SUBMISSION BY TFS CORPORATION (TFS) IN RELATION TO "STRENGTHENING AUSTRALIA'S FOREIGN INVESTMENT FRAMEWORK" OPTIONS PAPER, FEBRUARY 2015 ("the Options Paper")

This submission addresses the Options Paper in so far as it relates to agriculture and other matters of general application.

TFS BACKGROUND

TFS Corporation (TFS) is a grower, processor and producer of Indian sandalwood (Santalum Album) products, one of the World's most valuable tropical hardwoods that is nearing extinction in the wild.

The company manages the largest areas of Indian sandalwood in the World. It has established in the Kimberley, Northern Territory and North Queensland 9,085 ha of plantations (TFS Annual Report 2014).

Of that TFS has direct ownership of 2,309 ha whilst Institutional (almost exclusively foreign investment) has 3,188 ha and MIS and High Net Worth investors have 3,588 ha. (TFS Annual Report 2014)

Foreign investment totaling several hundred million dollars has therefore been a major driver in the company's growth as unfortunately such sources of funding are not readily available in Australia.

This overseas investment does not involve any control of TFS, direction of TFS management or choice of market.

Any acquisition of land by overseas funds is the subject of agreement with TFS to manage that investment. This includes plantation of trees, management of the plantation and harvesting. To this extent there is not only local content with labour and management but also a degree of control of the investment retained by an Australian company.

TFS continues to be a significant regional employer in the areas where it operates in the North and also at Albany, Western Australia where it has a processing plant at Mount Romance.

In its FY15 Half Year results, TFS recorded a strong start to FY15 with a NPAT of $55 million (a year on year increase of 174%)

In addition, good progress has been achieved on institutional and retail plantation sales, both well ahead of prior years.

In the USA, Nestle's Benzac acne products, containing TFS's sandalwood oil were launched across the country in December 2014 with oil orders running ahead of expectations.

Importantly in February, 2015 Commissioners for the Church of England exercised an option over 119 ha of land with the sale subject to due diligence and to be recognized in the second half of this financial year.

This follows a sales to a US institutional investor of 399 ha of land (the fourth investment in six years) signed in December 2014 and the settlement of a sale of 400 ha to a Hong Kong based investor in January 2015.

The second harvest is on track for the final quarter of FY15, after the wet season has concluded and the outlook for growth is strong.

<u>THE OPTIONS PAPER</u>

At the outset TFS agrees with the comments in paragraphs 1 and 2 of the Options Paper which outline the importance of foreign investment to Australia and the application of a national interest test. In 2013 TFS submitted to the Senate Inquiry into "Foreign Investment and the National Interest Test", that the test worked well and that the Foreign Investment Review Board (FIRB) process is a good one. TFS also endorsed the professionalism and competence of FIRB staff with whom it dealt. All this remains true today.

A number of other issues are raised by the Options Paper and are dealt with as follows:

<u>Application Fee</u>

It is noted in paragraph 5 that the Government is considering "application fees for all foreign investment proposals in line with a user pays system".

TFS notes that the US, Canada and Japan do not have an application fee. New Zealand, however, has a fee but much lower than that proposed in the Options Paper. At paragraph 46 it is proposed that for a purchase of rural land equal or greater than $1 million there be a "$10,000 incremental fee per $1 million in rural land value."

In the event of a $15 million purchase, the fee could be as high as $145,000. This would be excessive and beyond what is required for the user pays system. If a fee is to be imposed then the New Zealand system is to be preferred.

<u>Thresholds of $15 million for Rural Land and $55 million for Investment in Agribusiness.</u>

Two discrete thresholds for foreign investment are anticipated for rural land and "agribusiness". Whilst TFS has no issue with the amounts, it does seek clarification on how they are to be applied.

In the first instance, paragraph 6 includes in the assessment of the threshold any purchases made prior to the application. TFS believes that assessment should relate solely to the purchase which is the subject of the application. Assessing accumulated interests previously acquired could complicate applications further than is necessary and could result in more time required.

Furthermore any assessment of a rural land purchase should be for the land only and not include any value for trees on it.

It should also not include any value adding such as distillation which should be included in the definition of "agribusiness".

TFS notes that the Options Paper favours the approach of ANZIC (2006) Revision 2.0 which includes Forestry as a subdivision of agriculture and that forestry relates to "mainly growing standing timber in native or plantation forests or timber tracks for commercial benefit". Similarly logging is also included.

TFS does not have any issue with either forestry or logging being included under agriculture and thereby deemed an "agribusiness". As a vertically integrated business however it would be difficult to see how processing oil, making cosmetics or producing pharmaceuticals could be seen as part of that agribusiness.

<u>Register of Interests for Foreign Ownership of Agricultural Land.</u>

TFS has supported such a register for some time (TFS submission 2013 to Senate Inquiry into "Foreign Investment and the National Interest Test"). It does however reiterate that any applications for approval should not be publicized due to commercially sensitive considerations. In any event it is noted that this is not part of the Governments proposal.

<u>Australia's Foreign Investment Framework</u>

TFS notes that free trade agreements should exempt from the FIR those countries who are a party to such agreements. This is supported.

As stated previously, TFS has had a good experience with the FIRB process and the 30 day turn around requirement has largely been met.

The introduction of the proposed thresholds would no doubt see an increase in applications and therefore workload for FIRB. TFS would not want to see any extension of this timeline as any extension would make it more difficult to accommodate any announcement of the investment and the implementation of it. This timeline should be preserved.

The format is not widely onerous and it is appreciated that each application should be dealt with on a case by case basis.

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