENGE

TransGrid supplies power and telecommunications (including fibre-optic networks to four data centres) to many government departments, defence bases and intelligence agencies in NSW and Canberra. Assessing the security vulnerabilities from selling the company to a consortium that includes State Grid has echoes of the decision by the Labor government—subsequently reaffirmed by Tony Abbott’s National Security Committee of Cabinet—to block Chinese telecommunications manufacturer Huawei from supplying equipment to the National Broadband Network.

Two options for strengthening the FIRB's assessment of national security should be considered. First the FIRB should develop and publicly release a detailed evaluation framework that spells out the specific assessment criteria for the sale or long-term lease of critical national infrastructure.

Included in such guidelines would be details and expectations setting out the responsibilities of investors to protect national interests. Transparent governance arrangements will be essential along with appropriate mechanisms to assure the protection of sensitive information and sustainment of key hardware and software components of critical infrastructure.

The FIRB’s evaluation process must involve the defence and intelligence agencies best able to assess espionage and sabotage risks. It needs to be clear that these agencies are there to assess national security vulnerability, not simply to validate the security status of their own facilities.
The second option could be to redesign the FIRB as an independent statutory authority separate from the Treasury with a clear charter to examine and decide on foreign investment applications and with a strong national security assessment function.

The FIRB has an important role to facilitate foreign direct investment and to structure State and Territory options for sale and lease opportunities. But there is an even more vital responsibility to ensure national security for critical infrastructure by advising on any future decisions as potentially problematic as the 99-year lease on strategic parts of the Port of Darwin.

**We need a new approach on foreign investment and national security**

*Anthony Bergin, 17 November 2015*

In 2013-14 for the first time China ($27.7 billion) was the largest source country for approved proposed foreign investment in Australia, overtaking the US ($17.5 billion).

Also for the first time, Chinese private sector investment exceeded state-owned enterprise investment, both in terms of volume and value, (although sometimes the distinction between the private and state owned sector can be murky in China).

A useful report by KPMG and the University of Sydney on Chinese FDI in Australia can be found [here](#). This [global tracker](#) on Chinese FDI is also helpful.

With this background, I read with interest my colleagues Paul Barnes and Peter Jennings’ article in Friday’s *Australia Financial Review*. They argued that the 99-year lease on strategic sections of the Port of Darwin to a company wholly owned by the Chinese firm Landbridge Group should prompt an urgent review of the Foreign Investment Review Board to assess whether it’s got the ‘right skills, resources and powers to assess the national security implications of foreign sales or long term leases.’

They suggest that in a worst case scenario operational control of the Port of Darwin could ‘facilitate intelligence collection of the tactics, techniques and procedures used by Australian Defence Force and US Marine elements during their North Australian deployments’.

They’re rightly concerned about China and FDI: a history of commercial and military espionage, including cyber-attacks on western targets. It’s worth noting that WA Premier Colin Barnett [announced in May](#) that the Fremantle Port is to be sold through a 49-year lease.

There’s obligations that can be put into leasing arrangements with foreign companies or controls on how an asset is managed. We can insist on local board representation. The Northern Territory government, for example, will retain an initial 20% stake in the Port in the case of the recent lease to a Chinese company. But Landbridge must find an Australian company to take the 20% share within five years.

We can put limits on foreign ownership, as we do with airports. Aggregate foreign ownership of Telstra is limited to 35% of the privatised equity.

The strength of our economy is a national security asset, so liberating debt from state governments is important. Governments owning assets can be an economic drag.

State and territory governments will want to ensure that when it comes to asset sales or long-term leases that they’re as commercially attractive as possible.

But as part of balancing economic strength and national security governments can, as I’ve said, put in controls that relate to the terms of a lease, impose conditions that relate to business continuity, or place requirements that certain types of customers will be dealt with in certain ways. The Port of Darwin, for example, is under a strict security regime as mandated by the ISPS Code. And in the event of a major defence emergency the Defence Act allows the Commonwealth to ultimately step in and exercise control.
The first set of issues raised in Paul and Peter’s op-ed revolves around identifying factors that should lead to the FIRB exercising heightened scrutiny.

The Commonwealth could help here by classifying the nature and type of critical infrastructure assets, noting that what was once of national security importance may not be in the future.

It’s hard to believe, for example, that the ABC’s radio transmission towers were once regarded as major strategic assets because they were viewed as critical to a national communications network. Now governments don’t feel that they need to own the telecom infrastructure.

A second set of issues revolves around setting out the relevant elements FIRB should consider when it comes to national security. The national security implications of asset leasing/sales needs a mechanism for the Commonwealth to talk with the jurisdictions about what conditions should be in relevant contracts for critical infrastructure leasing or sale.

Relevant national security factors would need to be identified by the FIRB, such as the risk of access to sensitive information or limiting government access to information, possible means of disabling the asset or compromising its ability to supply during a conflict, or compromising security of public or private networks, with high risks to public safety.

My colleagues’ article points to a case in the next few months when the government may have to decide whether a Chinese state-owned enterprise can buy or lease (or possibly part of a consortium) TransGrid, a NSW government-owned electricity transmission firm. TransGrid supplies power and telecommunications to Defence bases in NSW and Canberra.

There’ll be stricter security requirements for foreign bidders, including a majority of local directors and security checks for nominated directors. But this wouldn’t prevent other internal actors inserting disruptive code into control systems. ASPI executive director, Peter Jennings, will discuss those insider threat issues and the general effectiveness of mitigation measures when it comes to FDI and national security in a future post on The Strategist.

This case echoes the Abbott Government’s December 2013 approval of the $6 billion purchase of electricity group, SP Ausnet, and its related Jemena business which has electricity, gas and water assets, by Chinese government-owned State Grid Corporation. A condition was imposed that at least half the directors must be Australian citizens.

If owning the asset meant a corporate that was the agent of a potentially hostile power could implement software that would allow it to disable the grid’s operation in the event of a conflict, that would be a concern.

But if our NSW/Canberra military bases could switch to alternative suppliers rapidly in a crisis, if they feared power being cut off, then the rationale for blocking the foreign acquisition would be weaker. (It should be noted that changes in technology may impact on what’s ‘critical’ when it comes to ‘poles and wires’.)

FIRB would need to have access to the skill sets to make such assessments. So I like Paul and Peter’s suggestion that the FIRB should publicly release a detailed evaluation framework that spells out the specific criteria that must be assessed in reviewing any sale or long-term lease of critical national infrastructure. (I argued for greater FIRB openness here some years ago.)

The FIRB’s evaluation process, they rightly suggest, ‘must involve the Defence and intelligence agencies best able to assess espionage and sabotage risks. It needs to be clear that these agencies are there to assess national security vulnerability not simply to validate the security status of their own facilities’.

The second option my colleagues suggest is possibly redesigning the FIRB as an independent statutory authority separate from the Treasury with a ‘clear charter to examine and decide on foreign investment applications and a strong national security assessment function’.
Late on Friday federal Treasurer, Scott Morrison, said that the government was ‘acutely aware of the sensitivities regarding foreign investment in strategic national assets and critical infrastructure’ and that the government is assessing options to ‘strengthen the federal government’s ability to protect the national interest in these cases’. It’d be worth looking at the performance of the US Committee on Foreign Investment housed within the US federal government.

The CFIUS reviews select inbound investments on national security grounds and seeks to balance free market principles against national security considerations, ‘specifically averting or mitigating foreign control of US companies that are operating in potentially sensitive sectors’.

We need more analysis on the role of foreign investment policies in protecting our strategic assets.

**Sabah, the PLA Navy and Northern Australia**

Geoff Wade, 18 November 2015

In a quiet but undoubtedly significant event, Admiral Wu Shengli (吴胜利), commander of the People’s Liberation Army Navy and a member of the PRC’s Central Military Commission recently visited Malaysia with an entourage of 10 senior officials. During his visit, Admiral Wu secured agreement from the Malaysian Navy for the ships of the PLA Navy to use the port of Kota Kinabalu in Malaysian Borneo as a ‘stopover location’ to ‘strengthen defence ties between the two countries’.

What’s remarkable is the environment in which this agreement has been reached. China’s military vessels have been active in Malaysia’s territorial waters off Borneo from 2011. Since 2013, the number of Chinese naval and coast guard vessels patrolling and anchoring around Malaysia’s Luconia Shoals and James Shoal, both of which are within Malaysia’s exclusive economic zone, has increased greatly, and PRC territory markers have been erected on the latter.

In June, National Security Minister Shahidan Kassim said that Malaysia would protest to China about the PRC Coast Guard ship long anchored in Malaysian waters at Luconia Shoals, while legislators voiced their unhappiness with the situation. The Malaysian Foreign Ministry has more recently been lodging weekly protests with Beijing over the presence of the Chinese ship in the area.

While the anchored PRC ship is being monitored, there have been reports that Malaysian fishermen are still being driven away from the shoals by Chinese threats to facilitate Chinese fishing boats’ exploitation of the area.

Further, only a day after Admiral Wu left Malaysia, the Malaysian Deputy Prime Minister and Minister of Home Affairs, Ahmad Zahid Hamidi, visited Sabah and started berating ‘a regional superpower’ which has built facilities on three atolls just 155km from Sabah and ‘3,218km from its mainland’. ‘To claim this part of the South China Sea as theirs due to historical narrative is invalid,’ the Deputy Prime Minister Zahid noted.

Why then do we have this agreement now by the Malaysian Navy for Chinese navy port access to Sabah? And which part of the Malaysian administration was responsible for approving it?

Access to a northern Borneo port has long been an ambition of the PLA Navy in its efforts to expand control in the South China Sea. Two years ago, in a *Strategist* posting entitled *Xi Jinping and the Sabah enigma*, I noted how Xi Jinping’s planned visit to Sabah (subsequently aborted) reflected PRC efforts to increase links with that key region of northern Borneo. Chinese naval personnel first visited Kota Kinabalu in August 2013.

Later that year, direct contact between Malaysia’s Naval Region Command 2 (Mawilla 2) and China’s Southern Sea Fleet Command was initiated and Defence Minister Hishammuddin Hussein invited China’s Defence Minister, General Chang Wanquan (常万全), to visit the Royal Malaysian Navy base in Teluk Sepanggar, Sabah, to jointly launch the tie-up. At the same time, Malaysia and China announced joint military exercises for 2014, eventually held in 2015 in the Strait of Malacca. A PRC consulate was established in Kota Kinabalu in April 2015 and the new consul-general began by urging that Chinese-language signs be erected across Sabah.
But back to Admiral Wu’s journey. During his current peregrination, Admiral Wu is visiting Malaysia, Indonesia and the Maldives, undoubtedly reflecting Chinese naval access aspirations in those three regions. This is one of three trips to neighbouring countries by senior PRC military officials this month. Admiral Sun Jianguo (孙建国), Deputy Chief of the PLA General Staff Department, accompanied Xi Jinping on his visit to Vietnam in early November. General Fan Changlong (范长龙), Vice Chairman of the Central Military Commission, is also currently leading a military delegation to Pakistan and India. A Global Times commentary suggests that all three trips are related to expanding China’s maritime interests.

In the light of these visits and increasing PRC maritime assertiveness, only the most innocent would, on observing the location of Darwin between the South China Sea and the Indian and South Pacific Oceans, conclude that the PLA Navy would not likewise be interested in securing access to and facilities in the port of Darwin. Particularly if it was under the control of a Chinese enterprise for the coming century.

Silk roads, strategy and Landbridge
Allan Behm, 19 November 2015

It’s puzzling that mixed messages appear to be the new preferred means of signaling our strategic intent. And it’s even more puzzling that the Australian government, grappling with the delivery of a new Defence White Paper, remains silent on the deal to lease Darwin harbour to a ‘private’ Chinese corporation.

One wonders what the Chinese government thought when President Obama used his 2011 visit to Australia to announce that US marines would be based in the Northern Territory. And one wonders what the US government is thinking now as it digests the decision to lease the Port of Darwin to the Landbridge Group for 99 years.

Such even-handedness may be consistent with our charming national capacity for insouciance. But it betrays an extraordinary strategic naïveté. China knows much about the strategic impact of 99-year leases, and must be finding it hard to believe its luck as it contemplates managing the principal access point for US naval assets supporting the deployment of marines to the Northern Territory, not to mention a key port supporting the RAN’s operations in northern waters.

The deal to hand over the port of Darwin to Chinese management is of enormous strategic significance. For it both plays into China’s aspirations for economic and strategic dominance of the major trade routes that connect China with the world and imposes another constraint on the US’s freedom of strategic manoeuvre and its ‘pivot’ to Asia—not to mention Australia’s freedom of strategic manoeuvre in our northern approaches.

But of even greater significance is the transfer of the management authority of a vital national strategic asset into the hands of an agency of a foreign government. This isn’t just a question of foreign ownership; it’s a question of foreign control.

Australia’s liberal approach to foreign ownership contributes to Australia’s economic strength and, by extension, to its strategic strength. Foreign ownership brings investment, and along with it, employment, technology and management improvements. The issue here is less the capacity of Australian law to protect the rights of Australian citizens and Australian governments, though the recently concluded TPP agreement raises questions about the ability of Australian governments to legislate solely in the interests of Australian citizens.

The issue is essentially one of control: how are access priorities set; how are berth and mooring allocations decided; do particular cargoes, carriers or trade destinations have priority; how are port charges levied; how are improvements treated at the end of the lease? There are myriad questions that should be dealt with before a major strategic asset is removed from Australia’s direct control.

The most important issue, however, is the management of Australia’s northern defences in the broad. Conventional wisdom suggests that any substantial threat to Australia can only emerge from or through the Indonesian archipelago. It’s for that reason that successive Australian governments have established a line of key defence assets in northern Australia, stretching from RAAF
Strategic insights

Townsville (Garbutt) through RAAF Scherger, RAAF Tindal, RAAF Darwin, RAAF Curtin and RAAF Learmonth, not to mention the ports of Townsville, Cairns and Darwin, Larrakeyah and Robertson Barracks and the exercise area at Bradshaw.

The port of Darwin is part of Australia's critical defence infrastructure. How many of the other assets should be leased or sold for short-term financial advantage?

There are precedents in considering access to, and ownership of, areas that are essential to Australia's defence. There are protocols governing access to the Woomera Prohibited Area (WPA), for instance, that are designed to accommodate the needs of the Defence organisation along with the exploration and mining interests of commercial third parties. National defence interests, however, remain front and centre in granting access, and it would be unthinkable for any Australian government to cede control of the WPA to any foreign party.

Whatever strategic issues the next century generates, they will be more multi-dimensional, more multi-factorial, more multi-faceted and probably more intractable than any that we have experienced previously. Fundamental change in the alignment of strategic power as China rises (and the US declines relatively), structural changes in the balance of political power in Southeast Asia, India's steady march onto the Asian strategic stage, together with the inevitable pressures generated by global warming—all of those factors combine to recommend prudence in the way we manage our national strategic infrastructure.

The economic development of northern Australia is a strategic priority, as well as an economic priority. But such development must be undertaken with deliberation and consideration of the entire gamut of national interests, not just the immediate concerns of live cattle exporters, LNG and minerals exporters or the short-term interests of the Northern Territory government in obtaining a cash windfall.

The Silk Road of antiquity was the strategic artery through which the economic lifeblood of the Eurasian land mass flowed. The maritime Silk Road promises to do much the same in the Asian maritime domain.

Instead of embarking on a wide-eyed and open-mouthed journey on the maritime Silk Road, it behooves the Australian government to give full consideration to the nation's long-term strategic interests. While the Defence Department appears to entertain a pretty laissez faire attitude to the matter, the government would do well to seek the strategic advice of the Office of National Assessments and the opinion of the Chief General Counsel on the applicability of Australian law to foreign government-owned entities, be they Singapore's Temasek Holdings or the Landbridge Group.

The grand strategic failures underlying the lease of Darwin’s commercial port

Neil James, 23 November 2015

Most public discussion and media commentary—and seemingly all the political and bureaucratic dissembling—about the 99-year lease of Darwin's commercial port continues to miss the point.

This isn't primarily a commercial, foreign investment review or other economic issue.

Nor does it really concern potential barriers to defence force use of commercial facilities, an increased risk of foreign espionage or sabotage, or whether the Chinese company, Landbridge, has Communist Party or military connections or not.

Those latter issues are all largely manageable, although some will be difficult diplomatically and operationally.

Neither is the lease, strictly speaking, an alliance issue although the bungling about keeping the US informed is inexcusable—and highlights both the failure to think grand-strategically and consequent machinery-of-government failures as discussed below.

Given the long timeframe involved—and that the lease involves a powerful, regional and authoritarian country apparently seeking major changes to the rules-based international system—I see five key issues at stake.
There has been an utter failure to examine the matter in a mature, holistic and grand-strategic context that draws together all the Australian (and allied) sovereign-freedom-of-action implications over the next century.

A period nearly half as long again as modern Australian history since 1788 and one where strategic pressures will be fluid and perhaps turbulent.

For the first time since 1788 our major trading partner isn’t also a major ally. That poses obvious challenges in balancing national interests.

But what cannot be ignored or downplayed is that Australia’s strategic risk is particularly increased in the case of China compared to other foreign powers or sources of investment.

China has emerged as a potential and perhaps evident peer-strategic competitor to our long-time alliance partner.

More broadly, under its current undemocratic political system, it’s also ambivalent at best about supporting the rules-based international system by which Australia has thrived, especially since 1945.

Moreover, China’s current authoritarian rule poses increased risks of strategic adventurism and precludes the strategic stability safeguards of both domestic and international accountability through peacefully-negotiated agreements. Future Chinese governments could seek to divert democratic pressures domestically by resorting to belligerent nationalism.

If China was a democracy, and didn’t seek to disrupt the rules-based international system, such a 99-year lease of multi-purpose infrastructure wouldn’t raise the same strategic security consequences.

In geostrategic terms, Darwin Harbour and its city provide the only location suitable for major naval use across northern Australia, should this be necessary.

To deny or downplay that such increased use may become necessary over the next 100 years is to deny both history and any inter-generational responsibility for the security of our descendants.

Over the next 99 years, we should always avoid the strategic risk of any real or perceived overall dispute with China resulting in any form of claimed *casus belli* by China, particularly under its current form of government.

By not leasing the port to Chinese interests we also preclude the risk of China deeming any future change to the leasehold conditions in a way that increases strategic tensions at a time when we would most need to reduce them, or where such leasing matters might enable increased Chinese strategic coercion at such a juncture.

The best and easiest way to preclude such risks is to avoid them in the first place by not selling or leasing major strategic assets to such foreign interests.

The situation again demonstrates that major reform of our national security decision-making machinery is needed.

Not least because a Northern Territory government, narrowly focused on short-term political expediency, made a decision that affects the future strategic security of the whole country over a century, clearly without realising the long-term, detailed and broad implications. That said, they aren’t alone here as the few federal departments and agencies consulted only looked at the lease in specific and narrow silos, not holistically or in any broader strategic context.

A proper grand-strategic approach, rather than one focused on managing issues more in a day-to-day ‘strategic policy’ manner, is clearly needed to prevent further mistakes about foreign control of key national infrastructure and to improve the context and quality of public debate about such issues.

Until 1958 Australia maintained a Commonwealth war book covering federal and state responsibilities for coordinated and detailed action to forestall strategic security contingencies or manage them if they occurred.
Up to the mid-1980s, ASIO put serious effort into its designated responsibility to maintain the nation’s vital assets register covering those key parts of our national infrastructure essential to Australia’s security in the broadest sense. Both mechanisms should be modernised and reinvigorated.

If the NT Government and various federal agencies had been required to check such a register, and then consult in detail accordingly, the current dilemma over Chinese investment in Darwin’s port wouldn’t have arisen.

Finally, while the National Security Committee of Cabinet (NSC) now generally functions well, the supporting mechanisms remain inadequate in focus, co-ordination and whole-of-government composition.

The port of Darwin lease also proves that the Secretaries Committee on National Security (SCONS) is unable to provide the whole-of-government and broader strategic coordination that was generally achieved by the former inter-departmental defence committee and its supporting mechanisms—at least until the early 1970s.

As the Australia Defence Association has long argued, the NSC should be supported by a National Security Council comprising whole-of-nation participation by all relevant governmental agencies (with the states and territories represented as required), but with all the Council’s staff being seconded to avoid empire building and to reinforce its co-ordination and consultation role.

This would also allow a reconstitution of the strategic-level intelligence staff function not really undertaken by an Office of National Assessments focused only on intelligence analysis, and the futures-planning function within the Department of Foreign Affairs and Trade.

The Darwin Port lease: setting the record straight
Sam Bateman, 24 November 2015

Criticisms of the Northern Territory Government’s decision to lease sections of Darwin Port to Landbridge, a Chinese company, have come from two main sources—US commentators who see an opportunity to drive a wedge between Australia and China, and from Australian sources overstating the security risks. All authors have in common some misunderstanding of the full circumstances of the lease and fear of a threat from China, and the US critics are aware of the difficulty Australia faces with maintaining a balance between our strategic alliance with the US and our trading relationship with China.

Over the past six years, we have seen a process of action and reaction in the region with Chinese actions being matched by a US response—and vice versa. Increased US military activity in the region is viewed by China as part of the plan to ‘contain’ China and maintain US hegemony in the region. Inevitably China has to respond, leading to a classic ‘security dilemma’. Unfortunately there are ‘hawks’ in both Washington and Beijing who are only too happy to fuel this dilemma.

As part of the ‘pivot’, Washington has been boosting relations with its regional friends and allies. Australia, as a loyal partner of the US, has been a particular target of Washington’s. Any sign of our wavering towards China, as our major trading partner, is seen as a major problem in Washington. US pressure is evident in suggestions that Australia join the US freedom of navigation operations challenging Chinese claims in the South China Sea, and recently, criticisms of the lease of Darwin port facilities to Landbridge.

Richard Armitage, a former US Deputy Secretary of State, has said he was ‘stunned’ that Australia ‘blind-sided’ the US on the deal—apparently by not consulting Washington as part of the decision-making process. Even President Obama has expressed concern that Australia hadn’t consulted the US. Those suggestions are patronising and an affront to our national sovereignty.

Australian criticisms of the lease should have been ‘put to bed’ by responses from both the Secretary of the Australian Department of Defence and China experts. Dennis Richardson pointed out that the deal was exhaustively examined both by the Defence Department and ASIO, and it was ‘amateur hour’ to suggest there was an espionage risk. China expert, Linda Jakobson, has observed it isn’t unusual for a Chinese company to have a militia unit and for principals of Chinese companies to have links with the Communist party—two issues used by Australian commentators to criticise the deal.
Despite these responses, Neil James has still made an extraordinary xenophobic attack on the lease, claiming it to be a grand strategic failure. However, any failure is not, as argued by Neil, to view China as a potentially belligerent ‘peer-strategic competitor to our long-term alliance partner’. Rather the challenge is to help build strategic trust between the two competitors and, as suggested by Lyle Goldstein of the USN War College in his recent book, *Meeting China Halfway*, to replace the current ‘escalation spiral’ between them with a ‘cooperation spiral’.

Australian critics have mainly not appreciated what the lease involves, the composition of the port of Darwin, or the nature of port operations more generally. The lease covers the principal parts of the port involved with international commercial shipping. It doesn’t include major parts of the port, such as the coastal shipping and fishing facilities around Frances Bay, the Darwin naval base, or Stokes Hill wharf. As well as being a major tourist venue, the latter wharf is still used by Australian Customs Vessels, RAN vessels and visiting warships.

Important checks and balances will be in place with the lease. Australia can take back control of the port at any time of crisis. The Northern Territory Government will be able to ensure that the port operates safely and in accordance with environmental legislation. The port facilities operated by Landbridge will also be subject to the requirements of the International Ship and Port Facility Security (ISPS) Code, and compliance in this regard will be monitored by inspectors appointed by the Australian Maritime Safety Authority.

The Darwin port lease has led to calls for closer security scrutiny of overseas investment in critical infrastructure. That may be necessary, but every element of infrastructure is different—ports are not the same as power and telecommunications networks. Ports are part of a globalised supply chain subject to many vulnerabilities, but foreign control of some part of a port isn’t one of them—in fact, it’s a global norm. Allan Behm has noted that the ‘issue is essentially one of control’, but the questions he mentions are all ones of the normal commercial operation of a modern and efficient international port.

In the final analysis, the port leasing deal is a good one for the Northern Territory. It will ensure the development of port facilities in Darwin, particularly the East Arm wharf area, into the major international port desperately needed by both the Territory and adjacent parts of Western Australia.

**The Port of Darwin as a ‘grey zone’ situation**

Patrick Cronin and Phoebe Benich, 27 November 2015

Protecting national security equities is a tricky business in an era of globalisation. Four years ago President Obama unveiled Marine rotational training in Darwin as the single most tangible security action to mark America’s long-term Asia-Pacific rebalance. While Australian Army counterparts initially relished this idea of introducing US troops to the crocodiles and harsh environs of the Northern Territory, the modest military step carried great political significance. In the face of Chinese criticism of the move as containment, many wondered how Canberra would balance its growing economic ties to China with its long-term security alliance with the US. The most recent move by Beijing to purchase a lease on the Port of Darwin pushes the seams of those two seemingly contradictory demands.

By putting up US$366 million for an 80% ownership stake in the Port of Darwin, Landbridge Group has just acquired nearly a century of access to one of the alliance’s strategic neighborhoods. Even if the private Chinese company’s transaction was simply for commercial benefit, does anyone believe it will take long for the People’s Liberation Army (PLA) and Ministry of State Security intelligence operatives to acquire privileged access—a permanent VIP pass?

No wonder some prominent American and Australian critics pounced on potential Chinese motivations and argued that the deal facilitates a ‘Chinese renaissance’. The deal also took most of Washington by surprise, as it came immediately on the heels of high-level alliance consultations. Former Deputy Secretary of State Richard Armitage, who holds an honorary Order of Australia (AC), was nonplussed about the apparent breakdown in alliance communications. Yet defenders of the lease, mostly in Australia, noted the obvious economic benefits of the deal and dismissed detractors as ‘xenophobic.’
An objective American analysis of the deal might best begin with the common-ground observation that the long-term leasing arrangement represents another example of a ‘grey zone’ situation that is something other than ‘business as usual’. While the agreement isn’t a direct threat, it’s precisely the kind of incremental step that could, in conjunction with other small actions, wind up exposing major future security vulnerabilities.

The acquisition of strategic real estate, like the building of artificial islands, is an attempt to quietly change facts on the ground and advance China’s strategic posture and interests in the region. Officials would be naïve to assume that the proximity to defense installations and personnel poses no risk at all. While Landbridge may claim that it isn’t a state-owned enterprise, a ‘private’ Landbridge doesn’t exactly exonerate the company when it comes to relations with the Chinese government.

Furthermore, it’s uncanny how Chinese companies appear to be investing heavily in areas where the US has bases or strategic access and training arrangements. Chinese companies have not only demonstrated this through the Port of Darwin case, but also through casinos that Chinese companies are reportedly trying to open in the Northern Mariana Islands. There, millions of dollars go a long way in influencing local leaders in Saipan and Tinian. As a result, these leaders might much prefer Chinese casinos rather than US training and exercise facilities.

We would underscore Peter Jennings’s point that this lease tested existing institutions that assess the national security concerns of foreign investments and found them wanting. While Defence Department Secretary, Dennis Richardson says officials in his department were consulted in assessing the deal, it’s surprising that Defence appears to have acquiesced in the lease so effortlessly and free from debate. According to Australian Treasurer Scott Morrison, the deal also evaded formal review by the Australian Treasury’s Foreign Investment Review Board.

There’s something worrisome about the timing of this announcement. It was declared only one day after a bilateral meeting of alliance ministers touted the rotational training and other security cooperation. At a minimum, this breakdown in communications represents an unfortunate aberration from the customary candour that permeates the Canberra–Washington dialogue. In response to a question about possible cooperation concerns with the US as a result of the deal, Richardson commented, ‘If other people have other issues about foreign ownership of whatever, that is not an issue that concerns us unless it impinges on our interests and responsibilities.’

While Australia may view US annoyance at the lack of communication as an affront to their national sovereignty, we would point out that Australia and other US allies are often quick to feel snubbed when they are not consulted about issues of importance to them. This isn’t whinging so much as a recognition that even well-oiled alliances have their limits.

Regrettably, the United States is no better poised than Australia to grapple with this type of indirect risk. Were Washington and Beijing to complete a Bilateral Investment treaty tomorrow, the US could quickly face similar controversies about potential Chinese investments. If neither Australia nor the US is well positioned to analyse these issues—to see that we need a means of looking at property and commercial access as a potential risk, not just an economic opportunity—then surely the alliance is by definition equally unprepared.

The United States and our allies are part of a global economy of which China is a vital part. There’s no way for the United States to encourage China’s continued growth, stability, and participation in global governance without including a high degree of interdependence and thus Chinese presence in our countries, especially in economic domains. The aim of America’s rebalance, after all, isn’t to contain China but to enhance our ability to preserve and adapt an inclusive, rules-based regional and global order. Thus, even though Darwin represents a remote place within a removed country, it’s also part of our shared global economy.

So how should allies like the US and Australia develop safeguards, awareness, and processes for vetting Chinese FDI? As was demonstrated by the ban on Huawei’s involvement in Australia’s National Broadband Network, intelligence agencies can effectively advocate against spying. Additionally, different armed services could champion against ownership as would be the case in a military base. However, Australia’s Defence Department clearly didn’t have much to say about the Landbridge deal—so who’s going to protect Australia’s strategic interests like physical assets?
We would endorse the prudent measure put forward to strengthen the power and independence of the FIRB. In Jennings’ view, the Australian government should ‘redesign the FIRB, give it a statutory basis, separate it from the Treasury, and build a genuine capability to make assessments of risk to national security.’ A strengthened FIRB can more effectively and specifically evaluate potential foreign investment in various elements of infrastructure.

Furthermore, the US and Australia should carefully consider how they collect and analyse business transactions that could compromise national security activities. They should also reconsider the communication mechanisms in their alliance. In this way, a potentially controversial deal is at least shared in advance through the robust intelligence cooperation channels that already exist between these two members of the ‘Five Eyes’ community.

While the economic benefits of the deal for Australians are clear, the resulting concerns about regional security, the process of scrutiny for foreign access to infrastructure, and the nature of the US–Australian alliance urge further discussion. The moral of the story is this: protect core interests but closely scrutinise and monitor potential threats that seek to nibble around those strategic equities. And for mercy sake, communicate.

Developing a balanced perspective on Chinese investment in Australia

Feng Zhang, 30 November 2015

The 99-year lease of Darwin’s commercial port to Chinese firm Landbridge Group marks an important chapter in Australia–China business relations. But the considerable controversy in the Australian defence community that has been generated by the lease belies an exaggerated sense of a putative Chinese threat to Australian security. It also reveals that Australian security experts misunderstand the nature and function of Chinese companies and of Chinese foreign and security policy more broadly. Here I address key issues raised by Geoff Wade’s original article and hope to place the lease in a proper perspective.

Geoff asks whether Landbridge Group can still be seen as a private enterprise given its ties to the Chinese Communist Party (CCP) and the People’s Liberation Army (PLA). But the definition of a private or a state-owned enterprise in China hinges on the firm’s sources of capital upon registration with the Chinese authority. If ties to the party are viewed as a crucial criterion, then all major Chinese firms are state-owned and none can be seen as private in the Western sense, simply because all of them have CCP organisations overseeing their political and ideological orientations. That simply reflects the political environment in which Chinese companies must operate. To use this as a key criterion for reviewing Chinese investments in Australia will always end up blocking such investments.

Few private Chinese firms have military connections. Landbridge, however, has a party branch secretary who is said to be an ex-PLA officer. Does that mean that the company is therefore a tool of the PLA for realising its strategic interests? In Australia, it’s not uncommon for retired military and intelligence officers to have senior positions in private enterprises. But does this mean that those firms have thus become the strategic arm of the Australian Defence Force? No general conclusion can be drawn before individual cases are analysed in detail, because each case is likely to be unique.

In the Landbridge case, its party secretary’s ex-PLA background may bring experiences and resources useful for the company’s commercial success. But the assumption that that person—or even the company as a whole—will prioritise loyalty to the PLA at the expense of commercial interests in making business decisions is highly questionable. Landbridge is, after all, a commercial enterprise driven by profit. Much more evidence is needed if one is to argue that it’s a tool for advancing China’s strategic interests while its commercial operations are nothing more than camouflage.
That raises another question about the relationship between Chinese firms and party control. Can the CCP control private firms to ensure that their economic operations serve national strategic interests? That overestimates the power of the party and creates an image of a behemoth of the Chinese state that doesn’t exist. There are plenty of examples where Chinese firms have created trouble for Beijing’s foreign policy. It’s even questionable to what extent the party exercises effective control over state-owned enterprises, let alone private firms.

Nevertheless, the fact that Landbridge has created a Department of Civil Defence (‘People’s Armed Militia’ is a misleading translation) worries many observers. But such departments are common among major Chinese institutions, be they firms, hospitals or universities. As Professor Zha Daojiong of the School of International Studies at Peking University recently told me, their main function is to provide policy guidance on routine security matters. In Peking University, for example, the uniformed guards checking identity documents at the university’s main gates follow instructions from the university’s Civil Defence Department. As Chinese companies’ global interests expand into troubled parts of the world, they may need to create private security forces to protect company assets. In the Chinese system, those security forces will need to be managed by the civil defence departments of those companies. But that’s very different from the PLA controlling those companies to advance national strategic interests.

A larger question from the perspective of Chinese foreign policy as a whole is whether Landbridge constitutes a Chinese deployment in its Maritime Silk Road initiative to realise regional economic domination and client dependency, weakening the Australia–US alliance along the way. It’s true that the Silk Road initiative encourages Chinese companies to go abroad and seek business deals. But it’s an initiative of economic diplomacy rather than military control. China is constructing commercial infrastructure in foreign countries and in some cases seeking access to them, but it’s not acquiring foreign military bases. It’s hard to see how the use of the Darwin port may create client dependency between China and Australia, and still harder to see how it may weaken the military alliance between Australian and the US. In the final analysis, Darwin is Australia’s sovereign territory and the federal government will always be able to take effective control of it.

Peter Jennings is right when he notes that commercial ports can have national security significance, such as espionage risks. But then, the logical conclusion of this observation is that in order to eliminate any security worry, commercial deals of this sort must never be signed. But it’s more important to find a proper balance between commerce and security. The national security implications of international commercial deals are an issue of management, and are manageable. All major governments around the world are managing issues of this kind, including China. Why would Australia be any different?

Some unease among Australian analysts about the Darwin port lease is understandable because of Darwin’s strategic value and because of the rarity of a 99-year lease in Chinese business deals abroad. Australian authorities should of course conduct due diligence and thoroughly examine the deal. But in expert commentaries, it’s unhelpful to aggregate China into a state behemoth under tight CCP control with even private firms seen as a deliberate link in Beijing’s purposeful international strategy. (It’s actually more useful to disaggregate ‘China’ since interest-group competition in national policy making is a daily affair in China now.) It’s even less helpful to generate xenophobic feelings toward Chinese investment as a result of this deal. A proper and balanced perspective is urgently needed for developing the next stage of Australia–China economic relations.