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**Cai, Yuan**

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**From:** Callaway, Andrew  
**Sent:** Wednesday, 23 September 2009 9:46 AM  
**To:** 'Mollard, John'  
**Cc:** Lloyd, Hal; Colmer, Patrick; Rosser, Mike  
**Subject:** F2009/02742 CNMC's proposed acquisition of 51.66% of Lynas: letter on undertakings provided [SEC=IN-CONFIDENCE:COMMERCIAL]  
**Attachments:** 090923 LTR Agent - undertakings.pdf  
**Importance:** High  
**Security Classification:** ~~COMMERCIAL-IN-CONFIDENCE~~

Dear John  
Please refer to the attached letter. We would appreciate any feedback or views as soon as possible.

Regards  
Andrew Callaway

Team Leader  
Investment Review Unit  
Foreign Investment and Trade Policy Division  
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23 September 2009  
File: F2009/02742

Mr John Mollard  
Baker & McKenzie  
GPO Box 2119  
MELBOURNE VIC 3001

Dear Mr Mollard

**China Nonferrous Metal Mining Group Co., Ltd (CNMC): proposal for up to 51.66 per cent of Lynas Corporation Limited (Lynas)**

I refer to correspondence received on 2 September 2009 and the 16 September undertakings to the Treasurer provided by CNMC and Lynas (the **Undertakings**).

As previously discussed, the percentage approval being sought and the proposed governance arrangements potentially raise national interest concerns. Such concerns may be able to be addressed through changes to the proposal and/or undertakings provided.

We do not consider the Undertakings as provided to be adequate and propose the following variations that may ameliorate national interest concerns.

1. Alteration of the proposed percentage interest to a maximum of 49.9 per cent.
2. Reduction in the number of 'CNMC nominated directors' to less than half of the board of Lynas (eg. 3 out of 8 directors).
3. An additional undertaking from the parties that the 'Senior Loan' and 'further senior loan facility' will not include any equity or quasi-equity characteristics.

Excluding the above variations, other components of the Undertakings are to remain in place. For the avoidance of doubt, I note the following.

- We are not seeking changes to the proposed Charter of the Product Marketing Committee.
- Lynas reports to the Foreign Investment Review Board will be required to disclose information as per Undertaking 6, including the ultimate destination of Lynas product.

I note the parties' request for an urgent decision. In light of this, I seek CNMC and Lynas' urgent consideration of the above and a reply by no later than COB on 23 September.

Should you wish to discuss, including the process for giving effect to the variations, please contact Mr Michael Rosser on 02 6263 3834.

Yours sincerely

Patrick Colmer  
Executive Member  
Foreign Investment Review Board