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Chair: Mr. Joël Lightbound





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• (1535)

[*Translation*]

**The Chair (Mr. Joël Lightbound (Louis-Hébert, Lib.)):** I call this meeting to order.

Ladies and gentleman, hon. friends, welcome to meeting no. 70 of the House of Commons Standing Committee on Industry and Technology.

Pursuant to the order of reference of Monday, April 17, 2023, we are studying Bill C-34, An Act to amend the Investment Canada Act. Today's meeting is taking place in a hybrid format, pursuant to the House Order of Thursday, June 23, 2022.

This afternoon, we welcome a number of witnesses to study Bill C-34. As an individual, we welcome Charles Burton, senior fellow at the Centre for Advancing Canada's Interests Abroad of the Macdonald-Laurier Institute.

By videoconference, we also welcome Daniel Schwanen, vice-president, research at the C.D. Howe Institute.

We also have Dan Ciuriak in person, and Robert Mazzolin by videoconference, both senior fellows at the Centre for International Governance Innovation.

In addition, we welcome Jim Balsillie, chair of the board at the Council of Canadian Innovators.

Finally, from the Canadian Bar Association, we welcome Sandy Walker, chair of the Competition Law and Foreign Investment Review Section, and Michael Caldecott, chair of the Foreign Investment Review Committee, Competition Law and Foreign Investment Review Section.

I'd like to thank all of you for joining us in person or virtually for this significant study.

Because we're welcoming a large group of witnesses, we will try to limit testimony to five minutes.

Without further ado, Dr. Burton, the floor is yours.

[*English*]

The floor is yours, Mr. Burton.

**Dr. Charles Burton (Senior Fellow, Centre for Advancing Canada's Interests Abroad, Macdonald-Laurier Institute, As an Individual):** Thank you very much, Mr. Chair.

My area of expertise is China's domestic politics and foreign policy. With that in mind, I'd like to pick up on two points raised by

Minister Champagne when he appeared before this committee last week. The minister said that, henceforth, state-owned companies' investments in Canada will be approved only in exceptional circumstances.

Secondly, Minister Champagne told you last November that, after a national security review and based on intelligence he'd received, he had ordered three Chinese resource companies to sell their interests in Canadian critical minerals firms—lithium.

However, the fact is that all Chinese global enterprises are fully integrated into the PRC party, state, corporate, military and security apparatus, because, as party General Secretary Xi Jinping put it, “Party, government, military, civilian, and academic, east, west, south, north, and center, the party leads everything.”

There are no Chinese industrial enterprises existing independently from China's party-state. Huawei, for example, does not self-identify as a Chinese state-owned enterprise, but, like all PRC institutions, its org chart suggests that Huawei's Chinese Communist Party branch takes precedence over the Huawei board of directors in corporate decision-making. Huawei's corporate purpose is to compete prudently in foreign markets and make money. However, as the Government of Canada determined in banning Huawei's participation in 5G software and hardware, Huawei's *raison d'être* is not just about economic profitability but also to serve other PRC regime geostrategic purposes that threaten Canada's national security.

Chinese law requires that all companies and individuals co-operate with their intelligence establishment and hide that co-operation. That, combined with the Chinese regime's unrelenting cyber and human-source spying on our Parliament, political parties, government departments, universities and businesses, is reason enough to conclude that foreign investment from China must be subject to the most stringent national security test, regardless of what sector or industry the proposed investment may target.

For example, China's so-called police stations are overseen by Chinese diplomats in Canada to coordinate Chinese Communist Party United Front Work Department operations, in order to menace and harass Canadian Uyghurs, Tibetans and human rights activists, subvert Canadian officials, facilitate Chinese Ministry of State Security espionage operations, hand out money for election interference and so on. If these police station operations are inconvenienced by an RCMP vehicle parked outside the station, whether it's in Markham, Richmond, Montreal, or wherever, it is easy for the Chinese authorities to simply inform a Chinese business invested in Canada that the police station will relocate to its premises and to please issue fake letters of invitation to facilitate false visa applications for Chinese police or People's Liberation Army military researchers to enter Canada on false pretenses for covert or grey-zone operations that transfer dual-use technologies to the Chinese regime. We have many examples of this, including evidence given by Canadian government immigration officials in this regard.

Any intellectual property that any Chinese concern becomes privy to through its foreign investment in a Canadian partner is, as a matter of course, going to be covertly transferred through Chinese Communist Party channels to whatever elements of China's Communist Party regime can apply the Canadian proprietary technology or manufacturing process to further China's overall diverse regime interests. We have many examples of this, too.

Finally, I urge a more coordinated approach to all this. Australia's Foreign Investment Reform (Protecting Australia's National Security) Act 2020 was enacted to follow on its Foreign Influence Transparency Scheme Act 2018. I should point out that implementing this latter act—the foreign influence registry—did not instigate any rise in anti-Asian racism in Australia.

• (1540)

I strongly recommend to this committee that Canada look carefully to Australia's strengthening of laws against covert foreign influencing and espionage, curbs on proxy foreign donations to political parties, and better controls over the security of critical infrastructure. Modelling on Australian legislation could allow Canada to make our legislative improvements in a much shorter time frame. The longer we delay, the worse it gets.

Thank you, Mr. Chair.

**The Chair:** Thank you, Mr. Burton.

We will now move to Mr. Schwanen now for five minutes.

[*Translation*]

**Mr. Daniel Schwanen (Vice-President, Research, C.D. Howe Institute):** Thank you, Mr. Chair.

I prepared my speech in English, but obviously I will be pleased to answer any questions you may have in French, if you prefer.

[*English*]

According to the OECD, scrutiny of foreign direct investment, or FDI, on security grounds, has picked up quite a bit since 2015, as firms controlled by foreign governments that are not necessarily friendly have used FDI on the one hand to gain access to critical supply chain components, or to critical technologies or infrastructure, while on the other hand clearly exhibiting signs of not treating

these investments or their host countries on normal commercial terms, and even introducing coercive or hostile aspects into the relationship of the kind that Mr. Burton described.

It's not foreign ownership per se but the combination of these two factors that is alarming, and the proposed amendments are also part of a global trend. Again, there's the example of Australia.

Studies that we published over the years have recommended simplifying and bringing more transparency and more openness to the screening of those foreign investments in Canada for which there are no reasons to think that they would not be undertaken for legitimate commercial reasons, following Canadian laws and so on, while at the same time exercising a sharper scrutiny of investments posing potential security threats. We can do both. The research I just mentioned supports the current direction in this bill.

I want to make that support clear, because the rest of my comments concern the relationship between this bill and Canada's competitiveness in attracting FDI.

Canada had a decent year in 2022 in terms of attracting or retaining FDI, as reported just a couple of days ago by Statistics Canada. Nevertheless, the OECD continues to rank Canada's FDI policies as more restrictive than those of partners who also happen to be competitors for investment, such as the United States, the United Kingdom or Australia.

As we strengthen these security provisions in the Investment Canada Act, then, we don't want to unnecessarily add to these barriers by sacrificing predictability and transparency of criteria for potential foreign investors, when this predictability and transparency can be provided consistent with ensuring the security and safety of Canadians.

Since addressing economic security threats is a major focus of this bill, for example, I would say that to be predictable and transparent, Canada needs to be coherent across government about what these economic threats are and how they can be addressed by adding criteria for scrutinizing foreign investment. As one example, Canada is still developing its national supply chains strategy, which presumably will address the security of critical supplies. Which sectors come under particular scrutiny here under the ICA should be consistent with that strategy, just as Canada's decision on which investors will come under particular rules or scrutiny should be informed by the Indo-Pacific strategy. This is a matter of coherence and clarity for foreign investors.

Naturally, what we might at any given point consider "certain investments in certain sectors" has to be left to regulations; it has to be flexible, but I hope that the legislation will require that these regulations be based on a clear rationale and require the government to provide guidance regarding their interpretation, for example in the form of updated guidelines on the national security review of investments.

With respect to the bill's information-sharing provisions, they will help align our FDI policies with those of our close partners, which is a good thing in an era of friendshoring and will help us understand and anticipate threats better, especially assuming that our partners reciprocate with information sharing.

• (1545)

The ability provided in the proposed amendments for the investor and the government to discuss mitigating actions an investor might take to make its plan conform with Canada's security needs was also anticipated in our 2015 paper, and it is to be applauded. Of course, for that mechanism to be effective, investors need to know the elements that would make such an undertaking acceptable in the government's eyes, without the government divulging national security secrets. Here again, clarity of criteria and guidance are crucial.

Thank you.

**The Chair:** Thank you.

I'll now cede the floor to the Centre for International Governance Innovation, and Mr. Ciuriak.

**Mr. Dan Ciuriak (Senior Fellow, Centre for International Governance Innovation):** Thank you very much, Chair and honourable members. Thank you very much for the opportunity to present today.

I am a senior fellow with CIGI, where I write on the digital economy and innovation.

I want to make several remarks, largely in connection to how well the reforms of the Investment Canada Act respond to the digital transformation.

The first comment is that in the innovation economy, when a company wants to require a new capability, it acquires a company that has successfully mastered that particular function and then it absorbs it. The significance of the company may not be its market cap but its role in the ecosystem of innovation, how that amplifies or expands the company's own palette of products and capabilities

and how that technology that it acquires combines with others to produce world-class applications. What matters in the innovation economy is not the size threshold so much as the connectedness threshold. I don't see that concept in the present construction of the reforms.

The second point is that the act is premised on the ability to designate prescribed sectors. The words "supply chain" or "value chain" do not appear, as far as I can tell, in the act; however, the geopolitical background or battleground in the technology war today is not in sectors but in supply chains. Economic security today is based on capture of the valuable parts of value chains.

Some of you may be familiar with the smile curve of innovation, where basically the value capture where you have lots of value is at the initial stage of the production process, which, in the data-driven and knowledge-based economy, is with capturing patents, intellectual property and data. Then it's in the market end where you have branding. In the middle part of the curve, which is the low-value capture part, that's where you do the data processing, the development of processes and so forth. That is where we are now concentrated in Canada. We are not capturing the high ends of the value chain.

The question for us as we move forward in framing an Investment Canada Act that is going to work for Canada is how to capture the high ends of that curve. I don't see that either in the act right now.

My third point is that data is the essential capital asset of the modern, knowledge-based and data-driven economy. Its value is Protean and depends on the application. What's valuable to one person may not be valuable to another. This is one of the least well-understood areas of valuation of the market economy.

Back in the 1990s, Robert Solow famously said that the computer revolution is everywhere but in the economic statistics. Today, data is everywhere but in economic and trade statistics. We're not seeing it, but we know that it is very powerful and very important. A company may be otherwise valueless. Its market cap may be minimal, but the data that it possesses may be extraordinarily valuable. From a national security concern, that may be of great concern to Canada. It's not easy to see how the Investment Canada Act captures this particular reality.

The fourth point is that the draft act is based on whether an entity has a place of operations, employees or assets in Canada. Prior to the digital transformation, the combination of export controls and investment screening effectively covered the waterfront to safeguard our national security concerns with regard to the way the economy functions; however, with the digital transformation, it is now possible for companies to operate in Canada on a virtual basis. This distinction is recognized in the OECD/G20 inclusive framework, whereby we have agreed on how to tax the operations of foreign multinationals that are operating with significant presence in Canada but on a virtual basis.

Those companies may be capturing data and may be influencing our society just as much on a virtual basis as any company with a physical presence here, yet there is no way to screen that presence at the moment.

If we were to generalize what we are doing today with the Investment Canada Act, we would be talking about an “operations in Canada act”. One part of that act would be the physical operations that we call investment. Another part of it would be the virtual presence. We don't have that distinction yet, so we are not responding adequately yet to the digital transformation.

- (1550)

Another part of it would be the virtual presence. We don't have that distinction yet, so we are not responding adequately yet to the digital transformation.

The fifth and final point is that, in my view, the greatest threat to our national security at the moment is data-driven, micro-targeted personal messaging that drives divisiveness. The technical notes to GPT-4, the most powerful large-language model recently released by OpenAI, comments on how easy it is to get factions to hate each other. It's very easy also to tweak an algorithm from “do no harm” to “maximize harm”. This has been proven in trials.

The question is how we actually address that. The Investment Canada Act has a section that deals with cultural industries. Our culture is being transformed by the presence of this inflow of information and disinformation, without any referendum on how to actually manage this.

I would say that our cultural institutions are in the attention business, and our existing ones are not competing well. We don't have a way right now to deal with that, and while the Investment Canada Act purports to address this issue, it does not.

I will leave it there.

[Translation]

**The Chair:** Thank you very much, Mr. Ciuriak.

I will now turn over the floor to Mr. Balsillie of the Council of Canadian Innovators for five minutes.

[English]

**Mr. Jim Balsillie (Chair, Council of Canadian Innovators):** Chairman Lightbound, honourable members, thank you for the opportunity to present today.

I'm Jim Balsillie, chair of the Council of Canadian Innovators. In the modern, knowledge-based and data-driven economy, the sources of prosperity and the vectors of risk have changed. Updating the Investment Canada Act is a critical strategic step that can advance Canada's prosperity and security. Unfortunately, the proposed amendments are not sufficient to make the ICA fit for those objectives.

The understanding of foreign direct investment that informs the updated document is based on the tangible production economy. Today's economy is knowledge-based and data-driven. In such an economy, FDI is extractive, where technology, knowledge and data assets, senior executive personnel, tax base and wealth effects can easily flow out of countries that receive foreign investments. Prosperity and security risks do not scale with the size and type of buyer but with the nature of economic and security spillovers.

Specifically, economic and security risks should not be analyzed separately. IP and data have multisided features that interrelate, giving rise to the so-called “dual-use” technology that has both economic and national security value. Any assessment of risk and net benefit needs to include the economic and security value of assets as an integrated whole alongside the changed nature of spillovers in the economy of intangibles.

Second, the list of strategic technologies and a set of risk factors is incomplete and needs to mirror those of our allies, particularly the United States.

The ICA needs to be regularly updated to properly guide an informed assessment of a given investment in Canada. IP and data have strong public good characteristics, so decisions made by businesses do not price the associated spillovers into contractual agreements. Data, in particular, has pervasive dual-use characteristics with implications not just for the security of our nation's infrastructure, like transportation, telecommunications, energy and finance, but also across all economic sectors and areas of human interaction, including democracy.

My recommendations are, one, to broaden the focus of any review to include a more appropriate lens of critical strategic technologies, which would allow for the assessment of university partnerships, licenses and transactions of valuable IP and data. If assets are deemed critical to Canada's prosperity and security, then the ICA needs to ensure that they remain in our control, regardless of the type of foreign counterparty or the nature of the commercial relationship.

Two, give legislative powers to the federal government similar to those legislated in Australia to unwind any prior investment, university partnership, joint venture, or merger or acquisition.

Three, build capacity inside the federal government for governance of today's economy. Recent FDI initiatives such as the Sidewalk Toronto project, continued university partnerships with Huawei and Invest in Canada agency marketing strategies demonstrate that Canada's policy-making apparatus is not just rooted in the traditional production economy of yesterday but is decades behind the realities of the contemporary economy.

Four, create a transparent, expert entity akin to CFIUS to implement and oversee all FDI regulations and strategies for the federal government, akin to the coherent and coordinated approach Professor Burton just advocated for.

The strategic nature of IP and data have restructured the composition of markets by reconfiguring how an economy extracts benefits from technology and introduces new risks. This is why advanced economies and our allies have made significant steps to develop modern investment screening systems and continue to make dynamic updates, expanding the powers of foreign investment reviews necessary to defend valuable national interests. Canada must do the same if it wants to defend critical infrastructure and assets vital to our prosperity, security and sovereignty.

• (1555)

[Translation]

**The Chair:** Thank you very much.

Ms. Walker, the floor is yours.

[English]

**Ms. Sandy Walker (Chair, Competition Law and Foreign Investment Review Section, The Canadian Bar Association):** *Merci.*

Good afternoon, Mr. Chair and honourable members of the committee.

My name is Sandy Walker. I'm the chair of the competition law and foreign investment review section of the Canadian Bar Association. I'm a partner with the law firm of Dentons Canada.

Thank you for inviting the CBA to discuss the proposed amendments to the Investment Canada Act.

[Translation]

The CBA's main objectives are to improve the law and the administration of justice, and we are here today to that end.

[English]

With me today is Michael Caldecott, chair of the foreign investment committee of the section. Michael is a partner at the law firm of McCarthy Tétrault.

At the outset, the CBA recognizes both the importance of foreign investment to the Canadian economy and the importance of national security review of foreign investments in protecting Canada's national security. Today, we offer our views on how the bill can be

improved to ensure its effective implementation without imposing unnecessary burdens on foreign investors and the government.

The bill establishes mandatory preclosing notification for acquisitions involving targets in prescribed business activities. Such transactions could not close until clearance has been received. To ensure predictability, it is critical that the new regime not come into effect until crucial terms such as "a prescribed business activity" have been defined. These definitions are essential to determine whether a preclosing filing is required and, as a result, should be defined either in the law itself or, if not, in regulations the bill would require to define those terms.

Second, if these definitions are not in the legislation, the draft regulations should be prepared in parallel with Bill C-34, or the amendment should come into force only after the regulations have been finalized.

Third, the bill will capture acquisitions of non-controlling interest in a foreign entity with a Canadian subsidiary. Even if the target has very limited operations in Canada, in these cases national security concerns are unlikely to arise. We therefore recommend exempting these indirect acquisitions where revenues and/or assets in Canada are under a *de minimis* level.

Fourth, to address transactions in progress when the amendments come into force, we recommend that the new regime become effective 90 days after the bill receives royal assent.

I will now ask my colleague Mike Caldecott to discuss the other points.

**Mr. Michael Caldecott (Chair, Foreign Investment Review Committee, Competition Law and Foreign Investment Review Section, The Canadian Bar Association):** Thank you, Sandy.

Our second point is that the investment review division—IRD—will need to have adequate resources to administer the new notification regime. The government must be able to process notifications quickly to determine their completeness, because national security review timelines run from a filing's certification date and closing cannot occur until this timeline has expired.

IRD is currently unable to make certification decisions promptly. They are often issued at least a month or more after notification. With an increase in the number of filings, the timing of certification will become even more problematic and could significantly delay the closing of transactions, negatively affecting the credibility of the government within Canadian and international business communities.

We recommend that the government be required to assess a filing's completeness within three business days and to ensure IRD has adequate resources to achieve this time limit.

The third point is the introduction of interim measures. The bill allows the minister to prohibit all forms of transaction planning activity, including those that are legitimate to undertake on a post-signing, preclosing basis. We believe the minister should have such an extraordinary unsupervised power only for a limited time, such as 30 days. To extend the interim prohibition, the minister should be required to apply for a court order, with notice to the affected parties.

The bill also gives the minister the power to accept mitigation measures as conditions of approval. In the interests of transparency, we believe the minister should periodically publish aggregate and anonymized guidance indicating the types of mitigation accepted.

In closing, the bill gives the government greater ability to assert national security privilege during the judicial review of a national security order. This raises serious concerns regarding the ability of investors to effectively exercise the right to seek judicial review.

We have proposed some options to address this imbalance and achieve a better, fairer decision-making process.

Thank you again for the opportunity to present today. We look forward to answering any questions you may have.

• (1600)

**The Chair:** Thank you very much to all of our witnesses today.

We'll start the discussion with Mr. Perkins for six minutes.

**Mr. Rick Perkins (South Shore—St. Margarets, CPC):** Thank you, Mr. Chair, and thank you, witnesses, for coming.

I'd like to begin with some questions for Dr. Burton.

In 2017, the previous minister of industry failed to request a full national security review of the acquisition of B.C.-based telecommunications company Norsat International and its subsidiary, Sinclair Technologies—both telecommunications companies in Canada—by China-based Hytera, which is partially owned by the Chinese government.

The Manitoba-based Tanco mine, which is Canada's only producing lithium mine, was purchased by a Chinese company, Sinomine, in 2019. Again it was approved by the government with no national security review. In addition to all the lithium it produces going to China, it also produces over 65% of the world's cesium, which is used in drilling applications. It is also Canada's largest deposit of tantalum, which is used in electronics.

In January 2022, Minister Champagne failed to follow his own guidelines when he fast-tracked the takeover of the Canadian Neo Lithium Corp by Chinese state-owned Zijin Mining Group, without a national security review.

It appears to me that the act, as it states right now, is totally inadequate in dealing with national security reviews and the minister's voluntary ability to do it. My understanding is that this bill does nothing to change the threshold, which right now is \$415 million, so a state-owned enterprise also under \$415 million is not subject to any jurisdiction or scrutiny by the minister.

Is there anything in this bill that changes the requirement, or addresses the request by the industry committee in its report in 2020

that the limit be zero dollars for the review of any state-owned enterprise, in order to ensure our national security reviews are done?

**Dr. Charles Burton:** I did hear Minister Champagne say that there would not be a threshold for national security for economic damage to Canada. That apparently does still—

**Mr. Rick Perkins:** It's not in the bill though. He won't always be there and previous ministers have not invoked the powers they have. There is nothing in this bill that guarantees that any current or future minister will, is there?

**Dr. Charles Burton:** Yes, I quite agree. I am distressed by these examples that you gave, and we came pretty damn close to giving Aecon, the construction company, to China. There have been so many examples of this.

It is puzzling that we don't seem to understand the seriousness of China's security threat to Canada. Time after time we make these decisions or even reverse a Harper cabinet decision with regard to Chinese state acquisition.

I agree with the Canadian Bar Association that we need adequate resources for notification, but for a different reason from what they say. They want it to be done more speedily. I understand that, but I think we need a lot more expertise in government to be informing these decisions. We really have to be much more questioning of why, time and time again, when there are serious allegations of malfeasance by China-connected entities, we seem to put those reports into the back of a drawer and don't act on them.

I'm not getting particularly partisan-political about this. I just want to know what the reasons were for these decisions that were not taken, according to the CSIS reports.

• (1605)

**Mr. Rick Perkins:** Recently in the news we've all been witnessing Glencore's attempts at a hostile takeover of Canada's largest remaining miner, Teck Resources. Glencore was fined \$1.1 billion in the United States last year for violating the U.S. Foreign Corrupt Practices Act, for basically bribery and corruption around the world in their mining operations, which they use as a cost of doing business.

Canada has fined one of their subsidiaries \$28.5 million for misleading investors. The United Kingdom fined them almost half a billion Canadian dollars for the same issues around corruption and bribery in Africa.

Should this act contain an automatic provision review and consideration about companies that have been convicted of bribery, corruption and breaching those laws around the world, or that have even done a settlement out of that process in order to get away from those charges?

**Dr. Charles Burton:** This has been an ongoing issue as well. I published a piece in The Globe and Mail on Tuesday with regard to the China Investment Corporation's lack of support for Teck with regard to the hostile takeover by Glencore.

We have been seeing this kind of thing for quite a long time. In terms of our previous policy of allowing Chinese investor immigrants, for example, to come to Canada, the basis for assessment was whether the Chinese person who wanted to invest in Canada had behaved in a way that maintained the standards of China in how much income tax they evaded and how much bribery they paid, on the assumption that if they were following the norms of China, they would follow the norms of Canada.

The program was eventually cancelled, because that just doesn't work. You can't expect a company to behave morally in Canada when it's been behaving atrociously in foreign nations. That's my opinion, as a non-expert on the subject.

**Mr. Rick Perkins:** Thank you.

**The Chair:** Thank you very much.

Mr. Van Bynen, the floor is yours.

**Mr. Tony Van Bynen (Newmarket—Aurora, Lib.):** Thank you, Mr. Chair.

I'd like to direct my first question to either Ms. Walker or Mr. Caldecott.

In the Bar Association's April 2023 brief, you encouraged the government to ensure that the amendments proposed in Bill C-34 and the regulations and guidelines accompanying the new mandatory preclosing regime are clear and do not impose unnecessary requirements or burdens.

How do you suggest the government strike the required balance between the protection of Canada's national security interests and the importance of allowing foreign investment in Canada?

**Ms. Sandy Walker:** One way that the act can address the proper balance is by ensuring that you're capturing the right transactions in the mandatory pre-notification procedure. That requires that when you define "prescribed business activity", you're focusing in on those areas and those transactions, so it's the acquisitions of businesses in sectors that are involved in certain activities that raise the most national security concerns.

Currently, we have national security guidelines. They have an annex that includes a list of factors. It's about 10 items long. They're very broad. They don't give a lot of guidance. They might just say "biotechnology" or "quantum computing". I don't have the list in front of me, but it is extremely broad and gives very little guidance.

Another source of guidance might be looking at what other jurisdictions have done. The NSIA in the U.K. has quite a long description of the types of transactions that raise national security risks.

CFIUS has a lot of information describing the types of sectors and activities that create national security risks. That's one angle.

• (1610)

**Mr. Tony Van Bynen:** Thank you.

In its brief to committee, the Bar Association also noted that terms such as "material non-public technical information" and "material assets"—which are essential parts of the criteria for identifying whether or not a preclosure filing is required—are ambiguous. These terms may be defined by regulation.

How do you feel they should be defined? Should they be in the legislation, in the act or by regulation? What are your concerns with respect to that?

**Mr. Michael Caldecott:** On the issue of "material non-public technical information", we have a precedent in the United States. What we've seen in the reform to the CFIUS program, which is under the FIRRMA act, is that the term has been defined relatively narrowly and precisely. The Canadian Bar Association supports that definition in that it provides a degree of certainty as to what is captured by it.

The additional concern that the Bar Association identified, when this term was going to be set, was whether it would be in the legislation or in regulation. Given that there is uncertainty at the moment as to when regulations will be prepared and published, it seemed to us that it was important that the term be defined in the act itself.

The final point on that is just to mention that this term is not.... The term "prescribed business activity" may legitimately be a list of sectors that evolves over time as different sectors become more or less sensitive. "Material non-public technical information" may well be in the same category as that, but it is certainly an easier definition to reach and therefore perhaps more conducive to being included in the act, rather than regulations that could subsequently evolve.

**Mr. Tony Van Bynen:** The benefit of regulations would be the flexibility in how they can be modified.

Wouldn't you see that as an important characteristic, particularly when we see such change in the industry and technology? Is that not the flexibility you want to see in the act?

**Ms. Sandy Walker:** I think regulations offer greater flexibility than the act does. They're much easier to add on to or subtract from.

**Mr. Tony Van Bynen:** Thank you.

My next question is for Mr. Ciuriak. It's very interesting, the fact that value could now exist in non-existent, material things.

How do you propose that regulations would address the concern that you have, which is that the real value and risk lie in data and supply chains? How would you propose we tighten up the legislation to address that more closely, as you've suggested?

**Mr. Dan Ciuriak:** That is the billion-dollar question facing us all today.

First of all, we can at least recognize the fact that data is a very valuable asset, but has no specific monetary value at the same time. You can't necessarily put a figure on this. We see it indirectly in the market cap of companies that have very limited amounts of physical assets but a very large market cap, and they don't even have intangible assets in the form of intellectual property, patents and so forth, which account for most of it. We know there's an awful lot of value out there.

We also see in market transactions an acquisition that will be described as a pure data play. A company that may not be making very much money whatsoever may transact for billions of dollars, simply because of the data it has. How do you deal with that?

I think the first thing to recognize is that companies disclose that they have data, and then we apply a threshold to the amount of data—perhaps to the value of it—and a description of the data as to whether or not it would have potential national security concerns and how that data connects with other forms of data that we may have in the Canadian ecosystem.

It's a question of getting new terminology about the connectedness of companies. There has been work done on that, by the way, by Ari Van Assche in Montreal. He has put together charts that show how companies connect, but we're at the very early stages of understanding this.

In the first instance, what I would suggest is that we have a separate criterion for data, where it is disclosed and described. There would be a consideration as to whether or not that amount of data is something that is material and of concern to Canada.

• (1615)

**Mr. Tony Van Bynen:** Could you submit the reference you made to the committee for our review?

**Mr. Dan Ciuriak:** I would be pleased to.

**Mr. Tony Van Bynen:** Thank you.

Am I out of time?

**The Chair:** You're out of time, Mr. Van Bynen.

Thank you.

[Translation]

Mr. Lemire, you have the floor for six minutes.

**Mr. Sébastien Lemire (Abitibi—Témiscamingue, BQ):** Thank you, Mr. Chair.

I will begin with Dr. Burton.

Dr. Burton, at our committee meeting last week, I asked the minister if reforming the Investment Canada Act would protect Canada from foreign companies that might be hostile to its interests, not only when they try to acquire Quebec or Canadian entities, but also if they were awarded public tenders in strategic sectors. I gave the example of the Chinese company CRRC, which qualified for the renewal of the Toronto subway car fleet, even though it was banned in the United States.

In your opinion, should we improve the Investment Canada Act to ban companies like CRRC in such cases?

[English]

**Dr. Charles Burton:** Yes, I do. I think Quebec is becoming much more aware of this situation. The articles in *Le Journal de Montréal* have really been increasing the awareness of the Quebec public of the nature of the Chinese regime.

I salute that, because I think it's important that people in Quebec know.

[Translation]

**Mr. Sébastien Lemire:** You wrote an op-ed for *The Globe and Mail* on the transaction between Tek Resources and Glencore. I'd like to talk to you about another similar transaction.

Canada's Paper Excellence Group, which is related to Asia Pulp & Paper, has been making rapid acquisitions in the forest industry, including Domtar and Resolute.

Does this concern you?

Do you feel there should be some conditions imposed on these types of transactions?

[English]

**Dr. Charles Burton:** Yes, I believe I was quoted in the Quebec press with the word "*troublant*". It's troubling to me that this is going on.

I agree that it's part of the Chinese regime's overall scheme to use these investments to serve Chinese interests and to cause us to have too much dependency on China, which then could be used as economic coercion in political areas over things like police stations or Chinese espionage.

The Quebec universities have a very serious problem of Chinese money resulting in the transfer of dual-use technologies to China from Quebec. Huawei, for example, is still sponsoring projects in the province of Quebec.

[Translation]

**Mr. Sébastien Lemire:** So you feel an independent public inquiry into China's interference might be in order.

Don't you agree?

[English]

**Dr. Charles Burton:** I'd just like more information on it. I'd like it to be from sources that don't have a vested interest or a perception that they may be beholden to Chinese interests or the interests of a certain political party.

[Translation]

**Mr. Sébastien Lemire:** Thank you.

Mr. Balsillie, you have already contributed to our study. In my opinion, your presence was salient, particularly when it came to managing intellectual property. You are very critical of the way Canada manages and protects innovation.

Does this review of the Investment Canada Act alleviate your concerns? You touched on this a bit in your opening remarks, but I'd like to hear more about it.

[English]

**Mr. Jim Balsillie:** No, the approach with the Investment Canada Act has heightened my worries.

What we have to come to appreciate in this changed world is that these realms are first very technical, so they require expertise. Second, there's a linkage between IP management, research, trade agreements, foreign direct investment, tax treatments, competition strategies, privacy management and democracy protection. These forces crosscut and are very technical.

Canada has experienced a systemic erosion in its realms economically and non-economically in this digital era because of this inattention. These are links in a chain. They have to be looked at systemically. If you falter in scientific research, or in appropriately updating this act or appropriately seeing trade agreements as regulatory remote control agreements and not tangible trade facilitation, then that one weak link can be exploited. It can erode the work of every other piece of legislation. It's absolutely critical that we upgrade all systemic portions.

This is not a processing issue. This is a comprehension issue and we need an expert, systemic approach, or we will continue the erosion that we've been experiencing economically and non-economically over the past couple of decades.

• (1620)

[Translation]

**Mr. Sébastien Lemire:** The lack of clarity in Canadian intellectual property rules makes our sensitive assets a little more vulnerable from a national security perspective.

Can you give us examples of how some countries—we can name China, again—are appropriating our innovations?

[English]

**Mr. Jim Balsillie:** Yes, in countries such as the United States and in Europe, when you do research that's taxpayer-funded it immediately accrues to the state to have control over it for appropriation purposes. They also have pooling structures for their intellectual property for the economic and non-economic benefit. They also govern their data in a much more front-footed way for public well-being. Places like Australia have broadened the scope to things like university partnerships and other things that don't address this, and they have unwinding mechanisms.

Also, our adversaries have controlled the information space. We've kept ours open without rules. Therefore, it's actually a strategic disadvantage to be an open western economy in this realm, absent of digital rules. We're vulnerable in pretty much every realm because of the inattention in this space over the last couple of generations of policy.

[Translation]

**Mr. Sébastien Lemire:** Thank you very much.

**The Chair:** Thank you very much, Mr. Lemire.

Mr. Masse, you have the floor.

[English]

**Mr. Brian Masse (Windsor West, NDP):** Thank you, Mr. Chair, and thank you to our witnesses for being here.

I think I'll start with our friends from the Canadian Bar Association and work my way across. I know that you have 12 committees. I appreciate having two of them represented here.

There are six recommendations that you have in total. Do they come from the experience of your law firms and your clients? Is that specific to real field activity that's taken place?

**Ms. Sandy Walker:** As a general matter, when we work on these policy positions and positions on legislative proposals, we certainly have experience in practice in this area and we bring that to bear. Also, some of our comments are legal concepts, like protecting due process, etc. It's a combination, and we represent both foreign investors and Canadian businesses.

**Mr. Brian Masse:** Do you represent foreign governments, too? Would you have members that represent foreign governments during acquisitions of Canadian companies?

**Ms. Sandy Walker:** If a foreign investor had foreign government ownership, we might represent those, yes.

**Mr. Brian Masse:** Would that concern you, a bit of a conflict of interest, I guess, at the table? The Canadian Bar Association is well involved with a lot of different things—I don't want to misjudge here—but it sounds to me like there's a bit of a connection here to the value of work that would happen or the process if there were changes.

**Ms. Sandy Walker:** I think you would find that we have a fair bit of integrity. We come to you as the Canadian Bar Association, and we try to maintain a fairly principled way of looking at legislation.

**Mr. Brian Masse:** I appreciate that. I just think it's important to note. Like I said, you have 12 sections and committees.

I'll give you an example. This is where my concern is: adequate resources. Would they be paid by the companies in acquisition, or would they be paid by Canadian taxpayers?

**Ms. Sandy Walker:** That's probably a bigger government question as to how funding works. I know some things are self-funded. For example, when you make a merger notification to the Competition Bureau, you pay \$82,000 per transaction, whether it's a small transaction or a big transaction. Other government functions do not have filing fees, so it varies.

**Mr. Brian Masse:** I guess my concern is this. If not, you either cut services somewhere else or you raise taxes. Those are the two choices we have to create this for the foreign acquisitions of Canadian companies, and that's something I was a bit surprised to not see as a recommendation coming forward, because it's a tall order for Canadians to do for a process to lose our companies.

I guess I'm going to switch over to the next three right here, Mr. Balsillie, Mr. Ciuriak and Mr. Burton. I'm going to bring up a case that I think is important, because I think, Mr. Balsillie, that you mentioned a transport and export committee that would be formed, and Dr. Burton, you mentioned Aecon construction, and I think this is important as a good example, because I want to see what your thoughts are about this entity.

Here's a headline from 2018 that I was mocked for by a number of different members, "Windsor-West MP Worried China Could Be Part of the Howe Bridge Project". Aecon construction was building this iconic new border crossing in my riding. My riding basically has 40% of Canada's daily trade with the United States. I've been working on a new bridge since 1998, and we finally got it. I couldn't believe it, but Aecon construction was up for sale at the time we were in the process of building it, and people dismissed it as being.... This lands in the United States, so we raised it.

I guess I'll start with Mr. Balsillie and come across here. This committee you're talking about, this entity, how important is it? I'm talking about a pretty straightforward thing, about construction of a bridge, but now we have artificial intelligence, critical minerals and other issues.

Mr. Balsillie, go first, please, and then I'll go across the table.

• (1625)

**Mr. Jim Balsillie:** I think we have to come to terms with the fact that these are crosscutting issues. In my earlier part, talking about data governance and IP, I did not talk about algorithmic governance, which is also highly interrelated to that and has, quite frankly, soared in its relevance.

These things are governed in our trade agreements. They're governed in privacy, in investment attraction and in competition. They're crosscutting, so we need an economic council with deeper expertise. We need crosscutting approaches to these things. We need agencies with expertise and transparency. If we do not do this, we will continue to experience this decline and erosion in the country, economic and non-economic, which you cannot deny has happened in the past 20 years, and it's a consequence of inattention to critical public policy issues.

**Mr. Dan Ciuriak:** Yes, China, it's big. It is doing an awful lot of investment in its knowledge capabilities and whatnot. It's now the leading patenting country in the world. It is one of the fastest-growing countries in terms of international intellectual property receipts, so it's actually now marketing its own knowledge. It is the world's largest payer for intellectual property. In other words, it's the biggest importer of technology in the world at a time when it's under technology sanctions.

It's going to be around, even in the area of computer chips, where it only has about 7.6% of the global market and is under a major full-court press by the United States to prevent it from moving for-

ward. It is actually moving forward gradually in terms of improving its processes, and within five years it will be there. We will have to deal with China.

The idea that somehow we cannot deal with China is a non-starter. The question is this: How do we define that relationship? The Europeans are talking about de-risking. Does de-risking mean that a Chinese company cannot build a bridge in Canada? Now, if it's interactive infrastructure where it has lots of telecommunications, data flowing, then we may have very valid concerns about which companies from which country are involved in the construction and the management of that infrastructure. If it's a physical thing in Canada, do we worry about that?

Again, it goes back to the data and the information flow within our economy. We are moving from a world in which we used to trade inert products across borders. Now everything's smart, and of course the infrastructure is getting smart, so it's very difficult.

**Mr. Brian Masse:** Mr. Burton, you can have my two minutes later.

**The Chair:** Please go ahead, Mr. Burton.

**Mr. Brian Masse:** Thanks, Mr. Chair.

**Dr. Charles Burton:** I think, certainly, while perhaps your colleagues laughed at that headline, Aecon construction did not laugh at it. They withdrew their bid on the Gordie Howe International Bridge prior to continuing the negotiations with regard to their acquisition by a Chinese-state associated entity.

I had expected that the government would approve the acquisition, based on all the other things that were raised earlier in this hearing, and I was pleasantly surprised when that was turned down. As for the reasons, I don't entirely agree with Dan here. It's just not a good idea for the Chinese state to have intimate knowledge of Canadian infrastructure that would be acquired through acquisition of a construction company. Those blueprints would be heading to Beijing, for sure, if that had happened.

• (1630)

**Mr. Brian Masse:** Thank you.

**The Chair:** Mr. Williams.

**Mr. Ryan Williams (Bay of Quinte, CPC):** Thank you, Mr. Chair.

I think this is an interesting time right now. I know Mr. Balsillie, for one, was just at our science and technology committee. We were talking about IP commercialization, owning more of what we create, and at this point we are also trying to make sure we protect what we create.

I really want to zero in on some recommendations you've given the committee. I can't agree more that economic and security risks should not be analyzed separately. Certainly we need strategic technologies and critical technologies lists like the U.S. has. I think your last recommendation was to create a CFIUS, the committee on foreign investment that the U.S. has. We have an investment review division under ISED right now. I think one of the differences I've seen is that CFIUS is an inner agency, so it seems to work across many different...I guess here it would be ministries, and the U.S. seems to get that. We seem to have it only under ISED.

To the point I wanted to zero in on earlier, we're not talking about intangible assets. We're certainly not talking about data and IP, and protecting that. Again, AI, as we're going to be studying with Bill C-27, is just incredibly powerful right now. We don't know what that's going to do to IP and data.

This is just a question of whether we should be looking at maybe a recommendation to give more power to the investment review division under ISED, and maybe looking at multi-ministry...? Also, how do we handle the AI component, let alone just IP and data itself?

**Mr. Jim Balsillie:** I'm systemically concerned about the attention on these issues. The AI act has it being operated by the promoter of AI, who is also the regulator of AI within a ministerial discretion.

There are issues where the Competition Bureau is seeking more independence. We're looking at issues for strengthening rather than weakening the Privacy Commissioner. You have granting agencies under ISED that have not done any governance of the AI and the data elements, and now you're wanting to task them with a bigger role in this. What's the governance of that? What are the expertise issues? What are the resources? What's the transparency of it?

We have to build expertise in the form of some kind of economic council to distill these things. We have to start creating agencies with transparency and with accountability on that, which could then be called before Parliament to explain the rationale.

These kinds of informal, non-transparent, generalist approaches have not served Canada well in this era of the knowledge-based economy. That erosion is going to keep happening at an increasing rate. If we don't stop this before a tipping point, then all the issues we're seeing around polarization, economic erosion, compromised security that we've heard of, and being bullied in trade agreements and so on, are just going to get worse.

It has to be a structural, systemic commitment to the expertise in a crosscutting realm. As Einstein said, make it as simple as possible and no simpler.

The character of this stuff is tricky, so don't pretend it's not. It's just like we shouldn't pretend that China is not going to be here. It's only going to get tougher.

**Mr. Ryan Williams:** Ms. Walker and Mr. Caldecott, from a legal perspective on this, we have the investment review division, which is under ISED. This bill on the Investment Canada Act would then give specific instructions to this group.

I guess we're looking for some clarity. Mr. Balsillie recommended a strategic list, which is incredibly important, because not only does Canada have critical assets, tangible assets and AI that we need to protect, but also it has a list that I understand the investment review division would have.

What specifically in this bill...? How would we frame this and protect it? Making the ICA prescriptive is really difficult, because, as we've seen, at the speed of government it takes sometimes two years to reopen a bill. How do we give that prescription, legally, in recommendations to the investment review division through the ICA, so that they can be maybe more advanced or have a complete list of critical industry technologies that we need to protect?

● (1635)

**Mr. Michael Caldecott:** I'll kick this off. So far, the ICA has operated on a legislation plus regulation track. When it comes to national security and to increasing the enforcement of national security under the ICA, we haven't seen legislative change. We've seen change in regulations that has stepped up enforcement in particular sectors of the economy or against particular types of investors. As we mentioned previously, that is the flexible end of the enforcement approach that exists within that framework.

Legislation, as you rightly say, is a slow-moving process, and it isn't easily able to react to those evolving geopolitical challenges and changes in circumstances around which sectors might be sensitive and which might not.

I think you can lean on some of that history in terms of formulating the way in which regulations should be used in the future to address evolving national security considerations.

**Mr. Ryan Williams:** I have a question from a legal perspective. Normally we look at either a minister's power, which we're not always in favour of, depending on who the minister is, or an order in council—cabinet. Would you recommend we look at an order in council rather than at a minister?

**Ms. Sandy Walker:** Regulations are made by the Governor in Council, which effectively is the federal cabinet. It's not the individual minister, and it's certainly not the investment review division.

If you figure out what you want to cover and you have a more flexible approach in regulations, the other layer on top of that is guidance from ISED, for example, on how they're going to interpret and apply what's in the regulations and in the law. That's another level. However, in terms of the prescribed business activities, there is greater flexibility if you stick those in regulations.

**The Chair:** Thank you.

Mr. Gaheer, you have five minutes.

**Mr. Iqwinder Gaheer (Mississauga—Malton, Lib.):** Thank you, Chair, and thank you to the witnesses for making time for the committee and for their testimony.

My questions are for Mr. Balsillie.

In your opening testimony, you mentioned that you would allow for broader review.

This question was asked of Ms. Walker earlier, but I'll ask you the same one: How do you suggest that the government strike the required balance between the protection of Canada's national security interests in IP on one side and the importance of allowing foreign investment in Canada on the other?

**Mr. Jim Balsillie:** Well, I think we have to revisit the nature of the flows of foreign investment, because we use an analytical framework of a production economy, where it brings management, technology, a tax base and a supply chain, whereas in the intangible economy it is fundamentally exfiltration, and the flows go outside of the country in that. I think our lens of FDI.... You can look at the nature of the marketing of the Invest in Canada organization: We give them money to erode Canada.

In value chains, there are no friends. Somebody's the landlord and somebody's the tenant. Everybody wants us to be the tenant and everybody wants to be the landlord, so we're going to have to stand on our own two feet and look after our own nation by ourselves.

Of course, in this, we need a proper analytical framework for how these things move, and then, when you do that with proper expertise, you will stop doing a lot of things that you think are helpful but are in fact hurtful. Our last place in the OECD in prosperity is a function of public policy misalignment for the last several decades. It has nothing to do with business dynamism. It has been a creature of public policy, and we have to put the mirror on the right cause of it or we're never going to fix the problem.

All of these issues are cascading, very much to this committee but also to a couple of others, at this time. This is a product of decades of inattention. If we don't fix it now, you're going to see things in 10 years that we're really not going to like.

**Mr. Iqwinder Gaheer:** Speaking on that framework, you mentioned unwinding existing partnerships and giving that legislative power to Canada's Parliament.

Could you expand on this and how it has been used in Australia? Couldn't that create a climate in which people don't want to invest in Canada anymore?

• (1640)

**Mr. Jim Balsillie:** Well, if most of these relationships are fundamentally exfiltration.... We spent decades creating foundational AI technology and gave it to Google. Taxpayer money created foundational battery technology at Dalhousie and gave it to Tesla. What we get are some research papers. Taxpayers funded this.

Would you like the legislative authority to unwind that? What exactly is the FDI that we're "losing"? Yes, we're gaining 10 cents to lose \$10, and we want the option to unwind that. I kind of like that deal, and I don't like that FDI, and I think that if people took the proper time to bring in experts in the analysis, they'd figure out that we're shooting ourselves in the foot, and that this is not the kind of FDI that we want.

Seeking this FDI is why we're last place in the OECD for the last 40-odd years and are forecasted to stay there for the next 40 years. People cannot afford to pay their bills because of poor public policy.

I don't think we want this kind of FDI under these terms. Other nations put structures around these relationships to ensure that they look after many economic and non-economic realms to advance their citizens. Our extreme neo-liberalism has hurt us.

**Mr. Iqwinder Gaheer:** I feel that some of the amendments we've brought provide some of that structure. For example, the bill proposes interim conditions that allow the Minister of Innovation, Science and Industry, after consultation with the Minister of Public Safety, to impose interim conditions on investment.

First of all, would you agree with that? What sorts of interim conditions would you like to see during a review?

**Mr. Jim Balsillie:** Again, I will ask, one, is there the expertise to actually do this review properly, and is it done in an integrated whole? Two, is it done in a transparent fashion, so that we can be assured of where it's done and where it's accountable to Parliament? Three, is it done in the proper scope of realms that I'm trying to address? I've mentioned data, like Mr. Ciuriak has, so my answer to all of those is no.

I will restate: If we do not start rethinking our approaches, including to trade, investment, competition, democracy, privacy and AI—these are linked elements and they're for all the marbles—our citizens will pay the price of this inattention. The time for not taking this seriously is past.

I've been here before on regulated data and AI. We've seen the relevance of AI soar on this, and you've had people talk about this interrelationship of data and AI. I see none of this properly factored into these approaches. It's just.... It's regulatory theatre, and we have to come to terms with the fact that that's been our *modus operandi* for too long.

[Translation]

**The Chair:** Thank you very much, Mr. Balsillie.

Thank you, Mr. Gaheer.

Mr. Lemire, you have the floor for two and a half minutes.

**Mr. Sébastien Lemire:** Thank you, Mr. Chair.

Mr. Schwanen, what can we do to better attract investment? Can we do a better job of transparency, particularly in terms of indicators and requirements, that the minister could make public to be accountable?

Should the agreements in which government invests be more transparent? For example, should we be making these things public in relation to what was announced by Volkswagen last week?

**Mr. Daniel Schwanen:** It depends. In the case of the investment you just mentioned, if we're competing with the U.S. or other potential sites where Volkswagen might invest, we might want to keep certain things to ourselves as a state—whether it's Quebec or Canada—keep our cards close to our chest, if you will.

From that perspective, if we have a good reason—and we need a good reason—it's all right that we don't disclose everything we've done to attract an investment.

Of course, we need stronger legislation to ensure that foreign investment doesn't negatively impact our security. However, we can still be transparent about the criteria we use to decide what does and does not constitute a security threat.

Transparency is good, but mostly to explain what criteria we use to accept or reject investments. That doesn't mean we have to give away any secrets.

• (1645)

**Mr. Sébastien Lemire:** Do you feel that the bill will be able to enhance protection of critical and strategic minerals for Canada?

Is our list complete enough?

**Mr. Daniel Schwanen:** Yes. In fact, as we just discussed, regulations are on the way, and they may extend or shorten that list—they will probably extend it.

However, we already more or less have the tools we need under the current legislation. As I believe it was Dr. Burton was saying, it's a matter of using them. In some cases, we may have woken up a little late, but we already have the tools. It's a matter of sharpening them, so to speak.

**Mr. Sébastien Lemire:** Thank you very much.

**The Chair:** Thank you.

Mr. Masse, you have the floor.

[English]

**Mr. Brian Masse:** Thank you, Mr. Chair.

I'll start with Mr. Burton and then go across the table again really quickly. I have only two and a half minutes, so I have to ask you to be as quick as possible. Keep it to 30 seconds each, if possible.

In looking at the global trend, there seems to be more scrutiny on reviewing investment and foreign investment coming in, in general. Some are presenting today to weaken the bill and some to strengthen the bill. I've always thought, quite frankly, especially because we've been increasing thresholds, that has not been a good strategy for review.

I'll start with Mr. Burton and go across. How do you think this legislation fits within the context of the global world, democracies and other things?

**Dr. Charles Burton:** I'll answer very briefly, because of the shortness of time.

Canada is much less willing to be transparent about matters relating to national security threats than, let's say, the U.S. and the U.K. are. It seems to be a cultural thing that intelligence agencies seem to curate the information and—evidently, according to *The Globe and Mail*—share it with the Five Eyes and other intelligence agencies, but they don't inform Canadians of what's going on.

Leaving aside the legislation, we need to have a shift in culture, so that our intelligence agencies are more accountable, not just to the Canadian people but to Parliament. Some of the word salad that they've been giving to parliamentary committees on matters when they're asked very simple questions distresses me enormously.

**Mr. Dan Ciuriak:** Very briefly, I think it's moving in the same direction as the Americans, in particular.

There is a war going on to dominate the new critical technologies. That war is being fought in the supply chain on stuff that normally would not be considered national security, but it becomes national security because it's part of the supply chain for our critical technology.

I think we have to amplify our focus in that area to be consistent with the Americans, because ultimately we will be part of that security supply chain.

**Mr. Jim Balsillie:** Is there a specific focus you wanted?

**Mr. Brian Masse:** No.

**Mr. Jim Balsillie:** I'm consistent in all of these committees, whether it's finance, INDU, SRSR or trade. This is for all the marbles. The digital and IP realms operate through legal frameworks. AI algorithms are causing an explosion in mental health in our children. It's causing national security issues. It's causing an erosion of our prosperity. We have to start to take this very seriously.

I know we all love this country and want the best for it. I'm trying to implore you to understand that this is where the game is being fought by everyone right now. We have all the ability to fix it and to create a very prosperous and safe future, but we have to take this very seriously.

• (1650)

**Mr. Michael Caldecott:** Just very briefly on your question, I think definitely Canada is part of that trend that's going on globally.

One interesting perspective that we see in collaborating with lawyers in other jurisdictions is that they look at Canada, with a national security regime that's existed since 2009, and see that it's actually been here for quite some time. The powers have been there to intervene for nearly 15 years. There hasn't been that much intervention.

Certainly to characterize Canada as not having had a national security regime probably isn't quite.... It has a more mature regime than many other jurisdictions. Obviously, I exclude the United States from that list. In many ways, Canada is seen among allied countries as having had that regime for some time.

[Translation]

**The Chair:** Thank you very much, Mr. Masse.

Mr. G n reux, you have the floor for five minutes..

**Mr. Bernard G n reux (Montmagny—L'Islet—Kamouraska—Rivi re-du-Loup, CPC):** Thanks to all of you for being with us today. What you're saying is extremely interesting.

Dr. Burton, what's the biggest risk facing Canada right now?

[English]

**Dr. Charles Burton:** Well, I think what Mr. Balsillie said is certainly a huge risk, but that's not my area of expertise.

I am concerned about our lack of response to these serious allegations of China's malfeasance and the enormous diplomatic cohort that China has here in Canada compared to in other countries. They have 146 people. Japan has 46. India has 35.

We really need to get on top of this and take the necessary action. I don't think it's that hard in terms of how we go about it. I think that's the largest risk.

Then, of course, we have lesser-funded hostile actors like Russia, Iran and North Korea. All of these should be constrained from engaging in activities that interfere with our democracy and society.

[Translation]

**Mr. Bernard G n reux:** Do you feel that China went too far threatening family members of a Canadian MP? We found out this morning, but the government has known about it for two years.

[English]

**Dr. Charles Burton:** Well, the Chinese regime threatens the family members in China of all people in Canada who engage in activities that the Chinese government doesn't like. The idea that they would be harassing Mr. Chong's relations in Hong Kong is not at all surprising to me. In fact, I've been aware of this for some time.

Seeing as CSIS knows who the diplomats are, I think that we send out a signal to them that emboldens them to do more of this kind of activity when we take no effective action against them. The reports today in *Le Journal de Montr al* that the police stations are still operating.... I just don't get it.

Why wouldn't we be bringing to account in a court of law those people who are engaged in illegal activities in Canada against the Charter of Rights and Freedoms?

[Translation]

**Mr. Bernard G n reux:** Mr. Balsillie, how do you feel about artificial intelligence?

[English]

Is it the biggest threat in Canada right now and for the next 10 or 20 years?

**Mr. Jim Balsillie:** The number one threat to Canada right now is that we are not properly taking control of our IP and data assets. That includes all of the algorithms, the knowledge capital and data capital that Mr. Ciuriak referenced. Once we let it flow out....

In fact, we let it flow out as an instrument of public policy. I think if we don't start deliberate strategies to control that.... That's what has put us in that position. It's going to worsen at an increasing rate if we don't change our approaches.

**Mr. Bernard G n reux:** What's the most important thing that should be changed in the bill, particularly in that bill?

**Mr. Jim Balsillie:** I would put conditions on our research funding, similar to what other nations do, so that it accrues to the nation-state. I would properly regulate IP and data for all of its—

**Mr. Bernard Généreux:** Does it have to be in the bill?

**Mr. Jim Balsillie:** Does it have to be in this bill here? I think the nature of this bill is to assess any transaction for these effects. Therefore, when these effects are negative, you stop it. The point is, you have to have the expertise to assess it, like data as we talked about, and it has to cover the scope of activities that represent the completeness of these at play.

• (1655)

**Mr. Bernard Généreux:** If you put a rule in your bill, like Australia has, saying that a decision made by the government saying that a company can buy another one but it can be reversed two or three years later because it's not good, does it frighten all the companies? Do you know if different companies decided not to go into Australia because of that, what's contained in the bill?

**Mr. Jim Balsillie:** I think you can look at it in a very specific context in terms of which ones you can unwind, like university research partnerships or forms of technology transfer that have not gone through the review process on it. You can do this in a way that does not hurt business, and if it is costing 10¢ of business but gaining \$10 of national benefit, I'll take that trade.

[Translation]

**The Chair:** Thank you very much.

Mr. Fillmore, you have the floor for five minutes.

[English]

**Mr. Andy Fillmore (Halifax, Lib.):** Thanks very much and thank you for your time and for being here.

Ms. Walker, it's nice to see you again on this topic so soon.

I'd like to direct my questions to Mr. Ciuriak and Mr. Balsillie...Honorary Captain Balsillie. It's nice to see you.

First of all, I'll say that I thank you for your comments and I'm sympathetic to them in the context of the unimproved bill. The place I want to explore with you is the concerns you've raised in the context of the proposed amendments that we have before us, for example the concerns around the sharing of data or the loss of data or the use of data against Canadian interests, and the ability that is proposed in this bill to allow the minister to impose interim conditions.

Is there something here to work with? With the new filing requirements prior to the implementation, interim conditions, the order for further review of investments, improved information sharing with international allies, are we starting to get to something here?

**Mr. Dan Ciuriak:** I think in terms of having at least a framework for intervention in an investment that may raise the concerns that we're talking about, that's good. The question is how you actually then wind up elaborating that regime and providing guidance to the civil servants who will ultimately be administering it.

If it's just like a set of check boxes that you tick and see whether or not this fits into the category and that then is kicked over into a process for an interim review where there's another set of boxes to tick as to whether or not something happens, then the real question is, what are the labels on those boxes? How do we actually imple-

ment such a regime? Do we have a framework for classifying data concerns that would then allow the minister to intervene in a way that we've been talking about on transparency, as Daniel Schwanen has been emphasizing?

We need to have a framework that gives the minister a leg to stand on when making such interventions. I don't think that we've elaborated that framework at all so far in Canada.

**Mr. Jim Balsillie:** Yes, I would echo that. We don't have a framework that manages the appropriation regimes for both economic and non-economic goods.

When I read the bill, I see it as we're focusing on the trees and we don't have a sense of the forest. When you look at the kinds of issues.... In the tangible production economy, if you get 90% of it right, you get 90% of the benefit. In the intangible economy, if you get 90% of it right, you get 10% of the benefit. It penalizes incompleteness non-linearly.

You need a complete framework; you need complete expertise, and you need a very sophisticated approach to that. Losing foundational battery technology when we're spending \$13 billion, potentially, in a battery plant.... Wouldn't we like to participate in the value chains there so that we can capture more of the economics than assembly if we can chisel into value chains?

You have to manage appropriation structures, whether they're for mining technology or every sector in the economy. They are all IP and data industries. We have learned that they all have social insecurity effects now, so it comes down to the appropriation and control of systemic factors.

I don't see the legislation coming with that lens, capacity and framework, as Mr. Ciuriak said.

• (1700)

**Mr. Andy Fillmore:** The challenges we have are that the needs are broad and the legislation is narrow at present. Some of the things you have raised are covered in a ministerial order here about research, and maybe the digital charter covers another piece of it.

I think it was you, Jim, who mentioned that our approach may be dispersed over too many departments. Someone mentioned something like that.

If I could bring this all together, there seems to be a common feeling that some of our allies are doing this differently, better and more comprehensively. We seem to be facing a challenge of having it dispersed across government, instead of having it centrally coordinated.

Are the allies doing it in a way such that it is centralized? Have they solved this problem?

**Mr. Jim Balsillie:** I think there's an element of dispersion. I think there's also an element of capacity and competence. I think until you get expert, concentrated, accountable and transparent agencies that look after this.... If it's a bit over there and a bit over there, it's going to be of no force and effect. It will be.... I have written publicly that I consider it regulatory theatre.

I do not see this bill materially changing the erosion that Canada is experiencing in these realms.

**Mr. Andy Fillmore:** Thank you for that.

I'm going to ask you a practical question. There has been a lot of discussion about data and defining data that maybe should be covered in the bill. There's always a question about how much detail you put in the legislation and how much you leave for regulation. You want enough flexibility in the legislation to allow the regulation to react to changing circumstances.

Can we really define the data that is at risk in legislation, in your view? Do you have a solution to that problem?

**Mr. Dan Ciuriak:** No. I would not put it into legislation for reasons that I think Sandy Walker mentioned earlier, which are that it's much easier to change and amplify regulation, and that's where you would put it.

I think you need a more articulated regime than you have right now to give the minister, who will ultimately have some discretion here at the end of the day to intervene when needed.

We are making this up as we go, and so are our allies. There is no set playbook here. This is not ready for textbooks yet in terms of how you deal with this particular data-driven, knowledge-based economy with all of the negative externalities in the social and political spaces. What we have to do is to provide ourselves with some flexibility.

I hearken back to my own days of developing legislation in the financial sector. We provided the Minister of Finance with an awful lot of flexibility and discretion in approving who could own a bank in Canada. That stood us very well, ultimately, in the great financial crisis. We came out of that with the strongest financial sector in the world.

When times are changing, you need flexibility and you need discretion. That cuts against transparency, but at least you tell them where you are going to be looking, and you have to give some indication of what your criteria are.

**Mr. Andy Fillmore:** Thank you.

**The Chair:** Mr. Fillmore, you are out of time.

Mr. Vis, you have five minutes.

**Mr. Brad Vis (Mission—Matsqui—Fraser Canyon, CPC):** Thank you, Mr. Chair, and thank you to all the witnesses here today.

My mind is sort of blown right now with all the directions I could go, but maybe getting back to basics here, Ms. Walker, how would you define investment?

**Ms. Sandy Walker:** I'll tell you how it's defined in the act, if that's helpful. Investment could be very broadly defined, but in the act it means the establishment of a new Canadian business, and it also means an acquisition of part or all of a Canadian business. The national security regime applies slightly more broadly, but it's still linked to the establishment of a business or an entity with links to Canada, or an acquisition.

**Mr. Brad Vis:** Thank you. In other laws in Canada, is investment defined differently from that?

**Ms. Sandy Walker:** I've never actually looked at that question, so I don't know. Obviously, as legislators, you have the ability to come up with a definition. The scope of the Investment Canada Act is currently really focused on those two things—establishment and acquisition.

• (1705)

**Mr. Brad Vis:** I ask that question in the context of the points raised about the digital economy and what this committee will be dealing with as well in respect to C-27.

Mr. Balsillie, you caught my attention, and I was texting with my wife during this committee about what we were talking about. The other day I came home, and my son had asked for a Paw Patrol app to be downloaded on our iPad. I don't know the origins of this application or which company owns it, but in my mind it almost seems that a foreign company is operating in Canada. They're investing in Canadian users. They're extracting information from children as young as two years old. They're using that for monetary purposes, but it wouldn't be covered under the Investment Canada Act. As Ms. Walker said, it would also likely not be covered under another law in Canada, even though it is a form of investment to extract information and therefore wealth from Canadians of all ages.

Would you agree with that type of assessment?

**Mr. Jim Balsillie:** Yes, that's what Mr. Ciuriak said, and it's being well documented. They're now extending this youth exposure from gaming to pornography and creating dysfunctional addictions at critical developmental ages. We're manufacturing a mental health crisis in our youth.

Our job is to protect our youth. Look at the negative spillovers of these operations that may not be here but are participating here. It's not only security. It's not only democracy. It's many other aspects of negative spillovers on mental health as well as the economy. These kinds of mechanisms should be attuned to protect and advance our society.

**Mr. Brad Vis:** Just to clarify, you're recommending that the Investment Canada Act, which covers the traditional aspects of the economy that we're all aware of—mining and in some cases health care, such as in British Columbia—extend and broaden the definition of what investment includes to protect, as you referenced and I alluded to, the mental health of children?

**Mr. Jim Balsillie:** When you start to look at the business operations, as Mr. Ciuriak said, I think that really says that, whether you're physical or virtual here, that should be affected, and yes, that can be regulated. You must also begin to look at things like privacy legislation and algorithmic legislation to attend to those things, and when you have trade agreements trying to shackle our ability to address these things, we now have to start to look at whether we push back on these kinds of things.

These are links in a chain, and you have to look at them systematically, but this is a powerful instrument, as is privacy and algorithms, as are all of the elements that I keep referencing, as are research partnerships and so on; so we have to start to look at these things expertly and systemically.

**Mr. Brad Vis:** Right. You alluded throughout our testimony today—I'll ask Mr. Ciuriak to comment in a second—to the fact that we're at a tipping point in Canada in dealing with some of these digital challenges in respect to intellectual property, Canadian sovereignty and national security.

Are there any proposed amendments—maybe you can get back to the committee a little later—that in any way can address this in the context of Bill C-27, which touches upon many of these points, too?

You mentioned that there is a capacity and context issue with the Government of Canada in this department. Can government ever really keep up with the technology that's being developed and implemented so quickly today?

**Mr. Jim Balsillie:** Yes, a hundred per cent the government can keep up. You have to focus on it deliberately.

I've spent the better part of a year working on predecessors—Bill C-11 and Bill C-27. On the Centre for Digital Rights website, we have a 50-page set of proposed amendments to it.

**Mr. Brad Vis:** Oh my goodness.

**Mr. Jim Balsillie:** They can all be done properly. Yes, we will come forward with specific amendments to this bill. It all can be done.

We govern our fisheries. What it takes to govern this realm is a subset of the resources we apply to fisheries. That's not to say fisheries are not important, but when we decide something's important, we can put resources and expertise to it. We just haven't decided that yet, as a policy community.

• (1710)

**Mr. Brad Vis:** I'll go to you, Mr. Ciuriak, with any remaining time.

**Mr. Dan Ciuriak:** Thank you very much. I'll go back to an example from financial history again.

One time we used to have an inspector general of banks, a superintendent of insurance and so forth. We generalized that to the Office of the Superintendent of Financial Institutions because they were blurring.

Now, in the current context, investment, as you say, is a physical presence. We do have the OECD/G20 inclusive framework, which already acknowledges the virtual presence and applies a method for taxing that. There's your starting point.

We have an incomplete framework for regulating operations in Canada. We need to generalize our investment Canada framework to that level or create a separate instrument that governs the virtual presence.

**The Chair:** Thank you very much.

Mr. Baker.

**Mr. Yvan Baker (Etobicoke Centre, Lib.):** Thank you, Mr. Chair, and thank you to all the witnesses for being with us today. It's a fascinating discussion, and I have a lot of questions.

I'm going to focus my questions on you, Mr. Balsillie.

You've spoken a lot about exfiltration. First of all, I want to take this opportunity to say that over the course of years, I would say you've tried to exfiltrate an NHL hockey team from the U.S. to Canada, if I'm not mistaken. I know you haven't had success with that yet. I'd like you to know that I'm fully in support of that, regardless of the business case behind it. I hope you keep that up.

You've spoken quite a number of times during your discussion about the need to bring in expertise to help ensure that we have the expertise to inform government decisions in the areas we've been discussing.

There a couple of points that I want to make.

First of all, my understanding is that some of the things that we have spoken about—not necessarily you, but some of the other folks on the panel—like research security or IP protections, are covered in many cases under other regulations or other legislation. There was just a discussion about the protection of children and privacy laws. We've had a bill introduced in January on that matter.

What I'm trying to do is highlight that this bill isn't meant to solve all the problems that have been discussed today, but it's meant to solve some of them. Some of the other problems are being tackled to some degree or another in other bills.

I want to come back to your point about expertise, because you've repeated it several times. I hear you. You've talked about the different components of the value chain and how easy it is—especially in the digital space or in AI—for the value to leak, or exfiltrate, as you said.

One thing I want to ask you is this. If the minister had the expertise that you believe he needs to have at his disposal—whatever that is—do you believe this bill would allow us to achieve the goal of preventing that exfiltration that you've been talking about?

**Mr. Jim Balsillie:** It would take us a long way there.

It's most important to understand that the world changed about 30 years ago. We liberalized the tangible production economy, and Canada stopped there. We took on neoliberalism all the way. The intangible economy works opposite. It's a very hands-on world with expertise.

We disassembled our economic council in this era, when the rest of the world was doubling down on their equivalent economic councils. We've lost a capacity gap. We didn't have it there.

To be very specific, yes, we need this expertise in the industry, but we need it cutting across all ministries, because every one of these issues touches multiple ministers at the same time.

If you want to make Industry the super ministry on top of all others, that's fine—reorganize government. Or, you may want to make this a core competency that you feed into the cabinet and into the civil service. That's an organizational thing, which I've had considerable engagement in.

I think we just go back and restart a bit what we had before, akin to what I've seen in other nations, which is some deep level of expertise to advise into these kinds of realms. It's been absent. It's so needed.

**Mr. Yvan Baker:** I appreciate that.

I used to be a management consultant with BCG, and we used to spend a lot of time looking at various countries around the world and how they manage some of their sensitive industries, at least for economic value. I heard your point about the 10¢ and the \$1—that point that you made earlier—and battery technology, etc.

That expertise that you're talking about—whether it's within one ministry or across ministries, however we would structure that—is that something you would see legislating in this bill? Is that a change to this bill or is that a suggestion to government to act on to make sure that, when this bill is passed in whatever form it is passed in, we have the expertise to be able to effectively enforce what's in this bill?

• (1715)

**Mr. Jim Balsillie:** I think you need both. The expertise is a needed piece, but I think you need to pair it with the kind of agency that would look at this and feed into any kinds of decisions.

It has to be pulled out and dealt with as its own being, and you need to have expert analysis for all of these crosscutting files. I've mentioned many of them before. The intangibles economy works on legal frameworks, and it's a hands-on economy as opposed to a neo-liberal, hands-off, tangible production economy, so it's a completely different tool kit. I think we have to build the capacity broadly, narrowly and specifically, and we have to create the kind of legislative and agency powers to deal with this.

Yes, if you build this capacity so that wherever this resides in the government, it has to reference it, that's a step forward. If you expand the scope of this to deal with the broader kinds of places that I've mentioned, including having the reverse ability of partnerships, that's great, too, but I've seen so many things like ISED's financing Huawei through granting agencies. People adored Sidewalk Toronto. They let the Tesla battery technology go. Money goes to Invest in Canada to say, "Come take our best stuff," so this whole system makes me very, very nervous. We have to break with the past.

Whether it's within ISED or outside of ISED, that's an important question, but I've seen the quality of Bill C-27, and it's so foundationally flawed that it doesn't give me confidence.

**Mr. Yvan Baker:** I think my time is up. I appreciate your time, and I wish you luck with that exfiltration project I was talking about earlier.

**The Chair:** Thank you very much, Mr. Baker.

[*Translation*]

Mr. Lemire, the floor is yours.

**Mr. Sébastien Lemire:** Thank you, Mr. Chair.

Mr. Balsillie, one last time, I'd like to address with you the issue of inadequate intellectual property protection and Canada's long-standing issues with innovation that can drive technology champions to leave the country or to set up shop abroad. Bill C-34, An Act to amend the Investment Canada Act, doesn't address the threshold issue.

Do you think it's a mistake to not have minimum acquisition thresholds? What impact does that have on marketing in Canada?

[*English*]

**Mr. Jim Balsillie:** I do not think, when something is strategic, that thresholds are the appropriate lens, because everything is dual use, so it's arbitrary.

Something could be \$10 million but extraordinarily strategic for its negative consequences on our security of data or our positive security on a critical piece of creating a vaccine, so I do not think a value.... I think you have to go at your strategic technologies comprehensively. I think you have to have expertise to assess these spillovers comprehensively. I think you have to have the ability to unwind things.

I think we can learn a lot from CFIUS. I think we can learn a lot from what the Australians have done. I think we can learn a lot on the expert research capacities, akin to an economic council, as others have done. Then, on how we implement it in the Canadian framework, whether it's through the Investment Canada Act or through a reconfigured agency, the stakes have become much, much higher in this realm and much, much more complex than they used to be.

The simple spillover structures of the past, the C.D. Howe branch plant stuff that served us so well, doesn't serve us the same way anymore. Sometimes a branch plant is positive, and sometimes it's negative, so we have to build the right tools for the state that's at hand. I think what's so critical here is that this realm has crossed over to security much more than it used to. It's also crossed over to social much more than it used to, whether it's weaponizing misinformation, undermining the mental health of our children or polarizing vulnerable communities. We're not governing for this now.

Where does this get looked after in Canada? That's why you're hearing a fair bit of resonance here on the nature of the problem. There are many ways you can approach addressing it, but you have to acknowledge the problem and ask if our approach is sufficient to do that. It could be done within a ministry, or it could be done in different ways—I'm not absolute on it—but I don't see this current approach addressing the problem we have before us.

• (1720)

[*Translation*]

**Mr. Sébastien Lemire:** Thank you very much.

Mr. Ciuriak, I believe you'd like to react to what was said. Would you like to comment briefly on the issue?

[English]

**Mr. Dan Ciuriak:** First of all, in terms of the overall framework, I've mentioned that there is the issue of the incompleteness. We have the basis for starting to develop that framework.

I would note, for example, areas where other countries have kicked out applications because they are inconsistent with their national security concerns. China kicked out Google, for example. If a company is here making money and is actually shaping your culture, we have an area of regulation that deals with culture, but there is a gap. That's one thing.

In terms of the overall business model and in terms of dealing with the regulation, I would point you to the highly detailed operational guidelines that exist in the trade realm. The Canada Border Services Agency and the Canadian International Trade Tribunal have extraordinarily detailed guidelines on how to administer those acts. We are nowhere near having started the development of similar guidelines to deal with data. I would be happy if we had a 200-page-thick document that cited examples of how we dealt with that issue, this issue or whatever issue in order to provide guidance to our civil servants in implementing a data regulatory framework.

[Translation]

**Mr. Sébastien Lemire:** Thank you very much.

[English]

**The Chair:** Thank you.

Go ahead, Mr. Masse.

**Mr. Brian Masse:** Thanks, Mr. Chair.

Mr. Balsillie, you mentioned supply chains and their importance. I'll give an example. I know that we're focusing right now on China and other things, but even with the Inflation Reduction Act, in my neck of the woods we've already seen some tool and die mould manufacturers, Canadian companies, having to offshore some work to take advantage of making quota laws in the United States.

If we lose some of these supply chains, it's going to have inner rot. Even though we're looking at China here, what are your thoughts on that issue? I know it's a bit separate, but to me it's like a more mature discussion about the Investment Canada Act. We can't just assume that the U.S. is our friend on these things. I've been enough times...as vice-chair of the Canada-U.S. parliamentary association, with softwood lumber and everything else.

What I'm worried about now is Canadian companies getting hollowed out from within because they have to offshore some contracts to the United States to actually be capable of selling their products into the United States in general.

**Mr. Jim Balsillie:** I think the U.S. is mercantilist in its trade policies. I know several companies that have had to move to the United States from Canada because they cannot access the programs they want. Also, the U.S. has become mercantilist in its tax policy for IP, creating patent boxes. Companies are saying maybe they'll just move their IP from Canada to the U.S., because it's half the tax rate or something like that. A board has to look at that.

Yes, this has become a mercantilist world, and we have to assess, but if you have a product where you control a piece of value chain, and it's hard to move it if you own something that cannot be replicated, then you have leverage in the game. We have to start thinking much more strategically about that, or look at places where we can defend. Some of them we can't.

It's a much more dangerous world. I don't believe in this frame of "friendshoring". It sounds nice, but it's reshoring in the U.S. and we're trying to pretend it's friendshoring. There are no friends in value chains.

**Mr. Brian Masse:** It's even worse than that. I'm running out of time, but I'll give you and the committee a quick example.

Windsor Salt was bought by an American hedge fund. Our own natural resources right now are locked out through a strike, because their union buster, Canyon Industries, has also bought an Alberta firm and closed it down. It has also monopolized the salt market in the United States. It's a serious issue.

Thank you, Mr. Chair.

**The Chair:** Thank you, Mr. Masse.

We'll conclude this discussion the way we started it, with Mr. Perkins for five minutes.

**Mr. Rick Perkins:** Thank you, Mr. Chair. I'll try to keep this short.

Dr. Burton, Bill C-34 does not propose any change to the definition of "state-owned enterprise" in the Investment Canada Act. Should that be tightened up or expanded or improved?

● (1725)

**Dr. Charles Burton:** The Investment Canada Act refers to "acting under the influence, directly or indirectly, of such a government or agency". I feel that covers what I'm talking about.

You yourself referred to a firm as partly state-owned. None of those firms that are associated with China are outside the Chinese regime. There has to be a recognition that when you're dealing with countries that have that particular system, which is utterly incompatible with our own in terms of a civil space and a state space and a societal space, they all should be considered state-owned. Maybe we should change the definition to—

**Mr. Rick Perkins:** Even the 11 subsidiaries of Glencore that operate in China as investment vehicles into Africa...?

**Dr. Charles Burton:** I'd be concerned about that. I think I'd be concerned about anything that touches on the Chinese regime. In general, we just need to be more aware of national security implications for all sorts of things. Children are not aware of and don't have any concern for national security with regard to TikTok, but maybe Mr. Balsillie has some good thoughts on that. Universities want to do the dissemination and creation of knowledge, and they don't regard national security as within their mandate.

This has to change. It's an awareness question. When you talk about changing the language, yes, I think, change the language, but what we really need to do is what Jim has been saying, which is change the awareness of the seriousness of these matters and address them accordingly.

**Mr. Rick Perkins:** That's a good segue.

Mr. Balsillie, one thing the bill does not do is it does not propose automatic reviews of acquisitions of company assets, plants, mines, land, IP or data by a company that is owned by a state-owned enterprise.

Should that be put in the bill as a restriction?

**Mr. Jim Balsillie:** Yes, everything should.... You have to think of these things much more strategically. I also said that the counter-party may not be a dangerous counter-party, but what's being exfiltrated is strategic to the country.

We could lose control of a vaccine ingredient to a friendly country, but if we lose our sovereignty.... The security lens is not just the adversarialness of the other party, although that's a material aspect. The security lens is broader than that, which is what I've been saying and I think others have been trying to say.

**Mr. Rick Perkins:** The Investment Canada Act, though, doesn't contemplate review of any portion of an asset, only companies—

**Mr. Jim Balsillie:** That's correct, yes.

**Mr. Rick Perkins:** —and that's an issue. In the world we live in today, with the assets being tangible and intangible, that's an area. Because ministers have not used the powers they have in the past, do you not think we need to be more prescriptive in the act of what absolutely has to go through, since the government hasn't always used the tools at its disposal?

**Mr. Jim Balsillie:** Well, there's a place for prescription, but also when you pull it out into an expert agency, you tend to get somebody who's quite accountable to that and takes it through a very specific lens.

It's very difficult when you're a minister who's trying to juggle many things and trying to promote things, but also to regulate. It's a difficult place to put yourself in. I would argue, don't put—

**Mr. Rick Perkins:** They have all these departments on it—a lot more than we do in the opposition—to go through these things.

Recommendation 8 of the industry committee report from the last Parliament said the other area that we should look at—that isn't included in the act now—is when a Canadian company or asset is acquired by a foreign entity that's not hostile to Canada, and then that company is ultimately bought by a hostile player. Lots of jurisdictions have the ability to go back and look at that asset and demand that it be devolved as part of that acquisition.

What are your views on that?

I'd like to hear from Dr. Burton as well, but let's start with Mr. Balsillie.

**Mr. Jim Balsillie:** Yes, of course, if the deal changes the circumstances of the original one, we have to have a lens to look after ourselves in a difficult world.

**Dr. Charles Burton:** I absolutely agree with Mr. Balsillie on this point.

I think that is part of the Chinese strategy, to evade our regulations, to come in through different kinds of maybe sneaky means to get in there. I think there are lots of examples of this kind of thing, particularly in third world nations.

**Mr. Rick Perkins:** Could you share with us some of the other jurisdictions? Also, in your opening remarks you referred to some examples that we should be considering. Could you actually table those examples with the committee?

• (1730)

**Dr. Charles Burton:** Yes, I will.

**Mr. Rick Perkins:** Thank you.

**The Chair:** Thank you very much, Mr. Perkins.

That concludes the two hours we have for this meeting.

Thank you to all of our witnesses today for sharing their perspectives. It's much appreciated.

[*Translation*]

I'd also like to thank the interpreters, support staff, analysts and clerks. Lastly, I'd like to thank you, esteemed colleagues.

This meeting is adjourned.







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