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Submission: Strengthening the Foreign Investment Framework – Options Paper

The Australian Forest Products Association (AFPA) welcomes the opportunity to provide comment on the government's planned changes to the Foreign Investment Review Framework.

AFPA is the peak national body for Australia's forest, wood and paper products industry. We represent the industry's interests to governments, the general public and other stakeholders on matters relating to the sustainable development and use of Australia's forest, wood and paper products.

The forest, wood and paper products industry makes a significant contribution to the Australian economy. It is the 8th largest manufacturing sector, with the gross value of sales in excess of $20 billion and an industry value-added of $7 billion in 2012-13 (ABARES 2014). In 2012-13, approximately 76,230 people are directly employed in the industry, as well as an estimated 40,000 haulage contractors and other allied industries, around 50,000 people in further processing (furniture, truss manufacturing) and a further 150,000 jobs supported through flow on economic activity.

The key points raised in this submission are:

- The government should be consistent in its treatment of forestry. Forestry has not been included in the definition of 'agricultural land' or 'agribusiness' for any other purposes, so shouldn't be included for the foreign investment review either.
- With around 70% of the plantation resource foreign owned, growth of the plantation and timber processing sectors is highly dependent on further foreign investment.
- The proposed new thresholds for foreign investment review of land and agribusiness are likely to constrain any further investment and devalue current forest plantation and timber processing assets.
- Lowering the review threshold will greatly increase the number of foreign investment reviews, leading to substantial delays in the application process, unless there is a substantial increase in the resources available to undertake these reviews.

- The costs associated with the application fee is likely to be a significant disincentive for future investment in plantations and forest industries in Australia.
- Lowering of the threshold for review of foreign investments in land and agribusiness is inconsistent with the government's objective of encouraging international investment, expanding trade and increasing access to international markets.

AFPA would welcomes the opportunity to discuss the issues raised in this submission in more detail and to provide further comment on the options paper. We look forward to an improvement in the Foreign Investment Review Framework through consideration of the concerns detailed in this submission.

Yours sincerely

Ross Hampton
Chief Executive Officer

AFPA Submission

Strengthening the Foreign Investment Framework: Options Paper

Industry Overview

There has been a structural shift in the forest sector over the past decade, with plantations previously established by state governments being sold to the private sector. However, the pool of investment funds in Australia was shown to be too small to support these sales, with only limited interest shown by Australian financial institutions, due to the modest (albeit very stable) long term returns from these investments. These sales benefited greatly from the strong overseas interest, from mainly North American and European institutional investors with long term investment horizons. Interest by foreign investors seeking stable long term investments supported these sales and ensured that the state governments achieved the greatest return from the sale of these publicly-owned assets.

These sales have provided much needed funds to support other infrastructure investment by state governments. Without interest from foreign investors, it is likely that the state governments would have received a much reduced price for these plantations.

Examples include the sale of the state owned Victorian Plantation Corp (around 240,000 ha) to Hancock Victorian Plantations (a joint venture between US Hancock Natural Resources Group (HNRG) and Victorian Superannuation funds) in 1996 (HNRG later bought the Victorian superannuation funds share). In 2010, HNRG also purchased a 99-year lease over the state-owned Forest Plantations Queensland (around 200,000 ha). More recently Forestry South Australia sold the right to at least two forward rotations of plantation in the Green Triangle (98,000 ha) to OneFortyOne Plantations (an Australian company formed as a consortium of Australian, US and European superannuation funds).

In addition, following the Global Financial Crisis and subsequent collapse in investor confidence, there has been a number of distressed sales of privately owned plantation assets in recent years. Without interest from foreign investors, there would have been fewer buyers for these assets, the receivers would have achieved much lower return and the losses to the individual plantation investors would have been much greater. Examples include the recent sale, by receivers KordaMentha on behalf of Gunns, of almost 100,000 ha of hardwood plantations to New Forests (an Australian company established in 2005 to provide timberland investment management services to domestic and foreign institutional investors).

Foreign Ownership of Forest Resources

Following these recent sales, Australia's forest resources are highly international. Around 70% of the plantation resource is foreign owned (of the remainder, around 20% is state-owned and 5% is in the hands of receivers pending sale). These foreign owners have introduced new management strategies, new technology and led to improved efficiency of operations. They have also provided greater connection to international markets and shifted the attention of Australia's forest industry from being mainly domestically-focused to a greater emphasis on long-term competitiveness in global timber markets.

Although these plantations are foreign-owned, they are Australian registered companies, managed and run by Australians. They support over 4,200 direct jobs in plantation management, harvesting and haulage, with a further 40,000 flow-on jobs at sawmills, woodchip export facilities, and timber product manufacturers. They also pay Australian taxes and make a significant contribution to the rural communities in which they operate.

Definition of Agricultural Land

The forest and forest product industries represented by AFPA find it difficult to understand exactly the Abbott Government's view of these industries vis-a-vis agriculture.

Forestry is not referenced as an agricultural activity in the consultation paper *Strengthening the Foreign Investment Framework*.

However, the Minister's media release issued 4 March 2015, "*Final two weeks to have your say on foreign investment*" includes references to forestry as an agricultural activity and basic timber milling as an agribusiness activity under the new thresholds for foreign investment review.

The inclusion of forestry in the definition of agricultural land and timber milling as agribusiness for foreign investment review represents a clear shift in the government's treatment of forestry activities. Forestry activities have not previously been considered an agricultural activity, nor has timber processing been considered a form of agribusiness. To the contrary, previous reviews of the agricultural sector (such as the Agricultural Competitiveness White Paper) have explicitly excluded forestry and timber processing from consideration as an agricultural activity.

It is important that the government is consistent in its treatment of forestry activities. Given forestry has not previously been considered an agricultural activity and timber processing has not been considered a form of agribusiness, forestry and timber processing should not be included as an agricultural activity or agribusiness for the purposes of the Foreign Investment Review Framework.

If a decision is made to extend the definition of agricultural activities to forestry and agribusiness to timber processing, then, for consistency, forestry should be recognised as an agricultural activity in all other situations. In the first instance this should involve extending the scope of the Agricultural Competitiveness White Paper to include forestry.

New Foreign Investment Review Framework

As noted above, the Australian forest plantation sector is highly dependent on foreign investment. The new foreign investment review threshold for 'agricultural land' which requires approval by the Foreign Investment Review Board of new investments in land over $15 million and $55 million for agribusiness, or for any further purchases of land for owners already holding land assets valued at over $15 million or agribusiness assets valued at over $55 million, is likely to constrain any further investment in the plantations and timber processing sectors.

This will hamper the sale of the remaining publicly-owned plantation resource and plantations still in receivership.

It will also potentially act as a disincentive for current plantation owners looking to buy new land to expand their plantation resource – at the very least adding red tape and creating uncertainty. This could have long term ramifications for the processing sector (sawmills, woodchip export facilities, timber product manufacturers, pulp and paper manufacturers, etc.) of the forest industry, as the existing plantation resource must grow for our domestic industries to thrive. Much of the existing plantation resource is fully allocated, so without a steady increase in the plantation resource over time, these processors will have limited ability to expand to achieve the economies of scale necessary to remain competitive in international markets. In addition, with limited ability to expand and increase the value of their resource, foreign investors are likely to be less interested in retaining their Australian plantation or timber processing assets in the future.

While around 20% of the plantation resource remains in public ownership, it is expected that state government will seek to sell these assets in coming years, encouraged by the Government's asset recycling program — which encourages State Governments to sell state-owned assets to invest in new infrastructure. It is likely that the proposed changes to foreign investment review framework will temper overseas interest in these assets, due to the additional red-tape, likelihood of extended delays in investment transactions and increased scrutiny of foreign investors. This will devalue these plantations and reduce the potential benefits to state governments from these asset sales.

Application Fees

As shown in the table following paragraph 47 of the options paper, Australia's major trading partners and countries in which Australia has significant existing investments in Australian forestry and forest product industries (US, Canada and Japan), do not have fees, nor the extremely low thresholds for review of foreign investment. The additional red tape associated with the foreign investment review process and imposed costs associated with the application fee (without guarantee of a positive result and the application fee expected to be forfeited following a negative result), is likely to be a significant disincentive for future investment in plantations and forest industries in Australia.

As noted above, further investment is needed to expand the plantation resource and encourage timber processors to expand and invest in new technology to remain competitive in increasingly global markets. Without further investment in new plantation establishment, the long term outlook would suggest foreign investors' interest in the Australian forest sector will wane, with little investment to maintain and update equipment and the productivity of the forest industry declining over time.

The stated objective to modernise and simplify the Act, Regulations and Policy, and streamline interaction between applicants and the Foreign Investment Review Board is at odds with the actual intent of this proposal. Lowering the threshold for the review of foreign investment in land will increase compliance requirements and costs to the applicant. It will lead to a massive increase in the number of foreign investments that are required to be reviewed. Unless the government also intends to substantially increase the resources available to review foreign investment applications and appoint a new Minister or Parliamentary Secretary dedicated to signing-off foreign investment applications, applicants can expect a substantial delay in the application process. This will frustrate the sale of land to foreign investors and drive these investors to seek alternative investment opportunities outside Australia.

Consistency with International Agreements

AFPA questions how the proposed changes to the proposed foreign investment framework would align with the preferential treatment provided to countries with whom Australia has signed a Free Trade Agreement (FTA), and/or how it will effect current negotiations with countries with which we are seeking to reach a Free Trade Agreement (FTA).

AFPA recommends consistent treatment of foreign investment, particularly with regard to investment in forested land, and suggests that the current threshold for review of foreign investments in land of $252 million should be retained.

Summary

AFPA is grateful for the opportunity to comment on the proposed changes to the Foreign Investment Review Framework.

In summary, the key points raised in this submission are:

- The government should be consistent in its treatment of forestry. Given forestry has not previously been included as an agricultural activity, nor timber processing as a form of agribusiness, it should not be included in the definition of 'agricultural land' or 'agribusiness' for the purposes of the Foreign Investment Review Framework
- It should be recognised that sales of state-owned forest plantation assets to foreign investors over the past decade have provided much needed funds to support other infrastructure investment by state governments.
- Australia's forest resources are now highly international, and around 75% of the plantation resource is foreign owned. Future growth of the Australian forest plantation and timber processing sectors is highly dependent on further foreign investment.
- The proposed new thresholds for foreign investment review of land and agribusiness and additional scrutiny of future investment in land and agribusiness by foreign

companies with existing investments in Australia are likely to constrain further investment in the forest plantations sector.

- These proposed new thresholds and greater scrutiny of investment are also likely to devalue current plantations and timber processing, as the additional red-tape associated with the sale to foreign investors will limit interest in the purchase of these types of assets, making it harder to sell forestry assets currently held by either Australian or foreign owners.
- It should be recognised that lowering the review threshold from the current level of $252 million to $15 million and $55 million will greatly increase the number of foreign investments that are required to be reviewed, leading to substantial delays in the application process.
- In addition to red tape and delays in transactions associated with the proposed new Foreign Investment Review Framework, the imposed costs associated with the application fee is likely to be a significant disincentive for future investment in plantations and forest industries in Australia.
- Lowering the threshold for review of foreign investments in land and agribusiness is inconsistent with the government's objective of encouraging international investment, expanding trade, and increasing access to international markets.