February 2, 2012

Atlas Iron's Submission to the Senate Economics Committee Inquiry into the Minerals Resource Rent Tax Bill 2011 and related bills

Atlas Iron is an iron ore miner and exporter which has its head office in Perth, Western Australia and operations in and around Port Hedland. The Company is currently producing iron ore at the rate of about six million tonnes a year. It aims to increase this to 12 million tonnes a year by 2013 and to 46 million tonnes a year by 2017. Atlas has a workforce of more than 440 people and has more than 29,000 shareholders, 97 per cent of whom live in Australia. The Company has already paid more than $155 million in taxes despite only becoming profitable in the past financial year.

Atlas Iron respectfully requests that the Committee accepts the following submission as evidence to its Inquiry into the MRRT. Atlas' key motivation for investing time and resources in preparing this submission is not that it aims to reduce the amount it stands to pay under the MRRT, though it has deep concerns about this, as outlined below. Rather, it is that the overwhelming evidence leaves Atlas in no doubt that the inequity and inequality of the tax as it stands will inflict a huge competitive disadvantage on smaller mining companies such as Atlas and make Australian mining generally less globally cost competitive. Its research has also led Atlas to be totally convinced that the MRRT is heavily against the national interest because of the impact it will have on longer-term employment prospects for Australians, the consequences for exploration and development of Australia's crucial resources industry and the ability of Australian companies to compete in their own backyard against multi-national corporations.

As the Managing Director of Atlas Iron, I am on the public record as early as April, 2010 – well before the resources tax debate began - stating my belief that some mining companies could afford to pay more tax. I said then that the additional proceeds should be used to fund essential services such as health and education. My view was not popular among some of my industry peers, but I believed that such a move was in the interests of maintaining a balanced society in numerous respects. This included striking a desirable balance between society's need for a strong, profitable resources industry and the resources industry's need for a strong, cohesive, content society in which it can conduct its business. I cite this as irrefutable proof that Atlas does not suffer from a kneejerk opposition to the concept of tax.

Atlas' steadfast opposition to the MRRT is based on two grounds: First, the extent of the additional tax impost on the company and second, the enormous competitive advantage it stands to deliver to the multi-national giants at the expense of smaller Australian companies. And while Atlas acknowledges that it is hardly unusual for governments to seek more money from business, I find it difficult to understand that a government of any persuasion would seek to do so in a manner that will disadvantage smaller Australian companies to the benefit of multi-national corporations. And yet this is exactly the impact of the MRRT.

Based on the proposed legislation, Atlas is expected to pay the ATO the equivalent of 8 per cent of the Company's revenue on a quarterly basis. This equates to some 25 per cent of Atlas' operating cashflow. Or, to put it in the context of the national interest, it's 25 per cent less money to grow our business.

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That's 25 per cent less money to develop new projects – which incidentally generate more tax of their own – 25 per cent less money to create more jobs and 25 per cent less money to generate export revenue for Australia.

The MRRT advocates like to dismiss these arguments by suggesting that resource companies are not 'paying their way'. It is worth noting that Atlas has paid more than $155 million in taxes. The Company reported its first annual profit last year – seven years after it listed on the Australian Securities Exchange. In that time, investors have handed over $400 million to enable Atlas to develop its operations. They received their first dividend – 3c a share – just late last year. This totalled some $26 million across 29,000 shareholders, including some 24,000 "mums and dads".

Atlas is also a major contributor to a host of charities. The Company has pledged to contribute 1 per cent of its annual after-tax profit to charity. This after-tax profit and the subsequent donations will reduce as a result of the MRRT. In addition to this financial support, Atlas is represented on the boards of various charities and organisations, including the Western Australian division of the Starlight Foundation, Youth Focus, AICD, Leukaemia Foundation and WAAPA. The company's staff also provide financial support to numerous other charities including RFDS, Cancer Council, RSPCA and the Company gives staff the time to raise money on Remembrance Day. These are just some examples of the contributions made by companies which some people seek to portray as not paying their way.

I wish to impress on the Committee that contrary to much of the ill-informed commentary from those in the political sphere who advocate the MRRT, this is not a minor impact on Atlas' financial standing. Only someone who has never been in the position of having to raise funding on financial markets in order to establish and grow a business could make such an observation. The truth is that this additional tax impost will drive up the cost to Atlas of obtaining the capital needed to expand its operations.

The MRRT and the increased cost of capital that will result will come straight off the Company's profit, meaning it will also come straight off the dividends paid to shareholders. And again, this highlights the anti-Australian nature of this tax. Unlike the multi-nationals, which are heavily owned by overseas investors, 97 per cent of Atlas' 29,000 shareholders live in Australia. Thousands of these people are in the 'mums and dads' category and rely on the dividends paid by Atlas as part of their income or as a contribution to their superannuation fund. The Government is going to cut their income with this tax. It is as simple as that. If you keep cutting people's dividend income, they lose their independence and become more reliant on the Government for income and services. In my view one of key objectives of any government is to minimise the number of people who rely on the government for income and services so that there is more to go around for those who genuinely need it. This tax does the complete opposite.

The impact on returns paid to Australians is damaging enough in itself to warrant a total review of this tax. However, there is a more far-reaching aspect to this tax which has potentially dire consequences for the future of this country in so many respects. This stems directly from the fact that it will have a chronically unfair impact on smaller Australian companies compared with the multi-nationals. I know there has been some debate about this point.

But all our research and all our advice from a host of experts leads inevitably to one conclusion: that the MRRT will deliver billions of dollars in tax deductions to the multi-nationals that will not be available to smaller Australian companies. The values which they will be allowed to place on their assets, including all the infrastructure for which they have already enjoyed the tax benefit of writing-down once, has a fundamental implication for this country. The multi-nationals will pay a far lower rate of this tax – some say they will pay virtually nothing - than their junior Australian counterparts. The competitive advantage they will reap as a result of this significant free-kick from the Government is a major concern.

In addition to the huge commercial advantages they already enjoy over smaller companies, this will further lower their cost of capital compared with the junior sector, it will mean they can justify outbidding smaller companies in the battle to acquire assets and they will enjoy an advantage in attracting investment.

I question why any government, particularly a Labor Government, would go out of its way to create such an unfair playing field, especially when the bias is tilted so heavily against Australian companies in favour of the multi-nationals. And why would the union movement actively encourage and promote a tax which can only assist the multi-nationals to be even more dominant. The unions – or at least their members - should be extremely worried about the impact the MRRT will have on the junior sector. Their members' interests are best-served by having more, not fewer, employers. A diversity of potential employers creates a market in which they can negotiate better pay and conditions. The same principle applies across the economy. It is in no one's interests, except the multi-nationals, to have fewer companies operating in one space. Yet this is one of the consequences of the MRRT.

It is important to note that even those who have the deepest ideological commitment to extracting more tax from the resources companies will be heavily disappointed by the outcome of the MRRT. The deductions being granted to those who account for the lion's share of the iron ore and coal mined in this country will pay a fraction of what would be the case if the MRRT was applied in a fair and equal fashion.

This gaping hole in the structure of the MRRT could be mitigated if the MRRT was switched from being a profits-based tax to a production-based one. This may not have the effect of reducing Atlas' tax bill under the MRRT, but it could help achieve the objective of those who say the resources industry should pay more for what they mine.

Of course, the critics will say this would effectively make it a royalty, rather than a tax. They would be right. And this is how it should be. The resources are owned by the states and should be taxed by them under a production royalty arrangement. The Federal Government has the rights to corporate tax. But the MRRT is an attempt by the Federal Government to have its cake and eat it in this respect. The West Australian Premier, Colin Barnett, is right to oppose the tax, on both states' rights and economic grounds.

The Federal Government argues that the MRRT is justified because Australians "deserve a fairer share of the country's resources". But whether you agree passionately or disagree fervently with this statement, the truth is, the MRRT will not deliver that. There is nothing fair about the MRRT for Australia or Australians. Atlas urges the Federal Government to abandon its MRRT proposal and instead initiate a national debate about what is an acceptable return for all Australians from the engine room of our economy and what is the most effective way to generate it.

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