Submission by the

Forest Industries Association of Tasmania

LEGISLATIVE COUNCIL SELECT COMMITTEE

TASMANIAN FOREST AGREEMENT BILL 2012

21 January 2013

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1. ABOUT FIAT

The Forest Industries Association of Tasmania (FIAT) is an industry association formed in 1983 to represent the interests of processors of Tasmanian forest products. FIAT was formed out of a predecessor Association, the Tasmanian Timber Association (TTA). FIAT and TTA collectively have provided representational services to the Tasmanian timber industry for in excess of 60 years. Our members' activities are diverse and include:

- the production of veneers, hardwood timber, pulp and paper;
- woodchip production and export;
- plantation and native forest management.

FIAT's member businesses include most of the State's larger processors of forest products. They utilise a significant proportion of the crown sawlog output as well as a significant proportion of the veneer produced in the State. FIAT Members' activities account for more than 75% of the gross value of production in the forest and wood products industry in Tasmania.

FIAT's role is described in our Annual Report as follows: -

> ***"Role***
>
> In addressing its first objective, FIAT's role is characterised by helping to create the right external environment within which industry has to operate. This has two main dimensions
>
> - the policy environment and
> - the public image of the industry in the eyes of the community.

The policy environment centres on government legislation and regulations which determine the limits to what industry can do. The policy environment must be tackled at both the Federal and State Level.

Industry's public image rests on public opinion and the various factors which influence that opinion. This is important because public opinion has a strong bearing on the development of Government policy.

In addressing its second objective, FIAT's role is to facilitate discussion and joint action among its membership, and to project membership position in wider forums as appropriate.

2. EXECUTIVE SUMMARY

1. FIAT has been an active participant in the negotiations leading to the Tasmanian Forests Agreement 2012 and the predecessor agreements including the Statement of Principles and the Kelty In-Principle Agreement which led to the signing of the Intergovernmental Agreement by the Premier and the Prime Minister.

2. FIAT is a Signatory to the Tasmanian Forests Agreement 2012. In electing to sign the Agreement FIAT was guided by a number of full meetings of FIAT Members to ensure all members views were taken into account.

3. The decision by FIAT to sign the Agreement was not taken lightly and in fact was only achieved by a majority decision of the membership. The FIAT membership along with virtually the entire Tasmanian community and indeed the Legislative Council itself is divided over the decision to endorse the agreement. On balance however we have decided to sign the agreement and in so doing take seriously the assumed obligation derived from Clauses 56 and 60 of the Agreement and we therefore call for the passage of legislation that effectively implements the terms of the Tasmanian Forest Agreement.

4. It would be fair to say that the final Agreement does not reflect our preferred outcome, in fact it falls well short of the original expectations we had of the wood volume outcomes of the negotiations process. The Agreement from our perspective represents a compromise outcome and it represents the best possible agreed outcome that we could achieve through the negotiations process with a broad range of disparate representative organisations with fundamentally different objectives and motivations.

5. The FIAT determination to proceed in this way and eventually to sign the agreement was because the FIAT membership were of the view, by majority, that the industry would be better served by having an agreement rather that not having an agreement.

6. Given that the agreement does fall well short of our original expectations it is appropriate for the question to be asked - why then did FIAT sign the Agreement? There are a number of aspects to answering this question: -

   6.1. the agreement as I have already mentioned represents our assessment of the best possible agreed outcomes;

   6.2. there are some sectors of the industry that are extremely vulnerable to any delay in the achievement of an outcome and have a need based on market access for the finalisation of an agreement e.g. Ta Ann Tasmania;

   6.3. we had some concerns whether the markets would support the industry especially in light of the ready availability of cheap imports from overseas countries that could act as a cheaper but adequate substitute for Tas Oak sawn timber.

   6.4. it is in our view in the public interest and in the best interests of the industry to see an end to the public acrimony over forestry in Tasmania.

7. The agreement includes a number of provisions that go to the issue of durability - i.e. provisions that are designed to ensure that the spirit and intent of the agreement are honoured over the long term to ensure that this outcome does not suffer the same fate as previous attempts to resolve the long running forest conflict in Tasmania.

We are of course aware that many in the community have expressed the view that the durability issues are not strenuous enough and need further tightening. We believe that this is appropriately an issue for the Parliament in exercising its public interest assessment of the Bill as the vehicle for implemention the TFA.

8. One issue that we specifically wish to emphasise is the current reform of Forestry Tasmania. We draw the Committees attention to the provisions of Clause 55 of the TFA. This is a key durability issue for industry and if not enacted will cause FIAT to seriously reconsider whether or not the Agreement is durable.

9. FIAT will support amendments that improve the Bill, seek to correct any omissions from the Bill that are required to reflect the Agreement accurately or that provide additional comfort to Legislative Council Members as to the durability of the Bill and therefore the Agreement provided that those amendments do not attack or amend substantively the core elements of the Agreement.

10. The Agreement contains a number of "core provisions" which we would regard as those that are specifically directed at wood supply volumes and reservation outcomes in so far as they affect forestry operations.

11. We contend that there a number of material issues that have not been translated into the Bill and as such will require amendment to ensure that the intent of the TFA is encapsulated by the Bill.

In particular we instance: -

11.1. the lack of a “Sovereign Risk” provision that is required by Clause 6 of the TFA;

11.2. the absence of provisions enacting the changed decision making criteria for the FPA as required by Clause 53 of the TFA; and

11.3. the absence of detailed provisions relating to lower quality sawlogs.

We will be encouraging the Legislative Council to make appropriate amendments to the Bill to reflect these provisions of the Agreement.

12. We are aware of proposals by some Members of the Council to propose amendments on these and other issues and we intend to make commentary on those proposed amendments in this submission.

13. We have made a number of detailed submissions on the Whole of Government submission and on the proposed amendments that are part of that submission. In general terms we are concerned about a number of aspects of that submission and believe that it acts to reduce durability.

3. MARKET CONDITIONS

In considering the Tasmanian Forests Agreement it is germane to consider the history of the forest conflict and the prevailing state of the Tasmanian forest industry to understand the outcome that has been negotiated.

It has been strenuously argued in the public arena by the Tasmanian Government and others that the Tasmanian forest industry is in terminal decline and that drastic remedial restructuring is required to ensure the sustainability of the industry into the future. There is no doubt that the industry is experiencing hardship in some sectors but FIAT does not accept that it is in terminal decline.

The industry has always had a cyclical nature, with various sectors experiencing highs when others are experiencing lows. The current situation is a convergence of a unique set of factors precipitated by the exit of Gunns and the significant erosion of confidence within the industry due to the uncertainty that has surrounded the IGA negotiations process. These factors have also seriously reduced market confidence over whether or not the industry will be able to sustainably supply market needs in the long term. These factors have, as a result, had an effect over a larger proportion of the industry than is "usual", but in no way should be construed as terminal.

The Tasmanian forest industry has experienced a considerable contraction over the past few years, this situation has developed for a number of reasons and no one factor can be identified as the reason for this decline. The decline has not been evenly spread throughout the various sectors of the industry with some being more vulnerable and harder hit than others.

Residue Exports

The residue export sector has been the most seriously affected by the downturn with a particular emphasis on the native forest wood chip export industry. The factors contributing to this decline (not in order of importance) include: -

- The high Australian dollar making our exports comparatively uncompetitive;
- Ready availability of alternate supplies from comparatively cheap alternative exporters e.g. Vietnam, Thailand etc.;
- The comparatively low pulp yield from native forest residues in comparison to plantation grown fibre;
- The decision by Gunns Limited to progress a pulp mill in competition with their overseas customers;
- Market destruction activity by a number of environment organisations;
- The effective choker hold on woodchip export facilities brought about by the closure by Gunns of their facilities in Hampshire and Bell Bay and the sale of the Triabunna mill to Triabunna Investments effectively stifling the bulk of the export capacity out of the State;
- Comparatively modest international prices for wood chips especially in China.

The seriousness of the situation in the residues sector significantly exacerbates the issues for other sectors of the industry. The integrated nature of forestry activities through the growing, harvesting and processing of forest products means that the downturn in that sector has a considerable adverse impact on other sectors.

The international situation has been seriously compounded by the decision of the Commonwealth Government to remove the Renewable Energy Certificates for native forest

biomass products during 2012 that has acted to stifle much of the potential alternative uses of residue products in Tasmania e.g. biomass for energy.

Rotary Peeled Veneer

Over the past few years Ta Ann Tasmania has established a rotary peeled veneer industry in Tasmania with plants operating at the Newood sites at Southwood in southern Tasmania and at Smithton in northwest Tasmania.

This industry has been established using logs that were previously used as a source of wood chips but which are now value-added and down stream processed within Tasmania. This sector of the industry has brought about approximately $79M in investment and has created initially 160 jobs prior to the loss of some international markets and currently 110 jobs in regional areas in Tasmania, and injected around $40M per annum into the Tasmanian economy since it commenced.

A number of the more extreme environment groups have conducted a campaign against Ta Ann Tasmania and its international owner Ta Ann Holdings Berhad from Malaysia in their international markets, predominantly in Japan but also in the United Kingdom. This campaign has resulted in loss of markets and consequently a downsizing of the Tasmanian operations and is threatening the on-going viability of the business in Tasmania.

Ta Ann Tasmania holds contracts with Forestry Tasmania for the supply of 265,000 m3 of rotary peeled veneer billets being 150,000 m3 at its Southern mill and 115,000 m3 at the Smithton Mill.

The attacks on Ta Ann's international markets has caused those markets to demand the Company only supplies those markets with "conflict free" wood.

High Quality Sawn Timber

The demand for high quality sawn eucalypt timber has remained strong in virtually all sectors albeit at a slightly reduced volume due to the downturn in the Australian domestic housing markets which has caused some contraction in volume and margin. These are relatively normal cyclic fluctuations that the industry is highly experienced in enduring.

The major concern for this sector has been the risks imposed on supply of sawlogs as a result of Forestry Tasmania's inability to sell profitably the residues arising from forest harvesting operations and the inability of sawmills to sell the residues arising from processing operations. These issues have produced a significant contraction in the profitability of the sawmilling sector and have caused considerable uncertainty in supply of high quality sawlogs through limiting the range of coupes available to Forestry Tasmania as they endeavour to avoid coupes with high pulp wood yields.

This sector has not been immune from the campaigns by extreme environmental groups who have attacked key market sectors of the sawmilling industry over recent years including Harvey Norman, Bunnings and Mitre 10.

Special Species Timbers

This sector of the industry is best described as a niche market for small volumes of very high value products used in furniture manufacture, boat building joinery products and the arts and crafts sector.

The sector relies entirely on supply by Forestry Tasmania of key signature species many of which are arisings from the harvest of Wet Sclerophyll forests for higher volume eucalypt products or

from very low volume selective harvest from rainforests managed on very long rotations of approximately 200 years.

Markets for these products remain very strong however the supply side of the industry is very much dependent on the viability of other sectors of the industry as recovered volumes are too small to warrant the fixed costs of harvest in their own right.

Summation

There is no doubt that the industry in Tasmania has been confronted with a range of challenges which have encouraged the industry to participate in the negotiations process that has culminated in the Tasmanian Forest Agreement 2012. As outlined above certain sectors of the industry have been more vulnerable to the shocks in the system than others as indeed have some sectors been more aggressively pursued than others.

The FIAT membership have elected in the prevailing circumstances following the withdrawal from native forestry by Gunns Limited to actively participate in the negotiations process to ascertain whether or not a permanent cessation of the Tasmanian forestry wars is possible. It is this determination that has guided FIAT in its participation in the negotiation processes.

We regard the finalisation of an agreement with key environment groups as being an important component in securing the longer term future of the industry in Tasmania and believe the industry is much more likely to have a secure and viable future if the current acrimony over forestry that has pervaded Tasmania for many years ceases.

4. THE AGREEMENT

The Tasmanian Forests Agreement was finalised on 22 November following almost 3 years of negotiation. The agreement is by its very nature a compromise between disparate groups that have very different agendas and objectives and endeavours to provide solutions to competing objectives that for 30 years have proved to be virtually insoluble.

It would be fair to say that no party to the agreement will be perfectly happy with the final outcome as no party achieved all of their original aspirations and FIAT is no different to all other signatory organisations in that respect.

We will analyse some of the key attributes of the agreement in other sections of this submission but for this section will deal with the agreement and the processes leading to it holistically rather than dealing with the individual elements of the agreement itself.

FIAT does not regard the outcome enshrined in the Tasmanian Forest Agreement 2012 to be a particularly good outcome from the industry perspective as we were required to compromise more than we had originally intended in order for an agreement to be possible. That said we are convinced that the agreement reached is the best possible agreed outcome that was able to be reached.

On 26 October 2012 after meeting with the Signatories, Federal Environment Minister Tony Burke and Tasmanian Deputy Premier, Bryan Green advised the media that that they had little confidence that an agreement was possible.

As a result of this announcement FIAT convened a full meeting of FIAT members to determine whether or not we would simply accept that no agreement was possible or whether we would take steps to create a greater opportunity for an agreement to be finalised. On balance the FIAT membership determined that the industry would be better served with an agreed outcome than

without. Whilst this was not a unanimous position within the FIAT membership and was in fact a majority decision never-the-less the entire membership is bound by the decision and have accepted the outcome.

Given that the agreement does fall well short of our original expectations it is appropriate for the question to be asked - why then did FIAT sign the Agreement? There are a number of aspects to answering this question: -

- The agreement as I have already mentioned represents our assessment of the best possible agreed outcomes;
- there are some sectors of the industry that are extremely vulnerable to any delay in the achievement of an outcome e.g. Ta Ann Tasmania;
- we had some concerns whether the markets would support the industry especially in light of the ready availability of cheap imports from overseas countries that could act as a cheaper but adequate substitute for Tas Oak sawn timber.
- it is in our view in the public interest and in the best interests of the industry to see an end to the public acrimony over forestry in Tasmania, which should then see a greater appetite for investment in it and potential for development into new sectors and products.

For those reasons FIAT elected to promote a compromise outcome designed to provide the space necessary for an agreement to be reached.

FIAT has, through its response to a question on notice from our appearance on 15 January, provided the Legislative Council with a copy of the proposal that we developed and put to the ENGO's for consideration and which ultimately formed the basis for an agreed outcome.

The TFA provides at Clauses 56 and 60 a requirement on all Signatories to do all within their reasonable power to support the provisions of the Agreement as a complete package. FIAT takes this obligation seriously and as a consequence we urge the legislative Council to pass the necessary legislation to bring the terms of the Agreement into effect.

That said we have previously advised the Legislative Council that we have no objection to amendments being made to the Bill that: -

- seek to correct any omissions from the Bill that are required to reflect the terms of the TFA;
- are required to remedy any inaccuracy in the translation of any provision of the Agreement into the Bill; or
- the Legislative Council believe would provide additional comfort to the Council and/or the general community in respect to the stability of the outcomes of the Agreement provided these do not change the core elements of the Agreement.

We urge the Council not to amend the Bill in a manner that would "strike at the heart" of the core elements of the Agreement i.e. the wood supply and reserves outcomes.

5. DURABILITY ISSUES

It is implicit and explicit that industry's willingness to become a signatory to the TFA was on the basis that it can be a long term, durable agreement that will underscore and guarantee the future of industry activities of growing, harvesting, processing and marketing profitably forest industry products.

To this end the agreement includes a number of issues related to ensuring that the outcomes will be durable. These issues have been very carefully crafted with a specific eye to symmetry between the competing interests.

It is of course open to the Legislative Council to give active consideration to additional measures to improve durability or to strengthen durability issues already embraced by the agreement. We regard that as the proper role and function of the Legislative Council in exercising its role as a custodian of the public interest. In exercising that role FIAT and we believe all signatories would appreciate the opportunity to be consulted on such proposed changes to ensure the careful balance established is not unduly disturbed.

In this context we flag our very strong concern at the WoG Amendments tabled by the Tasmanian Government and we will provide specific comment further on this issue later in this submission.

Included within the general context of durability are issues associated with the general notion of residue utilisation, the prospect of peace, certification outcomes, institutional arrangements, forest practices amendments, sovereign risk protection etc., The omission of any of these specific issues will undermine the durability that industry used as the basis for its agreement to become a signatory to the agreement.

We will discuss a number of these issues in their own right later in this submission.

The general concept of durability reporting is an essential part of ensuring that the actual durability is delivered or that if not that it is identified at an early time that it is failing.

We are aware a number of amendments designed to improve durability reporting have been suggested including their tabling in both Houses of Parliament, the definition of what should be included in those reports and an increase in the frequency of the provision of those reports. We support these amendments in general terms.

6. WHOLE OF GOVERNMENT SUBMISSION

When FIAT appeared before the Select Committee on January 15th we advised that we had not had sufficient opportunity to consider the Whole of Government submission (WoG) and the ramifications of the proposed amendments that were annexed to that submission but which we had not, at that time, received. We also advised the Committee that we had not been consulted in respect to those amendments.

As a consequence FIAT requested an opportunity to consider those documents and to comment upon them. We did make the preliminary observation that based on our "first blush" reading of the submission in the absence of the attachments that we were concerned that it significantly disturbed the architecture of the TFA and the Bill.

FIAT have now examined in detail the proposed amendments tabled by the Tasmanian Government by way of the WoG submission to the Select Committee.

6.1 Proposed Amendments

In general terms FIAT records its strong disappointment that this fundamental change to the Bill's architecture has occurred without any consultation with Signatories.

The TFA was negotiated, at least from an industry perspective, with a full knowledge of the architecture of the Bill tabled in the Tasmanian Parliament in June 2012. That architecture, in part, guided our negotiating position. The changes now proposed in the Government sponsored amendments seriously alter that architecture and, we contend, in a manner that is fundamentally inconsistent with the Tasmanian Forest Agreement 2012.

Of primary concern to FIAT is the proposal to discontinue the previous concept of a separate, disallowable Protection Order and in lieu to annexe to the Bill itself those provisions that were to be incorporated into the Protection Order that were to be proceeded by a Durability Report that would have a statutory standing.

Industry agreed to the various terms that constitute this agreement on the known terms of the Bill and with the requirement for the presentation of durability reports on a predetermined basis that have a statutory and mandatory status.

The key issues with this proposed change are: -

- It accelerates the creation of 395,199 ha of new reserves in a largely uncontrolled manner;
- It removes the requirement for the provision of a durability report in accordance with the provisions of Clause 10 (7) and (8) of the original Bill;
- It removes the "gap" between the passage of the Bill and the presentation and acceptance/rejection of the Protection Order (up to 15 sitting days). This gap for industry was to provide an opportunity to test durability (e.g. Clause 34 of the TFA).
- Clause 41 of the TFA specifically deals with this issue and requires the preparation of a durability report "prior to the tabling of the initial Protection Order and again before any subsequent permanent legislative reserve orders." This aspect is fundamentally altered by the WoG amendment.
- Clause 13 of the TFA specifically requires that the agreed transition schedule is to form part of the first Durability Report which was to accompany the Protection Order – as this is no longer the case it is now unclear how this aspect can be delivered.
- The durability report is designed to assess not only the behaviour of signatory and non-signatory ENGO's and industry members but also importantly actions by Government(s) to facilitate implementation. This included such an assessment before the Protection Order was presented to and formally accepted/rejected by the Parliament. This is no longer the case.

- Clause 30 of the TFA requires a durability report on access to Triabunna woodchip mill, Burnie wharf and short-term woodchip stockpiling prior to the protection Order. This is no longer the case.

In summary these amendments fundamentally change the architecture of the Signatories considered outcomes that were deliberately structured to provide symmetry in outcomes with significant checks and balances. That symmetry and those checks and balances would be fundamentally disturbed should these amendments be accepted. We urge the Legislative Council not to accept the WoG amendments.

6.2 Sovereign Risk

The WoG submission at page 11 in paragraph 2.3 discusses the need for sovereign risk protection of wood supply to protect industry from the adverse impacts and uncertainty that could arise from future Government legislation and/or policy initiatives.

At paragraph 2.3 the WoG states as follows: -

> "Protection against Government decisions that may reduce future long term contracted sawlog supply is a key concern for the forest industry."

This statement is true as far as it goes but it certainly does not go far enough as this protection must be afforded to all wood supply contracts and not limited to sawlog supply arrangements.

This is a key component of the TFA for industry representatives and has been the subject of extensive discussion between industry and Government. Clause 6 of the TFA is as follows: -

"6. The Signatories agree that volumes should be made available to industry through long term fully compensable supply contracts, with legislated sovereign risk protection."

FIAT request that the Legislative Council note that this provision does not limit sovereign risk protection to the supply of sawlogs rather it is a broad intent to ensure that all wood supply contracts are protected in the manner described. We note that this issue is equally relevant to sliced decorative veneer producers, rotary peeled veneer operations, pulpwood operations or special species timber processors and there is no valid basis upon which to discriminate between these various sectors of the industry in the context of sovereign risk protection.

FIAT received correspondence from the Premier dated 5 October 2012 in respect to this issue, a copy of which is annexed to this submission as Attachment A. In that correspondence the Premier makes no distinction between various grades of log, rather the intent has been to clearly embrace the full range of wood supply from State Forest.

FIAT does not accept the implied restriction of the sovereign risk protection to only sawlog supply and strongly advocates that if this protection is appropriate for sawlog it is equally appropriate for other wood supply arrangements with Forestry Tasmania. It might be noted that the sovereign risk protection industry has sought is in areas that for Forestry Tasmania would be *force majeure* situations under existing contracts as they relate to decisions by outside parties (Government) that would frustrate the contractual terms but are outside the control of either of the contracting parties.

FIAT is aware of the proposed amendment that has been prepared in the name of the Member for Murchison dealing with this issue. We have engaged in dialogue with the Member to ensure that the amendment fully encompasses the needs that industry have in this regard and that

Government appears to concede at least in principle. We note the view expressed by the Government WoG submission that they have decided to support that amendment and we trust that will extend to any change required to reflect the broader nature of the requirements of industry.

6.3 Cable Harvesting Subsidy

We note and broadly support the commentary within the WoG submission in respect to the funding of the additional costs associated with the provision of 7,000 m^3 per annum of Category 1 and 3 sawlog through an increased harvest by way of cable harvesting. We are however concerned that the WoG submission limits any firm commitment to the subsidy of $4.8M pa to a 3 year period. This was never the case in the negotiations process.

In responding to a question without notice from FIAT's appearance before the Committee on 15 January from the Member for Pembroke on funding arrangements, we provided a copy of the analysis of the new funding arrangements for the TFA. In respect to the cable harvesting requirements ("Rescheduled harvesting") this document clearly puts the proposition that the funding agreement is "$4.8M per year ongoing". Whilst we clearly understand the nature of funding periods for Government expenditure commitments we are concerned at the later statement in the WoG submission that: -

> The requirement for ongoing funding beyond the initial commitment that relates to the forward estimates process, will be considered as part of the normal State budget process."

With all due respect to the Government this is not a sufficient basis upon which to found any confidence by industry that the ongoing nature of this funding will be forthcoming. In the other document I tendered as part of my response to the questions on notice it will be quite clear that

the basis of the compromise outcome proffered by FIAT that led to the final agreement being possible is directly premised on this cable harvesting component being funded by Government.

FIAT wrote to the Deputy Premier, Bryan Green on 21 November 2012 to ensure that our understanding in this respect was correct and that it was fully acknowledged by Government. We received a response to that correspondence on the same day. Copies of both of these letters are attached as Attachments B and C respectively.

We seek a clear and unequivocal statement from the Government that our understanding is correct and that this funding commitment is an ongoing commitment that is required to underpin the supply levels. This is a critical issue of durability for the industry as the wood supply level of 137,000 m^3 of high quality sawlog is specifically set having regard for this supply and the cost of that supply.

6.4 Institutional Arrangements

In the WoG submission we have noted reference to the on-going FTTOC process established by Government to guide the outcomes of the review of Forestry Tasmania. In general terms this view is consistent with FIAT's understanding of the status of this issue.

We are concerned at the paragraph at the top of page 15 of the WoG which describes the provisions of Clause 55 of the TFA as "a view" on how the Permanent Production Forests Lands will be managed into the future. The Tasmanian Government have adopted the TFA as a policy setting on forestry and have urged the Legislative Council to not interfere or tinker with the agreement negotiated by the signatories. Frankly we are at a loss to understand that this issue is any different to others within the agreement.

This was a highly contentious issue through the negotiations process with the various signatories having fundamentally different views but was eventually able to be agreed as part of a total package in the context of the TFA.

As the Legislative Council will be aware FIAT actually suspended its involvement in the whole IGA/TFA process over the issue of the structural review of Forestry Tasmania and our extreme concern that this key durability issue was being eroded by Government. Following a meeting of Industry Signatories to the IGA process with The Premier and Leader of the Tasmanian Greens, Nick McKim, FIAT (and other industry signatories) eventually decided to resume participation in the negotiations on the basis of the views expressed at that meeting that "an agreement of the signatories on the structure of the public forest manager would be very persuasive in respect to the final outcome". This view was proffered equally by the Premier and Nick McKim.

In the result we achieved an agreement on this issue with the ENGO's and we have every expectation that Government will implement this aspect of the agreement in exactly the same way it has exhorted the Legislative Council to not cherry pick the agreement.

Industry signatories have been insistent that management of the production forests should be by a statutory commercial body, with an independent board with fiduciary duties, maintaining full management and control of such lands, together with full funding of any required community service obligations.

This is considered a fundamental element for durability for a number of reasons. The resource modelling has been undertaken by Forestry Tasmania, and reflects not only the physical resource characteristics, but the forest management and decision-making structures which determine yield outcomes. The resource is now so significantly constrained that any changes in the underlying arrangements through which resource planning and access are determined will

seriously threaten future supply. The industry would have no confidence in the current resource modelling, were such arrangements to be changed, as has been previously proposed, and would see this as a fundamental failure of the durability provisions. It is noted that there are no provisions in the Bill regarding this matter, however it will be critical that government decisions are publically announced and in place before this Bill is debated in the Legislative Council and the first durability report is completed.

Further, the independent commercial nature of the forest manager, with fiduciary responsibility, provides assurance to the industry that decision making will not be improperly influenced by short-term political imperatives, and that normal commercial contractual relationships and safeguards can be relied upon.

As already stated this is a critical durability issue and given the wording in the WoG submission we request in the strongest possible terms that the Select Committee seek unequivocal undertakings from Government that this aspect of the agreement will be honoured by Government.

6.5 Signatory/Stakeholder Council

A number of submitters to the Legislative Council have made comment on the proposed make-up of the Special Council which under the terms of the TFA is designated initially as a Signatory Council and subsequently as a Stakeholder Council. Commentary has also been made and/or questioning has occurred on the payments that might be made for representatives appointed by the Minister to the Council.

The view of the Signatories in negotiating this aspect of the TFA was that for an initial period of 2 years membership of the Council should be by the Signatories to permit initial implementation and durability of the agreement. The reasoning behind this is that the Signatories themselves

have the most comprehensive understanding of the agreement and are therefore best placed to oversight its implementation.

After the initial period of two years it is envisaged that the Signatory Council would be replaced by a Stakeholder Council with broader membership to facilitate the broadening of considerations and engagement outside the Signatory Group. The make-up of the broader Stakeholder Group will be a decision of the Minister.

FIAT contends that this is an entirely appropriate arrangement that ensure the optimum prospects of the agreement being appropriately implemented in accordance with the intentions of the Signatories.

In respect to payment of the persons appointed by the Minister to serve on the Special Council FIAT is not aware of any arrangements for payment to be made to those persons other than the reimbursement of reasonable expenses incurred by such persons in the execution of their role. It might be envisaged that payment might be required by any person selected as the Independent Chair of the Council. In our view this is entirely appropriate.

We note at page 12 of the WoG that the Australian Government will provide $3.5m to support implementation of the Agreement and this includes support for the industry Council amongst other issues. The other issues include in this funding are forest industry certification and securing durability. FIATs understanding that the actual component of this allocation to the establishment and/or operations of the Council is $1M which clearly would not encompass any payment to appointed Members.

In the event this remains a significant issue for other stakeholders it may be appropriate for the Select Committee to recommend that the Signatory Council have imposed a directive to consult with broader range of stakeholders within the initial two year period.

7. PROPOSED AMENDMENTS

As previously indicated FIAT has no objection to amendments to the Bill per se but our support for any amendment will be on the basis we have previously outlined i.e. we will be supportive of amendments that are designed to include provisions omitted from the TFA, seek to redress the accuracy of the translation of any issue from the TFA or that are specifically designed to improve the durability of the TFA. We cannot support any amendment that fundamentally strikes at the heart of the core provisions of the TFA i.e. wood supply outcome or reserves outcomes.

We submit that this should be adopted by the Select Committee in considering the various amendments that have been proposed to date or that may be proposed in the future. Any amendment that does not meet these criteria should not be supported as it may act to seriously undermine the balance within the Agreement.

ATTACHMENT A

Premier
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Tasmanian Government

Mr Terry Edwards
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Dear Mr Edwards

Thank you for taking the time to meet me, together with your industry colleagues and the Leader of the Greens, Nick McKim earlier today to discuss your concerns over the restructuring of Forestry Tasmania, and its possible impact on the durability of any final agreement to be reached by the Reference Group of Signatories.

The Government understands your concern in relation to certainty over the capacity for long-term contracts to be met from State forest. The Government accepts that re-investment in the Tasmanian forest industry requires an assurance that these investments will not be undermined by the actions of Government (sovereign risk), whether through Ministerial direction or policy change through Parliament. As noted it is important to recognise that your suggested approach of an upfront commitment to Forestry Tasmania (FT) continuing to manage the wood production land as well as hold the contractual obligations, and conduct harvesting, does not of itself achieve this. Importantly it does not deal with the root concern which is the consequence of possible actions of a State Government or Parliament.

While the model you propose is most certainly an option that will be assessed by the Forestry Tasmania Transition Oversight Committee (FTTOC), the Government is conducting a careful analysis to understand all the implications of the various models and will not be committing in advance to one without a strong evidence base on which to move forward.

However the Government is prepared, in good faith, to look at the various means of providing sovereign risk protection, irrespective of the model ultimately proposed by FTTOC, including the contractual ones you have noted in other jurisdictions, with a view to providing more certainty than has existed in the past. There will be no weakening of the mechanisms of legislative protection for State Forest land as a result of FT reforms.

Securing an agreement between the Reference Group of Signatories remains the best possible option to provide certainty for Tasmania's forest industries to access markets into the future, and provide the necessary political impetus to secure passage of any necessary legislative changes through both houses of the Tasmanian Parliament.

The State Government will do all it can to ensure that the FTTOC processes are completed in a timely manner so that any subsequent amendments to FT legislation can be dealt with in a timeframe that gives all participants the certainty they are seeking on these issues.

I urge you to think very carefully about any decision you make that would compromise the Government's ability to support industry through the challenges it faces now, and will continue to face into the future.

Yours sincerely

Lara Giddings

Lara Giddings
PREMIER OF TASMANIA
5 October 2012

Cc Jim Adams and Jane Calvert

ATTACHMENT B

The Hon B Green
Deputy Premier
Level 10
Executive Building
15 Murray Street
Hobart

21 November 2012

Dear Deputy Premier,

RE: TASMANIAN FORESTS AGREEMENT 2012

In Clause 6 of the above agreement the Signatories specifically agree that wood supply levels set out in Clause 4 of the Agreement should be made available to industry through long term fully compensable supply contracts, with legislated sovereign risk protection.

As you will be aware the industry signatories and specifically FIAT, in an endeavour to find the space to produce an agreement have accepted a significantly lower level of supply to that actually preferred by industry and indeed that guaranteed by both the Tasmanian and Commonwealth Governments in the TFIGA. In order to facilitate this compromise industry have accepted the need for an increased level of cable harvesting which is to produce at least 7k m3 pa of high quality sawlog per annum.

This additional supply level is to be achieved without additional cost to industry and we believe the provisions of Clause 6 appropriately require that this supply and the additional costs that pertain thereto (estimated to be in the order of $4.8 million pa) are fully protected by the spirit and intent of Clause 6. We acknowledge that the resolution to residues utilisation issues will enable this level of compensation to be reduced although the timing of any meaningful change in this context is uncertain.

We seek your specific acknowledgement that our understanding of the provisions of Clause 6 provide the protection we have outlined herein and that Government will ensure the effective underwriting of the additional costs associated with the increased level of cable harvesting.

I would appreciate your most urgent attention to this issue as its resolution is required before FIAT can finally commit to sign any agreement.

Yours Sincerely

Terry Edwards
Chief Executive

Forest Industries Association of Tasmania

ATTACHMENT C

Hon Bryan Green MP
DEPUTY PREMIER

Level 10, Executive Building
15 Murray Street, Hobart, TAS 7000 Australia
Ph (03) 6233 6454 Fax (03) 6233 2272
Email bryan.green@dpac.tas.gov.au

E-MAILED
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Tasmania

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29 NOV 2012
BY: .....

Mr Terry Edwards
Chief Executive
Forest Industries Association of Tasmania
GPO Box 1682
HOBART TAS 7001

21 NOV 2012

Dear Mr Edwards TERRY

As I understand it from your letter the Agreement between the Reference Group of Signatories would require Forestry Tasmania to carry out an increased level of cable logging with additional cost implications.

I can assure you the Tasmanian Government will work with the Federal Government to ensure these matters are addressed in our response to any agreement to ensure additional costs are not passed through to contract holders.

Yours sincerely

Bryan Green MP
Minister for Energy and Resources