

Submission by The



In response to

The Senate Rural Affairs and Transport

**Foreign Investment Review Board
National Interest Test**

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INTRODUCTION

South Australian Farmers Federation

The South Australian Farmers Federation (SAFF) is South Australia's peak agricultural organisation representing farmers across South Australia. As an agri-political group, SAFF's aim is to assist South Australian farmers and their rural communities achieve sustainable profitability by providing representation, leadership and services to members. By lobbying governments, SAFF has been able to achieve changes in legislation that promotes farming interests and the rural communities where they live and work. SAFF works to generate greater understanding and awareness of farming's role, contribution and value to the South Australian economy. It also works to ensure that our farming communities continue to play a key role in the development and sustainability of our state as well as their own livelihoods.

Farming in South Australia

South Australia's rural sector earned almost \$5 billion in exports during 2010/2011. Grain exports alone were worth \$1.57 billion. Agriculture in South Australia includes the production of beef, sheep, lamb and chicken meat, chicken eggs and crops such as barley, oats and wheat. There are currently almost 12,000 farming families and 33,000 people employed in farm jobs in South Australia.

The agri-food industry currently contributes \$12.4 billion to the state's economy each year – and accounts for 146,000 South Australian jobs. The majority of South Australian food industry businesses are small to medium operators.

In addition to providing over 40% of South Australia's export income, local farmers and producers play an integral role in feeding our increasing population.

South Australia's reputation as a clean and green food producer is of utmost importance to this State. Not only for the reputation of our producers but for the benefit of our consumers. Equally of importance, is the ability of South Australia's producers to safely and sustainably provide food to meet the demands of the State's increasing population.

The Inquiry into the Examination of the Foreign Investment Review Board National Interest Test

Given the growing interest in Australian agricultural land by foreign entities, SAFF welcomes the Senate's Rural Affairs and Transport Committee's Inquiry.

Recently, sparked by the foreign acquisition of 43 farms in NSW, the Australian public, politicians and the media have shown a keen interest in foreign investment in Australian agricultural land and agribusiness.

Without doubt investment, whether it be domestic or foreign, is vital for the growth and success of our industry. However, we believe that this investment needs scrutiny in order to ensure maintenance of the national interest.

A world population that will soon reach 10 billion requires a secure and safe food supply. Australia has been and will continue to play an important role in providing safe food supplies not only for its own population but for diverse populations around the world. Farmland that provides this food supply must be safeguarded if this critical supply is to continue.

SAFF feels that foreign investment in agriculture and agribusiness needs special consideration due to wide community concerns and forecast increase in world population/less land and water availability.

Restrictions on foreign investment are currently in force in more sensitive sectors such as media and residential real estate and we believe that similarly, the agriculture industry needs adequate and protective restrictions in place. These restrictions should not hinder foreign investment, however, but should ensure activities are carried out for the benefit of the Australian public.

SAFF believes that foreign investment in agricultural land is sensitive, and recommends that the Government increase its scrutiny of proposed foreign purchases of Australian agricultural land. In particular there is the need to assemble much needed data on foreign acquisitions and current governance of them locally and globally and assess any potential changes.

Role of foreign investment in purchasing agricultural land

In relation to South Australia, at present there is no data available on the level and nature of foreign investment in this State's agriculture industry. However, we believe that the majority of agricultural land in South Australia is still locally owned.

Foreign investment in agriculture offers opportunities and access to capital, knowledge and markets that may not otherwise be possible. As such, we would be foolish to deny foreign investment in Australian agriculture and agribusiness. However, it is also clear that there is concern about the acquisition of agricultural land and agribusinesses by foreign interests.

This concern is legitimised when foreign investment is such that it:

1. removes or hinders opportunities for the local farmer (including the opportunities for young Australians to enter the industry);
2. changes the nature of farming communities as we know them;
3. adversely affects food security for Australians;
4. is not based on sustainability;
5. adversely affects food supply for our own population; and
6. is undertaken without transparency, that is, when the purchaser, which may be in conflict with Australian national interest, is not disclosed or uses an alternative purchasing identity (a "front" organisation).

There is evidence that points to countries including China, Saudi Arabia and Kuwait having purchased portions of arable land around the world, which are equivalent to half of all the arable land in China. Within this buy-up environment, it is essential that agricultural land is protected to ensure that the world can continue to meet the demand for food into the future.

SAFF believes that there is the need for the following:

- to implement a national interest test to be applied against proposed foreign acquisitions of agricultural land
- to require any interest in agricultural land greater than five hectares to be notified to the Treasurer
- to require online publication of information about foreign acquisitions of interest in agricultural land
- to impose penalties for not notifying the Treasurer of a proposed acquisition.

The Lowy Institute Poll 2008 (conducted in July) found that 90% of Australians either 'strongly agree' or 'agree' that that the government has a responsibility to ensure major Australian companies are kept in majority Australian control. There was also overwhelming agreement (85%) that investment by companies controlled by foreign governments should be more strictly regulated than investment by foreign private investors.

The Foreign Investment Review Board process in particular is often criticised for a lack of transparency, and it is possible that some improvements could be made.

Threshold limit

SAFF believes that the threshold level of investment that triggers the necessity of a referral of a proposed purchase of foreign agricultural land or an agribusiness to the Foreign Investment Review Board should be considerably decreased.

SAFF would like to see any foreign investment interest in Australian agricultural land greater than \$2 million to be subject to an application to the Foreign Investment Review Board.

A \$2 million limit would be low enough to be able to monitor any progressive buying that may be taking place. There are often allegations that there is progressive buying of properties just below any trigger level of price and/or size.

SAFF would actually prefer that all foreign purchases were detailed in a register, enabling Australians to see who owns and is buying prime agricultural land.

At present the threshold level is \$231 million. SAFF believes that by decreasing this amount considerably, it will allow for greater scrutiny. Such scrutiny means decisions can be made in Australia's economic and social interest.

Of particular scrutiny should be state-owned enterprises who undertake foreign investment in Australian agricultural land and agribusinesses whose motive is to secure a consistent stream of food supply for its people where this stream of food supply could have adverse effects on the supply for the Australian population.

SAFF also believes that the Federal Government must ensure that any foreign investment does not undermine existing marketing structures or transparency in pricing. It is critical that marketing, pricing structures and transparency continue to exist for the benefit of our farmers.

Codifying the national interest test

SAFF believes that a system of codification is in the best interests of agriculture.

Currently the Government determines what is contrary to the national interest by '*having regard to the widely held community concerns of Australians*'. The legislative intent therefore seems to have been to leave considerable discretion to the Government in defining the national interest. In this respect, SAFF believes that the determination of the national interest is a matter for the elected government of the day, in the circumstances at the time. However, this needs to be balanced with a definitive framework that eliminates ambiguity and allows for some interpretive consistency.

The *Foreign Acquisitions and Takeovers Act 1975* empowers the Treasurer to prohibit an acquisition if satisfied it would be contrary to the national interest. However, the general presumption is that foreign investment proposals will serve the national interest. This reflects the positive stance of successive Australian governments towards foreign investment, given the important role it plays in our economy and Australia's national development. The national interest, and hence what would be contrary to it, is not defined in the Act. Instead, the Act confers upon the Treasurer the power to decide in each case whether a particular investment would be contrary to the national interest.

While we believe it is important for the Treasurer to have flexibility to determine at a particular point in time what might the national interest be, we also feel that there needs to be some agreed standard measure of quantification that will enable clearer and consistent boundaries for the interpretation.

Global food task and Australia's food security

SAFF believe strongly that food security should influence future policy responses in relation to either or both of the Foreign Investment Review Board thresholds and the national interest test.

As stated by the National Farmers Federation submission to the Senate Economics Committee, the entry of state-owned enterprises investing in Australian agriculture and agribusiness has caused confusion as to their reasons for investment and that these reasons could be mainly to secure food for their own populations. We should, therefore, examine carefully for its potential impact on the national interest every proposal for a major foreign purchaser to take a stake in Australia's agricultural industry.

Both the Foreign Investment Review Board thresholds and the national interest test should ensure that the top priority is food security for Australians.