This is a transcript of a speech by Senator FIERRAVANTI-WELLS (New South Wales) in the Australian Senate on 30th November 2020.

It concerns the tabling of a suite of measures aimed at curtailing foreign interference in Australia.

It is particularly important in the light of one Australian state, Victoria, signing a Belt and Road agreement with China without consulting the Australian government.

The Chinese communist regime is incensed by these measures and is trying to bully Australia into withdrawing same.

Having participated in the Senate committee hearings, the evidence again reinforced concerns I have publicly raised over a long period of time about foreign interference and foreign influence in Australia, most especially from the communist regime in Beijing.

These bills, Australia's Foreign Relations (State and Territory Arrangements) Bill 2020 and Australia's Foreign Relations (State and Territory Arrangements) (Consequential Amendments) Bill, are part of the suite of measures which the government is increasingly relying upon to confront the insidious and growing threat of foreign interference and foreign influence in Australia. It is important that arrangements of state and territory governments are consistent with Australian foreign policy.

The Commonwealth and states and territories need to speak, as has been said, with one voice.

This is especially the case when, in relation to China, we are finally recognising that it can no longer be business as usual with the communist regime.

Whilst there are a number of other schemes that aim to protect Australia's interests in dealings with foreign entities, they serve different purposes. However, gaps remain.

One concern that I have raised repeatedly is the exemption Commonwealth, state and territory and local governments enjoy from foreign investment review. Notwithstanding the proposed major reforms to the FIRB framework, the exemption remains in place except where a government proposes to sell to a foreign government and if the subject of the sale is public infrastructure or where the interest being acquired is a national security business or national security land.

These bills seek to deal with another critical gap of facilitating Commonwealth oversight of foreign arrangements entered into by states and territories and their entities. Whilst they are an important step, I do not believe they go far enough.

Following the report of the committee, the government has included a definition of 'institutional autonomy'. This is particularly important regarding the university sector. However, I am disappointed that there hasn't been consistency by also including a definition of 'corporate autonomy'.

I have repeatedly outlined concerns regarding the operation of foreign state-owned enterprises in Australia, especially where those corporations are operating commercial activities in critical

sectors, critical infrastructure, and, more importantly, in sectors where national security concerns exist.

Arrangements with SOEs that operate on a commercial basis, including commercial leases, are not the focus of these bills, but these are the very arrangements which have given rise to public concerns. Their exclusion from this legislation affects its very credibility.

I think we need to be clear with the Australian public. Arrangements with entities that operate in a democratic framework are not likely to give rise to concerns. It is those entities which operate under totalitarian regimes and have no autonomy that are of greatest concern.

I have used the example of Chinese companies where corporate governance is virtually non-existent. Article 19 of China's company law states: 'In companies Communist Party organisation shall, in accordance with the provisions of the Constitution of the Communist Party of China, be set up to carry out activities of the party.

Companies shall provide the necessary conditions for the party organisation to carry out their activities.' This puts the CCP front and centre, irrespective of whether companies operate inside or outside of China.

A South China Morning Post article of 3 November 2020 outlines Beijing's new plan for SOEs, citing comments by Xi Jinping:

“They form the economic and political foundation of China's socialist

system and are a key pillar for the [Communist] Party's rule. They

must be built stronger, better and larger…"

He added that the *'sector's role cannot be negated or weakened'.*

Indeed, Beijing calls the shots, no matter how large the corporation.

According to recent media reports, Xi Jinping personally made the decision to halt the initial public offering of Ant Group, which would have been the world's biggest, after controlling shareholder Jack Ma infuriated government leaders when he compared the lending practices of state-owned banks in China to pawnshops.

A 2017 paper titled 'Mapping the legal landscape: Chinese government-owned companies in Australia' by Professor Tomasic and Dr Xiong, explores the legal contours of Chinese controlled investment in Australia. It is noted that, by 2016, there were 66 Chinese SOEs with 214 subsidiaries in Australia operating across most industry sectors.

The Productivity Commission's (PC) June 2020 research paper titled 'Foreign investment in Australia' finds our largest FDI sources remain the US, Japan and UK. However it states:

Chinese investors have significantly increased their holdings in the past decade, although identifying the precise value is difficult. Data suggest that flows into Australia for which the ultimate beneficial owner is from China are about three times as high as those for which they are the immediate owner, as funds flow through corporate structures in third countries.

Chinese investment has grown in the past decade from low levels in 2008 to become Australia's fifth largest FDI investor, with four per cent of total FDI stocks at the end of 2018. The PC states that, in recent years, national security concerns around inward FDI have tended to involve Chinese investors and that, in the past, much of this concern was directed at SOEs or sovereign wealth funds as opaque arms of government, accused of investing for non-commercial or strategic reasons.

The PC also states that, more recently, FDI by privately owned Chinese companies has also generated consternation. In part, this is because Chinese law can require all Chinese companies to 'maintain national security' or to support Chinese government security activities.

It cites the American Enterprise Institute going so far as to state:

"*… there is no difference in the control the Communist Party can exercise over private firms and SOEs … [so] there is no justification to treat them differently with regard to national security.*"

The PC paper cites examples where Chinese investment has raised national security concerns in Australia, including: the 2018 Huawei decision; the lease of the port of Darwin to Landbridge; the 2016 attempt by the New South Wales government to sell 50.4 per cent of Ausgrid on a 99 year lease to Chinese SOE State Grid Corporation and Hong Kong's Cheung Kong Infrastructure Holdings; and the March 2009 bid for OZ Minerals by China Minmetals.

The PC pertinently highlights the increase in public opposition to Chinese investment. A 2019 Lowy Institute poll found that 68 per cent of respondents thought that Australia allows too much investment from China. The PC also notes that, whereas Australia has previously seen community opposition to FDI during periods of rapid increase in investment from specific countries, namely the US in the 1960s and Japan in the 1980s, this is the first period of rapid increase in investment from a country that is not a democratic country, nor a military ally.

Considering the extent of Chinese investment both by SOEs and so-called privately-owned companies, our failure to exclude arrangements with such entities in the bills weakens their credibility. It is the elephant in the room. What is the point of having such legislation when we are excluding from its reach the very entities that are most likely to engage in the very activities that these bills seek to cover?

In relation to the university sector, I was especially concerned to note the negative attitude, not only to the bills, but also that the government would even presume to affect the sector's activities through the enactment of these bills. Our university sector, together with a wide chorus of businessmen, have urged us to effectively ignore the communist regime's many excesses in favour of the continuation of the rivers of gold.

The outgoing threats by China are symptomatic of the predicament we find ourselves in, noting

that years of questionable and defective foreign and trade policy have made us vulnerable to economic coercion.

For years, those who have had responsibility for our fellow-traveller foreign policy were prepared to ignore CCP skullduggery so long as the rivers of gold continued to flow. This is a bad business model, and we are now paying the price for not having diversified our trade and instead concentrated one-third of our exports into one market. It defies basic business practice 101!

I know that many Australians who have contacted me do not agree with the defence minister's comments on 9 September that there are no security concerns regarding the Port of Darwin. How can one of our most strategic assets in northern Australia—the gateway to Australia—be leased to a company with ties to the communist regime in Beijing? How can this not be a matter of concern? It simply doesn't pass the pub test! There is absolutely no doubt that, were the lease of the port to be considered today, it would be not only subject to FIRB review, but most likely rejected.

It is obvious from the Northern Territory submission and evidence at the hearing that there is contemplation of a reacquisition of the port, given the clear reference by Chief Minister Gunner to compensation for declaring arrangements invalid. It is appropriate that the Commonwealth seek to ensure state and territory consultation regarding foreign arrangements.

The fact that no state or territory government chose to attend and give evidence is in itself indicative of their lack of appreciation of the need for their actions to be consistent with our foreign policy.

I am especially disappointed that my very detailed questions on notice to New South Wales Premier Berejiklian and NT Chief Minister Gunner were not even responded to. As a senator for

New South Wales, I and many of my constituents are particularly concerned about the extensive arrangements between New South Wales and Chinese entities in critical areas like energy, public infrastructure and transport.

This is especially concerning given the actions of a number of governments, especially in their dealings with the CCP and its Belt and Road strategy. Whilst promoted as an avenue for providing infrastructure funding, it is basically a debt trap and influence strategy, mostly resulting in debt-for-equity arrangements.

As Minister for International Development and the Pacific, I saw firsthand how debt-trap diplomacy operated. Following my public warnings about China's activities, most especially in the Pacific, an international debate ensued about debt-trap diplomacy and the examples in different parts of the world which had left countries and areas with unsustainable debts. In addition, BRI is not about local jobs, with projects usually constructed by Chinese firms with their own labour.

Here in Australia we have seen the Beijing drafted MOU and agreements between China and Victoria. The willingness of Premier Andrews to deal with the communist regime in Beijing has rightly earned him the label ***'Chairman Dan'.***

The government has made a number of amendments which have improved the bills and I welcome that. I note that more amendments will be proposed. It is important that we keep an open mind about them so that these bills can be improved further.