



National Farmers' Federation

**Submission to the
Rural Affairs and Transport References Committee**

**Inquiry into the examination of the Foreign Investment
Review Board national interest test**

16 August 2011

Prepared by Charles McElhone



National Farmers' Federation

Member Organisations



CANEGROWERS



COTTON AUSTRALIA

Goat Industry Council of Australia inc.

GrainCorp



RICEGROWERS' ASSOCIATION OF AUSTRALIA INC



RIDLEY

The Pastoralists' Association of West Darling



WOOLPRODUCERS AUSTRALIA



Contents

Contents

Contents	3
1. The National Farmers' Federation	4
2. Introduction	4
3. NFF position on foreign investment	5

1. The National Farmers' Federation

The National Farmers' Federation (NFF) was established in 1979 and is the peak national body representing farmers, and more broadly agriculture across Australia.

The NFF's membership comprises all of Australia's major agricultural commodities. Operating under a federated structure, individual farmers join their respective state farm organisation and/or national commodity council. These organisations collectively form the NFF. Each of these state farm organisations and commodity councils deal with state-based 'grass roots' issues or commodity specific issues respectively, while the NFF represents the agreed imperatives of all at the national level.

As of 1 July 2009, the NFF has also instituted an Associate Member category to enable agricultural entities, including agribusiness, to be more involved with the NFF.

2. Introduction

The National Farmers' Federation (NFF) welcomes the opportunity to engage with the Rural Affairs and Transport References Committee to examine the Foreign Investment Review Board (FIRB) national interest test.

The NFF recognises that the issue of foreign investment in the agriculture sector is a topical area facing new and emerging dynamics that warrant discussion and policy deliberation. The NFF has already provided an outline of its own views and concerns on this issue to the Senate Economics Committee and we have reattached these views within this submission.

The NFF has consistently expressed the view that at this time we feel that there is insufficient information for the organisation to confidently provide meaningful suggestions as to how to adjust Australia's policy framework in this area – including issues surrounding the FIRB national interest test.

From this perspective the findings of this review will be beneficial in providing additional clarity relating to the operation of the FIRB national interest test in areas such as the following:

- i. how the test was applied to purchases of Australian agricultural land by foreign companies, foreign sovereign funds and other entities in the past 12 months;
- ii. how the test was applied to purchases of Australian agri-businesses by foreign companies, foreign sovereign funds and other entities in the past 12 months;
- iii. the role of the Government, regulators and receivers, including their obligations under the Corporations Act 2001 and/or the Foreign Acquisitions and Takeovers Act 1975, including the role of the Australian Securities and Investments Commission, in upholding the test;
- iv. the global food task and Australia's food security in the context of sovereignty;
- v. the role of the foreign sovereign funds in acquiring Australian sovereign Assets;
- vi. how similar national interest tests are applied to the purchase of agricultural land and agri-businesses in countries comparable to Australia; and
- vii. any other related matters; and

- viii. examining ways of improving the transparency of decisions made by the FIRB under the test and all other rules which govern its operation.

The NFF is not in a position to answer the operational questions relating to the FIRB that dominate the terms of reference for this inquiry. However, we hope that the analysis emerging from this inquiry, combined with the Government's existing program to strengthen transparency of foreign ownership of rural land and agricultural food production, will provide some valuable input towards framing policy decisions in this complex area. The NFF has been supportive of this two-track approach involving the Australian Bureau of Statistics (ABS) and the Rural Industries Research and Development Corporation (RIRDC), who will in turn work with the Australian Bureau of Agricultural and Resource Economics and Sciences (ABARES) to undertake the project.

The NFF wants to ensure that this process is completed in a timely manner and believes that it is important that this information gathering process is allowed to run its course to inform the debate.

In the meantime, the NFF welcomes the opportunity to engage with the Rural Affairs and Transport References Committee on the FIRB national interest test.

3. NFF position on foreign investment

As food security concerns escalate around the world, Australian agriculture and its supply chain is increasingly seen as being a strong investment prospect for international investors. Fresh interest, particularly from regions such as the Middle East and China, has forced organisations like the NFF to take a new look at the issue and to question whether this is a good or bad thing. The answer is not a simple one.

In addressing this issue, it is important to note that foreign investment has been an integral part of Australian agriculture for many years.

Global companies have been attracted to Australian agriculture by numerous elements. These include Australia's reputation for high quality and safe production, our proximity to key Asian economies, counter-seasonal production for the northern hemisphere, relatively low levels of sovereign risk and a productivity record that is the envy of agricultural producers around the world.

Australia is a top level food and fibre producer so it is no surprise that as a result we have seen much interest from foreign companies.

For instance, Japanese investors have held and continue to hold strong interests in Australia's red meat, grains and dairy sectors. The United States, Australia's leading source of foreign investment, has also invested heavily in our red meat and grains industries – the same too goes for Britain. New Zealand has large interests in Australia's dairy sector and likewise Singapore in our pork industry. The list goes on.

This investment has been an overwhelming positive for Australian farmers and regional communities in delivering significant amounts of capital into our production systems at a time when finance from the banks has been more difficult to access. This capital has

improved our efficiencies and ensured that our farmers can continue to compete in a highly distorted global marketplace for agricultural commodities. At the same time our farmers have benefitted from the additional competition that these companies have brought to the supply chain and in many instances leveraged off the family operated farm structure that continues to dominate the Australian agricultural landscape. The relationship between foreign investment and farming has been an overwhelming win-win.

So has anything changed?

In 2007 and 2008, the world's attention was drawn to what is now known as "the other GFC" – the Global Food Crisis. While Australian's may have been largely oblivious to the extent of the issue, this still led to public consternations about the price of food at the supermarket, and shallow public policy responses like Grocery Watch. We quickly moved on.

Overseas, the response was far more acute and lasting. Prices for food escalated to record levels, leading to considerable social unrest, riots and other protests against rising food prices in over 20 countries. The United Nations' warned that the security implications of rising food prices should not be underestimated and governments responded with a range of emergency policy measures – many of them leading to additional negative distortions in the marketplace. Food security was etched in the mindset of these countries and has not been as easily forgotten.

In this light, a new wave of foreign investment in Australian agriculture is starting to emerge.

Rather than being underpinned by genuine commercial forces where profits are the driver, food security has emerged as a new factor for investment. With state owned enterprises entering the market, it is becoming blurred as to whether all of this investment is still interested in the profitability of the venture, or rather in ensuring that a consistent stream of food can be delivered to its people.

Transparency in the supply chain then comes into question, potentially jeopardising competition at the farm gate and depressing the local market. At an extreme level, this could also lead to Australia's own food security goals being compromised.

The Government must ensure that effective regulations are in place to avoid these outcomes – but how?

In the first instance, the NFF believes that attempting to gain a better understanding about the control of Australia's rural land and water assets has merit. The NFF has confidence in the Foreign Investment Review Board (FIRB) in examining proposals by foreign interests for investment in Australia against the background of the Government's foreign investment policy. However, even the FIRB acknowledges that many land and water asset purchases may fly below the disclosure thresholds, therefore avoiding scrutiny.

Yet before making any changes to policy we need to think carefully about what we would like any changes to Australia's foreign investment policy and/or monitoring to deliver. The worst thing that could happen is that we deliver a confusing layer of bureaucracy that fails to accurately reflect the multiple and often complex layers of ownership that defines investment in all sectors of the economy. Any monitoring needs to make a clear distinction between 'ownership' and 'control' of the entity. Foreign investment through sovereign or state-owned

sources in particular must be examined in this context and a clear distinction must be made between these and general multinational corporations that are investing in Australian agriculture with a view to selling produce on the open market.

Secondly, there must be assurances from Government that foreign investment, or indeed investment from any source, does not undermine the existing marketing mechanisms and pricing transparency needs of Australian farmers where these underpin farm gate price determination.

The Australian sugar industry is a case in point of how important price transparency through the supply chain can be for farmers. For canegrowers, their farm gate price is intrinsically linked to the processed sugar output. It was no surprise therefore to see their sensitivity over the sale of key CSR assets in early 2010 which, if poorly managed, could have had clouded pricing mechanisms from a key plank in their supply chain. The ACCC also has an important role in monitoring this area in conjunction with the FIRB.

Finally and importantly, if there is one thing that this recent trend does demonstrate, it is that Australia needs to establish a clear food policy of our own and what role our own agricultural assets need to play in this. Other nations are well ahead of Australia in this regard and are taking proactive steps to ensure that the needs of their domestic populations are secured in the long term. Australia, as a net food exporter, has rested on its fortunate position for too long. Now is a good time to get on the front foot and get clarity on where we want to head towards as a successful food producing nation and ensure that we don't simply rest on our laurels.

The NFF is not afraid of foreign investment and rather believes it can continue to play an extremely important and positive role within Australian agriculture into the future. The NFF remains committed to open markets and this includes the capital impetus that foreign investment has brought and will continue to bring to Australian farmers. We want to see more, not less, investment in Australian agriculture.

Yet as a nation we should be aware that the motives for some of this investment have shifted as food security concerns have escalated.

The Australian government must view this with its eyes wide open and be careful to watch for new challenges that may emerge – making sure that our own population and our farmers are not taken for granted. From this perspective the current Government review will undoubtedly provide greater insights in the area and we hope will ensure that any policy discussions are informed with the best possible information.