

Opinion

Rio feathers should stay in our nest



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The reef of lead and zinc that crosses Broken Hill gave birth to two great Australian mining companies: the Broken Hill Proprietary (BHP) and the Consolidated Zinc Corporation that came to be known as Conzinc Riotinto of Australia Ltd (CRA).

In the 1960s they developed iron ore mines in the Pilbara in Western Australia. As they expanded they entered dual listed structures: BHP with Billiton, and CRA with Rio Tinto of Britain.

Rio Tinto is saddled with high debt. BHP Billiton last year offered to merge with it and was rejected. Now Rio has sought finance from the Chinese state-owned company Chinalco. Part of the proposal involves Rio divesting an interest in Australian mines to Chinalco, the most significant of which are the iron ore mines in the Pilbara, a bauxite mine at Weipa and the aluminium smelter at Gladstone.

The ultimate decision on whether this proposal will be allowed under Australia's foreign ownership laws must be made by the Treasurer. Our Chinese-speaking Prime Minister will undoubtedly favour the proposal.

The Commonwealth Treasury will also be in favour of it. In my time administering our foreign investment laws, I cannot remember Treasury ever recommending that I block or disallow the acquisition of an Australian company by foreign interests. There were specific rules for media, real estate and the like, but in the general economy Treasury always supported foreign investment. In 2001 I rejected the Treasury view that Shell's application for the oil and gas producer Woodside

should be allowed. It caused a great deal of agitation in the department. I asked Treasury to give me previous decisions where foreign bids had been disallowed so I could use them as a precedent. The department told me it had no precedent.

In 2001 I had to rule on BHP's application for dual listing with Billiton. I knew there was a precedent: the CRA Rio decision approved by the Keating government in 1995. I wanted to use that as a precedent of what not to do.

The Labor government originally laid down such conditions for approval as stipulating that a third of the board of the dual-listed company be Australian. Later it withdrew the conditions, saying Rio had agreed that Australians would have a bigger stake in CRA. The approval was made unconditional.

At present, by my count, three of Rio's 15 directors are Australian. Originally the chief executives of the dual-listed company were Australian, but now there are no Australians among the executive directors. Before the dual listing, CRA had its headquarters in Australia. Now they are in London. Despite the mineral wealth from Australia, insurance, legal, corporate and financial services come from Britain, including merger and acquisition strategies, like the Chinalco deal.

I was determined to ensure that BHP's corporate presence did not disappear from Australia in the same way as CRA, so I put conditions on its dual-listed company structure that required the global headquarters to remain in Australia, that this be specified in all public documents, that the majority of board meetings be in Australia, and most im-

portantly, that the chief executive and chief financial officer have their principal residences in Australia. This last condition was opposed by the company.

Several times the company sought to have these conditions eased but they remain in place, and to its credit, the company has scrupulously complied with them. The world's largest diversified mining company is still Australian.

If a country wants to be seen as open to investment it needs to show that there are high-profile global companies that operate inside its shores. If a country wants to see itself and be seen as significant in the global economy it needs to have companies that show the entrepreneurial character of its people and business leaders.

The head office generates the corporate, financial, legal and insurance services and the highly skilled jobs that come with them.

When the Rio Tinto application goes to the Treasurer, it will come with all sorts of assurances – just like those the government “accepted” in 1995. My advice would be to look carefully at how past assurances worked out. The only thing that counts in foreign investment decisions are conditions that are written, enforceable and policed.

Peter Costello is a former Liberal federal treasurer and the member for Higgins.

Treasury will be in
favour of Chinalco.