Investments Subject to the Investment Canada Act
between Jan 1, 2008 and August 30, 2012
in which the investor is an State-owned Enterprise

- Total of 44 investments subject to the ICA between Jan 1, 2008 and August 30, 2012 in which the investor is an State-owned Enterprise. Total value of the assets value acquired: approx. $47.2 Billion.

- Of these, 12 were subject to review. Total value of the assets value acquired: approx. $26.1 Billion (average: $2.17 billion). The majority of these reviewed investments were from the People's Republic of China (total: approx. $11 billion). The others came from South Korea, United Arab Emirates, Russia, Italy, Norway and Libya, ordered in terms of assets acquired.

- 2 notifications were indirect acquisitions* (totalling approx. $20.0 billion in asset value (U.S bailout)).

- 7 notifications were for new businesses** (totalling approx. $494 million in asset value).

- The remaining notifications are acquisitions of control of Canadian businesses where the asset value was below the threshold. (totalling approx. $576 million in asset value). The vast majority of which are in the oil and gas sector and come from South Korea.

* An indirect acquisition is the acquisition of a foreign company with Canadian subsidiaries. Indirect acquisitions by investors from WTO member countries are not reviewable.

** Where a non-Canadian establishes a new Canadian business, the investment only requires notification.

Industry Canada Industrie Canada

Media Summary

Changes to Investment Canada Act/ CNOOC and Petronas deals
Dec. 7, 2012

KEY POINTS

- The announcement received huge coverage in print, online web sites and television.
- *CTV* and *CBC* provided live coverage of the PM's announcement and extended press conference.
- The announcement was the second news item on Friday's English national evening newscasts, edged out only by the mounting costs of the F-35. The story ranked number one in the local Calgary market. *Omni TV* and *Global News* also reported the story.
- Television coverage dropped off by the end of the weekend though editorials and opinion columns continued throughout the rest of the week.
- Early coverage focused on the two deals and changes to the ICA was replaced by questions on CNOOC's undertakings to achieve approval of its acquisition of Nexen.
- Print coverage was led by the *Globe and Mail* which ran over a dozen articles on the issue. .
- Early articles picked up on the PM's statement that any future approvals regarding SOEs would occur only under "exceptional" circumstances.
- A theme among early editorials was that the government had made the correct decision in limiting future SOE involvement in the oil sands but had left many questions unanswered as it related to the ICA going forward. Editorials towards the end of the week were more positive (eg, *Calgary Sun* and *Toronto Star*).
- International coverage included articles in the *China Daily*, *New York Times* and on the *BBC* website. Reports from China (*Xinhua*, *China Daily*), Malaysia (*New Straits Times*, *The Malaysian Insider*) and Pakistan (*Business Recorder*, *Pakistan Observer*) were published. The *Wall Street Journal Europe* and *Finance Asia* also ran some general pieces on the announcement, as did *The Economist*.
- Social media coverage was relegated mainly to Twitter with Andrew Coyne, Terence Corcoran and David Akin sending out several tweets on the subject over the weekend. NDP critic Peter Julian and Liberal leader Bob Rae tweeted their disappointment.

EVOLUTION OF COVERAGE

Friday Dec. 7

- The news ranked on average as the second item on evening newscasts surpassed only by the Monarchy hoax.
- Panel discussions on *CBC News Network* following the announcement included *CBC's Power & Politics* -- NDP MP Peter Julian and LPC MP John McCallum -- and later: the CBC's Greg Weston and Kady O'Malley along with The Canadian Press' Rob Russo.
- Online media news sites and wire services covered the announcement.
- The first wave of articles focused on new foreign investment policy and noted that it would now be very difficult for SOEs to acquire Canadian oil sand companies. Many media outlets picked up on the PM's statement that "when we say that Canada is open for business, we do not mean that Canada is for sale to foreign governments." The other storyline was the approval of the CNOOC and Progress acquisitions.
- A second wave of articles later in the evening contained several editorials. Andrew Coyne, Eric Reguly and the *Globe and Mail* 21(1)(a),21(1)(b) 21(1)(a),21(1)(b) The *National Post* 21(1)(a),21(1)(b) praised the government for it's stance on how future SOE takeover bids of oil sands companies would be handled.
- Twitter coverage peaked shortly after the announcement with tweets from political officials (Bob Rae, Peter Julian, etc.) and journalists (Andrew Coyne, Kady O'Malley, etc.).

Saturday, December 8

- The story was front page in the *Globe and Mail*, *National Post* and *Toronto Star*. *La Presse* led the French coverage. Print articles began examining the policy changes while questioning the pros and cons. Articles appeared in several international outlets including *China Daily*, the *New York Times* and the *BBC Online*.
- *CBC Radio - The House* aired an interview with Minister Paradis. *CBC Online* posted a piece quoting the Minister as saying that the government had reached "a level of discomfort" with foreign investment by SOEs. .

Sunday, December 9

- On Sunday, print and broadcast (*CTV's Question Period*) featured reactions and commentary from political and business leaders, including Alberta Premier Alison Redford and the CCCE's John Manley. International media sources also continued coverage.
- Print sources included pieces by columnists such as Tim Harper and John Ibbitson.
- *Reuters* introduced a new story line reporting commitments from China.
- Minister Paradis appeared on *CTV's Question Period*. The news outlet noted that the Minister was "tight-lipped" over the "net benefits" Canadians could expect.

Monday, December 10

- Monday's morning coverage 21(1)(a),21(1)(b) The *Globe and Mail* reprinted its Friday editorial while the Minister's statement that it was up to China to explain the benefits of the CNOOC deal to Canada appeared in some publications.
- Later *CBC* reported Natural Resources Minister Joe Oliver had noted that the CNOOC-Nexen deal may not have been approved had it been subject to the new ICA rules. The *Calgary Herald*, *Globe and Mail* and *CBC's Power & Politics* referenced his comments.
- Minister Paradis appeared on *Power and Politics* and was pressed on defining "exceptional" circumstances.
- Nexen's CEO told the *Financial Post* that the CNOOC acquisition was not yet wrapped up despite the government's approval.

Tuesday, December 11

- Tuesday morning's coverage shifted to the government's refusal to disclose what "benefits" CNOOC has promised Canada.
- Positive editorials appeared in the *Edmonton Journal* and the *Calgary Herald*
- Reports also included criticisms (of foreign takeover policy) from Liberal MP Ralph Goodale and NDP leader Thomas Mulcair.
- The *Globe and Mail's* Stephanie Nolan reported that the government's decision had "provoked puzzlement in India's state-dominated energy sector" and questions about the Prime Minister's sincerity. The piece noted that senior Indian industry leaders questioned why the PM had made such an effort to attract Indian firms if they were not welcome.

Wednesday, December 12

- Early reaction to the changes is slowly being replaced with articles examine the long-term effects of the ICA changes. Several analysts told iPolitics that it would take years take years and more regulatory decisions to determine the impact of the new restrictions.
- Saskatchewan Premier Brad Wall stated that he would like to see the same prohibition on takeovers by SOEs extended to Canadian potash and uranium producers.
- The *National Post's* Peter Foster added to the chorus suggesting that the changes still did not clear up the net benefit rules.
- Interim Nexen chief executive said "we are nowhere near done," regarding the CNOOC deal leaving the *Calgary Herald* to suggest that U.S. approval was hardly a "rubber stamp".

Thursday, December 13

- The morning edition of the *Globe and Mail* reported that CNOOC has committed to spend additional $5-billion to $8-billion on oil and gas development in North America as part of its deal with Ottawa to acquire Nexen but the promise is "elastic in terms of the time frame and subject to continued high oil prices".
- A $2.18B deal between PetroChina and Encana announced on Thursday elicited questions as to how the partnership would fit with new guidelines. Most articles suggested that the 49.9% stake in Phoenix Duvernay Gas being acquired by PetroChina would not be subject to the new regulations.
- A Bloomberg article "CNOOC faces backlash over Nexen deal, ratings hit 3-year low" noted Wall Street was underwhelmed with ratings having sunk to their lowest level in three years.

Friday, December 14

- Seven days after the PM's announcement, coverage was 21(1)(a),21(1)(b) editorials and questions regarding its application in the PetroChina deal. Jack Mintz and the *Toronto Star*'s Carol Goar praised the Nexen deals. Goar stated that the PM's answer was "pragmatic, balanced and shrewd enough to make a gambler smile"

COMMENTARY AND EDITORIALS

Summary

Editorials and comments largely stated that the approvals of CNOOC-Nexen and Petronas-Progress were politically sound decisions. 21(1)(a),21(1)(b)
21(1)(a),21(1)(b)
as *CBC*'s Greg Weston noted, about "how to say yes without opening the door to a Chinese shopping spree in the Alberta oilsands". The perceived lack of clarity surrounding the added stringency of takeovers by SOEs in the oilsands sector was noted by most as leaving questions on the principles of Canada's foreign-investment policy with the PM making the rules more opaque then they were before. This was a common thread of criticism through most editorials. Positive editorials were printed by the *Edmonton Journal*, *Calgary Herald* and the *Financial Post*. Columnists coming out in support included Jack Mintz Carol Goar, L. Ian MacDonald and Jeffrey Simpson. A negative editorial was printed by the *Globe and Mail* along with critical columns from Andrew Coyne, David Crane and Terence Corcoran.

Coverage

- On Friday December 7, John Ibbison of the *Globe and Mail* wrote that the government displayed "an embarrassing level of policy incoherence" on both the F-35 and the foreign-investment files in the same week, adding that the delays surrounding both foreign-investment bids left foreign analysts and investors confused and perplexed.
- *Postmedia*'s Andrew Coyne questioned the move of tightening the reins and blocking takeovers by SOEs solely because they are state-owned, as well singling out the oilsands sector. Coyne stated that the PM only made Canada's foreign-investment policy murkier, a contradiction for a government who proclaims to be making foreign investment rules clearer.
- On Saturday, December 8, economist David Crane echoed Coyne's sentiments in his op-ed for the *Toronto Star* stating that the real issue confronting Canada is not Chinese SOEs but "developing our strategy to ensure that Canada has its own array of domestically-controlled and headquartered multinationals that can compete in the global marketplace - and this includes determining how big a share of our resource industries we want to see as Canadian-owned and controlled companies."
- Many commented on lack of clarity in the foreign-investment policy including Terence Corcoran of the *National Post*. While noting that the paradox is unavoidable given the complexity of the issue, Corcoran wrote that "instead of the old nebulous net benefit test for foreign investment, Canada will have a new nebulous net benefit test aimed especially at discouraging investment SOEs, regardless of their nationality." This criticism was also highlighted in a *Globe and Mail* editorial titled "More clarity needed on foreign takeover rules". CBC mentioned that corporate Canada has been pressing for a "clear and predictable set of rules, if not a set formula, that would allow any business to assess its chances of getting government approval for a takeover before starting down that road. But that hasn't happened."
- The lack of public or parliamentary debate on how to handle foreign-investment transaction was highlighted by Corcoran as well as in a *Toronto Star* editorial appearing on Saturday, December 8, all the while stating that that controlling purchases of Canadian firms worth more than $330 million by foreign state enterprises makes sense, if rigorously enforced.
- Jim Stanford, economist with the Canadian Auto Workers Union, argued in his comment to the *Globe and Mail* that there is "no real economic sense in which Canada truly needs foreign capital to develop our own natural resources. We're quite capable of doing it ourselves, thank you - and we'd be much better off if we did it that way."
- Dans son article "Un juste équilibre" dans *La Presse*, André Pratte écrit 21(1)(a),21(1)(b) que dans le dossier des acquisitions d'entreprises canadiennes par des sociétés d'État étrangères " le gouvernement de Stephen Harper a trouvé un équilibre économiquement souhaitable et politiquement habile" et que le message aux investisseurs est maintenant clair

"votre argent est bienvenu au Canada pourvu qu'il ne permette pas à votre gouvernement d'avoir la main haute sur des secteurs importants de l'économie canadienne."

- The *Calgary Herald* and the *Edmonton Journal* ran editorials praising the government's decision, with the Herald noting that the PM "navigated the various interests and strong opinions without wrecking the country's growing interest in opening up Canada to more foreign investment and more foreign trade with Asia."
- Jeffrey Simpson penned a column in the Dec. 14 *Globe and Mail* stating that the PM, whose foreign policy is too often characterized by finger-waving intransigence, struck a reasonable balance in this instance between domestic interests and international concerns.
- Jack Mintz in Friday's *National Post* said "In the end, ..., the federal government put down the right marker. We should not encourage takeovers of Canada's business sector by SOEs, be they foreign or domestic."

U.S. COVERAGE

Summary

- The *Wall Street Journal, Dow Jones Associated Press, CNBC, Bloomberg, Reuters* reported on the announcement.
- Articles were factual and many captured the PM's statement to the effect future approvals regarding SOEs would occur only under "exceptional" circumstances.

Coverage

- The *WSJ* reported that the success of the deal may encourage CNOOC and Sinopec to pursue other ambitious deals world-wide.
- *Dow Jones* noted that Chinese energy companies may find it tougher to invest in Canada in the future.
- The *AP* quoted CNOOC chairman Wang Yilin as saying that the approval is recognition of the acquisition's long-term economic benefits for Calgary, Alberta and Canada.
- *CNBC* reported on the PM's statement and had experts commenting that there will be more deals in the energy sector simply because Canada needs the investments to develop its vast oil resources.
- *Bloomberg* and *Reuters* highlighted the PM's statement.

INTERNATIONAL COVERAGE

Summary

- China (*Xinhua, China Daily*), Malaysia (*New Straits Times, The Malaysian Insider*) and Pakistan (*Business Recorder, Pakistan Observer*) were the main countries reporting on CNOOC and Petronas' approval, besides the United States.
- The *Wall Street Journal Europe* and *Finance Asia* also ran some general pieces on the announcement.
- All articles were factual and underscored the PM's caution that the government would henceforth block attempts by foreign SOEs to buy stakes in Canada's oil sands, and that other foreign takeovers will face greater scrutiny.

Coverage

- *Xinhua* highlighted the Prime Minister's remarks underscoring that CNOOC-Nexen deal should be viewed as "the end" rather than the "beginning of a trend." The article also featured IC's news release mentioning the commitments CNOOC made to win the Canada's approval (transparency, disclosure, commercial orientation, employment and capital investment), and quoted John Manley as indicating that Canada has "a tremendous need for capital to develop our industrial base and achieve our potential as a leading exporter of energy and advanced energy technologies." Another article from *Xinhua* focused on Chinese stakeholders and analysts' reactions, with key quotes and comments from Wang Zhen, Academy of Chinese Energy Strategy ("the deal is 'of strategic importance' to CNOOC's international expansion") and Shen Yan, CCID Consulting Co. Ltd, explaining that CNOOC might still encounter political troubles in Europe where Nexen has some assets too.
- *China Daily* also featured other positive reactions from China, with comments from Liao No, CISCI Energy, that the PM's notice was a move to appease domestic objections but also indicating that cultural gap, foreign legal issues, and different management style are normally the problems Chinese companies face when expanding internationally.
- *New Straits Times* and the *Malaysia Insider and* ran factual articles reporting on the approval of both deals and underscored the PM's caution that future investment by SOEs would face much tighter scrutiny.
- In Pakistan, the *Business Recorder* and *Pakistan Observer* ran similar articles.
- *Wall Street Journal Europe* also underscored that the statement made by the PM as he was approving both deals was signalling that oil sands will now be off limits to further SOEs investments.
- *Finance Asia* reported the CNOOC deal was the biggest overseas acquisition ever made by a Chinese company. It noted CNOOC would control 8% of the UK's North Sea oil production, a deal approved by the European Commission, but still requiring the UK's approval.

SOCIAL MEDIA

Summary

Social media coverage was relegated mainly to Twitter with Andrew Coyne, Terence Corcoran and David Akin sending out several tweets on the subject over the course of the weekend. NDP critic Peter Julain and Liberal leader Bob Rae tweeted their disappointment in the proposed changes and the approval of the CNOOC and Petronas deals. Twitter activity dropped off by the end of the weekend.

Peter Julian, NDP Critic @MPJulian

- CNOOC-#Nexen Deal: Company Heavily In Iran, Calls Itself 'Strategic Weapon' http://www.huffingtonpost.ca/2012/09/25/nexen-cnooc-iran-strategic-weapon_n_1913423.html ..." & Mr. Harper says it okay! #NDP
- Estimate 90% of comments on news sites are negative on #Conservative move to push #nexen takeover. Canadians are speaking out! #ndp#cdnpoli
- Déçu que le gouv. Harper n'a pas écouté les Canadiens re:#Nexen. Prise de contrôle étrangère ne se déroule pas à porte close. #polcan #NPD
- Approbation fantoche de #NEXEN est irresponsable. Trop d'opacité. Trop d'incertitude. Besoin de mieux. #polcan #NPD
- Harper record of job losses on foreign takeovers not good. Lots of job losses! Secret #Nexen deal bad for Canada. #fail #cdnpoli #NDP
- Cons rubber-stamping the approval of #Nexen irresponsible. Too much secrecy. Too much uncertainty. Canadians deserve better! #ndp #cdnpoli

Bob Rae, Liberal MP @bobraeMP

- Just as many questions as answers in Harper's Friday night Q and A - amazing lack of transparency in how these guys do business.
- This is the Ottawa equivalent of the "hush of night".. PM Harper to deliver statement at 5:15pm on foreign takeovers. #cdnpoli #nexen #china

Bill Curry, G & M @curryb

- Statement refers to "inherent risks posed by foreign SOE acquisitions in the Canadian oil sands," approvals on "an exceptional basis only"
- "when we say Canada is open for business, we do not mean Canada is up for sale to foreign governments" PMSH
- This may be the most backhanded investment approval ever. #cnooc
- Harper says Canadians have got out of state-owned resources, can't let other states take over.

David Akin, Sun Media @davidakin

- Details of conditions and commitments made by #CNOOC and #Petronas not released.
- Polls done for @SunNewsNetwork by Abacus Data showed 2/3 of Canadians opposed Nexen takeover by China's CNOOC.
- #NDP "profoundly disappointed" on Nexen decision. About the process "This is a farce," says @JULIANMP
- China Daily (an SOE itself) coverage of #Nexen deal. No mention of new SOE rules. Bare mention of PMSH.

Andrew Coyne, National Post @acoyne

- As always, the PM offers no explanation as to exactly what these baleful foreign SOEs would be able to do to us. Just state ownership=bad.http://twitter.com/acoyne
- More restrictions on foreign investment, in the name of encouraging it. More government control, in the name of the free market. #nexen
- No clarity on "net benefit," for either private or state firms. SOEs now subject to "exceptional circumstances" test, but only for oilsands.
- So: the right decision this time, but the promise of endless wrong decisions into the future. #nexen
- China Daily has helpful section chronicling how Chinese SOEs are taking over the world. http://www.chinadaily.com.cn/business/overseascnep/ ...
- Or not. Who can say, really? - CNOOC's Nexen bid likely would have failed under new rules: Oliver

Kady O'Malley, CBC @kady

- Meanwhile, the NDP expresses profound disappointment at the approval of the #CNOOXen deal. #hw
- And that's it for a record-breaking press conference by the PM. #hw
- I can see why he wanted to do it -- no minister would have been able to do that. #Hw
- This announcement definitely doesn't jive with Alberta's mantra to-date, btw. They've been open-arms to all foreign investment.
- It's interesting to see how support/opposition for the government's decision on #CNOOXen defies strict partisan/ideological lines.

Terence Corcoran @terencecorcoran

- The major problem with new Canada #SOE policy is that there is still no policy.
- I think it's called "outsourcing" @acoyne @natnewswatch: Paradis says up to China to explain deal to Cdns http://bit.ly/SPB3EQ #cdnpoli
- For all you cranky #SOE + #CNOOC commentators, here's Edy Wong's take on " a bold and essential move" http://natpo.st/TIVRev via @fpcomment
- Friday SOE document dump. Where is the analysis? Where is the logic? What's the justification? How will it work?

The Globe and Mail @globeandmail

- CNOOC's Nexen bid likely would have failed under new rules: Oliver bit.ly/VuPueT

David Ljunggren @reutersLjungg

- #Canada permits 2 foreign energy takeovers, but slams door on any more http://reut.rs/Vtnh7R #China #cdnpoli #oil
- CNOOC pledge small step for #China transparency, skeptics abound http://reut.rs/VsW5X9 #cdnpoli
- #Canada won promises from# China in backing Nexen deal - minister http://reut.rs/VsW2KY #cdnpoli

INVESTMENT CANADA ACT- NATIONAL SECURITY REVIEW TIMELINES (September 19, 2012)

QP ELEMENT (51 words)

QUESTION:
Why is the government extending the time it takes to undertake national security reviews under the *Investment Canada Act*?

Our government is open to investment that provides economic benefits to Canadians and safeguards Canada's national security.

Reviews for national security are complex, and the Government needs flexibility in order to conduct a thorough review and ensure we are protecting Canadian interests.

The extensions will only be used in exceptional circumstances.

MEDIA RESPONSE ELEMENT (XX words)

Same as above.

BACKGROUND (350 words)

On _____, [as part the Budget Implementation Act II,] the government tabled amendments that give the Minister of Industry the flexibility to extend the time available to conduct national security reviews of proposed foreign investments. The amendments will allow the Minister, when it is considered necessary, to extend time for national security reviews at three stages of the review process: pre-review stage, review stage, and the Governor in Council stage.

On July 23, 2012, China National Offshore Oil Corporation (CNOOC) announced its intention to acquire Nexen Inc. for over $15 billion. On July 25, 2012, the Minister of Industry issued a statement confirming that the transaction is subject to review under the *Investment Canada Act* (ICA).

In June 2012, through the *Jobs, Growth and Long-term Prosperity Act*, the Government passed targeted amendments to the ICA to promote greater transparency, while preserving investor confidentiality, and investor compliance with undertakings.

On May 25, 2012, the Minister of Industry announced that the Government would amend the *Investment Canada Regulations* to progressively raise the review threshold to $1B, over a period of four years, and change the basis for calculating the threshold from asset value to enterprise value. (The current threshold is $330 M in asset value). These regulations will bring into force amendments to the ICA that were passed in 2009. On June 2, 2012, the proposed regulations were be published in the *Canada Gazette* for a 30-day public comment period.

On May 25, 2012, the Minister of Industry also introduced a mediation guideline, to help address potential disputes under the ICA, and published an annual report on the administration of the ICA.

Since the U.S. Steel litigation and Potash case in 2009/2010, the ICA has been scrutinized for its apparent lack of transparency and strength to enforce investor undertakings, and for the perceived vagueness of the net benefit test. In 2010, the Prime

Minister and Minister of Industry stated publicly that a review of the ICA was warranted, and that they hoped to provide more information about the Government's decision-making process on foreign reviews.

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STATEMENT REGARDING
INVESTMENT BY FOREIGN STATE-OWNED ENTERPRISES

21(1)(b)

Ottawa, December X, 2012: Today, xxx, made the following statement:

Our Government has a long-standing reputation for welcoming foreign investment. Canada has a broad framework in place to promote trade and investment, while at the same time advancing Canadian interests.

In response to increased levels of global foreign SOE investment, in 2007 the Government released guidelines that outline some of the key considerations the Minister accounts for when reviewing foreign investments made by SOEs to determine if they are likely to be of net benefit to Canada. The considerations focus on concerns that foreign SOEs could present certain risks. First, foreign SOEs are, although to varying degrees, inherently susceptible to foreign government influence that may be inconsistent with Canadian national industrial and economic objectives. Second, SOE acquisitions of Canadian businesses may also have adverse effects on the efficiency, productivity and competitiveness of those companies, which may have negative effects on the Canadian economy in the longer term. The continued growth of foreign SOE transactions, with a particular increase in acquisitions of control of Canadian businesses, suggests that further clarification would be useful for the marketplace.

For these reasons, the Government is clarifying how it applies the *Investment Canada Act* The Canadian oil sands are of global importance and immense value to the future economic prosperity of all Canadians. While the vast majority of global energy deposits are state-controlled, Canada's oil sands are primarily owned by innovative private sector businesses. If the oil sands are to continue to develop to the benefit of all Canadians, the role of private sector companies must be reinforced.

For these reasons, while the Government welcomes foreign investment, it is clarifying how it applies the *Investment Canada Act* (ICA) to foreign SOE investment in the Canadian oil sands, and the broader Canadian economy. Under the ICA, the burden of proof is on foreign investors to convince the Minister that the investment is likely to be of net benefit to Canada. For the purposes of evaluating proposed investments by foreign SOEs, Section 20 of the ICA and supporting Guidelines require that the investor satisfies the Minister of the investment's commercial orientation; freedom from political influence; adherence to Canadian laws, standards and practices that promote sound corporate governance and transparency; and positive contributions to the productivity and industrial efficiency of the Canadian business.

Each case will be examined on its own merits; however, given the inherent risks posed by foreign SOE acquisitions in the Canadian oil sands the Minister of Industry will find the acquisition of control of a Canadian oil sands business by a foreign SOE to be net benefit to Canada on an exceptional basis only.

In applying the ICA, the Minister of Industry will also continue to carefully monitor SOE transactions throughout the Canadian economy to determine whether they are likely of net benefit to Canada. The Minister of Industry will closely examine the degree of control or influence an SOE would likely exert on the Canadian business that is being acquired; the degree of control or influence an SOE would likely exert on the industry in which the Canadian business operates; and, the extent to which a foreign state is likely to exercise control or influence over the SOE acquiring the Canadian business. Where due to a high concentration of ownership a small number of acquisitions of control by SOEs could undermine the private sector orientation of an industry, and consequently subject an industrial sector to an inordinate amount of foreign state influence, the Government will act to safeguard Canadian interests.

Also consistent with the above, the Government intends to liberalize the review threshold under the *Investment Canada Act* to $1 billion in enterprise value over four years only for private sector investors. The review threshold for foreign SOEs will remain at $330 million in asset value. This will mean that the Government will retain its current authorities to assess the net benefit of foreign SOE transactions in the future.

REVISED SOE GUIDELINES

Guidelines — Investment by state-owned enterprises — Net benefit assessment

The following guidelines are issued by the Minister responsible for the administration of the *Investment Canada Act* (the "Act"), under the authority of section 38 of the Act, to inform investors of certain procedures that will be followed in the administration of the review and monitoring provisions of the Act where the investors are state-owned enterprises (SOEs).

Recognizing that increased capital and technology would benefit Canada, the purpose of the Act is "to encourage investment in Canada by Canadians and non-Canadians that contributes to economic growth and employment opportunities and to provide for the review of significant investments in Canada by non-Canadians in order to ensure such benefit to Canada".

For the purposes of these guidelines, an SOE is an enterprise that is owned, controlled or influenced, directly or indirectly by a foreign government.

As currently required by the *Investment Canada Regulations*, in their applications for review, non-Canadian investors, including SOEs, are required to identify their controller, including any direct or indirect state ownership or control.

It is the policy of the Government of Canada to ensure that the governance and commercial orientation of SOEs are considered in determining whether reviewable acquisitions of control in Canada by the SOE are of net benefit to Canada. In doing so, investors will be expected to address in their plans and undertakings, the inherent characteristics of SOEs, specifically that they are susceptible to state influence. Investors will also need to demonstrate their strong commitment to transparent and commercial operations.

The Minister will apply the principles already embedded in the Act to determine whether a reviewable acquisition of control by a non-Canadian who is an SOE is of net benefit to Canada. Under the Act, the burden of proof is on foreign investors to demonstrate to the satisfaction of the Minister that proposed investments are likely to be of net benefit to Canada.

When assessing whether such acquisitions of control are of net benefit to Canada, the Minister will examine, as part of the assessment of the factors enumerated in section 20 of the Act, the corporate governance and reporting structure of the non-Canadian. This examination will include whether the non-Canadian adheres to Canadian standards of corporate governance (including, for example, commitments to transparency and disclosure, independent members of the board of directors, independent audit committees and equitable treatment of shareholders), and to Canadian laws and practices, including adherence to free market principles. The Minister will assess the effect of the investment on the level and nature of economic activity in Canada, including the effect on employment, production and capital levels in Canada. The examination will also cover how and the extent to which the non-Canadian is owned, controlled by a state or its conduct and operations are influenced by a state.

Furthermore, the Minister will assess whether a Canadian business to be acquired by a non-Canadian that is an SOE will likely operate on a commercial basis, including with regard to:

- where to export;
- where to process;
- the participation of Canadians in its operations in Canada and elsewhere;
- the impact of the investment on productivity and industrial efficiency in Canada;
- support of on-going innovation, research and development in Canada; and
- the appropriate level of capital expenditures to maintain the Canadian business in a globally competitive position.

Specific undertakings related to these issues may assist to supplement a non-Canadian's plans for the Canadian business. Examples of undertakings that have been used in the past and could be used in the future, include, among other undertakings, the appointment of Canadians as independent directors on the board of directors, the employment of Canadians in senior management positions, the incorporation of the business in Canada, and the listing of shares of the acquiring company or the Canadian business being acquired on a Canadian stock exchange. Appropriate monitoring will be conducted in accordance with the ICA.

Q&A

Q1. Are these changes connected to a specific case?

- No. They do not target any specific country, transaction or company.
- Our Government is open to investment that provides economic benefits to Canadians and safeguards Canada's national security.
- The amendments to the national security timelines respond to the need for greater flexibility in carrying out that important task.

Q2. Are more changes to the *Investment Canada Act* coming?

- Our Government constantly reviews marketplace framework laws to ensure they are up to date and effective.
- Earlier this year, the Government pre-published proposed amendments to the *Investment Canada Regulations* in the Canada Gazette, Part I, for a 30-day public comment period.
- Once in force, the threshold for net benefit reviews will be raised to $1 billion over a four year period, and the measure for calculating the threshold will be changed to enterprise value.

Q3. What about greater transparency?

- The *Investment Canada Act* must balance the need for investor confidentiality and public disclosure.
- Recent amendments passed in the *Budget implementation Act, 2012* allow the Minister of Industry and the Minister of Canadian Heritage to publicly communicate more information on the review process, while preserving commercial confidences.
- The amendments give the Minister of Industry the ability to publicly disclose the fact that he has sent a preliminary notice to an investor that he is not satisfied that the investment is likely to be of net benefit.
- The amendments also allow the Minister to publicly explain his reasons for sending the notice as long as it would not cause harm to the Canadian business or investor involved.

Q4. How long will the extensions be?

- Regulations are coming soon which will prescribe the new national security review timelines, and bring them into force.

- The time required for national security reviews depends on the facts of each case and these amendments reflect that need for flexibility.

- The new timelines will continue to allow national security reviews to be completed in as few as 45 days.

Q5. When will the amendments to the ICA allowing for the extension of the national security review time lines come into force? What will be the impact on ongoing cases?

- First, the amendments to the ICA contained in the *Budget Implementation Act*, Part II (BIA II) would need to receive Royal Assent.

- However, the amendments to the Act will not take effect until the related regulations are finalized to specify the time periods.

- Once in force, the amendments will not be applied to investments that have triggered the national security provisions prior to the coming-into-force date, and for which the relevant periods have expired.

SECRET

ADVICE TO THE DEPUTY MINISTER
c.c. Associate Deputy Minister

**Meeting with delegates from Sinopec Daylight Energy Ltd.
December 11, 2012, 3:30 p.m.**

ISSUE

You are scheduled to meet with representatives of Sinopec Daylight Energy Ltd (Sinopec Daylight) to discuss Canada's foreign investment climate on Tuesday, December 11, 2012 at 3:30 p.m. Suggested speaking points are attached at Annex A. Proposed questions for Sinopec Daylight are attached at Annex B. Biographies of attendees are attached at Annex C.

BACKGROUND

Sinopec Daylight is owned by Sinopec China Petroleum & Chemical Corporation (Sinopec), a Chinese state-owned enterprise (SOE). Sinopec acquired Calgary-based Daylight Energy Ltd in 2011 for $2.2 billion. In 2010, Sinopec purchased a 9% interest in Syncrude Canada Ltd. for $4.7 billion from ConocoPhillips. Sinopec has an undisclosed stake in the $5.5 billion plan to build the Canadian Northern Gateway oil sands pipeline from Alberta to British Columbia. Industry Canada's Investment Review Division will provide you with an additional breifing on past transactions involving Sinopec.

Mr. Hou Hongbin is the Chair of Sinopec Daylight, an oil and gas company headquartered in Calgary. Mr. Hou, who is based in China, also serves as Vice-president for exploration and planning at Sinopec International Petroleum Exploration. Mr. Hou would like to discuss the success of Sinopec Daylights's energy assets in Canada and the investment climate moving forward. Mr. Hou will be accompanied by Sinopec Daylight CEO, Anthony Lambert, and other senior Sinopec executives.

Other Chinese SOEs have also been active in the Canadian oil sector: PetroChina acquired the Thickwood/MacKay River oil sands project (through two transactions: $1.9 billion in 2009 and $680 million in 2012); and, CNOOC acquired OPTI Canada for $2.1 billion (2011) and Nexen Inc for $15 billion (2012). The incremental, cumulative impact of SOE investment in a given sector was considered in the development of the SOE policies recently announced by the Government, particularly in regard to the highly concentrated oil sands sector.

CONSIDERATIONS

On Friday, December 7, the Government announced a policy framework with respect to foreign SOE investments subject to the *Investment Canada Act*. The policy provides that investments by foreign SOEs to acquire control of a Canadian oils sands business will be found to be of net benefit on an exceptional basis only.

In the rest of the economy, SOE transactions will be closely monitored to address risks associated with home government influence. Furthermore, the Government announced revised SOE Guidelines, that it would not increase the net benefit review threshold for proposed transactions by foreign SOEs, and that it would provide the Minster with the flexibility to extend the timelines for national security reviews.

Also on Friday, December 7, the Government approved two large foreign investment deals involving state-owned enterprises. This included the $15 billion takeover of Nexen Energy, a Canadian oil and gas company, by Chinese state-owned China National Offshore Oil Corporation (CNOOC). The second deal was the $5 billion takeover of Progress Energy Inc, a Canadian natural gas company, by Malaysian state-owned oil and gas company Petronas.

Mr. Hou will likely wish to discuss the policy announcement and its potential impact on SOEs operating or wishing to operate in Canada. You may wish to underline that the policy clarification does not affect SOEs operating in Canada unless/until they wish to acquire Canadian businesses.

CONCLUSION

Proposed speaking points are attached at Annex A. Proposed questions you may wish to ask of Mr. Hou are attached at Annex B.

Iain Stewart

Assistant Deputy Minister
Strategic Policy Sector

Attachments
Contact: Paul Halucha, Director General, MFPB (952-0211)

ANNEX A
CONFIDENTIAL

Suggested Speaking Points

General - SOE Policy Statement

- Canada will continue to welcome foreign investment which is of net benefit: investment that drives growth, jobs and prosperity.
- The acquisitions of Nexen and Progress have been approved, but it is important that foreign investors understand that these approvals mark the 'end of a trend' as the Prime Minister noted.
- Canada is concerned about the influence exerted by foreign countries over state owned enterprises and the consequences this could have for the efficiency of operations and the competitiveness for that sector.
- Going forward, Canada will approve the acquisition of a controlling interest in a Canadian business in the oil sands by a state-owned enterprise on an exceptional basis only. State-owned enterprise activity in other sectors of the Canadian economy will be monitored.
- The Government will continue to welcome non-controlling minority interests in Canadian businesses by foreign state-owned enterprises.

Oil Sands Acquisitions– Exceptional Basis Only

- The oil sands are controlled by small number of private-sector businesses. The Government is concerned that the sector could quickly become controlled by foreign states and lose its market-driven, competitive position in the global marketplace.
- The recent announcements do not take away the Minister's ability to judge an individual investment on its merits. However, in moving forward the Government has indicated that acquisitions of control in the oil sands, by foreign state-owned enterprises, will be of net benefit on an exceptional basis only.
- Identifying exactly what constitutes an exceptional basis would unnecessarily limit the Minister's ability to judge an investment on its facts. Special circumstances may include situations when efficiency and state-influence concerns are addressed, and when a Canadian company is distressed and facing a very restricted pool of global capital.
- The Government has indicated it will continue to welcome non-controlling minority interests in Canadian oil sands businesses proposed by foreign state-owned enterprises.

ANNEX A
CONFIDENTIAL

All Other Sectors – Closely Monitored

- The Government has stressed its concern over state-control in the Canadian oil sands in particular, but it has also indicated that other sectors will be closely monitored.

- In particular, the Minister will closely examine:

    - The degree of control or influence a state-owned enterprise would likely exert on the Canadian business that is being acquired;
    - The degree of control or influence a state-owned enterprise would likely exert on the industry in which the Canadian business operates; and
    - The extent to which a foreign state is likely to exercise control or influence overt the state-owned enterprise acquiring the Canadian business.

- Future transactions in all sectors will continue to be evaluated according to their merits. However, the influence of foreign states and how it impacts on the commercial orientation of the Canadian business, the efficiency of its operations, and the the competitiveness of the sector, will all be taken into account when reviewing transactions involving SOEs.

Greenfield Investment and Non-Controlling Shares

- Greenfield investments and investments of non-controlling interest are <u>not</u> subject to the net benefit test under the *Investment Canada Act*. They are, however, subject to the national security review process.

- An investment is subject to review under the national security provisions if the Minister of Industry, after consultation with the Minister of Public Safety, considers that the investment could be injurious to national security and Cabinet, on the recommendation of the Minster, orders a review.

- The Government will continue to welcome non-controlling minority interests in Canadian businesses proposed by foreign state-owned enterprises.

SOE Guidelines

- The State-owned Enterprise Guidelines are being revised to underscore the importance of promoting commercially-based foreign investment that is free from political influence and control.

National Security Reviews (time lines)

- It is important to take the time required to conduct careful and thorough reviews of proposed investments that could be injurious to national security. The extensions will only be used in exceptional circumstances.

Review Threshold

- The threshold for net benefit reviews of private sector companies is being increased to $1 billion over four years and the basis of the threshold is being changed to enterprise value. The threshold increase will not apply to investments by state-owned enterprises, which will be covered under the existing threshold of $330 million in asset value.

ANNEX B
CONFIDENTIAL

Proposed Questions

- What investments or initiatives is Sinopec currently planning, or working toward, in Canada?
  - Do the plans involve Canada's oil sands?
  - Do you have investment plans involving Canadian-owned partners?

- With regard to the review of foreign investments, how does your experience with Canada compare with that of other countries?

- Are there other regulatory regimes that you, as a foreign investor, are concerned with when operating in Canada?

ANNEX C

Biography

Mr. Hou Hongbin

Chairman, Sinopec Canada Energy Ltd.
Chairman, Sinopec Daylight Energy Ltd
Chairman, SinoCanada Petroleum Corporation
Vice President, Sinopec International Petroleum Exploration and Production Corporation

Mr. Hou Hongbin is Vice President of Sinopec International Petroleum Exploration and Production Corporation (SIPC) and Chairman of Sinopec Canada Energy Ltd., Sinopec Daylight Energy Ltd, and SinoCanada Petroleum Corporation. He joined SIPC in 2005 as Vice President and has been responsible for Exploration, Strategic Planning, and IT. Prior to that, he was Deputy Managing Director of Sinopec Western Exploration Project from 2001 to 2005. And from 1997 to 2001, he served as Director of Exploration Department in Sinopec Star Petroleum Company. Mr. Hou started his career in 1982 as an Engineer in North China Petroleum and Geology Bureau of the Ministry of Geology and Mineral Resources.

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ANNEX C

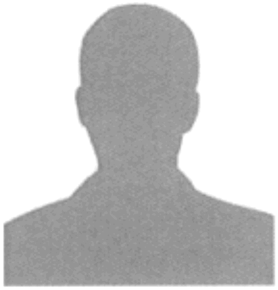
Anthony Lambert

President and Chief Executive Officer and Director, Sinopec Daylight Energy

Mr. Lambert has been President and Chief Executive Officer and a Director of Daylight since December 2004. Starting in July 2000, he was Vice President, Operations, Chief Operating Officer and a Director of Midnight Oil and Gas Ltd. (a public oil and gas company). From August 1995 to May 2000, Mr. Lambert was the Vice President, Operations of Ulster Petroleums Ltd.

ANNEX C

Cam Proctor, LL.B



Chief Legal Officer & Corporate Secretary, Sinopec Daylight Energy

Mr. Proctor joined Sinopec Daylight's predecessor in April 2010. Prior thereto and since 2003, Mr. Proctor was a barrister and solicitor in the Calgary office of Blake, Cassels & Graydon LLP, specializing in corporate, securities and mergers and acquisition law. As a member of Sinopec Daylight's executive team, Mr. Proctor is responsible for several business units including Legal, Regulatory, Human Resources, Corporate Governance, and Information Technology and Services. Mr. Proctor is also a member of Sinopec Daylight's Board of Directors and is responsible for corporate secretarial functions. Mr. Proctor holds a Bachelor of Arts Degree from the University of Victoria and a Bachelor of Laws from the University of Calgary.

ANNEX C

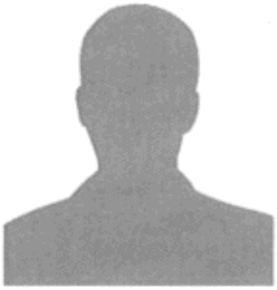
Gao Fawei

Legal Counsel and Assistant Corporate Secretary, Sinopec Daylight Energy Ltd.

Mr. Gao graduated from Peking University with a Masters degree in International Business Law in 2005. Prior to working in his current position as legal counsel at Sinopec Daylight Energy Ltd., Mr Gao served as Director of Contracting and Trading at Sinopec Canada Energy.

ANNEX C

Mr. Kong Zichao



Deputy Director, Development Planning Department, Sinopec Group

Mr. Kong started his career as an engineer in the mud-logging company of Zhongyuan Oil Field in 1988. He then moved to the Human Resources Department, and eventually became a senior engineer in the International Cooperation Office in 1997. From 2004 till now, he served as Deputy Director of the Development Planning Department of Sinopec Group, based in Beijing.

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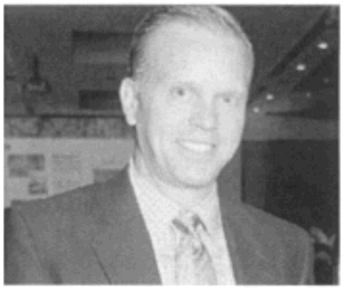
Steve Nielsen



Vice President and Chief Financial Officer, Sinopec Daylight Energy Ltd

Since 2004, Mr. Nielsen has been Vice President and Chief Financial Officer of Daylight. He was Chief Financial Officer and Treasurer of MFIT Corp. (the general partner of a private income trust) starting April 2004, and from April 2002 to December 2003 Mr. Nielsen was the Controller at Gauntlet Energy Corporation (a public oil and gas company). From May 1998 to May 2000 he was the Treasurer and Corporate Secretary at Ulster Petroleums Ltd. (a public oil and gas company) and the Financial Controller at Ulster Petroleums Ltd.

ANNEX C

Ms. Tang Xiaoli

Senior Coordinator, Public Relations, Sinopec International Petroleum Exploration and Production Corporation

Ms. Tang Xiaoli joined Sinopec International Petroleum Exploration and Production Corporation in 2008 as a translator and interpreter in the Public Relations Department and was later promoted to Senior Coordinator. Her responsibilities include communicating with external entities, coordinating the senior executives' public activities, and business negotiation for mergers and acquisitions.

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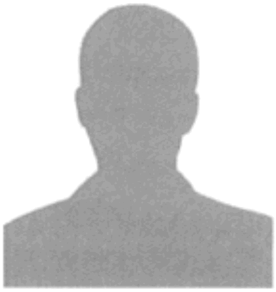
ANNEX C

Yin Pengfei

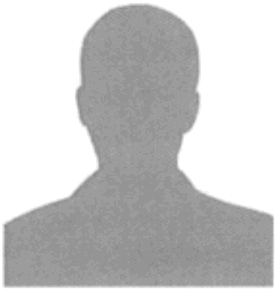


President of SinoCanada Petroleum Corporation, 2004-current

Mr. Yin graduated from University of Calgary with an EMBA in 2008 and from Sichuan University of Technology in 1991 with an Engineering degree. Prior to working in his current position as President of SinoCanada Petroleum Corp., Mr Yin served as the President of Sinopec International Petroleum Exploration Corp. based in Indonesia. He has held various positions at Sinopec since 1989.

ANNEX C

Zhang Lianhua



President of Sinopec International Petroleum Exploration and Production Corporation Canada and Sinopec Canada Energy Ltd.

Mr. Zhang graduated from the University of Houston with an EMBA in 2009 and from China University of Political Science and Law with a Law degree in 1995. Prior to working in his current position as President of Sinopec International Petroleum Exploration and Production Corporation Canada, Mr Zhang served as the company's Chief Legal Officer.

SECRET

BRIEFING NOTE TO SOPHIA ARVANITIS

Briefing Deck on the Government's Statement Concerning State-Owned Enterprise Investment

ISSUE

To seek approval of a technical deck (attached at Annex A) to be used for briefing stakeholders on the Government's recently announced statement on foreign investment by state-owned enterprises (SOEs).

BACKGROUND

Since the Government's announcement on December 7, 2012, the Department has received substantial interest from stakeholders for technical briefings regarding the statement. In order to respond to these requests, we have developed the attached deck based on products previously approved for use in conjunction with the statement. Further, the deck has been designed to be generic, so it may be used for any stakeholder.

CONCLUSION

If you agree, officials could begin using the deck in stakeholder briefings. Officials are available to discuss the matter further at your convenience, should you wish.

Alec Nicholls
Senior Policy Advisor

Attachment

Contact: Paul Halucha, Director-General, MFPB, 952-0211

CCM 244121

Industry Canada Industrie Canada

Statement on Foreign State-owned Enterprise Investment and Canada's Foreign Investment Review Framework

Canada

The Framework for State-owned Enterprise Investments

- The Government is clarifying the framework for the review of state-owned enterprise (SOE) investments under the *Investment Canada Act* (the "Act")

- The framework contains four elements:
  - A public statement clarifying how proposed investments by foreign SOEs are reviewed under the Act
  - Revised SOE Guidelines that assist SOEs applicants in understanding expectations
  - Net benefit review thresholds for SOEs ($330 million in asset value) and for private sector enterprises ($1 billion in enterprise value) to focus on the most significant transactions
  - Ability to extend national security review timelines for all investments

- The framework only applies where an SOE is seeking to acquire control of a Canadian business

Foreign Investment Review

- **Canada has an open investment regime, which attracts foreign capital that benefits Canadians by encouraging economic growth and creating jobs**
  - From 1985, when the Act was introduced, to 2011, Canada's inward FDI stock as a share of GDP has increased from 19% to 35%
- **Canada is a trading nation, and the Government has entered into one of the most ambitious trade expansion plans in Canada's history**
  - Canada has signed Free Trade Agreements (FTAs) and Foreign Investment Promotion and Protection Agreements (FIPAs) with numerous countries
  - FTAs and FIPAs connect our firms to the rest of the world and create a stable, secure environment for two-way trade and investment
- **A modern review process that focuses on the most significant transactions will help Canada continue to attract investment**
- **However, the framework should:**
  - Protect Canadians and ensure national security
  - Ensure commercial orientation of foreign SOE investors

Foreign Investment Environment

- As early as 2006, the Government recognized the evolving international investment environment:
  - *Advantage Canada* noted that foreign investments by large SOEs with non-commercial objectives and unclear corporate governance and reporting may not be beneficial to Canadians
- The environment continues to change
  - More and larger transactions being proposed by SOEs, including 44 transactions valued at $47 billion between January 2008 and August 2012
  - Greater focus on transactions in the natural resources sector

Recent Changes to the ICA

- The Government has acted to increase openness and transparency…
  - 2009: Commitment to liberalize net benefit review threshold to $1 billion over four years based on the enterprise value of the investment (not yet in force)
- …and to protect Canada's interests:
  - 2007: Introduced SOE Guidelines
  - 2009: Introduced national security review provisions

The SOE Framework

Purpose – To clarify the Government's position on foreign investment from foreign state-owned enterprises (SOEs).

- Public statement is intended to clarify how proposed investments by foreign SOEs are evaluated under the Act

- Revised SOE Guidelines intended to clarify that free enterprise principles and industrial efficiency are considered in reviews where the investor is owned, controlled or influenced by a foreign state

- Net benefit review thresholds for SOEs ($330 million in asset value) and for private sector enterprises ($1 billion in enterprise value) is intended to focus on the most significant transactions

- Authority to extend national security review timelines is intended to give the Government the time it needs to conduct careful and thorough reviews of complex proposed investments that could be injurious to national security

The SOE Framework

Public Statement	SOE Guidelines	Thresholds	Time Lines

- **Only investments to acquire control of a Canadian business are subject to a net benefit review**
- **Each transaction will be evaluated under the Act on its own merits**
- **However, the public statement clarifies that going forward, due to concerns about the inherent risks posed by SOEs and the potential negative implications for Canada:**
  - Investments by foreign SOEs resulting in the acquisition of control of a Canadian oil sands business will be found to be of net benefit on an exceptional basis only; and
  - The Minister will also continue to carefully monitor SOE transactions throughout the Canadian economy
- **In particular, the Minister will closely examine the:**
  - Degree of control or influence an SOE would likely exert on the Canadian business that is being acquired;
  - Degree of control or influence an SOE would likely exert on the industry in which the Canadian business operates; and
  - Extent to which a foreign state is likely to exercise control or influence over the SOE acquiring the Canadian business

The SOE Framework

Public Statement	SOE Guidelines	Thresholds	Time Lines

- The SOE Guidelines were introduced in 2007, clarifying that corporate governance and commercial orientation of SOEs are taken into account when reviewing investments
- The Guidelines will be revised to clarify that free enterprise principles and industrial efficiency are considered in reviews
- The changes also clarify the importance of the Canadian business continuing to operate on a commercial basis

The SOE Framework

Public Statement	SOE Guidelines	Thresholds	Time Lines

- In 2009, the Government announced plans to progressively increase the net benefit review threshold to $1 billion in enterprise value
- The Government is re-iterating its intention to finalize that increase for private sector businesses
- For SOE investments, the threshold will remain at the current level of approximately $330 million in asset value (indexed to annual changes in nominal GDP)
- This change will permit the review process to focus on the most significant transactions

The SOE Framework

Public Statement	SOE Guidelines	Thresholds	Time Lines

- In 2009, the Government introduced provisions to permit the review of transactions on national security grounds

- In order to ensure the time needed to carefully and thoroughly review transactions:
  - Amend the Act and the related regulations to increase the period for consideration of a transaction by the Minister and Cabinet, and
  - Give the Minister authority to extend the pre-review, review and Cabinet consideration periods

- The new time lines will apply to all transactions, not only those by SOEs, and will be prescribed in the amended regulations

Summary

- **The Framework clarifies how investments by SOEs are reviewed under the *Investment Canada Act***
  - The burden of proof is on the foreign investor to satisfy the Minister of the investment's net benefit to Canada
  - Each case is examined on its own merits, however, given the inherent risks posed by SOEs:
    - Investments by foreign SOEs resulting in the acquisition of control of a Canadian oil sands business will be found to be of net benefit on an exceptional basis only; and
    - The Minister will also continue to carefully monitor SOE transactions throughout the Canadian economy
- **The Framework does not change Canada's overall approach to foreign investment; Canada continues to welcome foreign investment, including minority and joint venture investments by SOEs**

Annex A - ICA Net Benefit Test

- A non-Canadian establishing or acquiring a Canadian business must file either a notification of their investment or an application for a net benefit review
- A review is conducted if the Canadian business has assets with a book value above specified thresholds:
  - $330 million for direct acquisitions by investors from WTO member countries
  - $5 million for direct and $50 million for indirect acquisitions if the investor is not from a WTO member country or the Canadian business involves a cultural businesses
- The Act provides an initial 45 days for the Minister to make a net benefit determination:
  - The Minister may unilaterally extend this deadline by 30 days
  - Additional extensions are possible if both the investor and the Minister agree
- A reviewable investment may not be implemented without prior approval by the Minister
- In the absence of a decision by the Minister within the established timelines, the investment is automatically approved (deemed approved)

Annex B - Net Benefit Test Factors

- Factors which the Minister considers under section 20:
  a) The level and nature of economic activity in Canada
  b) The degree and significance of participation by Canadians
  c) Productivity, efficiency, technological development, product innovation and variety
  d) Competition in Canada
  e) Compatibility with national industrial, economic and cultural policies, including policies of provinces likely to be significantly affected, and
  f) Canada's ability to compete in world markets
- No specific weighting to the factors; overall the positive must outweigh the negative
- Net benefit is determined in relation to the likely future prospects of the Canadian business in the absence of the proposed investment

Annex C - The Review Process

Receipt of Application	Consultations	Analysis	Undertakings	Minister's decision
✓ Plans by potential Investors ✓ Annual reports ✓ Purchase and sale agreement ✓ Statutory clock starts ✓ All information received is confidential and may not be released	✓ Provinces affected ✓ Federal departments ✓Competition Bureau	✓ Investor presents case ✓ Independent analysis developed	✓ Based on analysis and consultations ✓ Pursue areas key to forming net benefit case ✓ Undertakings developed	✓Based on factors under the *Act* ✓ Approval based on net benefit ✓ Initial deadline of 45 days, may be extended to 75 days or further extensions possible with agreement

Annex D – Acquisition of Control

- The acquisition of control rules, whereby a non-Canadian acquires control of a Canadian business, are outlined in section 28 of the ICA
- The control rules apply to all forms of business, including corporations, partnerships, trust and joint ventures
- For example, the following instances would be considered an acquisition of control:
  - The acquisition of all, or substantially all, of the Canadian assets of a business;
  - The acquisition of a majority of voting interests of a business;
  - The acquisition of a majority of working interest in a joint venture; and
  - For corporations, the acquisition of more than a third of voting shares, unless the investor can demonstrate that it will not have control in fact.